

Trial Hearing
Witness: CAR-OTP-PPPP-0080

(Open Session)

ICC-01/05-01/08

1 International Criminal Court
2 Trial Chamber III - Courtroom 1
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08
5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and
6 Judge Kuniko Ozaki
7 Trial Hearing
8 Thursday, 10 February 2011
9 (The hearing starts in open session at 9.35 a.m.)
10 THE COURT USHER: All rise. The International Criminal Court is now in session.
11 Please be seated.
12 THE COURT OFFICER: Good morning, your Honours, Madam President. We are
13 in open session.
14 PRESIDING JUDGE STEINER: Good morning. Please, court officer, could you
15 please call the case.
16 THE COURT OFFICER: Situation in the Central African Republic, in the case of The
17 Prosecutor versus Jean-Pierre Bemba Gombo, case reference ICC-01/05-01/08.
18 PRESIDING JUDGE STEINER: Thank you very much. I would like to welcome the
19 Prosecution team, the legal representatives of victims, the Defence team,
20 Mr Jean-Pierre Bemba Gombo. Good morning to our interpreters and court
21 reporters. We are continuing today with the questioning by the Defence of Witness
22 80 but, before that, I would like to make some clarifications in relation to the problem
23 of transcript corrections that has arisen a few times over the past week during court
24 hearings, yesterday being the most recent occasion when the Chamber requested a
25 matter raised by Maître Zarambaud to be double-checked by the interpreters.

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1 The Chamber is attentive to these matters. As necessary or appropriate we will ask
2 that what has been said is double-checked. However, it appears that when the
3 Presiding Judge mentions the need for double-checking, somehow the parties implied
4 that corrections to the transcripts are going to be made, which is not the case.
5 It must first be clear that the alleged mistakes on the real-time transcript will be
6 double-checked for the preparation of the edited version.
7 There is a proper procedure in place, however, for requesting correction of transcripts
8 where a party or participant considers that there may be a mistake. However, given
9 that errors encountered in the real-time version of the transcripts are often corrected
10 in the edited version, these requests are to be made only on the edited version of the
11 transcripts as notified to the parties and participants following the hearing.
12 The parties and participants may then, only after notified of the edited version,
13 transmit requests for corrections to a transcript following suggested interpretation
14 errors to the associate legal officer or the courtroom officer who will request a review
15 by the interpreters.
16 Any report from the interpreters proposing corrections to a transcript, following a
17 request from a party or participant, will be transmitted to the Chamber and the
18 parties and participants as appropriate prior to implementation.
19 I'm just reminding parties and participants, the parties and participants have two
20 days in which to file objections to the proposed corrections. If no objections are filed,
21 the transcript will be corrected and the perfected version notified to the Chamber and
22 participants as soon as practicable. If objections are raised the matter is to be
23 referred to the Chamber for guidance on how to proceed.
24 I hope this clarifies the matter in where a party or participant points out to a possible
25 mistake in translation, any change needed will be only analysed after we have

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1 received the edited version of the transcript. This is a procedure that is already in
2 place and I'm just reminding parties and participants to follow such a procedure and
3 then we'll be able to avoid discussions during the hearing in relation to the need for
4 corrections.

5 We are going then to continue with the questioning of Witness 80 by the Defence and,
6 for that purpose, I ask please court officer to turn briefly into closed session in order
7 for the witness to be brought inside the courtroom.

8 *(Closed session at 9.42 a.m.) Reclassified as Open session

9 THE COURT OFFICER: We are in closed session, Madam President.

10 (The witness enters the courtroom)

11 PRESIDING JUDGE STEINER: We can turn into open session, please.

12 (Open session at 9.43 a.m.)

13 THE COURT OFFICER: We are in open session, Madam President.

14 WITNESS: CAR-OTP-PPPP-0080 (On former oath)

15 (The witness speaks Sango)

16 PRESIDING JUDGE STEINER: Thank you. Good morning, Madam Witness.

17 THE WITNESS: (Interpretation) Good morning, your Honour.

18 PRESIDING JUDGE STEINER: Did you manage to sleep well and to rest a little bit?

19 THE WITNESS: (Interpretation) Yes, I did rest well.

20 PRESIDING JUDGE STEINER: Are you ready to continue giving your testimony
21 before this Chamber, Madam?

22 THE WITNESS: (Interpretation) Yes.

23 PRESIDING JUDGE STEINER: Madam Witness, I need to remind you that you are
24 still under oath. Do you understand that, Madam?

25 THE WITNESS: (Interpretation) I understand.

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1 PRESIDING JUDGE STEINER: I want to remind you that you are under protective
2 measures, that your voice and image broadcast outside the courtroom are being
3 distorted so nobody can identify you by your voice or by your image. In public
4 sessions, Madam Witness, you should avoid mentioning names of family members or
5 neighbours or places, or any information that can lead to your identification. If
6 there's a need for names to be mentioned, we can turn into private session and then
7 the public cannot listen to what you are saying. You can speak freely. Do you
8 understand that, Madam?

9 THE WITNESS: (Interpretation) I completely understand.

10 PRESIDING JUDGE STEINER: And finally, Madam, we want to remind you that if
11 you feel tired or distressed, or for any reason you need a break, just let us know and
12 you will have as many breaks as you need. Is that fine with you, Madam?

13 THE WITNESS: (Interpretation) I completely understand.

14 PRESIDING JUDGE STEINER: Thank you very much. Then we are going now to
15 give the floor to the Defence. Maître Liriss will continue questioning you.

16 Maître Liriss.

17 MR LIRISS: (Interpretation) Thank you, your Honour.

18 QUESTIONED BY MR LIRISS: (Interpretation) (Continuing)

19 Q. Good morning, Witness.

20 A. Good morning, Counsel.

21 Q. After reading the transcript of yesterday's testimony, I wanted to ask you some
22 questions. I realise that I omitted to ask you a few questions when we finished, so
23 we will go on to these open questions and I promise that we will be finished with the
24 cross-examination today.

25 Your Honour, if we could please immediately go into closed session.

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1 PRESIDING JUDGE STEINER: Court officer, please.

2 *(Private session at 9.48 a.m.) Reclassified as Open session

3 THE COURT OFFICER: We are in private session, Madam President.

4 MR LIRISS: (Interpretation)

5 Q. Witness, your Honour and my colleague, Mr Bifwoli, have already explained
6 the advantages of a private session. I think you understand that you can give all the
7 names that you need to at this time. Now, yesterday, when we were talking about
8 the sexual assault you were subjected to, I asked you whether your daughters were
9 present and you answered, but I made a mistake. I didn't ask you whether your
10 husband was present. Could you complete your testimony in this regard? Was
11 your husband present during your sexual assault?

12 A. I told you that he was present. He wanted to intervene, and in the final
13 analysis, they took him out.

14 Q. What I mean by "present" is that, rather, did he see what was being done to
15 you?

16 A. Yes, he saw. He was present. He wanted to speak out and they took him out.

17 Q. They took him out after your rape, or during?

18 A. But a married man cannot accept another man sleep with his wife. He wanted
19 to speak to them, and so finally they took him out.

20 Q. I certainly understand. Perhaps I'm putting the question poorly. Other than
21 your children, the (Redacted) and the baby that you had in your arms during this assault,
22 other than those three people, there was your husband who was in the process of
23 watching. That is a horrific thing.

24 A. Yes, he was there. He saw with his own eyes. He wanted to intervene, but
25 they gave him the order to go out.

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1 Q. Very well, Ma'am. Let us move on to something else. Yesterday we also
2 talked about the forcible enlistment and I remember you said that some Central
3 African people had been recruited, but I didn't want to talk about that. You also
4 answered the question who, who was commanding the -- leading the
5 Banyamulengue in the Central African Republic. Allow me to go back to the issue of
6 recruitment. Who gave the order to forcibly recruit people in the Central African
7 Republic, to the best of your knowledge?

8 A. I don't know, but I did hear people say that the men would be enrolled and that
9 they would be given weapons. I don't know who was responsible for that.

10 Q. And who would have given them weapons and uniforms and food to this -- to a
11 person who was enlisted?

12 A. The person who invited them, who gave them -- it was the person who invited
13 them who gave them weapons and uniforms.

14 Q. I'm speaking about -- who is this person? Could you give this person's name?

15 A. I was speaking about Patassé, who called for them. He was the one who
16 distributed guns.

17 Q. Ma'am, we will move on to a different matter now. Could you tell the Court
18 the names of the people who left and went to (Redacted) with you?

19 A. There were quite a -- quite a few of us. I only remember the names of my
20 family members.

21 Q. Did your husband go with you?

22 A. No. He asked me to take refuge there with the children and he was going to
23 stay. He was ready to die.

24 Q. You mentioned that amongst the people who left with you there was a (Redacted)
25 is that so?

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1 A. Yes.

2 Q. If I were to give you a name, if I were to say, for example, (Redacted)
3 do you remember that?

4 A. (Redacted) (phon), those are the (Redacted) whose names I mentioned.

5 Q. Very well, Ma'am. (Redacted) that you spoke of, this lady, might it be
6 (Redacted)? (Redacted).

7 A. Yes, she is a Muslim lady.

8 Q. She is also a member of the NGO, isn't she?

9 A. Yes.

10 THE INTERPRETER: Correction from the English booth: The witness also said
11 that this lady's mother was from the Central African Republic.

12 MR LIRISS: (Interpretation)

13 Q. Ma'am, with reference to (Redacted) you remember your (Redacted)
14 don't you, the one who died?

15 A. He wasn't my (Redacted). He was the (Redacted).

16 Q. I see. Thank you for correcting me on that point. The Court has heard a
17 number of versions relating to his death and the reasons for his death (Redacted)
18 (Redacted). Could you tell us, before the Court, what is your version
19 of the facts? How was (Redacted) killed?

20 A. They didn't kill him. You see, (Redacted). He asked
21 them for money and they said to him why would he be asking for money? They hit
22 him with the butt of their rifles. He was taken to hospital and the injuries became
23 infected, and after the consequences, or owing to the consequences of this, he died.

24 Q. Thank you, Ma'am. They didn't shoot him, did they?

25 A. They hit him with the butt of their weapon, but they never shot at him.

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1 Q. Thank you very much, Madam. When they struck him, you state in your
2 statement before the Prosecutor that it was in your compound. Do you confirm
3 that?

4 A. Yes, it was in the same compound as us. (Redacted) married -- it was (Redacted)
5 who was married to the sister, so he was with us.

6 Q. Did you see (Redacted) being attacked in your compound? That's what you
7 mean, is it not?

8 A. We fled. We were in (Redacted) when that happened and, when I came back,
9 (Redacted) told me that (Redacted) had been savagely beaten.

10 Q. So with regards to the -- well, what you said to the investigators of the
11 Prosecutor, you specifically said that you were in your compound when (Redacted) was
12 attacked and that you were present?

13 PRESIDING JUDGE STEINER: Can you give us the reference, please.

14 (Pause in proceedings)

15 MR LIRISS: (Interpretation) Your Honour, it is -- I know that in English it's
16 0028-0156, but I do not know the page, but in French it is 0034-0996. May I make a
17 correction? In French, it's 0997. English, 0174. 0028-0174.

18 PRESIDING JUDGE STEINER: I'm still looking for the reference, not only the page,
19 but in which part she said she was not there.

20 MR LIRISS: (Interpretation) She says that she was there. The passage in which
21 she says that she was there.

22 Q. Madam, I'm going to read this passage to you. The investigator asked you a
23 question: "What did you see?" And you answered: "In fact, (Redacted)

24 (Redacted). So he was given a (Redacted), but he was also busy

25 (Redacted). So he asked them to wait until he had finished with the

1 others and then they got angry with him and they asked him why he had answered
2 them in that way, and that is the reason why they beat him and they took the other
3 (Redacted) in which he was (Redacted) and left with them." Question: "Did you witness
4 this situation?" Answer: "Yes, we lived together on the same compound." "What
5 happened to (Redacted) was before or after the Banyamulengue forced you to sleep with
6 them?" In answer to that, you said: "It was afterwards." And the fundamental
7 question: "Where did this altercation between (Redacted) and the Banyamulengue take
8 place exactly?" To which you answered: "In our compound."

9 Do you confirm this statement, Madam?

10 A. This is a report of what (Redacted) told me, so I just reported what (Redacted) told to
11 me. I was not present. When I came back, (Redacted) told me what had happened. I
12 confirm it also.

13 Q. Madam, with regards to the statement before the investigators, they reflect the
14 truth of what you heard and understood. That's what you said yesterday. Now,
15 before the investigators, why did you say that you had seen the altercation and that it
16 happened on your compound?

17 A. When I came back with the children to the house they told me what had
18 happened and, when I was asked the question, that's what I said.

19 Q. Why say that that happened in the compound before your very eyes?

20 A. But one can always be mistaken. Perhaps I made a mistake, but the facts did
21 not occur in front of me. That is the truth.

22 Q. Okay, Witness, you made a mistake. So it's the new version which we have to
23 take into account; is that correct?

24 A. What is -- what I can say is what I saw. They did not beat him before me,
25 but -- and, as such, there are certainly errors in what was taken down.

1 Q. Madam, did you see the body of the deceased (Redacted)

2 A. He was buried at the hospital, I think.

3 THE INTERPRETER: Oh, no, he was taken to the hospital, corrects the interpreter.

4 THE WITNESS: (Interpretation) There were wounds that were infected. His
5 body was covered in injuries. I was present at the hospital. He had suffered
6 considerably.

7 MR LIRISS: (Interpretation)

8 Q. Was it (Redacted) hospital, or another hospital?

9 A. He was taken into the (Redacted).

10 Q. He did not die at his father's house?

11 A. He lives with his father and it was in (Redacted) compound that he (Redacted).
12 He does it in the evening. So his body, or the remains, these went to his (Redacted)
13 house, because where he went that was to his parents-in-law.

14 Q. Madam, I'm going to give you the version of another witness who is a member
15 of your family with regards to this issue. It is stated that: "He died in (Redacted) and
16 the hospital wasn't working. He didn't go to hospital. We tried to find traditional
17 medicine. There was no improvement. I told the father that if that continued there
18 was a risk that he would die, so the father took him to (Redacted) and from there he was
19 taken to hospital." This is in the transcript of 26 January 2011, page 9, lines 6 to 9,
20 and that is the final version thereof in French.

21 What do you think of this version, which is quite the opposite of what you said, given
22 that you were not there?

23 A. How do I know if it's contradictory? If I didn't speak about the hospital you
24 would say it like that. He was taken into hospital and it was at the hospital that he
25 died. That's not the opposite. He was sick, certainly. He was taken to his father's

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1 house and then he was taken to hospital. I don't see a contradiction there.

2 Q. The Chamber will assess that. At the time, living with you, was there a child
3 called (Redacted)?

4 THE INTERPRETER: The Sango interpreter did not hear the witness's answer.

5 PRESIDING JUDGE STEINER: Madam Witness, could you please repeat your
6 answer? The interpreter could not hear.

7 THE WITNESS: (Interpretation) You spoke about (Redacted), but I can't find that.

8 MR LIRISS: (Interpretation)

9 Q. (Redacted)?

10 A. (Redacted) is the youngest boy of (Redacted).

11 Q. Can you tell us what age he has now? How old he is now?

12 A. I don't know how old he is. He's dead.

13 Q. Can you tell us under what circumstances he died?

14 A. I don't know. I don't know what to say with regards to (Redacted). I am afraid of
15 lying, if I do.

16 Q. Was he sick?

17 A. After these events, they were all taken to (Redacted) and they stayed there for along
18 time and ultimately it was in (Redacted) that he died.

19 Q. He died as a result of an accident, of sickness, illness? To what, to your
20 knowledge?

21 A. He didn't die here. It was in (Redacted) or in (Redacted).

22 THE INTERPRETER: If the interpreter understands well.

23 THE WITNESS: (Interpretation) After these events, (Redacted) and her mother fled
24 in order to go to (Redacted), and it was only after calm had returned that this
25 occurred. I can't say any more.

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1 MR LIRISS: (Interpretation)

2 Q. At the time that they fled for (Redacted), were the Banyamulengue already at
3 (Redacted)?

4 A. They took over PK12 and it was afterwards that they fled.

5 Q. If I understand that well, (Redacted) died in (Redacted) and the Banyamulengue were
6 not yet in (Redacted) at that time, is that what you want to say, or are you rather
7 saying that the Banyamulengue were there?

8 A. Well, I was here. I couldn't know if they were there.

9 Q. Madam, are you interested in knowing the cause of death of (Redacted), who was
10 living with you on your compound?

11 A. He wasn't here. He fell ill there and he died there. I can't tell a lie. I don't
12 know. I don't know where it concerns (Redacted).

13 Q. You state, Madam, that he fell ill there. Did he therefore die of an illness?

14 A. I don't know. They all took him there and I don't know what he died of. I
15 can't tell you a lie.

16 Q. All right, Madam. When he was taken to (Redacted) he was alive, was he not?

17 A. He was.

18 Q. This was after your attack or the attack on you, was it not?

19 A. Yes, it was afterwards that he was taken there. There was insecurity and his
20 father asked for him to be taken there until calm had returned.

21 Q. On the day of the attack, did anything happen to him?

22 A. I do not know. I did not try to find out.

23 Q. I asked you this question to verify what was said by a member of your family.
24 In the English version, it is a statement of 2 February 2011, page 27, line 4, and in the
25 French version, page 25, line 14. On that day what -- my father was raising chicken

1 or farming chickens, and the youngest brother saw him and he alerted my father to
2 tell him that they were taking our ducks and, thereafter, they beat up my young
3 brother with their rifles or with their weapons. And several days afterwards he died,
4 following that. 2 February 2011, page 19, lines 15 to 18 of the English version.

5 Thank you for a clarification you can give in this regard.

6 A. Where it concerns the ducks, where the farm was with the ducks, that wasn't
7 very -- next to us. We were slightly further up from it and we learnt that the
8 Banyamulengue were taking ducks from the people. This is what we learned. But
9 where it concerns the rifle butting, that's something I don't know.

10 Q. Thank you, I'm already satisfied with your first answer and I shall now go on to
11 something else, if you would allow me to do so. The last question in private session:
12 You stated yesterday, unless I am mistaken, that you were not there during the rape
13 of your husband; is that correct?

14 A. I was present. He was present, too.

15 Q. Madam, I'm talking about the attack on your husband. You stated that it was
16 behind the house; is that not correct?

17 A. Yes, but they made him go outside. And why did they do that? He was
18 outside, I was inside the house, so we were together, were we not?

19 Q. You were saying you were together on the same compound, but my question
20 was were you together with him during his rape?

21 A. I was not next to him. Some were on me and him as well, others were on him.
22 It was only afterwards that we shared the information. I didn't see what was being
23 done to him, I was inside the house, and he knew that they were raping me. They
24 pushed him out of the house and they also raped him, as well.

25 Q. Madam, you have given the answer that was necessary. You weren't present

1 when he was being attacked. That is sufficient. (Redacted), was she present, to the
2 best of your knowledge?

3 A. (Redacted) wasn't there. She went to sell things at the market.

4 PRESIDING JUDGE STEINER: Could you please, when asking these kind of
5 questions, be more precise. What do you mean by "present," because for the witness
6 that can mean many, many things; in the same compound, in the same house, at the
7 side of the person. Just to make it clear for the witness, please.

8 MR LIRISS: (Interpretation) You are right, your Honour.

9 Q. Witness, I asked the question - I put it very badly, such that you might have
10 misunderstood it. Was (Redacted) next to (Redacted) when he was being raped, to the best
11 of your knowledge? You have said that you were in the house.

12 A. She was not there.

13 Q. And (Redacted)?

14 A. (Redacted) was ill. She was inside the house.

15 Q. I think I've already asked you a question. Yesterday I think you have already
16 answered one of the concerns I had. The only thing that I wanted to say, or ask
17 you -- well, you filled in a form in order to make it possible for the Chamber to
18 determine the issue of whether you could be granted the status of a victim in this case,
19 and it is in accordance with this statement which is contained in this form that the
20 Chamber came to a decision. In page 10 thereof -- court officer, this is the same
21 document as yesterday.

22 On page 10 thereof, you state that "The rape was perpetrated before my daughters
23 and my husband." So the question that I would like to put to you is: Why did you
24 state that in such away?

25 PRESIDING JUDGE STEINER: Maître Liriss, I think it's on page 9.

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1 MR LIRISS: (Interpretation)

2 Q. Madam Witness, it's page 10, question 4.

3 PRESIDING JUDGE STEINER: Yes, there is the same answer on page 9. Can you
4 repeat the question to the witness, please.

5 MR LIRISS: (Interpretation) Of course, your Honour.

6 Q. Madam Witness, my question is as follows: Why did you state twice, pages 9
7 and 10, in your form to be granted victim status that you had been raped in the
8 presence of your husband and your daughters?

9 PRESIDING JUDGE STEINER: Maître Douzima.

10 MS DOUZIMA-LAWSON: (Interpretation) Thank you very much, your Honour.

11 I would like to remind you that I had made a comment about the difference between
12 being present and seeing, and I believe this is the issue that is arising with respect to
13 this question. I'd simply like to put it out with regard to the question, the witness
14 has been asked and cannot manage to answer for the time being.

15 PRESIDING JUDGE STEINER: Maître Liriss, you could please, put both questions,
16 whether they were present and whether they assisted. I don't know exactly what the
17 witness meant by "devant" in her witness application, so maybe you could try to
18 clarify that.

19 MR LIRISS: (Interpretation) Your Honour, I believe that such an issue in terms of
20 the interpretation might arise when you're talking about Bossangoa, but this is in
21 French here, it is "in front of." But if you want me to ask the question, I'll ask it to
22 ensure greater clarity.

23 PRESIDING JUDGE STEINER: Maître, if I may explain. The witness doesn't speak
24 French, so she spoke in Sango and it was translated into French. So maybe there is a
25 translation problem. That's why I'm suggesting -- of course it's up to the Defence,

1 but I'm suggesting clarification on that.

2 MR LIRISS: (Interpretation)

3 Q. Madam Witness, yesterday you told us that when the Banyamulengue told you
4 they were going to rape you 50 times, you had understood. In your application
5 form, page 6, which language were you speaking? Which language can you speak?
6 You answered Sango and a bit of French. Before asking the question the Judge has
7 suggested, I would like to know whether you read or -- the application form or
8 whether it was read out to you.

9 A. Some things that are written down include, at times, mistakes. I said that there
10 were only children with me. My older daughters had all gone out.

11 Q. When you signed your application form in which you state that it was in front
12 of your daughters and in front of your husband, what did you understand by "in
13 front of"? Could you explain to us, please?

14 A. What do you mean my husband wasn't there? Of course he was there. He
15 tried to stop them and they dragged him out. I never said he wasn't there. He was
16 there, but when you've paid bride wealth for your wife and she is molested in this
17 way, do you believe you enjoy that? Of course you don't. He was there, he tried to
18 stop them, and they dragged him out. That's what I said.

19 Q. All right, Madam. I want to be fair with you. I could have stopped on this
20 but I will follow the Judge's suggestion. In your application form you've said that
21 you had been raped in front of your husband and in front of your children. You said
22 it twice. When you used the word "in front of," did you mean in the presence of, or
23 was your husband next to you, or did you mean that your children and your husband
24 were in the same compound?

25 A. How many times are you going to ask me this question? I'm telling you he

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1 was there. He saw what was happening, and when he tried to stop them, they
2 dragged him out. That's what I've told you.

3 MR LIRISS: (Interpretation) Your Honour, the Chamber will form its own opinion.

4 And can we now please move into an open session.

5 PRESIDING JUDGE STEINER: Court officer, please.

6 (Open session at 10.38 a.m.)

7 THE COURT OFFICER: We are in open session, Madam President.

8 MR LIRISS: (Interpretation)

9 Q. Madam Witness, we are now in an open session. As the Judge has already
10 recommended, as my learned colleague from the Prosecutor's office recommended,
11 both of us are going to try and avoid mentioning any names and even perhaps some
12 information that would help you be identified and would endanger your security. I
13 hope you've understood this.

14 PRESIDING JUDGE STEINER: Could you please sit a little bit closer to the
15 microphone, because sometimes we cannot hear what you're saying. Thank you
16 very much.

17 MR LIRISS: (Interpretation)

18 Q. Madam Witness, the events you experienced - and I have a question I know that
19 you've already answered, but there's a reason why I'm going to ask it again - did they
20 occur before, or after, you fled to (Redacted)?

21 A. I've already told you, these events happened before I was able to leave with the
22 children.

23 Q. Thank you, Madam. I asked you this question just to check statements by
24 another witness who said that they occurred after. How did you get to (Redacted)?

25 A. We walked there.

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1 Q. Thank you, Ma'am. Was it the same day as you were molested or sometime
2 later?

3 A. After. That's when we went to (Redacted), because the children's dad said they
4 might come back, and given the way they behaved, I had to leave with the children.

5 Q. Could you tell us roughly how much time occurred, went by, before you
6 decided to leave after you had been attacked?

7 A. Two days later.

8 Q. All right, Ma'am. Your husband had a car, did he not?

9 A. Yes.

10 Q. What happened to that car when you fled to (Redacted)?

11 A. I don't know where they took the car.

12 Q. One of the witnesses who experienced the same events as you did told us the
13 car was still there when you left for (Redacted). It's when you came back that you found it
14 had been damaged.

15 For the Chamber's information, this is the English transcript of 3 February 2011, page
16 34, lines 2 to 11.

17 Now, Madam Witness, can you confirm that when you left for (Redacted) that the car was
18 still there, had not been damaged?

19 A. When we got back, the car wasn't there anymore. They smashed the car while
20 I was away.

21 Q. Therefore, how can you state when you weren't there that the Banyamulengue
22 were the ones who smashed up the car and stole the crucial parts of the car? Could
23 you tell us, please, Madam?

24 A. Well, I wasn't there to see who stole those parts from the car, but it could have
25 been them. That's what they came for, to steal. They were doing anything they

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1 liked.

2 Q. Madam, would it be exact to conclude that you cannot testify about destruction
3 of your car and the theft of its crucial parts by the Banyamulengue?

4 A. But, I mean, they were taking whatever they liked. They looted people's goods.
5 That's what I can say.

6 Q. I believe I didn't ask you my questions in the right way, so I'll ask you
7 small -- three small questions. First of all, you agree, don't you, Madam, that you
8 weren't there, or rather you went to (Redacted) and the car remained intact in your home;
9 is that the case?

10 A. When such an event occurs, you leave everything behind you. The car stayed
11 home, and even what we used in the market, all the devices in our home, what we
12 use in the market, they took everything.

13 Q. All right. My question is as follows: When you came back, you
14 unfortunately realised that all these actions had been committed; is that right?

15 A. Yes, but when you see your own home that you've walked out from and when
16 you come back you find that everything has been destroyed. That's what happened
17 after we left and, when we got back, we realised that everything had been destroyed.

18 Q. Very good, Madam. Therefore, since you weren't there, why are you saying
19 that the Banyamulengue are the ones who destroyed your goods and stole things and
20 not another group, such as your neighbours? Why do you say it was the
21 Banyamulengue?

22 A. They chased us out of our home. We fled. We couldn't see what was
23 happening. I can't tell you names.

24 Q. This is the Defence 's viewpoint. You have no evidence that would allow you
25 to say that the theft and destruction of your car and all the goods in your home while

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1 you were not there was to be blamed on the Banyamulengue. What is your opinion?

2 A. But the hens, the goats, who stole them? I was -- we were there. We saw
3 them. They were taking our goats, our hens, so what did they not get up to while
4 we weren't here? Don't you think that's what occurred?

5 Q. All right, Madam Witness. If I understand you well, you are telling me that
6 since you saw them steal some hens they, therefore, are the ones who stole everything
7 else and destroyed the car. That's what you're saying, is it not?

8 A. But they were stealing things from our home when I was there. They weren't
9 hiding themselves. Everything that had any value, they were stealing. Clothes
10 they could wear, they would take them, and I was there, and they would only move
11 into nice houses. They used the doors as heating wood, just like the furniture.
12 They used the mattresses to sleep on them. That's what I saw with my own eyes.

13 Q. We're going to talk about the other goods, but my question is focussed on the
14 car and I told you that from the Defence 's viewpoint you have no proof since you did
15 not see what happened. All you're doing is deducing that the Banyamulengue are
16 the ones who destroyed it. I was asking you what your opinion is with respect to
17 our viewpoint. You can answer, or not, and then we'll move on to the following
18 question.

19 A. We were happy when they weren't there. Everything was fine. Then they
20 came, they chased us out of our homes and when we came back everything had been
21 stolen. What conclusion can you expect us to draw?

22 Q. Madam Witness, you are therefore supposing this is what happened. You are
23 making a deduction, am I not right?

24 A. What do you mean I didn't see? But I saw people's goods being looted. Is
25 that not theft?

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1 Q. Please let's concentrate on the car, just on the car. So my question is: Is it a
2 deduction that you made that enables you to say that the Banyamulengue are the
3 ones who destroyed it?

4 A. I know it was them, but they plundered all sorts of things and they started
5 selling them in our area. They are the ones who took all of that.

6 Q. I'll try for a last time to ask you my question. You did not see this, i.e. the way
7 in which your car was destroyed, but you are supposing the Banyamulengue are to
8 be blamed, am I right?

9 A. I don't suppose that. I mean, just imagine somebody who's built his own home
10 and then they come in and destroy everything. I'm not supposing. That's what
11 happened.

12 Q. Madam Witness, if you're not supposing, this would mean that you have seen
13 this with your own eyes, but you tell us you did not see it?

14 A. I'm not supposing anything. That's what happened. That's what I'm telling
15 you.

16 Q. Madam Witness, we're going to move on to another question now. How long
17 did you take to get to (Redacted), please?

18 A. We left our home in the morning and we went there.

19 Q. Madam Witness, you told us that you saw fighting in (Redacted) and, after a lull in
20 the fighting, a soldier from the MLC brought you some poultry and asked you to
21 cook this meat for them. I would like to know how many times they made such
22 requests while you were in (Redacted)

23 A. That was in the morning after we had fled with the children. There were a lot
24 of people there. Some people were in the church, some in the school. We took the
25 path towards the road leading to Duchon (phon). They started shooting and that

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1 lasted from the morning until about 3 p.m. Afterwards, the rebels pulled back and
2 the Banyamulengue moved into the area. They patrolled around. There were a lot
3 of us. The children were tired. When we tried to flee, they saw us and said, "Don't
4 flee. We are hungry, we brought some food and we want you to cook it." There
5 was sugar, goats, hens. They were armed. They were surrounding us.
6 They -- when we finished cooking them food, we gave it to them. Given the state of
7 the children, they asked us to bring some plates and they gave some food to the
8 children. Once they turned their backs around I threw that food away, because I
9 thought to myself I can't give this food to the children. Our children are tomorrow's
10 future and I don't want an evil fate to be inflicted upon the children. That's what I
11 saw with my own eyes.

12 Q. Thank you, Madam Witness. My question was how many times did they ask
13 you to cook for them while you were at (Redacted)? Was that the only time, Madam
14 Witness?

15 A. No, it only happened once after the fighting. After the fighting they were
16 hungry, they brought us their food and they asked us to cook it for them.

17 Q. My last question before the break: When they asked you to cook that food for
18 them, did they point their weapons at you to force them to cook that food for them?

19 A. They didn't threaten us. They were there, they had their weapons in their
20 hands, but they did not threaten us directly with their weapons.

21 MR LIRISS: (Interpretation) Thank you very much, your Honour -- Madam
22 Witness. Your Honour, I can see it's 10 -- it's 11 o'clock.

23 PRESIDING JUDGE STEINER: Thank you, Maître Liriss. We are going to our
24 break. Madam Witness, we are going to suspend this hearing for half-an-hour in
25 order for you to take some rest. It's 11 o'clock. We'll be back at 11.30. I will ask

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1 the court officer, please, to turn into closed session in order for the witness to be taken
2 outside the courtroom and, in the meantime, we will suspend the hearing and we will
3 resume at 11.30.

4 *(Closed session at 10.59 a.m.) Reclassified as Open session

5 THE COURT OFFICER: We are in closed session, Madam President.

6 (The witness stands down)

7 THE COURT OFFICER: All rise.

8 (Recess taken at 11.01 a.m.)

9 *(Upon resuming in closed session at 11.33 a.m.) Reclassified as Open session

10 THE COURT USHER: All rise. Please be seated.

11 PRESIDING JUDGE STEINER: Welcome back to the courtroom. We are resuming
12 our hearing and I ask, please, court officer -- court usher, to bring the witness in.

13 (The witness enters the courtroom)

14 PRESIDING JUDGE STEINER: We can turn into open session, please.

15 (Open session at 11.36 a.m.)

16 THE COURT OFFICER: We are in open session, Madam President.

17 PRESIDING JUDGE STEINER: Thank you. Welcome back, Madam Witness.

18 THE WITNESS: (Interpretation) Good morning again, your Honour.

19 PRESIDING JUDGE STEINER: Did you manage to rest a little bit, Madam?

20 THE WITNESS: (Interpretation) Yes, I was able to rest a little bit.

21 PRESIDING JUDGE STEINER: Are you ready to continue with your testimony?

22 THE WITNESS: (Interpretation) Yes.

23 PRESIDING JUDGE STEINER: Thank you. So I will give the floor to the Defence
24 counsel, Maître Liriss.

25 MR LIRISS: (Interpretation) Thank you, your Honour.

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1 Q. Good morning once again, Witness.

2 A. Good morning.

3 Q. When you left to go to (Redacted), did a member of the family remain in your house?

4 A. Yes, there were a few people who remained behind.

5 Q. Ma'am, we are in open session right now. Please do not give any names. The
6 person who remained behind, the head of the family, did he remain in the house?

7 A. He wasn't in the house. He too fled to go take refuge somewhere.

8 Q. When did you go back to PK12? When? What did you see, in terms of your
9 possessions at home?

10 A. When we came back, all the possessions had been looted. There was nothing
11 in the house.

12 Q. Witness, what allows you to believe that it was the Banyamulengue who looted
13 these various items? The head of the family was not in the house. You yourself
14 were at (Redacted).

15 A. But I saw with my own eyes. I saw them with my own eyes. I saw them
16 taking goods from people. Everyone knew it. They didn't try to hide what they
17 were doing.

18 Q. Ma'am, I don't doubt that you saw some people taking goods from other people
19 with your own eyes, but my question has to do with the possessions in your house.
20 And my question is as follows: Since neither you nor the children, nor the head of
21 the family was present, on the basis of what are you saying that it was the
22 Banyamulengue who looted goods from your house?

23 A. I was sure that it was them because all the items they took, they stockpiled them
24 at the school. Some items were taken to the other side of the river; others were
25 stockpiled at the school. I am sure that it was them.

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1 Q. Did you see your own personal belongings at the school?

2 A. But the items were taken from here, there and everywhere, and they stockpiled
3 them there. The situation was such that we couldn't go and look at those items
4 there.

5 Q. Madam Witness, is it reasonable to say that you did not see with your own eyes,
6 you did not see, nor did the other family members see - the ones that you went to
7 PK12 with - and nor did the head of the family see, no one saw with their own eyes
8 the Banyamulengue looting your house; is that a reasonable thing to say? Is it
9 reasonable to say that you did not see them?

10 A. They took things from everyone. Furthermore, they went through all the
11 houses, and they took beds and they would sleep on those beds.

12 Q. Witness, did a member of your family see, with his or her own eyes, the
13 Banyamulengue looting your house?

14 A. Yes, they were the ones. They took everything. They stored all the various
15 things they took from people, they stored them there. Who could have done such
16 things?

17 Q. Ma'am, my question is a simple one, very simple: Did a family member see
18 this looting of your house, and, if so, which one?

19 A. But when you see them coming with weapons, you run away from your house
20 and your belongings. You go away. How can you remain, to keep an eye on all of
21 that? They did not try to hide that they were looting goods.

22 Q. Once again I will reiterate my question, and this is just a question about
23 whether you personally, or a member of your family, did you see - did you see - were
24 you an eyewitness to the looting of your house, Ma'am?

25 A. Who could have stayed there to watch all of that? The situation was so bad

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1 that no one could stay to watch. Everyone was trying to save themselves. I know
2 they were the ones who took everything. We never had such things happen before.
3 All our goods were there, our belongings were there before. It was them.

4 Q. Witness, you know that it was them but you weren't there. Was it a deduction
5 that allowed you to come to this conclusion?

6 A. I wasn't deducing things. They were doing those things publicly. They
7 would take mattresses, foam mattresses. They didn't take the actual beds because
8 they were heavy. They would take kitchen utensils to cook their food. Everything
9 happened in front of me. They did not hide what they were doing.

10 Q. Ma'am, speaking about what happened in your house, to you, not about what
11 happened to other people or in other people's houses. Your house was looted. Is it
12 correct to say that it was during your absence?

13 A. They were the ones. I can't give any other person's name. They were the
14 ones who did these things.

15 Q. Ma'am, I need you to answer on a question-by-question basis. Was it during
16 your absence?

17 PRESIDING JUDGE STEINER: Maître Liriss, if you want, you can repeat the
18 question, but just asking whether you think it's still necessary to insist again and
19 again on the same point. If for you it's still necessary, please repeat the question
20 because apparently she couldn't understand your last question.

21 MR LIRISS: (Interpretation) Thank you, your Honour.

22 Q. Ma'am, this is my question, and I will put it as simply as possible: Is it true
23 that no member of your family was there, was at the house, when the house was
24 looted?

25 A. I told you that we had all fled.

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1 Q. That is sufficient, Ma'am. Witness, you stated to the investigators, English
2 version CAR-OTP-0028-0177, 0028-0178, and then 0038 for the French, 00999, you
3 stated that the chef de quartier had fled. Can you confirm that statement?

4 A. He wasn't used to gunfire. When he heard that, when he realised there was
5 gunfire everywhere, he fled as well.

6 Q. Alone, or with his wife and children?

7 A. It was everyone.

8 Q. Was that before, or after, the assault on you?

9 A. It was when they arrived. That was when they fled.

10 Q. Could you specify, Ma'am? Was it before the assault upon your family or after
11 that assault?

12 A. I didn't try to determine all of that.

13 Q. When did he come back? Do you have any idea when he came back? In
14 other words, did he come back when the Banyamulengue were still there or after they
15 left?

16 A. I didn't take all of that into account and everything that they were doing. I
17 didn't take into account those various things.

18 Q. Do you know what happened to his wife, to your knowledge?

19 A. I have no information about his wife. I wouldn't want to tell you a lie.

20 Q. What happened to him?

21 A. But I can't speak on his behalf.

22 Q. I ask this question just to determine the version according to which he was
23 beaten and his wife allegedly was raped by the Banyamulengue. I think that's all for
24 that particular matter. Witness, after the assault upon you, did you file a complaint
25 with the authorities?

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1 A. No.

2 Q. Why, Ma'am?

3 THE INTERPRETER: The Sango interpreter did not hear the witness's reply.

4 MR LIRISS: (Interpretation) I will repeat my question.

5 Q. Ma'am, why did you think it was not appropriate to make a complaint to the
6 authorities?

7 A. Who could I have gone to, to file a complaint during those events?

8 Q. The police station.

9 A. (Redacted) was the only one who went to complain at the police station, but
10 personally I did not file any complaint.

11 Q. Do you know what happened with this complaint? Once again, Ma'am, please
12 do not give any actual names. The person who made a complaint, did he not tell
13 you what was done about this complaint or in response to this complaint?

14 A. He did not make an official complaint in writing. He just went to them and
15 reported what had happened to us.

16 Q. Might he have said to you that his complaint was recorded?

17 A. I have no information about that.

18 Q. Madam Witness, did you see a physician immediately after the assault upon
19 you, you or your children, but -- well, let us speak about your own particular case.
20 Did you see a doctor after this assault?

21 A. I did not see a doctor.

22 Q. And why, Ma'am?

23 A. I was afraid that the doctor might find signs of a deadly disease, and in that case,
24 I would have died thinking about that, so that is why I did not go to see a doctor.

25 Q. Witness, I have here your statement. I'm speaking of the application to have

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1 victim status, page 11. And in response to the second question, "Were you examined
2 by a doctor after the event, or the events, in question," and your answer was, "Yes."
3 Third question: "Have you received medical care or psychological assistance?"
4 And you answered, "Yes." Fourth question, "If yes, do you have the documents that
5 set out the medical treatment or the psychological treatment, or do you have access to
6 such records?" And your answer: "I will try to provide you with the medical
7 documents later." So here is my question, or the first of a series of questions.
8 Why -- you did not see a doctor. Why did you state in your application to have
9 victim status; why did you say the contrary?
10 A. I just have the birth certificate, or the prenatal certificate, so I didn't go and see
11 the doctor after this aggression. I had examinations for my pregnancy and I had the
12 documents on me and I showed them that.
13 Q. Madam, I have a very simple question to you: Why, in the form which made it
14 possible for the Chamber to decide on your participation as a victim, you stated that
15 you had seen a physician?
16 A. I stated that I had undergone prenatal examinations, but I didn't see a doctor
17 subject to this attack. I thought if I went to see a doctor and the doctor discovered
18 that I had a serious disease, then I would die of fear. That's why I didn't go to
19 hospital after this attack.
20 Q. We agree with that, Madam. My question is why you stated that you went to
21 see a doctor after this attack? Witness, I can see once again you refuse to answer one
22 of my questions. I am therefore going on to the second one. The Defence case on
23 this issue is as follows: In reality, you did not have medical proof which could
24 certify such an attack. What do you say to that? Okay, Madam, you have also
25 refused to answer this question. The second question is as follows.

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1 PRESIDING JUDGE STEINER: Maître Liriss, before concluding that she is refusing
2 to answer to your questions, it would be better to ask whether she understood your
3 question. Madam Witness, are you receiving interpretation? Are you listening to
4 the interpreter, Madam?

5 THE WITNESS: (Interpretation) I have understood, but these questions were put
6 intentionally and that's why I decided not to answer them.

7 PRESIDING JUDGE STEINER: Thank you very much. You can proceed, Maître.

8 MR LIRISS: (Interpretation)

9 Q. Thank you, Madam Witness. You also stated that you provide medical proof
10 of the attack. Did you provide that?

11 A. I told you that I didn't see a médecin -- a doctor after the attack, but I only
12 underwent prenatal examination.

13 Q. Madam, if this document didn't exist, who suggested to you to say that you
14 would try and provide them -- that you would provide them?

15 A. I said that I had my prenatal consultation card and I had promised that I would
16 provide them with that. That is what I said I would do.

17 Q. Madam, what's written here, this isn't prenatal consultation. These are
18 medical documentation relating to the attack.

19 PRESIDING JUDGE STEINER: Where are you reading that, please?

20 MR LIRISS: (Interpretation) Your Honour, page 11, in answer to question 4: "I
21 shall try". Question: "If yes, do you have a dossier which shows the medical
22 treatment or psychological treatment you had, or do you have access thereto?" The
23 answer to that was: "I shall try to provide you with the medical documentation
24 later."

25 PRESIDING JUDGE STEINER: Maître Liriss, your line of questioning is based on

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1 your particular interpretation of the wording of the application form when it said -- it
2 asked whether she has been examined by a doctor after the events. Whether after is
3 soon after, or after at any other point between the events and the application form, is
4 in the air, and from that you are trying to put conclusions in the mouth of the witness
5 and I don't think this is fair with the witness. So maybe if you start asking the
6 witness, after -- what she understands by "après les événements, après quand". This
7 is the question that you should have put to her, because it's turning in circles. We
8 are not advancing, because you decided that what is written here is soon after and
9 that the document she had was the documents related to the rape, and she's insisting
10 that it is the documents related to her pregnancy and we are not advancing. So,
11 please, maybe if you rephrase in a way for the witness to understand exactly what
12 you want.

13 MR LIRISS: (Interpretation) I shall follow your recommendations, thank you,
14 and I shall put -- well, I put the questions in this way because the form is written as
15 such, "Information with regards to damage, loss, or harm suffered," so I suppose it's
16 the harm suffered. It's following the attack which is talked about on the previous
17 page. Now, I'm going to ask the question.

18 Q. Madam Witness, when you filled in this document and when you were asked
19 the question whether you had suffered damage, you said that it was a harm
20 following -- well, following which event did you understand that it was damage
21 after?

22 A. What I underwent, the harm following these events. They slapped me in my
23 face and I continued to have problems with my eyes, with my -- with my hip, with
24 my kidneys. Those were the consequences that I had. That is all a result of what I
25 underwent.

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1 Q. When the question was put to you, "Were you examined by a médecin after the
2 events in question?", how did you understand that?

3 THE INTERPRETER: The interpreter corrects: It was pelvis and not hip in the
4 previous answer.

5 THE WITNESS: (Interpretation) The consequences of these events were the fact
6 that they beat me up.

7 MR LIRISS: (Interpretation)

8 Q. Very well, Madam. I ask you the following question: Did you see, or did you
9 consult, a doctor after the events? In your opinion, what event is being talked
10 about?

11 A. They asked me if I had consulted a doctor to see if I had contracted a disease. I
12 said, "No, I have problems due to the fact that I was slapped. I have sight problems,
13 I have problems with my pelvis, with my teeth." That's what I told them.

14 Q. Thank you, Madam. Did you understand that when they asked you if you had
15 consulted a doctor it was in relation to the attack that you had undergone, or was it in
16 relation to a different event?

17 A. After -- after these events, a lot of people advised me. My child had diarrhoea.
18 He died therefrom. People advised me to have medical examinations, but I refused
19 to go. I didn't want to have medical examination so that they discover a serious
20 disease.

21 Q. Would it be fair to say that, when you were asked the question as to whether
22 you had seen a doctor following these events, you did understand that what was
23 meant was the attack; that the event was the attack, the attack of which you had been
24 a victim?

25 A. That's what I said to you. I indicated what happened to me following the

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1 events. I didn't say anything else.

2 MR LIRISS: (Interpretation) Madam, can I decide to draw my conclusions - my
3 previous conclusions - from this, because apparently we are both in agreement with
4 regards to what she understands by events?

5 PRESIDING JUDGE STEINER: If you want to tell your conclusions, you can do it.

6 JUDGE ALUOCH: Mr Liriss, your conclusions I think you will give them to the
7 Judges. It may be not fair to give them to the witness.

8 MR LIRISS: (Interpretation) Very well.

9 Q. So, Madam, you stated in your application that you were going to provide
10 medical documents. My question was, where are these medical documents relating
11 to the attack on you?

12 PRESIDING JUDGE STEINER: Again, Maître Liriss. Madam Witness, you said in
13 your application that you would provide these persons with document médicaux.
14 Did you provide any medical documents to these persons?

15 THE WITNESS: (Interpretation) But the medical documents in question, what are
16 you talking about? I told you, I didn't have a medical examination with regards to
17 what I suffered; I only had medical examinations, prenatal medical examinations.
18 That's something I provided and, if I did that, that's something that I
19 presented -- would have presented to them, but I didn't have a medical examination
20 with regards to what I suffered. It's true they asked victims to go and consult a
21 doctor, but who was able to do that?

22 PRESIDING JUDGE STEINER: Are you satisfied, Maître Liriss?

23 MR LIRISS: (Interpretation) Madam, the fundamental question is to know why
24 she stated that.

25 Q. Why did you state that you had or you could provide medical examination

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1 documents? Why did you say that you had a medical examination?

2 A. I had prenatal examinations, and if I had the documents I would have presented
3 them. I spoke to them about the prenatal examinations that I had had. And if they
4 confused that with examinations that I might have had relating to what I'd suffered, I
5 don't know. Maybe they confused the two.

6 PRESIDING JUDGE STEINER: Are you happy now, Maître Liriss?

7 MR LIRISS: (Interpretation) I am satisfied, Madam.

8 Q. Witness, in the statement that you gave to the investigators, English

9 CAR-OTP-0028-0211, and in French 0034-1033, you stated the following, question:

10 "Did you become pregnant after the Banyamulengue had forced you to have sexual
11 relations with them?" You answered that by saying, "No, I didn't become pregnant
12 from that. I had a baby in my arms at the time and it was afterwards, after the death
13 of the baby, that I became pregnant." "Did one of your daughters who was abused
14 become pregnant having been abused?" Answer: "No. Apart from the one who
15 was pregnant and about whom I've already spoken, but she gave birth. Now she
16 has problems conceiving."

17 Have you understood the reading that I have given?

18 A. I heard you well. I understood you well.

19 Q. Do you confirm this statement where it concerns you and where it concerns the
20 children?

21 A. Yes, I confirm what I said. That's what I said.

22 Q. I would like to go back to your statement, your request, your application to
23 participate as a victim, and namely page 11 thereof. You were asked to briefly
24 indicate -- above that, please.

25 Madam Witness, you were asked to indicate, to describe the harm that you had

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1 suffered. You spoke about the loss or the harm that you had suffered following
2 these events. Do you understand that the events of which -- or the events which are
3 at issue here are or is, rather, the sexual assault on you?

4 A. But that is the reason why I confirmed.

5 Q. This is what you said: "I lost all the property from my house. Following the
6 rape, I became pregnant and I had a child who is now three years old." This is what
7 is written here, and we read your statement that you confirmed and you said that
8 there wasn't a pregnancy following this rape. The question I therefore put to you is
9 as follows: Why did you state the contrary during your application for participation
10 as a victim?

11 A. But there are contradictions. Why did I come here? If I told lies, I couldn't
12 commit myself to come before this Court.

13 Q. Thank you very much for your answer, Madam. That appears sufficient to me.
14 Please don't mention names, but I'm speaking about your co-spouse; not the one who
15 died, but the one who left. Witness, do you know who I'm talking about? Do you
16 understand who I am speaking about?

17 THE INTERPRETER: The Sango interpreter did not hear the answer of the witness.

18 PRESIDING JUDGE STEINER: Madam Witness, could you please repeat your
19 answer? The interpreter could not listen.

20 MR LIRISS: (Interpretation)

21 Q. I shall start again. Witness, we are going to speak about one of your
22 co-spouses, not the one who died, but the other one, the one who left you. Do you
23 understand who I'm speaking about? Do you see who I am talking about here?

24 A. Yes, I know.

25 Q. Could you tell the Chamber why, why she left her husband?

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1 A. Well, before we were living in peace; we ate well, we were at peace. And after
2 these events, we've lost everything. She couldn't endure that to stay, but I -- as I had
3 children, I couldn't go, I couldn't leave. That's the reason why she left us.

4 Q. She left you because you had become poor, is that not the case?

5 A. Yes.

6 Q. Do you think she left your husband because -- because she had disdain for him
7 after the sexual assault upon him?

8 A. For all these reasons. She said that she couldn't stay and continue to suffer like
9 that because we had already lost everything, and that's the reason why she left him to
10 go back to her family. She's also died in the meantime. She's no longer alive.

11 Q. Thank you, Madam. Madam, after all these events, did you receive support of
12 any kind from any organisation whatsoever?

13 A. Only the NGO in question, which gave us soya and only once.

14 Q. Could you indicate to the Chamber what NGO you are speaking about?

15 A. I am referring to OCODEFAD, which Madam Sayo is responsible for.

16 Q. Are you a member of it?

17 A. Yes.

18 Q. Madam, could you tell us for how long you've been a member of that NGO,
19 please?

20 A. I joined it after the events when the NGO was -- sorry, the NGO was created
21 after the events and we decided to join it.

22 MR LIRISS: (Interpretation) I believe we should, your Honour, we should have a
23 short private session.

24 PRESIDING JUDGE STEINER: Let us go into private session.

25 *(Private session at 12.31 p.m.) Reclassified as Open session

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1 THE COURT OFFICER: We are in private session, Madam President.

2 MR LIRISS: (Interpretation)

3 Q. Madam Witness, (Redacted); is that not the

4 case?

5 A. Indeed.

6 Q. Does (Redacted)?

7 A. He was (Redacted).

8 Q. (Redacted) for whom? Of what? To whom's benefit? Let's

9 start -- what are you referring to?

10 A. (Redacted)

11 (Redacted).

12 Q. Was (Redacted), Madam?

13 A. No, (Redacted)

14 (Redacted).

15 Q. Who was (Redacted)?

16 A. (Redacted).

17 MR LIRISS: (Interpretation) Your Honour, can we move back into an open session,

18 please?

19 PRESIDING JUDGE STEINER: Court officer, please.

20 (Open session at 12.34 p.m.)

21 THE COURT OFFICER: We are in open session, Madam President.

22 MR LIRISS: (Interpretation)

23 Q. Madam Witness, we are now back in an open session. You and I must make

24 an effort to avoid any item of information that may help identify you. Apart from

25 the food you were given, have you also received money?

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1 A. Who could give us money?

2 Q. If I were to say, for instance, that one of the witnesses has stated here before the
3 Chamber, on 4 February, page 36 -- sorry, page 33, line 9 -- 19, 20, that money had
4 been handed out to members of the NGO?

5 A. I have not seen that. I can't tell a lie. The only thing I've received was soya.

6 Q. If I were to say to you that the family head told the Chamber that he'd received
7 money from that organisation and that enabled him to get medical treatment, what
8 would you say?

9 A. I have not seen any money being handed out to victims. I don't know. Did
10 he receive money? I cannot say that is the case or not in lieu of him.

11 MS KNEUER: Your Honour. Thank you, your Honour. The Prosecution would
12 like the reference to be provided, please.

13 MR LIRISS: (Interpretation) No problem, Madam. I gave you the reference for
14 the first excerpt in the English transcript, transcript of 4 January 2011, page
15 33 -- February, 4 February 2011, page 33, lines 19 and 20, and Madam, I will
16 immediately give you the reference for Witness 23.

17 In the meanwhile I will press ahead with my questioning, please.

18 Q. During the session of the 4 February 2011, on page 32 of the English transcript,
19 lines 2 to 8, and on page 33, line 26, and page 34, line 5, of the French transcript,
20 Witness 023 said you had, as members of this NGO, received some training. You
21 personally, did you take part in any such training course?

22 A. I don't know anything about that.

23 Q. This training course consisted in preparing you to answering investigators'
24 questions, how to better state your cases, i.e, the crimes committed against you. Do
25 you remember that, Madam Witness?

1 A. No. No, I did not follow any such training. Maybe (Redacted) did. He's
2 the one who used to go to their meetings, the NGO's meetings.

3 Q. Did this NGO give you any advice about the way in which you should get
4 organised to answer the investigators' questions? Were you given any advice in this
5 respect?

6 A. I don't know. Maybe he did, as a (Redacted). Possibly he knows
7 more about that, but I did not receive any such advice.

8 Q. A member of the NGO who's also a relative of yours told us he had attended
9 some meetings and had been given advice. This relative, or your husband, haven't
10 they talked about that with you, Madam?

11 A. I've already told you, (Redacted). They maybe are informed
12 about this kind of issue.

13 PRESIDING JUDGE STEINER: Ms Kneuer.

14 MS KNEUER: I have several problems with this line of questions. First of all,
15 references are not given and we're still trying to determine if the reference I was
16 asking for is really the right one, and all subsequent questions are also not provided
17 with a reference. And the other problem is, notwithstanding that we do not have
18 the reference, we have our own recollection of what was said in this Court, and I
19 believe strongly that it is taken out of context and it's unfair to the witness. And,
20 lastly, I strongly advise to go into private session.

21 PRESIDING JUDGE STEINER: Maître Liriss, I am forced to agree again with the
22 Prosecution. Lots of quotations without any reference and the Chamber won't be
23 able to check whether the quotation is correct or taken out of the context, so I would
24 ask you please to make references every time you quote something that someone else
25 said. And, again, to remind the witness not to mention names or specific references

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1 of family members that could lead to hers, or their identification. Otherwise, we'll
2 have to go into private session again.

3 MR LIRISS: (Interpretation) I agree with a private session. As for the references,
4 I'd refer you back to the English transcript of 24 January 2011, page 32, and in French
5 it's on page 4. 32 for English, lines 2 to 8, and in French the second line. I will read
6 it out to you: The Prosecutor: "That we have received information from
7 OCODEFAD and we have launched initiatives ourselves, and OCODEFAD gave us
8 some advice as to how we should talk and so that we could say clearly what we have
9 to say."

10 As for the second reference, English version, audience of 4 February 2011, page 33,
11 lines 19 and 20, in French page 36, lines 9 and 10: "We were given some semolina, a
12 bit of rice, a bit of oil and a little bit of money to help us. (Redacted) said this.
13 (Redacted) ..." --

14 PRESIDING JUDGE STEINER: Maître, we are in public session.

15 MR LIRISS: (Interpretation) I apologise. I had asked for a closed session. I
16 apologise.

17 PRESIDING JUDGE STEINER: Court officer, let's go into private session, please.

18 *(Private session at 12.48 p.m.) Reclassified as Open session

19 THE COURT OFFICER: We are in private session, Madam President.

20 MR LIRISS: (Interpretation) I would like to apologise once more, your Honour.
21 I'm very sorry. I apologise to the witness, too.

22 Q. Well, as I was saying, your daughter -- I read out what your daughter said, "A
23 bit of oil, a bit of rice and a bit of money." Your husband said, "The victims received
24 some training, aimed at ensuring they spoke clearly." My question is as follows:

25 Did you take part in such training? You answered you had not, but the question I'm

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1 asking you now is did your husband keep you informed about this training?

2 A. He is a member of the bureau. He has his activities. I can't answer on his
3 behalf. I'm not a bureau member, so I don't know what they do.

4 PRESIDING JUDGE STEINER: Ms Kneuer.

5 MS KNEUER: I'm sorry to interrupt again, Madam President. The Prosecution has
6 two concerns. The first one I think we cannot undo any more, but in the public
7 session there were so many references to family members that it is now clear that a
8 family testified here and this is really not helpful for the Court to protect these
9 witnesses appropriately.

10 The other concern that the Prosecution have is going to cultural insensitive (sic). The
11 putting to the witness a statement of her husband, and considering the culture in the
12 Central African Republic which is still a male domain, puts a tremendous pressure on
13 a wife to have to take a decision if she wants to contradict her husband or not. That
14 was the reason at the very beginning when the Prosecution suggested that just the
15 facts should be presented to the witness and not the person who stated the fact, and I
16 believe it is very difficult and very uncomfortable for the witness to make comments
17 or assessments about what her husband said, the reliability of his statement and the
18 credibility of him as a person, but also as her husband. Thank you, Madam
19 President.

20 PRESIDING JUDGE STEINER: Maître Liriss, the Chamber would very much
21 appreciate if you take into account what the Prosecution has just said. It's on many
22 times the Chamber was aware of problems created by the line of Defence questioning
23 for not taking into account many factors, such as the level of literacy of the witness,
24 the fact that she's a woman living in a community - living in a Muslim
25 community - in which women has a very specific role maybe different than the one

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1 from which other persons come. So please take into account what the Prosecution
2 has just said, because the Chamber endorses the Prosecution's concerns in this respect.
3 You can continue, please.

4 MR LIRISS: (Interpretation) I get it, your Honour. With respect to the
5 Prosecution and the Chamber, I would like to give the references we were looking for
6 earlier with respect to the money that had been handed out to witnesses -- to Witness
7 0023. The reference is the edited transcript of 4 February 2011, page 27, lines 10 to 20.
8 There you are.

9 Q. Madam Witness, I will stop my questioning with three or four questions and
10 then I will ask the Chamber if we could move into an open session.

11 PRESIDING JUDGE STEINER: Court officer, please turn into public session.

12 (Open session at 12.54 p.m.)

13 THE COURT OFFICER: We are in open session, Madam President.

14 MR LIRISS: (Interpretation)

15 Q. Madam Witness, when you were questioned by the Office of the Prosecution
16 before the Chamber, you mentioned several people who allegedly were murdered,
17 raped and suffered from looting. I won't quote their names, but I would like to ask
18 you the following question: Were you told about this, or did you see it with your
19 own eyes?

20 A. What do you want me to say? I haven't understood your question.

21 Q. When the Prosecutor asked you whether you knew other victims of the
22 Banyamulengue, you mentioned four to five names of people who had been raped,
23 injured, or even murdered. Do you remember that?

24 A. I believe you asked me -- you have already asked me that question yesterday.

25 Q. I didn't ask you that question yesterday, Madam. Yesterday, I talked about the

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1 corpses you had seen lying on the ground in (Redacted). Now I'm asking you questions
2 about the victims you talked about during your hearing when questioned by the
3 Prosecutor. Do you remember that questioning? Do you remember you
4 mentioned several names? Do you agree with me, Madam?

5 A. The names I mentioned are members of my family. I also talked about (Redacted),
6 who is a (Redacted). I also mentioned the name of a young girl who was hit
7 by a bullet, (Redacted) who was hit by a bullet while fleeing and I also talked
8 about a man who was shot down. That's what I said yesterday, if the interpreters
9 understood me well.

10 Q. All right, Madam. So my question is did you see these events with your own
11 eyes?

12 A. (Redacted) too was a victim. People came, they first raped her and she confirmed
13 she'd been raped, and the other victim was I was leaving for the fields when I was
14 told about another victim whose husband turned her out after these events.

15 Q. Thank you, Madam. If I understand you well, you did not witness these
16 events, but you were told about them? The victims told you about them themselves,
17 am I right?

18 A. Yes, but it's the same thing that happened to me, as happened to them, and they
19 talked to me about it and that's how I learnt about all of this.

20 Q. I've understood you, Ma'am. I will now read out to you a statement you made
21 to the investigators, and I believe we'll have our lunch break afterwards.

22 CAR-OTP-0034-1009. English version 0028-0183, and I'll give you the page later.

23 Madam, this is what you said, I'll read it out to you: "People were saying for the
24 Banyamulengue were at Damara, but at Mala you had the rebels. They took people's
25 animals, they took the ambulance from the Mamba hospital and they also took the

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1 radio."

2 So my question would be: Who took the ambulance and the animals from these

3 people? You said it was the rebels here. The English version

4 CAR-OTP-0028-0128 -- 123, sorry, I correct.

5 Question: "Did the rebels carry out any acts of violence or abuse?" Answer: "The

6 rebels were in many places, such as Bandoro, Mala, but they only took money and

7 destroyed things. Who was in Bambari? Rebels. (Redacted) lived in

8 Bambari and she fled. She said that the rebels were looking for people who had

9 money, to take the money from them. At the time, people could not go to the farms."

10 Have you understood what I've just read out to you, Ma'am?

11 A. Yes, I've understood.

12 Q. Can you confirm these statements, please?

13 A. Yes.

14 Q. Now, when you speak of these atrocities by the rebels, whom are you thinking

15 of? Who are you talking about when you speak of these rebels?

16 A. I was talking about the rebels.

17 Q. Mr Bozizé's rebels, are those the people you are talking about, Ma'am?

18 A. After those events, the rebels also started to harm the population. It was in

19 Mala that I learned of all these things.

20 MR LIRISS: (Interpretation) Ma'am, we have finished our cross-examination of

21 this witness. We thank you for your patience, and I know that you have indeed

22 shown much patience towards me. You can have the witness leave now, if you

23 wish.

24 PRESIDING JUDGE STEINER: Thank you, Mr Liriss. If the interpreters give me

25 two more minutes just to ask the Prosecution whether the Prosecution intends to

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1 re-direct the witness?

2 MS KNEUER: Madam President, may I have 30 seconds to consult with my team?

3 Thank you. Madam President, your Honours, the Prosecution will not re-direct. In
4 addition, I would like to inform you that the next witness should be ready for this
5 afternoon.

6 PRESIDING JUDGE STEINER: Thank you, Madam Kneuer.

7 Madam Witness, we conclude now your testimony, your evidence before this Court.

8 Before you leave Court, we want to express the thanks of the Chamber and of the
9 Court for the time and trouble that you have taken to come to this country and to give
10 evidence at the trial.

11 Madam, in order for the Judges to find the truth, it is critical that witnesses such as
12 yourself are prepared to give evidence to assist us on the relevant issues in the case.

13 We are aware that this will certainly have been inconvenient for you and possibly it
14 may have involved some personal risk.

15 You, therefore, leave us in order to go home with our thanks for coming to give
16 evidence before us. Before leaving, Madam, I would like to ask you whether do you
17 have anything you would like to address the Chamber? You are free to speak, if you
18 so wish.

19 THE WITNESS: (Interpretation) I have nothing in particular to say. What
20 concerns me, and what forced me to leave my children and to set aside my farming
21 activities, well, you see -- I have said everything, so I really have nothing in particular
22 to add.

23 PRESIDING JUDGE STEINER: Thank you, again, Madam. We know how
24 inconvenient this might have been to you, and also for that reason we thank you very,
25 very much. We are going to turn into closed session in order for the witness to be

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1 taken outside the courtroom. In the meantime, we are going to suspend and we will
2 be back at 2.30 starting with Witness 42.

3 Please, court officer, turn into closed session.

4 *(Closed session at 1.09 p.m.) Reclassified as Open session

5 THE COURT OFFICER: We are in closed session, Madam President.

6 (The witness is excused)

7 THE COURT OFFICER: All rise.

8 (Luncheon recess taken at 1.10 p.m.)

9 (Upon resuming in open session at 2.37 p.m.)

10 THE COURT USHER: All rise. Please be seated.

11 THE COURT OFFICER: Good afternoon, your Honours, Madam President. We are
12 in open session.

13 PRESIDING JUDGE STEINER: Good afternoon. Welcome back to the courtroom.

14 I see new faces in the Prosecution bench, so could for the record, could Ms Kneuer
15 introduce the new members of the Prosecution team.

16 MS KNEUER: Thank you, Madam President. It's my pleasure to introduce my
17 team for this witness. It's Mr Hesham Mourad, Mr Eric Iverson, Ms Sylvie
18 Wakchom, Ms Jamila Zoubir-Afifi and Ms Frédérique Besse.

19 PRESIDING JUDGE STEINER: Thank you. Good afternoon, legal representatives,
20 the Defence team, Mr Bemba. I was informed that Ms Kneuer would like to raise
21 briefly an issue before the witness, Witness 42 is brought in. Ms Kneuer, you have
22 the floor.

23 MS KNEUER: Thank you, Madam President, your Honours. The Prosecution
24 would like to seek your guidance for a matter of planning. As your Honours recall,
25 you instructed the Prosecution to submit weekly and monthly schedules to your

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1 Honours and the parties and participants for the purpose of case management. We
2 have done this so far to the best of our knowledge, and also we need this calculation
3 to properly inform the VWU to bring the witnesses to The Hague. Now we are
4 facing a slight problem in terms of the calculation of the time that learned colleagues
5 from the Defence would need to examine the witnesses, and I'm kindly seeking your
6 guidance how much time your Honours would advise the Prosecution to calculate for
7 the witnesses to be examined by the Defence counsel. This would have an impact on
8 the schedule, the weekly and monthly schedule that we submit to the Chamber, but
9 also for the VWU to bring in the witnesses. Even one or two days may affect -- may
10 have a major impact on logistics and also we want to avoid that your Honours cannot
11 sit for one or two days because we calculated in a wrong way, but on the other hand it
12 may not be helpful for the witnesses to spend too much time in The Hague which
13 may impact their private life. So any kind of guidance your Honours could give to
14 the Prosecution is very much appreciated. Thank you.

15 PRESIDING JUDGE STEINER: Thank you, Ms Kneuer. Maybe we should listen to
16 the -- whether the Defence has any observation to make in this respect.

17 MR LIRISS: (Interpretation) No observations, your Honour.

18 PRESIDING JUDGE STEINER: Thank you, Mr Liriss. But I'm sure that the Defence
19 also understand the difficulties faced in terms, even in terms of logistics but as well as
20 in terms of distress that can be caused to witnesses when they have to come to The
21 Hague, leave their country, their families, and stay for too long here.

22 We know that it's difficult for the Defence to anticipate with precision how long it will
23 take to question Prosecution witnesses, but as the Defence many times ask witnesses
24 whether they were able to make an estimation, so the question would be whether
25 Defence thinks it would be able to estimate the time Defence would take to question

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1 Prosecution witnesses. Do you think, Maître Liriss, that it would be possible at least
2 to make such an estimation in advance?

3 MR LIRISS: (Interpretation) Your Honour, it really would be difficult. It will also
4 depend on the amount of time taken by the Prosecution to witness -- to question their
5 own witnesses. It will also depend -- in any event, we really can't make an estimate.
6 Otherwise, we really don't have any information that can allow us to make an
7 estimate, so we defer to your wisdom and to your sense of fairness.

8 PRESIDING JUDGE STEINER: So the Chamber understands, of course, the
9 difficulties for the Defence to make a more precise estimation. On the other hand,
10 the Chamber notices, for instance, they can, as a basis the last testimony that the OTP
11 took two hours and five minutes to question the witness and Defence took more than
12 six hours. So I don't think that it depends so much on how long the Prosecutor
13 takes, but maybe in relation to the doubts arising from the statement of the witness,
14 maybe Defence could be in a position to make an approximate estimation.

15 We agree that we have been facing difficulties, not only the Prosecutor but VWU, in
16 trying to schedule the arrival of witnesses to give evidence in court and also to make
17 sure that there are no gaps in the scheduled hearings and the trial can proceed in a
18 timely manner. Therefore, the Chamber can only recommend - but strongly
19 recommend - that the Defence gives its best estimate, best possible estimate, on the
20 length of time it may need in questioning the witness.

21 That could be done each week for the forthcoming week, for instance, obviously
22 taking into account that such an estimate is not an exact science and there are
23 difficulties inherent to the matter. The estimate would be intended as a rough guide
24 for the Prosecution and for VWU, so this is the strong recommendation given by the
25 Chamber to the Defence team.

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1 For the time being, Madam Kneuer, this is what the Chamber can recommend. Let's
2 observe the pace of questionings and, if need be in the future, the Chamber will turn
3 back to this issue and see in which measure this issue could be better regulated.

4 MS KNEUER: Thank you, Madam President, your Honours. This is most helpful.
5 Would it be possible perhaps in addition to have also a monthly estimate, because the
6 VWU needs approximately two to four weeks to move a witness? So the weekly
7 estimate would help already on short notice, but I think in terms of preparation it
8 would also be helpful for the VWU to have a monthly idea or estimate on top of the
9 weekly, if that would be possible, Madam President.

10 PRESIDING JUDGE STEINER: Ms Kneuer, let's go step-by-step. Let's see how it
11 works, if the Defence is able to provide the Chamber on a weekly basis, on an
12 estimation, and in due time we will turn back to see, as I said, whether it can be
13 addressed otherwise.

14 Maître Liriss.

15 MR LIRISS: (Interpretation) Thank you, your Honour. I have consulted my team
16 and we think eight hours would be a reasonable estimate - would be sufficient - per
17 witness.

18 PRESIDING JUDGE STEINER: So I see you make an estimation independently of
19 the content of the statement, or --

20 MR LIRISS: (Interpretation) Exactly, your Honour.

21 PRESIDING JUDGE STEINER: I am just reminding the Defence that this kind of
22 estimation is quite risky because, if the Defence finishes in four hours, we'll have gaps
23 in the hearings. So I'm sure the Defence can do better than that. You don't have to
24 do it now, Maître Liriss, but I'm sure the Defence can do something -- can provide the
25 Chamber with something better, more realistic.

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1 So let's proceed. We are going to start today with Witness 42 and, before we bring
2 the witness in, we have an oral decision on protective measures for Witness 42.
3 On 24 June 2010, the Prosecution made an application for protective measures with
4 respect to 21 witnesses, this is filing 800, including Witness 42, and filed a
5 corrigendum of this application on 6 July 2010.
6 In this application, the Prosecution requests that the Chamber grants limited
7 protective measures for Witness 42 on the basis that his evidence could identify some
8 victims of sexual violence.
9 The Prosecution requests that first Witness 42 continues to be referred to by his
10 pseudonym, pursuant to Rule 87(3)(d) of the Rules, in order to prevent his identity
11 from being disclosed to the public; second, image and voice distortion pursuant to
12 Rule 87(3)(c) of the Rules; and, third, any part of his testimony that could lead to the
13 positive identification of victims of sexual violence be heard in private or closed
14 session.
15 The Prosecution submits that these proposed protective measures are justified, as
16 they are necessary, reasonable and the least intrusive measures available to protect
17 the witness without infringing upon the rights of the accused. No request for special
18 measures for this witness has been made.
19 The Defence filed a response on 15 July, filing 830, generally objecting to the
20 Prosecution's application without a prior case-by-case factual analysis of each
21 individual witness's fears.
22 Following the Chamber's email request of 25 August 2010, the VWU also filed
23 confidential ex parte observations on the Prosecution's application for protective
24 measures, filing 884.
25 Although Witness 42 is not considered by VWU to be a vulnerable witness, VWU

1 observes that the measures requested by the Prosecution would ensure the continued
2 safety and integrity of the vulnerable witnesses mentioned in his evidence and would
3 enable these witnesses to remain in their current communities.

4 On 8 February 2011, the Chamber received an email update from VWU psychologist
5 confirming that no special measures are required for Witness 42.

6 Pursuant to Article 68 of the Statute, Rule 87 of the Rules and Regulation 94 of the
7 Regulations of the Registry, the Chamber considers that the request for protective
8 measures are necessary for Witness 42 based on VWU observations about the
9 proposed measures.

10 For the purposes of consistency the Chamber agrees with the use of and reference to
11 the respective pseudonyms of vulnerable witnesses, as well as to the use of image and
12 voice distortion during the testimony of Witness 42.

13 In order not to defeat any protective measures granted, or to be granted, to vulnerable
14 witnesses, the Chamber also accepts that the relevant parts of Witness 42's testimony
15 referring to and identifying Witnesses 75, 79 and 87, who are alleged rape witnesses,
16 are given by Witness 42 in private session. The parties and participants should make
17 every effort to question Witness 42 on matters concerning other vulnerable witnesses
18 at the beginning of his testimony. The Prosecution is also responsible for informing
19 the Chamber about any other vulnerable witness to whom Witness 42 may refer.

20 Finally, the Chamber has a short -- another short oral decision on the applications to
21 question Witness 42 by legal representatives of victims.

22 On February 2011 - on 1 February 2011 - the Chamber received an application from
23 Maître Zarambaud on behalf of the victims that he represents to question Witness 42,
24 filing 1187-Conf. The application contains a list of seven questions.

25 On 2 February 2011, Maître Douzima made a similar application on behalf of the

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1 victims that she represents, filing 1188-Conf. The application contains a list of five
2 questions.

3 Having considered the reasons given by the legal representatives as to why the
4 respective personal interests of the victims they represent are affected, the Chamber
5 allows both legal representatives to ask Witness 42 the questions contained in their
6 individual filings, but would ask that Maître Douzima rephrases question 3 on her list
7 since, as presently stated, it's merely speculative.

8 I'm now asking the court officer to turn briefly into closed session in order for Witness
9 42 to be brought inside the courtroom.

10 *(Closed session at 2.58 p.m.) Reclassified as Open session

11 THE COURT OFFICER: We are in closed session, Madam President.

12 (The witness enters the courtroom)

13 WITNESS: CAR-OTP-PPPP-0042

14 (The witness speaks Sango)

15 PRESIDING JUDGE STEINER: We can turn into open session, please.

16 (Open session at 3.00 p.m.)

17 THE COURT OFFICER: We are in open session, Madam President.

18 PRESIDING JUDGE STEINER: Thank you very much. Good afternoon, Witness.

19 THE WITNESS: (Interpretation) Good afternoon, your Honour.

20 PRESIDING JUDGE STEINER: Thank you very much for coming before this Court
21 in order to give evidence on this case. I will, first of all, ask the court usher, or the
22 court officer, to facilitate you in taking the oath by reading out the words on the
23 printed card containing the words of the oath for you to repeat.

24 THE COURT OFFICER: I solemnly declare that I will speak the truth, the whole
25 truth and nothing but the truth.

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- 1 THE WITNESS: (Interpretation) Would you like me to repeat that?
- 2 PRESIDING JUDGE STEINER: Yes, please, Witness. Do you want the court officer
3 to read it to you again?
- 4 THE WITNESS: (Interpretation) No, I've already heard it. Okay, if he does it
5 again, if he could give me the opportunity to repeat it as he does it.
- 6 THE COURT OFFICER: I solemnly declare that I will speak the truth --
- 7 THE WITNESS: (Interpretation) I solemnly declare that I will tell the truth --
- 8 THE COURT OFFICER: -- the whole truth --
- 9 THE WITNESS: (Interpretation) -- the truth --
- 10 THE COURT OFFICER: -- and nothing but the truth.
- 11 THE WITNESS: -- and nothing but the truth.
- 12 PRESIDING JUDGE STEINER: Thank you very much, Mr Witness. Can I confirm
13 that you understand what the oath means?
- 14 THE WITNESS: (Interpretation) You have to tell the whole -- you have to tell the
15 truth. You have to tell the truth before the Judges, before those who are here, to
16 follow what is said. You cannot come and tell lies here before the Judges. I am here
17 to provide the truth. I will only tell the truth. I shall only speak of what I have seen
18 and what I have heard. That is what I have come here to do.
- 19 PRESIDING JUDGE STEINER: Thank you, Mr Witness, very much. As you will
20 have had explained to you by the Victims and Witnesses Unit during your
21 familiarisation process since arriving in The Hague, you will be questioned by the
22 Prosecutor, by the legal representatives of victims and then the Defence.
23 The Chamber has put in place measures to protect your identity from the public, and
24 so you will be referred to during the course of your testimony as "Witness 42." Your
25 voice and also your image that is broadcast outside the courtroom will be distorted so

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1 that you cannot be identified by the public.

2 Finally, and because we speak different languages, there is interpretation so that we
3 can all understand each other. Because of this, it is important that you speak slower
4 than normal - as I'm doing now - to allow the interpreters to do their job. Because
5 this can seem unnatural, it may be that you start speeding up, and I will have to
6 remind you to slow down again. It's purely for practical purposes and should not
7 discourage you from speaking. Do you understand that, Mr Witness?

8 THE WITNESS: (Interpretation) I have understood you very well.

9 PRESIDING JUDGE STEINER: Thank you very much. I have a couple of questions
10 for you, Witness. My first question is: Have you been given the opportunity to
11 read, or have read to you, the statement or statements that you made to the Court?

12 THE WITNESS: (Interpretation) I would like to thank you. When I arrived here, I
13 was given my statement. I read it closely. I read everything that I had said. I read
14 it, I saw it. That's all I can say for the moment.

15 PRESIDING JUDGE STEINER: Thank you, Witness. At the time when you made
16 the statement or statements, did you do so voluntarily?

17 THE WITNESS: (Interpretation) I think that on the day I was invited to be heard, I
18 was very pleased. I didn't think that there would be a trial with regards to these
19 events. Now, I was invited to testify and I'm very, very pleased about that. I have
20 an immense joy, an immense joy fills me because of that. I'm ever so happy.

21 PRESIDING JUDGE STEINER: Thank you, Mr Witness. I have to ask you if the
22 information that you have provided in your statement, or statements, is true and
23 accurate to the best of your knowledge and understanding?

24 THE WITNESS: (Interpretation) At the start of this trial, I was told that you can't
25 come and lie before an international tribunal or a court. If somebody has sworn an

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1 oath to tell the truth, they are held to telling the truth. What I said in my statement,
2 that's what I saw and that's what happened to me. It's the truth; it's not a lie. We
3 are here in the framework of this trial. God can hear us; God can judge us. He's a
4 witness, too. And what I said was the pure and simple truth.

5 PRESIDING JUDGE STEINER: Thank you very much, Mr Witness. I'm now giving
6 the floor to the Prosecution, and the Prosecution will start questioning you.

7 Mr Mourad. Mr Mourad, you have the floor.

8 MR MOURAD: Thank you very much, your Honour.

9 QUESTIONED BY MR MOURAD:

10 Q. Mr Witness, good morning, sir -- good afternoon, sir.

11 A. Good afternoon.

12 Q. My name is Hesham Mourad, and I represent the Prosecution. Thank you very
13 much for your presence and your cooperation with the Court. Sir, my questions to
14 you will be put in English, which will be translated to you into Sango. Therefore, I
15 would like to advise you, as to advise myself, to speak very slowly and into the
16 microphone so as to allow the interpreters to interpret what we are saying both into
17 English and Sango. Do you understand me, sir?

18 A. I understand.

19 Q. Thank you very much. During my questioning, I'll be asking you different
20 kinds of questions that include "When?", "Why?" and "How do you know?" The
21 purpose of these questions is to elicit the details of your information. It's very
22 important for the Court not only to understand your knowledge of the facts, but also
23 to understand the basis of your knowledge. Therefore, I would like you to bear with
24 my questions and don't take offence if my question sounds a bit repetitive. Do you
25 understand me, sir?

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1 A. Yes, I understand.

2 Q. Thank you very much. In the course of your examination, sir, if you don't
3 understand any of my questions, please let me know so I would rephrase or repeat
4 my questions. Do you understand me, sir?

5 A. Yes, I understand you.

6 Q. Sir, if you don't know the answer to any of my questions or you don't remember
7 the answer to any of my questions, please say so. It's fine if there are some things
8 that you don't remember or you don't know. At any time during the process, if you
9 feel tired and you need a break, please let us know. Do you understand me, sir?

10 A. I understand you.

11 MR MOURAD: Madam President, your Honours, may we go briefly to a private
12 session so I would ask some questions about the personal information of the witness?

13 PRESIDING JUDGE STEINER: Court officer, please, let's turn into private session.

14 *(Private session at 3.17 p.m.) Reclassified as Open session

15 THE COURT OFFICER: We are in private session, Madam President.

16 PRESIDING JUDGE STEINER: Mr Mourad, just one second.

17 Mr Witness, we are now in private session. When we are in private session, nobody
18 outside the courtroom can hear you, so you can feel free to speak, to mention names
19 and places because it's just inside the courtroom that you are heard. Do you
20 understand that?

21 THE WITNESS: (Interpretation) I understand that.

22 MR MOURAD: Thank you, your Honours.

23 Q. Mr Witness, would you please state your name for the record?

24 A. I am called (Redacted).

25 Q. Where were you born, sir?

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- 1 A. I was born in (Redacted).
- 2 Q. Sir, what's your date of birth?
- 3 A. I was born on the (Redacted).
- 4 Q. Thank you, sir. What is your nationality?
- 5 A. I am from the Central African Republic.
- 6 Q. And what is your ethnic origin?
- 7 A. I am from the (Redacted).
- 8 Q. Sir, are you married?
- 9 A. Yes, I have a wife.
- 10 Q. What's her name, sir?
- 11 A. She is called (Redacted).
- 12 Q. Sir, do you have children?
- 13 A. Yes, I have children.
- 14 Q. How many children do you have, sir?
- 15 A. I have (Redacted) children.
- 16 Q. Sir, what languages do you speak?
- 17 A. I speak French, I speak Sango and I speak the language of my ethnic group,
- 18 which is (Redacted).
- 19 Q. Thank you, sir. Do you read and write those languages you just mentioned?
- 20 A. I can write French, I can write Sango, but it's much more difficult with (Redacted).
- 21 Q. Sir, what's your current occupation?
- 22 A. Currently, I am (Redacted).
- 23 Q. For how long have you been (Redacted), sir?
- 24 A. I have been (Redacted). I started in (Redacted).
- 25 Q. And which (Redacted), sir?

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1 A. (Redacted).

2 Q. Sir, where do you currently live?

3 A. Are you talking about my residence in Bangui or in The Hague?

4 Q. No, sir, I mean in Bangui.

5 PRESIDING JUDGE STEINER: Sorry to interrupt the witness. Witness, just a
6 moment. Not the address.

7 THE WITNESS: (Interpretation) In Bangui, I live in Begoua, in PK12.

8 MR MOURAD: Thank you very much, your Honour.

9 Q. During the period from October 2002 'til March 2003, where were you living?
10 And just -- and don't mention the exact address, just the name of the town, please?

11 A. From 2002 to 2003, during that period I was in PK12. I was nowhere else.

12 MR MOURAD: Thank you, sir. Your Honour, with your leave, may we turn into
13 open session?

14 PRESIDING JUDGE STEINER: Court officer, please, turn into open session.
15 (Open session at 3.26 p.m.)

16 THE COURT OFFICER: We are in open session, Madam President.

17 MR MOURAD:

18 Q. Mr Witness, now we are in open session, so please be cautious not to mention
19 names or specific addresses, or any other information that may identify you or other
20 witnesses and victims.

21 A. I understood you well, but as you asked not to mention names, I think that in
22 my statement there could well be certain names mentioned. And if that's the case,
23 am I meant to ask you for a private session, or how exactly -- what am I supposed to
24 do?

25 Q. Exactly, sir. Now we are in open session. I will make sure that my questions

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1 doesn't elicit any specific names. Whenever there will be need to mention names, we
2 will request from the Bench to go into a private session so you can be freely -- you can
3 be free to mention names, or specific addresses, as the case may be.

4 A. I understand very well, and I'm in agreement with that.

5 Q. And, sir, during your answers, if you would like to refer to a certain person, you
6 can refer to that person not with his or her name but with his or her relation to you.

7 So instead of mentioning the name of your son or daughter, you can simply say "my
8 son" or "my daughter" and then we will deal with the specific names later on in a

9 private session. Is that acceptable to you?

10 A. That is fine, as far as I'm concerned.

11 Q. Thank you very much, sir. Sir, who is the current president of your country
12 right now? Sir, feel free to mention his name.

13 A. The president, the current president, is the General François Bozizé
14 Yangouvonda. We have just had elections and he's just been re-elected as President
15 of the Republic.

16 Q. Sir, when did he came to power?

17 A. He took power in 2003. 15 March 2003.

18 Q. Sir, do you recall how did he take power?

19 A. He took power was not via elections. He didn't take power via elections.

20 Before gaining power, he was in rebellion. He was among the rebels and it was by a
21 coup d'état that he took power. The first time it wasn't an electoral path to power.

22 Q. Thank you, sir. And do you recall when did this rebellion take place?

23 A. I believe it was in 2002 when he started his rebellion. I think it all began in
24 2002.

25 Q. Against whom was this rebellion?

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1 A. Previously, he was the Chief of Staff of -- or under Patassé's regime. In the
2 meanwhile, Ange-Félix Patassé was the President of the Republic and he was the
3 Chief of Staff. We don't know what happened. Maybe there was a disagreement
4 between the two of them and that's why he left and set up a base in the RDOT camp,
5 because there was something called the mixed intervention, as you will see in Mobaye,
6 so he fell back on that base. He was followed by some soldiers who were loyal to
7 him, and that's when he started his rebellion. That's what I know.

8 Q. Sir, did you see the soldiers that were supporting Mr Bozizé in his rebellion?

9 A. I didn't see them, but I know there was a superior -- a high-ranking officer. He
10 was a high-ranking officer. Therefore when he started his rebellion certainly there
11 were soldiers who were loyal to him, and accordingly some soldiers joined him in his
12 rebellion. That's the truth. Admittedly, I didn't see it with my eyes.

13 Q. Sir, how did the government at that time respond to this rebellion?

14 A. I believe that, if you're in your home and somebody attacks you, you're not
15 going to stay with your arms crossed. You're going to do everything you can to
16 chase away the attacker. So the government certainly didn't keep its arms crossed.
17 I mean, the government tried to chase him away.

18 Q. Excuse me. What kind of forces did the government use to fight the rebellion?

19 A. Well, it's going to take a long time. If you want us to spend that much time on
20 it, I can answer your question.

21 Q. Sir, you can just mention the names and that's it, and then I will follow up with
22 further questions if you would like?

23 A. Well, what troops are you talking about? You have the -- you had the
24 Banyamulengue. Were they soldiers? Were they civilians? I wouldn't be able to
25 say, because the name of the soldiers who had come were the Banyamulengue. They

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1 came to fight the rebellion.

2 Q. Sir, do you recall when did they came to your country? If you have a problem
3 with specific dates, you can just mention the year and the month if possible.

4 A. I am from this country. I heard about all the information. I can tell you they
5 came twice. If you want to know when they first came I can talk about that, but it's
6 the second time they came. You know, there's a river that separates our country
7 from theirs. The river is called Oubangui. The date on which they came into our
8 country, in particular the capital Bangui, I can't remember, but what I do know -- I
9 mean, I know the date on which they reached PK12, that was 7 November, and they
10 got there at 4 p.m. At 3 p.m., or 4 p.m.

11 Q. Sir, how did you learn about their arrival to PK12?

12 A. I've already told you that I live at PK12. I mean, PK12 is a small town and the
13 outlying districts aren't very far from the downtown area. There were also soldiers
14 from the Central African Republic. The soldiers who came from the other side of the
15 river had their way of dressing and of behaving. The Central Africans too, they
16 behaved in their way. Those who came from the other bank had their way of
17 walking and behaving. When they arrived, everybody knew they had. Everybody
18 was talking about that. Everybody was saying, "Some soldiers have turned up.
19 They walk behind one another," and once people learned about that they -- everybody
20 wanted to flee and headed for the main roads to come and see these soldiers
21 everybody was talking about. That's how I too, being an inhabitant, decided to come
22 out on the main road to see these soldiers.

23 PRESIDING JUDGE STEINER: Just one second. I think there is some problem with
24 the sound of the English translator booth. It's too low. We can barely listen.

25 Thanks.

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1 MR MOURAD:

2 Q. Sir, did you see them yourself when they arrived to PK12?

3 A. Nobody told me about this. I'm not a child. I saw them with my own eyes.
4 I was standing by the road and I watched them move past.

5 Q. Can you please describe to the Court what did you see?

6 A. I can tell you. What did I see? Well, earlier I said they arrived in PK12 on
7 7 November 2002. It was around 3/4 in the afternoon. You know, in PK12 there are
8 two roads which converge on PK12. When you get to PK12, you have to go over the
9 barrier. When you come in from Bangui, you have a road that leads to Damara.
10 That's the road on the right-hand side. The other road on the left-hand side leads to
11 Bangui. When they arrived, they took the Damara road. Why did they take that
12 route? Simply because it was the road Bozizé's men had used to flee. But when
13 they got there and realised that Bozizé and his men had used that road, they followed
14 the same one.

15 As I said earlier, when they got to PK12 everybody knew about that, and people were
16 all coming to see them on the main road and I was one of the people who did that.

17 Next to my house, there was another house where there were some young girls.

18 When I got to the edge of the road we saw them, the Banyamulengue, and some of
19 them were wearing boubous. Others were wearing caps, berets.

20 In any event, they were wearing all kinds of hats. They also had some children with
21 them. There were also women. You could see sort of large weapons. Some

22 people had -- some of them had ammunition belts. Others had them strapped over
23 their shoulders. The children were carrying weapons that were heavier than them,

24 they were dragging them along the road, and we were all watching them as if we
25 were watching a film. They were walking slowly and, when they got to the point

1 where we were standing, the girls I was talking about earlier, we were all standing
2 with them, one of the children with the Banyamulengue saw one of the girls and he
3 sort of said "Hello" to her, and doing it that way at the same time he obviously took
4 note of where they lived.
5 We went back to our home while they left. They moved on to the edge of our
6 district.
7 There's a little stream called (inaudible) and nobody lives beyond that little stream.
8 When they got there, they stopped. Once they realised nobody lived beyond the
9 stream, they turned around and came back to that place where the young child had
10 said hello to the girl, and then they moved into the area to try and work out where
11 that young girl lived. Of course, when you come to a new town you don't know, it's
12 perfectly normal that you should know somebody who can help you settle down. So
13 that girl had said hello, too.
14 They managed -- they tried to find her house, and they managed to find her house,
15 and that's where they set up their base. Then they took over other houses in the
16 neighbourhood, and then they obviously decided the whole area was to be their base.
17 There's a stream that (Redacted) cuts across the Damara road they had
18 used to get to PK12, and it continues to the marketplace, the cattle marketplace, which
19 is the business centre where the Mbororo sell their cattle. And that street I was
20 talking about goes all the way to that marketplace.
21 There they dug trenches along the street. They dug trenches every five metres. So
22 that was to be used at shelter. I don't know if that's military strategy, but that's what
23 they did. We could see them from our houses digging their trenches. They set up
24 their position on each trench all the way to the cattle marketplace. Roughly speaking,
25 that's what I saw and what I've just described. If you'd like to ask me more

1 questions, please do so and I'll answer them.

2 Q. Thank you very much, Mr Witness. That's very helpful, indeed. I would like
3 now to try to break down your answer with some short questions, if you may. My
4 next question to you is, how far were you from the Banyamulengue when you first
5 saw them entering PK12?

6 A. You know, the barrier I talked about earlier is where they had their control post.

7 (Redacted)

8 but the road starts from the barrier. (Redacted)

9 (Redacted) and it's about one kilometre to the barrier I was talking

10 about.

11 Q. Thank you very much, sir. Would you please describe to us this barrier you
12 are referring to?

13 A. What is a barrier? You know, I mean, you have a wooden barrier that stops
14 sort of traffic and you also have soldiers who control ID. If your papers are in order,
15 they'll let you through; otherwise, they'll stop you and arrest you. And at that level,
16 sort of a control post, there are several departments that are represented, the
17 gendarmerie, the health department, and other civil servants who are there to control
18 who is coming through and checking the identity of people who are coming through.
19 And on the other side, you can also find the so-called territorial gendarmerie. And
20 that's how I would describe that barrier.

21 Q. Sir, could you go any closer to observe the Banyamulengue when they were on
22 the main road as you described?

23 A. As I told you, as soon as they reached the barrier and they started to move
24 towards the Damara road and we all knew that there were a lot of soldiers on the
25 main road, so I followed everyone else. I stood on the side of the road to see them,

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1 too. I mean, I'm not describing events people described to me; I personally went to
2 the side of the main road and I saw them with my own eyes, the way they were
3 dressed, their weapons, the children among them, the women with babies. I saw all
4 of that with my own eyes. That's what I've just told you. Once again, this is not
5 hearsay. I saw this with my own eyes.

6 Q. Thank you very much, sir. Let me put the question another way. Were the
7 population able to come closer to the Banyamulengue as they were marching through
8 this main road?

9 A. You're at home. You've never seen this kind of soldier. How do you want to
10 go and talk to them? You don't even know which language they speak. You have
11 to get to know somebody before you can actually talk to them, to have a conversation
12 with them. That was the first time the population saw these people. People were
13 surprised, and I had to be very brave to go and draw nearer these soldiers. People
14 stood at a distance and just watched them. We couldn't come up close to them and
15 talk to them. That was the day they arrived in PK12.

16 Q. Sir, you mentioned a while ago the way they were dressed. Would you please
17 tell us in more detail how were they dressed, what kind of clothes were they wearing?

18 A. I'm used to seeing soldiers; they wear uniforms, they wear the same clothes, the
19 same shoes, the same hats - and it's each regiment or division that has the same
20 uniform from cap to toe - but these people I saw on that day were wearing different
21 kinds of hats. You had red berets, black berets, green beret, kepis. You even had,
22 some of them, who were wearing sort of flags around their heads. You could see
23 anything, all kinds of different clothes. You could see somebody wearing a military
24 shirt and a civilian's trousers, and vice-versa. Some of them were wearing trousers,
25 others were wearing shorts. There were all kinds of clothes. Some of them were

1 wearing slippers, plastic sandals, boots; all kinds of clothes and shoes. That's what I
2 saw.

3 Q. Did they have any kind of transportation on that day?

4 A. When they first got to PK12, they were walking one behind another in three
5 columns. They were walking. They didn't have any vehicles. Maybe their
6 commanders had vehicles behind them, but the first ones I saw were just walking
7 down the road. It's only the next day that we started to see vehicles. We saw their
8 commanders using vehicles they had stolen from people's homes. At the beginning,
9 they didn't have any vehicles; they had walked from downtown Bangui to cross the
10 barrier. They got to PK12 on 7 November and they didn't have any vehicles. They
11 were just walking.

12 MR MOURAD: Your Honour, I note the time, and I can stop at this point if that's
13 appropriate.

14 PRESIDING JUDGE STEINER: Thank you, Mr Mourad.

15 Mr Witness, we are going to suspend our hearing now and we are going to continue
16 tomorrow morning. We hope you have a very nice evening, a good sleep, and
17 tomorrow morning we will resume the hearing with your questioning by the
18 Prosecution at 9.30 in the morning.

19 I'm going to ask the court officer to turn into closed session in order for the witness to
20 be taken outside the courtroom. Before that I would like to thank very much the
21 Prosecution team, the legal representatives of victims, the Defence team,
22 Mr Jean-Pierre Bemba Gombo. I'd like to thank our interpreters and court reporters.
23 And we are going to adjourn and resume tomorrow morning at 9.30. Court officer,
24 please turn into closed session.

25 *(Closed session at 3.58 p.m.) Reclassified as Open session

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1 THE COURT OFFICER: We are in closed session, Madam President.

2 (The witness stands down)

3 THE COURT OFFICER: All rise.

4 (The hearing ends at 4.00 p.m.)

5 RECLASSIFICATION REPORT

6 Pursuant to Trial Chamber III 's Second Order, ICC-01/05-01/08-2223, dated 4 June

7 2012, and the instructions in the emails dated 24 September 2013 and 21 October 2013,

8 the version of the transcript with its redactions becomes Public