

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 International Criminal Court
2 Trial Chamber III - Courtroom 2
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 Judge Kuniko Ozaki
6 Trial Hearing
7 Tuesday, 3 May 2011
8 (The hearing starts in open session at 2.11 p.m.)
9 THE COURT USHER: All rise. The International Criminal Court is now in session.
10 Please be seated.
11 THE COURT OFFICER: Good afternoon, your Honours, Madam President. We are in
12 open session.
13 PRESIDING JUDGE STEINER: Good afternoon. Could, please, court officer call the
14 case.
15 THE COURT OFFICER: Yes, Madam President. Situation in the Central African
16 Republic, in the case of The Prosecutor versus Jean-Pierre Bemba Gombo. Case reference
17 ICC-01/05-01/08.
18 PRESIDING JUDGE STEINER: Thank you very much. I would like to welcome
19 Prosecution team. Today legal representatives of victims are not present so they ask
20 permission for the court manager to represent the legal representatives, and permission
21 was given. Good afternoon and welcome to Defence team, Maître Liriss. The Court is
22 very happy to see that you are able to attend again the hearings in this case. Good
23 afternoon, Mr Jean-Pierre Bemba Gombo.
24 We will start today with the testimony of Witness 9. Before Witness 9 commences his
25 evidence today, the Chamber has a couple of oral decisions to deliver and some matters to

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Private Session)

ICC-01/05-01/08

1 address.

2 The first is the oral decision on the Prosecution's request for protective and special
3 measures for Witness 9, and just for a brief moment I ask, please, court officer to turn into
4 private session.

5 *(Private session at 2.14 p.m.) Reclassified as Open session

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

7 PRESIDING JUDGE STEINER: Thank you. No previous application for protective or
8 special measures was made by the Prosecution with respect to Witness 9. However, the
9 Prosecution informed the Chamber by email yesterday that VWU transmitted the concern
10 of the witness, who indicated that knowledge of his identity could lead to some negative
11 impact on his person. The Prosecution requested that the Chamber consider its urgent
12 request for special measures in order to protect the physical and psychological well-being,
13 dignity and privacy of Witness 9.

14 Specially, the Prosecution asks for image and voice distortion, continued in-court use of
15 the witness number or pseudonyms, and private sessions for the portions of testimony
16 where the witness provides information that would tend to disclose his identity.

17 The Defence replied by email to the Chamber today and submitted that it does not agree
18 that the alleged concerns expressed by Witness 9 justified the requested in-court
19 protective measures. The Defence argues that (Redacted)

20 (Redacted)

21 (Redacted). The Defence also submits that granting protective
22 measures to Witness 9 will result in a wrong precedent with future applications of the
23 same nature.

24 Having considered the submissions, (Redacted)

25 (Redacted)

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Private Session)

ICC-01/05-01/08

1 (Redacted), as already pointed out by the Chamber
2 in its decision 8213 of 20 July 2010 and pursuant to Article 68(1) of the Statute and Rule 87
3 of the Rules of Procedure and Evidence, the majority of the Chamber, the Presiding Judge
4 dissenting, considers that the protective measures requested for Witness 9 are
5 unnecessary. The majority of the Chamber, therefore, rejects the requested protective
6 measures for Witness 9.

7 Could we please turn back into open session, please.

8 (Open session at 2.17 p.m.)

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

10 PRESIDING JUDGE STEINER: Thank you. A second decision is an oral decision on the
11 applications to question Witness 9 submitted by legal representatives of victims. On 8
12 March 2011 the Chamber received an application from Maître Zarambaud, on behalf of
13 the victims he represents, to question Witness 9. It's filing 1322-Conf. The application
14 contains a list of 23 questions.

15 Similarly, the Chamber received an application from Ms Douzima on 21 March 2011, on
16 behalf of the victims she represents, it's filing 1361-Conf. The application contains a list
17 of nine questions.

18 Having considered the reasons given by both Ms Douzima and Maître Zarambaud as to
19 why the personal interests of the victims they represent are affected, the Chamber allows
20 the respective applications to question Witness 9 as set out in the aforementioned filings;
21 except with regards to question 3, parts 3, 4 and 5 of Maître Zarambaud's list of questions,
22 since the Chamber considered these parts to be merely speculative in nature.

23 Additionally, the Chamber will not allow question 5 of Ms Douzima's list of questions,
24 which is outside the scope of the charges. These aforementioned questions are, therefore,
25 rejected.

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 The Chamber needs to address a matter related to the questioning by the Prosecution and
2 Defence of Witness 9. On 21 April 2011, in filing 1380, the Defence requested the
3 reclassification of judicial documents used during the testimony of Witness 6 and
4 additional documents that may be used during the examination of Witness 9.
5 Pending a decision of the Chamber on the issue, the Chamber hereby instructs the parties
6 and participants not to mention in public sessions the names or any information that may
7 lead to the identification of any of the victims referred to in the documents for which
8 reclassification is sought by the Defence.
9 Another matter to be addressed by the Chamber relates to the deadline for filing of
10 observations to the Registry's ninth transmission of applications to participate in the
11 proceedings.
12 On 21 April 2011, filing 1381, the Registry transmitted 401 new victims' applications for
13 participation in the proceedings of which the parties were notified on the same date.
14 With respect to the deadline for the submissions of observations by the parties, the
15 Chamber would like to clarify that in relation to this specific transmission it will apply the
16 21-day timeline for the parties to respond in accordance with Regulation 34(b) of the
17 Regulations of the Court.
18 Finally, just for the parties' information, the Chamber will sit today from 2 to 4 and, after a
19 30 minutes' break, from 4.30 to 6.
20 Also, the Chamber would like to inform the parties and participants that the Appeals
21 Chamber announced that today at 3 p.m. it will deliver in open court the judgment of the
22 appeal of the decision 1384 -- sorry, the decision 1022, which is the decision on the
23 admission into evidence of materials contained in the Prosecution list of evidence.
24 As the parties and participants are well aware, the hearing today was delayed because of
25 the unforeseen situation that the witness was not ready to testify at 9.30 as originally

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0009

1 scheduled. Because of this delay, and in order not to disrupt the proceedings, the
2 Chamber invites the parties and participants, if they so wish, to send a representative of
3 their teams to the announcement of the Appeals Chamber judgment, all of whom will be
4 authorised to leave and re-enter the courtroom for that purpose.

5 So now I ask, please, the court officer to bring the witness in.

6 (The witness enters the courtroom)

7 WITNESS: CAR-OTP-PPPP-0009

8 (The witness speaks French)

9 PRESIDING JUDGE STEINER: Mr Witness, good afternoon.

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

11 PRESIDING JUDGE STEINER: You are welcome to this courtroom.

12 WITNESS: (Interpretation) Thank you, your Honour.

13 PRESIDING JUDGE STEINER: And before we start, somewhere in front of you should
14 be a card containing the words of the oath. Could I ask you, please, to take the oath by
15 reading the words printed on the card.

16 THE WITNESS: (Interpretation) Yes, of course your Honour. "I solemnly declare that
17 I shall tell the truth, the whole truth and nothing but the truth."

18 PRESIDING JUDGE STEINER: Thank you very much. I already know the answer, but
19 I have to ask - to confirm - that you understand what the oath means?

20 THE WITNESS: (Interpretation) Of course, I do, your Honour.

21 PRESIDING JUDGE STEINER: Do you understand it to mean that you must give
22 answers to questions asked of you that are true and accurate to the best of your
23 knowledge and belief?

24 THE WITNESS: (Interpretation) Yes, your Honour.

25 PRESIDING JUDGE STEINER: Mr Witness, although you will be testifying in open

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 session and with your identity known to the public, there are other victims, witnesses and
2 persons connected with this case whose identities are protected. I would, therefore, ask
3 that with the assistance of counsel you exercise caution in mentioning names of persons
4 who may be considered vulnerable in the context of the present proceedings. Do you
5 understand that, sir?

6 THE WITNESS: (Interpretation) Yes, I do understand, your Honour.

7 PRESIDING JUDGE STEINER: Because we speak different languages, there is
8 interpretation so that we can understand each other. Because of this, it is important that
9 you speak slower than normal to allow the interpreters to do their job.

10 THE WITNESS: (Interpretation) I understand, your Honour.

11 PRESIDING JUDGE STEINER: It may seem as unnatural, and it's normal that you start
12 speeding up. In that case, I will have to interrupt you in order to ask you to slow down.
13 So don't take offence if I have to do it.

14 THE WITNESS: (Interpretation) Yes, I understand, your Honour.

15 PRESIDING JUDGE STEINER: Sir, we have some -- I have some formal questions to put
16 to you in relation to the statement you gave to the Prosecution. During the
17 familiarisation process, have you been given the opportunity to read the statement or
18 statements that you made to the Court?

19 THE WITNESS: (Interpretation) Yes, your Honour.

20 PRESIDING JUDGE STEINER: At the time when you made the statement, or statements,
21 did you do so voluntarily?

22 THE WITNESS: (Interpretation) Yes, indeed, your Honour.

23 PRESIDING JUDGE STEINER: Is the information that you have provided -- is the
24 information that you have provided in your statement, or statements, true and accurate, to
25 the best of your knowledge and understanding?

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 THE WITNESS: (Interpretation) Yes, your Honour.

2 PRESIDING JUDGE STEINER: Thank you very much, sir. We will start today with
3 your questioning by the Prosecution. Ms Kneuer, you have the floor.

4 QUESTIONED BY MS KNEUER:

5 MS KNEUER: Thank you, Madam President, your Honours.

6 Q. Good afternoon, Mr Witness.

7 A. Good afternoon.

8 Q. We briefly met yesterday so you know that my name is Petra Kneuer. I'm a senior
9 trial lawyer and I represent the Office of the Prosecutor. I will be leading your testimony
10 today. Madam President had already advised you on how the interpretation and
11 stenographer system is working in this courtroom, so I simply remind you to please speak
12 slowly and clearly into the microphone, and also to please wait five seconds before you
13 respond, to give the interpreters time to catch up what each of us is saying.

14 A. Thank you.

15 Q. If at any point in time, sir, you do not understand my questions, please let me know
16 and I will rephrase my questions or provide clarification. If you would like me to repeat
17 a question, just let me know as well. Please take your time to answer each question so
18 that you can provide the Judges with a complete account of what you know.

19 A. I understand, yes.

20 Q. Further, Mr Witness, during the course of your testimony, I will ask you many
21 questions such as when, why and how do you know. I ask you to be patient with such
22 questions and answer them as best as you can, as this will assist the Judges to understand
23 the basis of your knowledge of the facts.

24 A. Yes, I understand.

25 Q. It is also important that you listen carefully to my questions, and when you provide

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 your answers, you focus straight on the content of those questions. Please do not take
2 this as an offence. I am recommending proceeding this way simply because it will
3 facilitate your testimony and, moreover, Defence counsel and representatives of the
4 victims, as well as the Judges, may have questions to you as well.
5 Further, I would like to remind you that you are testifying in public session, as Madam
6 President has explained, and that your testimony, as you know best, is heard outside this
7 courtroom. However, if there are any issues you feel to be discussed in private session
8 because of protective reasons for third parties, victims, et cetera, please let us know so that
9 the Judges can take a decision.

10 A. That's fine.

11 Q. Thank you, sir. Lastly, if you need at any point in time a break, please let us know
12 as well.

13 A. I will do so.

14 Q. Thank you, sir. Mr Witness, in order for me to stay within the allocated time to
15 question you, I try to structure the questioning in a way which may facilitate to reach this
16 objective and I would like to share this with you. First, I am planning to introduce you to
17 the Court, meaning who you are and what your educational and professional background
18 is. In the second part I would like to address the investigations that you conducted. In
19 the third part I am planning to talk about the armed conflict and the MLC.

20 A. Yes.

21 Q. In the fourth part I will ask you questions about the investigative findings and
22 conclusions that you reached. The fifth part will address any potential impact and then,
23 lastly, I will ask a few questions about so-called procès-verbaux statements. Is this
24 acceptable to you, sir?

25 A. Yes, of course, madam.

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

- 1 Q. Thank you, Mr Witness. Can you please state your full name for the record?
- 2 A. My name is Oradimo Pamphile. Oradimo Pamphile.
- 3 Q. What is your date of birth?
- 4 A. I was born on 1 June 1965.
- 5 Q. What is your place of birth?
- 6 A. I was born in Bokayanga.
- 7 Q. In which country is Bokayanga, sir?
- 8 A. It's in the Central African Republic.
- 9 Q. What is your nationality?
- 10 A. I am a Central African Republic national.
- 11 Q. What is your ethnic origin?
- 12 A. I am from the Ngama tribe. Ngama, N-G-A-M-A.
- 13 PRESIDING JUDGE STEINER: Ms Kneuer. Maybe, since you have the floor, you could
- 14 explain to the witness the five-second rule, please.
- 15 MS KNEUER: Thank you, Madam President, for the advice.
- 16 Q. Sir, may I remind both of us that we wait five seconds before we respond to each
- 17 other. Otherwise, the interpreters are running into difficulties to interpret the latter part
- 18 of either your response or my question. It will take you perhaps a couple of seconds to
- 19 adjust to this system, but I am sure and confident we will manage. Thank you, sir.
- 20 A. Thank you.
- 21 Q. Mr Witness, how long have you lived in the Central African Republic?
- 22 A. Since I was born.
- 23 Q. In which languages are you fluent, sir?
- 24 A. I am fluent in French and Sango, which is my mother tongue.
- 25 Q. Do you speak any other language, including local languages?

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0009

1 A. In addition to my mother tongue, I also speak Arabic; the Arabic that is usually
2 spoken in marketplaces, for instance, not literary Arabic.

3 Q. Do you speak or understand English?

4 A. Very little.

5 PRESIDING JUDGE STEINER: Ms Kneuer, I am sorry to interrupt you, just for checking
6 whether the translation was appropriate. It said that on page 12, lines 13, that you are
7 fluent in French and Sango, which is my mother tongue. Is that correct?

8 THE WITNESS: (Interpretation) No.

9 PRESIDING JUDGE STEINER: Could you please clarify which one is your mother
10 tongue?

11 THE WITNESS: (Interpretation) I said I spoke French fluently, which is the official
12 language, as well as Sango and my mother tongue, which is Ngama.

13 Q. Thank you for this clarification, Mr Witness. What is your educational background
14 respectively, your qualifications, starting with your schooling, please?

15 A. Like everybody, I went through normal schooling, my primary education, in Kabo,
16 not very far from where I was born. I also went to secondary school in Batangafo and in
17 Bangui, and after that I was accepted to take the baccalaureat, and then went on to
18 university where I studied law at the University of Bangui, and at the end of that I
19 obtained a private law diploma which allowed me to enter the school for the judiciary at
20 the ENAM. I went -- I attended it for three years and I got a diploma that gave me access
21 to the function of magistrate, which I am still involved in.

22 Q. Did you undergo any compulsory military training?

23 A. Yes, of course, madam. At ENAM military training is compulsory, so I think I
24 went through two years of military training.

25 Q. Sir, without going into greater detail, can you briefly give us an idea what this

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 military training was, consisted of?

2 A. Basic training that any soldier undergoes. We were taught to use weapon and
3 carry out certain military activities. Not much. We didn't -- weren't involved in any
4 battles.

5 Q. After you completed your legal education, can you please tell us what professional
6 positions you hold? Perhaps you can start in the past and move towards to the present.

7 A. Thank you. It was in 1992 that I ended my studies, and two months later I was
8 accepted at the ENAM. And once I'd finished with ENAM, I began my judicial functions;
9 first of all, the Vice-President of the Labour Court in Bangui, and then I went to Bossangoa
10 where I was Prosecutor, and then I went to Berberati as President of the Court and then I
11 went back to Bangui and appointed Senior Investigating Judge and overseer of the
12 Military Tribunal. I then went to the District Court of Bangassou and I am currently
13 there as President of that Court.

14 THE INTERPRETER: The English interpreter would like to point out that the sound is
15 extremely poor for the English booth.

16 MS KNEUER: Would it help, interpreters, if the witness would go closer to the
17 microphone?

18 THE INTERPRETER: Probably, yes. Hopefully, yes.

19 PRESIDING JUDGE STEINER: Court usher, please.

20 MS KNEUER:

21 Q. Mr Witness, the interpreters informed us that the quality that they receive is not
22 extremely good. We are not sure if it's a technical problem or the distance to your
23 microphone, so we will test first the second option. So I kindly ask you to speak up in
24 the microphone.

25 A. Fine, madam.

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 Q. Thank you very much, sir. You mentioned that you were a Senior Investigating
2 Judge in Bangui. Can you please explain to us what your duties and functions were?

3 A. Thank you. An investigating judge is the person who is in charge of carrying out
4 additional investigation when it's necessary in connection with a particular case file
5 transmitted to him by the Prosecutor of the Republic. Some cases of certain importance
6 are submitted to us requiring additional investigation either by the Prosecutor or by the
7 complainant, the plaintiff. This is the normal procedure that is followed. I am, as it
8 were, an investigator.

9 Q. Sir, you also mentioned that you were an overseer of the military tribunal. And,
10 for the record, I'm referring to page 14, line 11. Can you explain to us what we have to
11 understand by "an overseer of the military tribunal"?

12 A. Thank you. At the military tribunal I carried out exactly the same role as in the
13 other court. I was not responsible for that court, but I carried out exactly the same type
14 of work. In other words, I carried out investigations in cases concerning the military.
15 That was my job at that tribunal.

16 Q. Apart from your professional positions, are you a member of any association or
17 organisation?

18 A. No, madam. No, no. When one is a judge that makes one unqualified to join any
19 other kind of association. I devote myself exclusively to my being a magistrate.

20 Q. Does OCDH mean anything to you?

21 A. OCDH is a non-governmental organisation, whose role is to defend human rights.
22 It's an NGO that promotes and defends human rights in the country. I do not know
23 whether I have made myself fully understood. It means Observatory of Central Africa
24 for Human Rights.

25 In some other countries it may be known as a Human Rights League. It's an organisation

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 that militates in favour of human rights and denounces some facts that may be considered
2 to be violations thereof. As many of my colleagues, who are also judges, at one point I
3 did become a member of that NGO.

4 Q. When did you become a member of that NGO, sir?

5 A. I cannot remember the exact date. It must have been around the year 2002 or 2003
6 when I returned to Bangui, so that's more like 2003.

7 Q. Are you still a member of OCDH?

8 A. Yes, madam.

9 Q. Does this membership affect in any way your independence as a judge?

10 A. Not at all, madam, no.

11 Q. Judge, I would like to direct your attention now to the investigations you conducted
12 as a Senior Investigating Judge. Where were you between 2002 and 2003?

13 A. Between 2002 and 2003 I was the President of the Tribunal de Grande Instance of
14 Berberati. I left, I believe, in August or September 2003 to go to Bangui.

15 Q. Sir, can you explain to us where Berberati is located in the Central African Republic?

16 A. Berberati is west, in the western part of the Central African Republic, some 600
17 kilometres to the west of Bangui. Berberati is a town that borders on Cameroon and it is
18 600 kilometres away from Bangui.

19 Q. Sir, were you involved in any investigations related to events that took place in your
20 country between October 2002 and March 2003?

21 A. Yes, madam.

22 Q. How did you get involved into these investigations?

23 A. I was saying that in September 2003 I was assigned to Bangui as Senior Judge. And
24 right from the very beginning, as I stepped into office, I found on my desk a case file, the
25 case file that we are talking about now. So that means that I immediately commenced

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 investigation of that file with the cooperation of the Prosecution.

2 Q. What was the subject matter and the scope of that file?

3 A. The subject matter was, in fact, a complaint that had been lodged by the Minister of
4 Justice at the time against Mr Ange-Felix Patassé and other prominent people, amongst
5 them Mr Bemba, who were being prosecuted for a certain number of facts, a certain
6 number of crimes that they had been charged with; murder, looting and also financial
7 crime.

8 So apart from these other crimes I mentioned, financial crimes were also part of the
9 charges brought against Mr Patassé and others. This is part of the file that I had to
10 investigate as soon as I was appointed Senior Judge.

11 Q. What was the time-frame of the investigations you were looking into?

12 A. That's the period going between October 2002 to 15 March 2003.

13 Q. We will come back to the details of the crimes at a later stage. What I would like to
14 know now is, prior to this referral, were any investigations conducted into the events?

15 A. No, madam.

16 JUDGE ALUOCH: Ms Kneuer, I'm sorry to interrupt you. I'm looking at the transcript,
17 page 18, lines 1 and 2, where the witness says -- sorry, beginning from the previous page,
18 line 25, where he names certain persons, including Mr Bemba, "who were being
19 prosecuted for a certain number of facts, a certain number of crimes that they had been
20 charged with."

21 Can the witness clarify, when he got the file, were the charges already in the file or was he
22 investigating to get the facts in order for these persons to be charged? Thank you.

23 THE WITNESS: (Interpretation) Well, you see, your Honour, as I said, we had to
24 investigate more in order to substantiate the charges that had been referred to me. The
25 referral to me was a complaint signed by the Minister of Justice, and in that referral a

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0009

1 certain number of facts were supposedly perpetrated by these persons. So, with a view
2 to substantiating this complaint, I had to carry out a certain number of investigations.
3 This is the reason for the referral to me. There were allegations; these were alleged
4 charges at the time - alleged charges - that had to be borne out by means of the
5 investigation.

6 MS KNEUER:

7 Q. Thank you, Mr Witness, for that clarification. I think I will repeat my last question.
8 Prior to the referral that you received, were already investigations conducted into the
9 events from October 2002 until March 2003?

10 A. My answer to that was no, madam. You know, this is back in the year 2003. We
11 had gone through extremely difficult times. As soon as the regime was overthrown,
12 there were massive reassignments and I was the very first person to whom this
13 investigation was entrusted, so I can confirm that no investigation had been performed
14 prior to that.

15 Q. Did the absence of preliminary investigations affect your investigation in any way?

16 A. In any case, the preliminary investigation was not necessary, not really necessary for
17 my own investigation. We had full cooperation from the Prosecution, with their staff.
18 So the answer is no, it didn't have any impact on the investigation that I undertook.

19 Q. What was the geographical scope of your investigations?

20 A. In fact, the investigation was to cover the whole of the Central African Republic,
21 theoretically. I was supposed to gather information from all over the country but I was
22 not able to do so, so I confined myself simply to the city of Bangui. For reasons of safety,
23 we were not able to go into the provinces but, in fact, the referral was for an investigation
24 covering the whole of the territory.

25 Q. At that time, were you able to travel outside of Bangui?

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 A. For the investigation, madam? No. I was saying that for reasons of safety, there
2 was such lack of safety at the time that out of precaution we confined ourselves
3 exclusively to Bangui. Now, that doesn't mean that some people from the provinces
4 didn't come to Bangui to be a witness and to give their testimonies. They would come
5 from the provinces to Bangui but I, personally, was not able to conduct any investigations
6 outside Bangui.

7 Q. Do you recall, Mr Witness, the locations of the witnesses who came to you from
8 outside of Bangui?

9 A. The cities they came from? Some from Damara, some from further away. I am
10 afraid I can't remember all the names from all the cities, but there were people coming
11 from different towns and cities, from the provinces to Bangui. Not very many of them,
12 mind you, but some certainly did come from these towns and cities.

13 Q. Sir, you mentioned Damara. May I suggest some other towns to you? What
14 about Sibut?

15 A. Yes. That is in the north of the Central African Republic, which was mostly
16 concerned by the 2003 events: Sibut, Bossangoa, Damara, and many other towns. Sibut
17 is not very far from Bangui but it was in the conflict area.

18 Q. What about Bossembélé and Bossemptélé?

19 A. Bossembélé, Bossemptélé, these are also cities surrounding or in the areas close to
20 Bangui. Bossembélé, I think, is 150 kilometres away and Bossemptélé is some 200
21 kilometres away. These are cities, as you see, not very far from Bangui and affected by
22 the events.

23 PRESIDING JUDGE STEINER: Ms Kneuer, I would prefer, if the witness does not
24 remember something, that you don't induce the answer.

25 MS KNEUER: Thank you, Madam President.

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 Q. Sir, what was the general profile of the victims?

2 A. There is no specific general profile applying to all the victims. There were people
3 of both sexes, different ages. They came to us spontaneously. Some of them were old.
4 Some were grandfathers or grandmothers. You had men, you had women. There's no
5 such thing as a typical victim profile.

6 Q. Sir, what methodology did you follow in your investigations?

7 A. Well, you know our investigation did not only concern the victims and the witnesses.
8 It also involved people who had been brought into question and whom we also
9 interviewed for possible participation. Where the victims are concerned, we cooperated
10 with the unit that was set up at the time. This unit had been set up, thanks to financing
11 from the UNDP, with a magistrate - a lady magistrate - two doctors and a psychiatrist.
12 That unit first -- was the first one to come into touch with the people who came up as
13 victims. That unit heard them out and prepared a release, a communique, every Sunday.
14 And on the basis of these documents, we organised our interviews. This is for victims or
15 other people who had been bodily harmed.

16 Now, for people who were considered to be suspects, we, together with the Prosecution,
17 worked out the schedule for their interviews, which we did with the help of the
18 Prosecutor's office. So you see, the methodology is not the same; it depends on whether
19 you are talking about witnesses or you are talking about suspects.

20 Q. Thank you, sir. Let's focus for now on victims and witnesses. You just stated, or
21 you referred to, "our investigations." Who do you mean except you? Who was
22 involved in that investigation?

23 A. Well, no, I said there were people involved, "involved" meaning people who
24 could -- may have been considered as guilty of carrying out some crimes; suspects.
25 Among the suspects you could have people from the military, some politicians, some

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 businessmen as well. But I wonder whether this is the answer to your question? The
2 suspects are people that the Prosecution felt had been involved in committing some form
3 of crime. And this is what I meant by people who were involved apart from the victims
4 and the witnesses.

5 Q. I think I have to apologise because my question appears not to be clear. I would
6 like to talk about the victims and witnesses. You mentioned a unit. Does this unit have
7 a name?

8 A. The unit, I cannot remember the name. As I said, it was set up I believe thanks to
9 the funding of the UNDP and UNICEF. A magistrate, two doctors, a psychiatrist, and
10 some UNICEF social workers were members of this unit. They were there in order to
11 accompany, to coach, help people, the victims who had been traumatised by the events.
12 They were in charge of giving first aid to the victims, help them go through the necessary
13 medical tests, and also they took down their depositions, their statements, and they
14 organised a file, thanks to the statements, the results of the medical tests, et cetera. And
15 these files were then transmitted to us, and it was on the basis of these communications
16 we received from the unit that we organised ourselves in order to undertake our own
17 investigations and establish the timetable for the interviews of the witnesses and victims.

18 Q. Was this unit affiliated or independent to any government?

19 A. I'm afraid I don't really know the status of the unit, but it must have been
20 independent because, as I said, it was financed by the UNDP and UNICEF, but it was
21 housed in the Ministry of Social Affairs. That's where it had its premises, but financially
22 independent.

23 Q. You mentioned a lady, a magistrate, working for that unit. Do you recall the name
24 of that lady?

25 A. Her name is Balipou, and she is at present a member of the Constitutional Court. I

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 think she was the presiding officer of that unit.

2 Q. Sir, you stated that based on the reports that you received from this unit you
3 organised yourself for the investigation. Who did help you in organising the
4 investigation, and developing a time-line for the interviews of the witnesses and victims?

5 A. Thank you. The investigation was given to my predecessor. I was assisted by a
6 court officer in that undertaking and also worked with the Prosecutor's office; but with
7 regards to the time-table of the interviews, I did those in my practice with the people who
8 wanted to be heard and with the assistance of the legal officer, the court officer.

9 Q. Do you recall, sir, how many reports you received from this unit?

10 A. Unfortunately, I do not. We got them every Friday, quite, a whole pile of reports,
11 and that came on a regular basis, but I can't give you any exact idea of how many reports
12 we had, the number of reports that I was given.

13 Q. Do you recall if you questioned all persons for which you received the report from
14 this unit?

15 A. No, I do not, because I didn't just have those files to deal with; I had others that I
16 had to deal with, and that just led to me having too much work, so I was not able to take
17 statements from all of these individuals. I think that we chose the files according to the
18 relevance to the case, so I was not able to interview each person, no.

19 Q. Which criteria did you apply to determine the relevance of the reports for the case
20 that you investigated?

21 A. Thank you. The criteria were very easy to understand. There are people, there
22 are files in which there was not a medical certificate, for example, because of the problems
23 that person had to deal with. So there was that. We would also read the person's
24 statement, and we would decide on the basis of that we're having to keep the file. But
25 those were basically the only criteria that we used to determine which files we retained.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0009

1 There was a lot of work at the time to do, and that also had an impact on our choosing
2 which files to retain. I simply wasn't able to take statements from everybody.

3 Q. Sir, to have the record clear, when you're referring to the "medical certificates," was
4 that the criteria to choose or to not choose a report to put on the list for later interviews?

5 A. Thank you. When they had a medical certificate, they were retained, we kept them.
6 The certificates which talked about contamination, HIV contamination/infection, they also
7 talked about a certain number of other physical problems the person was suffering from.
8 And given what was in the medical certificates, we decided to classify them and to retain
9 some of those. Of course, all of these reports with the medical certificates were among
10 the main ones which we decided to maintain.

11 Q. Sir, I know it's been a while but do you have any recollection how many victims and
12 witnesses you interviewed?

13 A. No. I think that the reports were dealt with by most of the investigators, and I
14 think that there you'll see all the statements which were made, but I can't give you an
15 exact number of the number of people that I spoke to. And we didn't just hear from
16 victims of rape, there were also other forms of victims, other kinds of victims, victims of
17 other kinds of crimes, but I don't have an exact number of the people that I took
18 statements from or that I spoke to.

19 Q. Do you have any knowledge how this unit generated the reports?

20 A. No, I do not. I wasn't in contact with this unit. I simply received the reports
21 which they transmitted to me, which they sent to me, but I don't know what happened
22 before I received them. I imagine that the unit was composed of competent people and
23 that they did their job correctly.

24 Q. Mr Witness, were you involved in any way in the work of that unit?

25 A. I said no, madam. I did not attend a single one of their meetings.

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 Q. Were you influenced in any way by these reports that you received with regards to
2 your investigations, your investigative findings and conclusions?

3 A. Not at all, madam. Just to show you how much they were not taken into account,
4 basically I can tell you that these reports had no influence whatever on our work.

5 Q. Sir, earlier upon my questioning, you stated that the profile of the victims were
6 both -- of both gender. Did you have an opportunity to interview both women,
7 respectively girls, and men, respectively boys, who were victimised?

8 A. Yes, I did. We had people whose parents had been killed as well, whose family
9 members had been killed as well. We had people who had been the victims of pillaging.
10 We had people who had received wounds. And all those people we met with and, of
11 course, that included men, women and children. We made no distinction. But the
12 people who were received by this unit I think were mostly women who were victims of
13 rape. They concerned also exclusively women who were victims of rape, but that doesn't
14 mean that other people couldn't go to that unit.

15 Q. I would like to focus on male victims. Do you recall, by any chance, a specific
16 example of a male victim that you interviewed?

17 A. Yes, I do. And I think you have the statement in the file. There were men, a
18 number of people who came to the unit, who said that their houses had been looted, for
19 example, and they said that they had been wounded. Their children had been attacked
20 or, perhaps, raped as well. So they came to us to talk to us about this and about also
21 other infractions as well.

22 Q. Sir, before I ask you a number of questions with regards to the conduct of the
23 interviews of the victims and witnesses, and later of the suspects, I have a few questions
24 for us to understand the procedural setting of questioning individuals under the CAR law.
25 Did you take the statements from the victims in the quality of witnesses or as a partie

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 civile, or both?

2 A. There were witnesses, there were witnesses and people who went through the
3 events and who spontaneously came forward to tell us of those events, and there were
4 also victims, people who were, directly or indirectly, were victims of actions and they also
5 came to make statements, but the two categories were distinct, of course.

6 Q. Did the victims or witnesses sign their statements?

7 A. Of course they did, madam.

8 Q. Victims or witnesses who are questioned by you as the senior investigating judge at
9 that time, do they give their testimony under oath in your legal system?

10 A. The victims don't need to be under oath. The witnesses have to testify under oath,
11 but not the victims.

12 Q. During your questioning of such victims and witnesses, is it necessary or required
13 under the CAR law that a Defence counsel of a potential target, or suspect, is present?

14 A. I don't think so. I think that we meet with them separately, and they can also have
15 a confrontation with the suspected person, for example. And when there is an
16 adversarial meeting, of course, there is a suspect and at that point they can have legal
17 assistance with them.

18 PRESIDING JUDGE STEINER: Ms Kneuer, do you allow me to ask for a clarification?

19 On page 28, lines 18 and 19, you say that "the two categories were distinct, of course,"
20 categories meaning witnesses and victims. My question is: In your system, can a victim
21 be a witness at the same time, have dual status, or not?

22 THE WITNESS: (Interpretation) Thank you for the question. They can also be a
23 witness but not for the same thing. They can be a victim; that means they have suffered
24 directly and that's their status, but it doesn't mean they can't be a witness for something
25 different. Or they prefer to have their status as victim as opposed to status of witness.

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 PRESIDING JUDGE STEINER: Thank you, Ms Kneuer.

2 MS KNEUER:

3 Q. Judge, where did you question the victims and witnesses?

4 A. In my office at the Palais de Justice.

5 Q. Sir, I may have already asked a similar question but please remind us, how did you
6 contact into contact with the victims and witnesses?

7 A. I'll repeat myself again. Some came to see us directly. They came to share with us
8 whatever evidence or proof they may have had. Some other names were sent to us by
9 the unit that I spoke of earlier. But I don't think there was a specific channel for the
10 victims to get into contact with us, and the same thing was true for the witnesses. Some
11 of them came forth spontaneously, and there were others who had to be called in. We
12 had them come in, in order to take statements from them.

13 Q. The victims and witnesses who came to you directly or spontaneously, how did they
14 learn about your investigation?

15 JUDGE ALUOCH: Ms Kneuer, I am sorry to interrupt again. I just want to follow up a
16 question that the witness has answered, that victims did not need -- did not take an oath.
17 So I suppose one of his roles was to decide whether this such-and-such a person
18 appearing before him was really a victim. Because they were not under oath, and I
19 suppose you had to make that decision, isn't it? And since so many of them came?

20 THE WITNESS: (Interpretation) Thank you. I was asked about the law, I believe, in
21 the Central African Republic, and I was saying that according to our law, the victims do
22 not have to be under oath before they make a statement. We don't have them be under
23 oath when they come to see us, for example. However, witnesses have to be under oath.

24 MS KNEUER:

25 Q. Did you take the decision before you started your questioning if the individual in

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0009

1 front of you is a victim or a witness who needs to be under oath?

2 A. Thank you. The victim would already be able to tell you about what was going on,
3 and from that you would know that it was a victim. There were some who came with
4 medical documents, to show us what they were talking about, whether they had scars or
5 traces of other wounds which they received when they became victims. I think that
6 through the explanations you received from the person that you can see whether or not
7 you are dealing with a victim.

8 When it's a witness, and I'm saying that most of the witnesses were people that we had to
9 call in, that we had to call in because of the jobs those people had at the time, the positions
10 that they had at that time, and there were a certain number of other considerations to take
11 into account, but we felt that because of that and other -- and for other elements, that these
12 people might be of help to us. And there were others who came forward, a number of
13 other people that we decided to take statements from, with the assistance of the
14 Prosecutor's office. But I think the entire thing was very clear. I don't think there was
15 any confusion.

16 Q. If you learn only during the course -- if you only learn during the course of your
17 questioning that a witness is in fact a victim, what are you doing then with the oath?

18 A. I think I need to be more -- I need to be clear here. The witnesses, most of them
19 were military commanders, people who were on the ground when the events unfolded.
20 They were people who had a certain number of functions, or a certain number of
21 responsibilities when the events took place. So there was no difficulty in identifying
22 these people. Some of the names were given to us, the names of these people, and we
23 had to call them in. We had to make sure that they took an oath before we took their
24 statement. Okay.

25 We didn't have any problems with all of this. We were able to identify them before we

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0009

1 determined what their status was, but the victims, those who say that they were victims of
2 rape and other things, we didn't have any problems there either because most of the
3 reports came from the unit that I spoke about earlier and we could see that these are
4 people who had indeed gone through a difficult time, who had been wounded or
5 otherwise injured. So that's how it worked. But we always worked with the Prosecutor
6 in order to establish the list of people that we wanted to take statements from as witnesses.
7 That's the work that we were doing continually, during -- throughout the entire
8 investigation.

9 Q. Thank you, Judge, for explaining to us this legal part of your investigation. I
10 would like to come back to how the victims, or witnesses, that you -- that came to you
11 directly, or spontaneously, learned about your investigation. How did they become
12 aware of that investigation?

13 A. Thank you. Basically, from time to time, we would contact people. There were
14 also people who came forward spontaneously and there was also a unit. That unit
15 would provide aid and support to the victims, and in addition to that, I think there was a
16 certain amount of outreach. There were communiques that the unit would put out,
17 concerning the fact that the victims could get in touch with them and subsequently could
18 get in touch with us, and they could come and talk to us and justify their claims to have
19 been the victims so they could be taken care of. And when that happened, when they
20 went to the cell, then they were told right away that we were conducting an investigation
21 and they could come down and make a statement, if they so wished. And there were no
22 problems with that.

23 People -- and then those people had information. There were announcements on the
24 radio as well, radio shows which were disseminated, broadcast on a more or less on a
25 regular basis, and these would explain to people they could come down and

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 spontaneously make a statement. They could come down to the unit to receive treatment,
2 if they so desired, if they required any kind of assistance, and then could get in touch with
3 us, and that's basically how the whole thing worked.

4 Q. I would like to focus on the announcements on the radio. Which radio station are
5 you referring to?

6 A. We didn't do the radio announcements. The unit would release communiques.
7 They would provide that information in the Central African Republic but basically, I
8 mean I think the announcements were made over the national radio but there was also an
9 association that was created, and they were I think in charge of that work. They had the
10 shows. They were in charge of informing people, to get information. They would
11 provide information about where the unit was. They would provide information but, I
12 mean, providing information was not the tribunal's job.

13 Q. In which language did you question the witnesses and victims?

14 A. The witnesses and victims were questioned essentially in the national language, in
15 Sango, with the exception of certain people who were heard in French. Most testified in
16 Sango. Some who didn't understand Sango were heard in -- in their own language, but
17 there were very few of them because everybody in my country speaks Sango. So it was
18 essentially using Sango that the witnesses and victims were heard, most of the time.

19 Q. I know it has been a while, but do you recall the duration of the questionings of the
20 victims and witnesses?

21 A. Well, I cannot remember the duration of all these hearings but, in any case, I think
22 that would vary depending on the content of the testimony. It would vary between
23 30 minutes and more, depending on what the person had to say.

24 Q. Who except you was present during the questioning of the victims and witnesses?

25 A. There was the Prosecutor for the Republic, who from time to time came to these

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 interviews, and my Registrar.

2 Q. Just for the record, sir, can you please provide the name of the Prosecutor for the
3 Republic?

4 A. The Prosecutor for the Republic is, at the time, is Findiro Firmin. I think he was
5 previously here. It was with him that most of the time we worked but sometimes he was
6 represented by his alternate.

7 Q. For those interviews the Prosecutor could not attend himself, did you inform him of
8 the developments of the investigation?

9 A. Of course. At all times the file, when the file was requested, it would be provided.
10 He was aware of the various acts we were involved in. And in fact the law so requires.
11 The Prosecutor can at any time ask for the file to be shown to him and that's how we
12 worked.

13 Q. The victims and witnesses that you questioned, were they accompanied by a
14 counsel?

15 A. In most cases, no. They would come on their own, the victims, and we would hear
16 them. I don't remember a single case actually when the person came with counsel. The
17 same applies to witnesses. The law does not require that a witness be assisted by counsel,
18 at least as regards the former code of criminal procedure.

19 Q. I would like to ask you a couple of questions regarding the procedure that you
20 followed in questioning victims and witnesses. Did you have a prepared set of
21 questions?

22 A. No, madam.

23 Q. How did you proceed or structure your questions, questionings?

24 A. In the case of victims, we would ask them questions after having looked at the file
25 given to us by the unit, so we would prepare typical questions based on the content of the

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0009

1 files, and naturally we would ask the person to tell us what -- about their experience and
2 explain to us what he or she had been through, and on that basis, well, then we would ask
3 other questions in relation to what the victim had said. Now, in the case of witnesses,
4 from time to time the questions were in fact prepared ahead of time, and then we would
5 subject the witness to that series of questions.

6 Q. Sorry, sir. How did you generate the statements, considering the different
7 languages involved?

8 A. I am afraid I didn't understand your question, madam.

9 Q. You mentioned earlier that you conducted the questionings mainly in Sango,
10 exceptionally in French, and you also stated that some witnesses or victims were heard in
11 their own language. How did you communicate with them, and how did you generate
12 the statement, considering the different languages?

13 A. Thank you. Well, in the case of the people who spoke Sango there was no problem
14 because Sango is one of the official languages of my country, so we would set up a
15 summary of the statement for the Registrar who would take note of that. There was no
16 problem there. But with those who didn't speak Sango and who had speak their own
17 dialect, well, we would call on an interpreter. We would call on an interpreter who
18 would translate, either into French or into Sango, and then we would have that recorded
19 by the Registrar.

20 Q. In which language were the statements recorded?

21 A. In French.

22 MS KNEUER: Madam President, your Honours, it would be a good time for the
23 Prosecution to break here and continue after the 30-minutes' break.

24 PRESIDING JUDGE STEINER: Thank you, Ms Kneuer. Mr Witness, we'll have now a
25 30-minutes' break in order for you and our interpreters, as well as the parties and

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

- 1 participants, to rest a little bit. We will resume this hearing --
- 2 THE WITNESS: (Interpretation) Thank you.
- 3 PRESIDING JUDGE STEINER: -- at 4.30.
- 4 THE WITNESS: (Interpretation) Thank you, madam.
- 5 PRESIDING JUDGE STEINER: I ask, please, the court usher to escort the witness outside
- 6 the courtroom.
- 7 (The witness stands down)
- 8 PRESIDING JUDGE STEINER: The hearing is suspended.
- 9 THE COURT OFFICER: All rise.
- 10 (Recess taken at 3.56 p.m.)
- 11 (Upon resuming in open session at 4.32 p.m.)
- 12 THE COURT USHER: All rise. Please be seated.
- 13 PRESIDING JUDGE STEINER: Welcome back. Could, please, the court usher
- 14 bring the witness in.
- 15 (The witness enters the courtroom)
- 16 PRESIDING JUDGE STEINER: Mr Witness, welcome back.
- 17 THE WITNESS: (Interpretation) Thank you.
- 18 PRESIDING JUDGE STEINER: I hope you had the opportunity to rest a little bit.
- 19 THE WITNESS: (Interpretation) Yes.
- 20 PRESIDING JUDGE STEINER: Are you ready to continue giving your testimony?
- 21 THE WITNESS: (Interpretation) Yes, madam.
- 22 PRESIDING JUDGE STEINER: Thank you very much. Ms Kneuer.
- 23 MS KNEUER: Thank you, Madam President, your Honours.
- 24 Q. Welcome back, Mr Witness.
- 25 A. Thank you.

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 Q. Before the break we left off with talking about the procedure that you applied
2 while questioning your victims and witnesses. Do you recall how soon after the
3 events you questioned these victims and witnesses?

4 A. The events took place in the month of October 2002 up until 15 March 2003. I
5 was appointed as investigating judge in Bangui in September and I took on my duties
6 at the beginning of October. So March to October, some five or six months after the
7 events.

8 Q. Do you also recall when you finished questioning victims and witnesses?

9 A. The order was in November 2004, so the last deed in this file, as far as I am
10 concerned, was November 2004. I don't remember the exact date.

11 Q. From your investigations, what would be your conclusion with regards to the
12 memories of the victims and witnesses at the time you questioned them?

13 A. My personal conclusion, well, I don't have a personal opinion to give about the
14 various statements made. My role consisted in collecting those statements and
15 compile the final -- make the final compilation, so I didn't have any personal opinion.
16 Now, we must acknowledge that some of them, during their questioning -- well, some
17 of them would start to cry or some who, after they had narrated what had happened,
18 would begin to cry and couldn't stand it any more. Well, I have no personal opinion
19 on that.

20 Q. Thank you, sir. We will come back to the content of the questioning and the
21 reaction of the victims later. Perhaps my question was not clear enough. What was
22 your observation with regard to the memories of the victims and witnesses? Did
23 you observe that they could remember well, or not?

24 A. Yes, madam, they clearly remembered the events and they explained them in
25 detail, in minute detail. In most cases these events were still very recent.

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 Q. How were you able to confirm the accounts of victims and witnesses during the
2 course of your investigations?

3 A. I cannot -- I didn't have the possibility to be sure that all these experiences were
4 authentic, but in any case some of them still felt pain and some still couldn't stand the
5 fact that they should be compelled to repeat, to explain, once again what they had
6 been through. And I think that, in this regard, there is an image of sincerity that
7 comes out and needs to be acknowledged.

8 Q. You already mentioned that victims and witnesses cried during the questioning.
9 Sir, can you please tell the Court more -- or in more detail the conditions of the
10 victims at the time you conducted your questioning?

11 A. I think something should be specified here. I don't say that all the victims cried
12 when I questioned them. I said some victims, some people. There was one woman
13 who had a child in her arms and she introduced this child as being the outcome of a
14 rape. Some came with medical certificates that showed that they had been infected
15 as a result of multiple cases of rape and some of them couldn't stand this questioning
16 and being asked for explanation and broke down, but I don't say that all the women
17 cried.

18 Q. Thank you for that clarification, Judge. The victims and witnesses who indeed
19 cried or broke down, were you able at all to question them or to continue your
20 questioning?

21 A. Yes, madam.

22 Q. You just mentioned the example of a woman who had a child in her arms and
23 she introduced this child as being the outcome of a rape. What was the position of
24 this woman towards having a so-called "rape child;" do you recall?

25 A. Well, she held the baby in her arms and she stayed there in that way. She had

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 to accept that. She did cry, she was in a state of shock, but nonetheless she didn't
2 reject the child. She told me that this had happened and that she has nothing against
3 the child, that she had to accept him.

4 Q. Did this woman mention if the pregnancy and the subsequent birth of the child
5 as a consequence of the rape had any impact on the relationship to her husband?

6 A. You would have to look that up in the file, because it seems to me that in most
7 cases rape victims were in fact abandoned by their partners. Many of them were in
8 any case. In this specific case I'm afraid I cannot remember whether or not this
9 woman had kept her husband or partner, but many of them said that as soon as their
10 husbands found out that they had been raped the husbands left them. There were
11 cases like this. There were also other women who were infected. They showed the
12 medical certificates, showing that they had been infected with HIV as a result of the
13 rape, and obviously the husbands then abandoned them.

14 Q. The women who were infected with HIV due to the rapes, did they express to
15 you how they felt about that?

16 A. I am afraid I don't totally grasp your question, madam.

17 Q. You mentioned that some of the victims of rape were infected by HIV. How
18 did these victims feel about being infected with HIV, which is a sickness that is
19 usually terminating the life of a person at one point in time?

20 A. Thank you for clarifying. It was the support unit that first met these victims
21 and they really did a lot to help them. In most cases, they managed to reach a
22 certain amount of internal peace by the time they came to see me because in that unit,
23 you see, they had psychiatrists who cared for them and who, I'm sure, gave them
24 appropriate advice as regards their disease.

25 Q. You stated earlier that you cooperated with this unit that provided to you the

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0009

1 reports. Was there any other NGO or unit that you cooperated with during the
2 course of your investigation?

3 A. No, madam. Apart from that unit I only cooperated with the police officers
4 that helped with the criminal investigation. That was all.

5 Q. To your knowledge, sir, were there any victims' associations set up after the
6 events that occurred in October 2002 until March 2003?

7 A. Yes, madam. Some associations were set up. They're working to this day,
8 victims' associations. I know at least of one of them which is extremely active, gives
9 a great deal of support and assistance to victims.

10 Q. Can you provide us with the name of that organisation?

11 A. I don't have the name in my mind right now. I'm sorry, I do not remember the
12 name.

13 Q. You stated earlier that occasionally victims or witnesses came with a counsel.
14 Does the name Maître Ngoungaye Wanfiyo say anything to you?

15 A. I think that we need to correct things. I said that in my country, under our
16 legislation, witnesses do not need to be accompanied by counsel. In this case most
17 victims were interviewed without the assistance of a lawyer. However, the people
18 who did have legal counselling were those who were considered to be suspects, the
19 suspects, those who were alleged to have committed some crimes. As regards this
20 gentleman you mentioned, I know him. He's from my own home country, and I
21 have personal relations with him.

22 Q. Did Mr Wanfiyo ever appear in front of you as a counsel of a victim that you
23 interviewed?

24 A. Madam, all of this occurred a long time ago, some seven years, so I can't really
25 remember the details. Wanfiyo, I think, was counsel for people who were being

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 prosecuted, in fact, not for a victim. I cannot remember whether in fact he ever
2 provided any counselling to a victim.

3 Q. Sir, with regards to victims' associations that were set up after the events in
4 question, did any of these victims' associations influence the outcome of your
5 investigations?

6 A. No, madam, not at all. These associations came into existence in most cases
7 after I had finished my investigation, so quite obviously I had no contact with them.
8 I do not know them. I know they exist, but at the time I had no contact with them, so
9 they had no impact on my investigation. The only NGO with which I had some
10 amount of indirect contact is the one I mentioned before, not the other associations.

11 Q. Thank you, sir, for that clarification. Sir, I would like to direct your attention
12 now to suspect interviews. You already provided some information to the Chamber,
13 but I have a few follow-up questions. How did you develop the list of suspects that
14 you interviewed in your investigations?

15 A. Well, you know, it behooves the Prosecutor who was entrusted with the legal
16 proceedings to come up with the list of suspects, so quite normally it was the
17 Prosecutor who submitted to me, who referred to me the list of suspects. The
18 Registry keeps a full record of all these names, and as the investigation went on we
19 interviewed the suspects, and if the Prosecutor had more suspects he would submit
20 an additional list and then we would take it up from there. There was no list that we
21 actually drew up ourselves, apart from the ones submitted by the Office of the
22 Prosecutor.

23 Q. As a senior investigating judge, are you bound by the framework that the
24 Prosecutor is submitting to you with regard to the list of names of potential suspects?

25 A. Of course, madam, because it is the Prosecutor who prosecutes. He, under

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0009

1 Central African legislation, he undertakes legal criminal proceedings and he refers the
2 names of the suspects to the investigating judge, so we are definitely bound by that
3 framework. If we know of someone who may be considered to be a suspect, against
4 whom charges could be brought and whose name does not appear on the list of the
5 Prosecutor, then we would let the Prosecutor know, obviously. And then the
6 Prosecutor would do -- would proceed accordingly, and perhaps add the name to the
7 list. But in response to your question, I am indeed bound by whatever briefing the
8 Prosecutor gives me.

9 Q. Can you provide us with some of the names that were on the list that the
10 Prosecutor provided to you?

11 A. The names, the Head of State, Mr Patassé; his Prime Minister; many names.
12 Many names. Some military commanders, some well-known politicians. The
13 prosecution involved not just felonies but also financial crime, political crimes, crimes
14 involving bloodshed, a variety of suspects.

15 Q. In the course of your investigation, did you reveal any other potential target
16 than listed by the Prosecutor?

17 A. Apart from the list submitted by the Prosecutor, no, madam. No, basically I
18 worked on the basis of whatever submissions I received from the Prosecutor. There
19 were very many names involved as it is, so I did not bring charges against anybody.
20 In fact I had no right to do so, or to consider anyone myself as being a suspect apart
21 from the names submitted to me by the Prosecutor.

22 Q. With regards to the names of suspects provided by the Prosecutor and within
23 that framework, did you form an independent opinion based on the investigation that
24 you conducted?

25 A. Well, you see, the Prosecutor, when he submits the list of potential culprits and

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 orders an investigation to be initiated, well, then we undertake the investigation, we
2 look for evidence to substantiate possible charges and at the end of the day, if we
3 realise that the evidence doesn't hold any water, then the person is then completely
4 left outside the investigation. This is what we did. Very often you will see that at
5 the end of an investigation any possibility of charges was dropped against a number
6 of people, because there was never enough evidence that could be obtained to
7 substantiate any possible charges against them.

8 Q. Thank you, sir. I may have a few more questions on this topic at a later stage.

9 Now I have a few questions related still to the setting of the suspects' interviews.

10 Where did you question these suspects?

11 A. Always in my office; in my own office.

12 Q. Were these suspects you questioned assisted by counsel?

13 A. Yes, madam. Yes, madam, they had the benefit of counsel at the time.

14 Q. Is this procedure provided for under the CAR legal regime?

15 A. We have just changed the code four or five months ago. The National
16 Assembly has just adopted a new code that replaced the former one, but even under
17 the former criminal code - criminal procedure code - all suspects were entitled to the
18 presence of counsel. The very first questioning could be done without the presence
19 of counsel, but from then on the suspect was entitled - this was a right - to be assisted
20 by counsel. It was a right the person had. The person could very well say that they
21 did not want one, obviously. We do not make the counsel ourselves available to the
22 suspects.

23 Q. Who attended the questioning of these suspects?

24 A. The questioning of suspects -- as I was saying, if the suspect comes with a
25 counsel, the counsel would be sitting right next to the suspect. Otherwise the

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 suspect is alone, apart from somebody who is underage obviously. So it's an
2 either/or situation; either with counsel or without counsel. As I said, we don't
3 actually appoint an ex officio counsel to the suspect -- for the suspect.

4 Q. Thank you, sir, for that clarification. I think my question was not clear. Let
5 me try to rephrase. Did the Prosecutor of Bangui attend the questioning of the
6 suspects?

7 A. Oh, I see. Now I understand. The Prosecutor would come whenever he felt it
8 was necessary, whenever he deemed it necessary. It was up to him to decide
9 whether or not it was wise for him to be present either because of the nature of the
10 crimes imputed to someone, or because of the prominence of the person being
11 interrogated. This was not systematic - not systematic - but very often he would
12 come and take part in the questioning.

13 Q. Sir, can you elaborate on the procedure that you followed during the
14 questioning of suspects, such as the language used, how a statement was generated,
15 who signed a potential statement, et cetera?

16 JUDGE ALUOCH: Ms Kneuer, may I interrupt please. Apart from the Prosecutor,
17 did anybody else attend your chambers during these interviews, the public for
18 example, or was it restricted? Thank you.

19 THE WITNESS: (Interpretation) Investigation is done behind closed doors. No
20 public access. This takes place in the judge's chambers; personal chambers. No
21 public is allowed.

22 MS KNEUER:

23 Q. Judge, I will repeat my question. Can you elaborate, please, on the procedure
24 that you applied while questioning suspects, such as language, interpretation,
25 generating statements, signing statements, et cetera?

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0009

1 A. Yes, the language used is always French or Sango. The statements are signed
2 at the end. Everyone taking part in the interrogation will sign the procès-verbal, or
3 minutes, at the end, and obviously the Judge himself, the Registrar, the suspect and, if
4 the Office of the Prosecution is represented, the representative as well will sign. So
5 language is either French, or Sango. Questions? There's no such thing as a typical
6 question. It depends on what the charge is, or the possible charges are, but at the
7 end all of this is recorded in what we call the procès-verbal which is signed by all
8 present.

9 Q. How did you verify what the suspects stated during the questioning?

10 A. Well, there were a number of ways. For instance, you could have an
11 adversarial situation where you would bring the witnesses to face the suspects and
12 out of the confrontation we would hope obviously that the truth would emerge.
13 That's one way, but really the only way of really verifying, checking, or contradicting
14 the suspects would be by means of questioning witnesses, bringing in some witnesses
15 to confront the suspects. That is usually the way we would do it.

16 Q. During the investigations that you conducted, did you face any personal
17 difficulties?

18 A. Not really. I enjoyed the full support of my ministry, of my minister, who gave
19 me everything I needed to carry out my work, even though the financial
20 circumstances were rather tight, and I was protected at home and at the workplace.
21 So I encountered no difficulties as regards my hierarchical superiors and my ministry.
22 However, threats, yes, I did get some threats. Often I received some anonymous
23 calls, where people would threaten me. I was also an investigating judge for the
24 permanent military tribunal and so I would get threats also because of that, usually as
25 I said anonymous calls and anonymous threats, and fortunately none of them

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 materialised.

2 Q. Sir, did you allow these threats to influence in any way your investigations?

3 A. Not at all. Not at all. As I told you, I was protected. I had bodyguards, so I
4 felt safe and these threats had no impact on the conduct of my investigation.

5 Q. Did you encounter any professional difficulties while conducting the
6 investigations?

7 A. What do you mean exactly, madam? What type of professional difficulty are
8 you alluding to?

9 Q. Did you face any limitations while conducting your investigations?

10 A. No, not at all. Quite the opposite, I enjoyed full support from the government.
11 I was lucky enough to manage to get summons served to some former government
12 officials who had to comply. I had full support from the government, I repeat.

13 Q. From your investigations, can you please tell the Court what your impression
14 was regarding the credibility of the victims you interviewed?

15 A. I would not like to mislead you. I don't think I have a personal opinion to give,
16 because I must have interviewed over 100 people and I cannot really form an idea of
17 the sincerity of their statements.

18 Q. During your questioning of victims and witnesses, did you observe that they
19 were coached or influenced by anyone with regard to the account they provided to
20 you?

21 A. By whom? I don't want to speculate, but very often these were people who
22 would come in with scars, bearing the marks of attacks which they had been victims
23 of. I told you some who found the situation unbearable - they would break down in
24 tears, they were very unhappy - and I think that's because there was an influence on
25 them, but that's because of the events which they had gone through.

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 They were very painful events and they were simply unable to bear them, and they
2 could show us marks of what they had gone through but there was no influence
3 exerted on them by any other person. These were people who come from different
4 places, who belong to a different social strata, and the NGOs and the associations that
5 support these victims, as I told you earlier, I think were created after I completed my
6 investigation in most cases, in any event.

7 Q. Mr Witness, I would like to direct your attention now to a new topic and it is
8 about the armed conflict and groups that were involved in that armed conflict.
9 During your investigations, did you come to know the identity of the armed groups
10 that were operating in the Central African Republic in October 2002 until March 2003?

11 A. I think there were three or four groups that were participating in the conflict.
12 The troops of Mr Bemba, from Mr Miskine, belonging to Mr Miskine, Paul Barril, also,
13 had some men who were present there. There was the army, the National Army,
14 elements of the security, Presidential Security Unit, and men from Mr Bozizé who
15 were in rebellion at that point. So there were several groups there were operating at
16 that time on the ground.

17 Q. Sir, before we focus on the MLC, can you briefly summarise for the Court your
18 findings on the other groups that you mentioned?

19 A. The other groups, there was the group that belonged to Mr Miskine. They
20 were probably USB, the Presidential Security Unit, but it was actually made up of
21 people who were more or less militia members. This group was based in the north
22 of the country, in Kabo and Bossangoa and Bozou.
23 There was another group, this belonged to Paul Barril. They were based, I believe, in
24 Bouar. Paul Barril was in Bouar and his men were there, as well. There was
25 another group, this was a militia group, we used to call them surveillance groups or

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 something along those lines. They would undertake surveillance operations. They
2 were armed, they were basically a militia, and they were also based not far from the
3 residence the Head of State.

4 There was the SBS. There were the men who belonged to Abdoulaye Miskine.
5 There were the men who belonged to Paul Barril and the rebels who belonged to
6 General Bozizé, and they were pretty much scattered throughout the north of the
7 country. And there were conflicts, and then that's due to the mobile nature of these
8 units; they would change cities and villages very easily, and they would do that
9 according to whether they had won or lost a fight. But that's basically what I can tell
10 you about those groups.

11 Q. Do you know from your investigations who the overall leader of the MLC was
12 at that time?

13 A. Of course, it was Mr Jean-Pierre Bemba. He was known in the country as
14 being the leader of the MLC.

15 Q. Do you know from your investigations who commanded the MLC troops on the
16 ground in the Central African Republic?

17 A. No, madam, I do not.

18 Q. Do you know any names of any commanders of the MLC troops in the Central
19 African Republic at that time?

20 A. I heard a name from some officers - Mr Moustapha - a certain Mr Moustapha,
21 and that's a name which I heard from officers and from other people.

22 Q. You just said that you heard the name of Moustapha from officers and from
23 other people. These officers and other people, were they witnesses or suspects?

24 A. There were witnesses, some suspects as well, who mentioned this name, a few
25 people. But there were a few people and they were in addition to that, witnesses

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0009

1 and suspects, but I'm sure you can find the statements from the questioning sessions.

2 Q. Do you recall from your investigations what these witnesses or suspects told
3 you to whom Moustapha reported at that time?

4 A. Okay. Perhaps I shouldn't mention the names, but there was one officer who
5 told me that Moustapha reported - like the other commanders - to the President of the
6 Republic at that time concerning his operations on the ground; which is to say that the
7 commanders who were on the ground, the Chief of Staff for the soldiers, reported
8 directly to the Head of State at the time.

9 Now, was Moustapha the supreme leader of the MLC? Did he have to report to -- I
10 imagine that he also had to report to the Head of State, but that's difficult to confirm.
11 And I got this information from other people, as well, but it's difficult for me to certify
12 the authenticity of this information.

13 MS KNEUER: Madam President, I apologise but I have a problem with the
14 transcript, which disappeared. Perhaps someone can assist me with that. I would
15 really appreciate it.

16 Thank you very much for the assistance.

17 Q. Sir, just for the record, who was the Head of State at that time?

18 A. The Head of the State at the time was Mr Patassé, Ange-Félix Patassé.

19 Q. Did Mr Moustapha report to any other person from your investigations?

20 A. I can't answer that question, even with the information that I got from the
21 investigation.

22 Q. Can you tell from your investigations what the size of the MLC troops was that
23 was present -- that were present in the CAR at that time?

24 A. I can't really tell you that, but there were a lot of them, I can tell you that.

25 There were very many of them. I don't think that the number was given to me

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0009

1 during the investigation, but in any event there were very many of them. Because
2 they were in Bangui, they were in some other cities, in the outlying areas, I think that
3 there were very many of them.

4 Q. Are you in a position to give us an estimate?

5 A. Unfortunately not, but there were a lot of them. I wouldn't want to exaggerate,
6 but there may have been a thousand men. There were many of them. I can't give
7 you an exact figure, but there were many of them in Bangui. They were in the area
8 in the west of Bossemptélé, Bossembélé. We could also find them in Sibut and also
9 when not there in Kabagango (phon). There were, as I said, very many of them but I
10 can't give you a precise idea of how many exactly were present.

11 Q. Do you know from your investigations from which part of the DRC Mr Bemba's
12 men came from?

13 A. According to the investigations, they came into the Central African Republic
14 around the area of Zongo, which is just across from Bangui.

15 Q. From your investigations, what language were the MLC troops recognised by
16 the victims and witnesses as speaking?

17 A. According to the victims and witnesses, the MLC troops spoke Lingala; Lingala.
18 That's perhaps one of their local languages, and I'm not familiar with it. But they
19 didn't speak Sango in any event and they didn't understand Sango, either.

20 Q. How did the Central Africans recognise the language spoken by the MLC
21 troops as Lingala?

22 A. The CAR and the DRC are neighbouring countries, so it's easy to recognise
23 whether someone is speaking Lingala or not. And there's some Central African
24 citizens who understand Lingala as well, but they didn't in any event speak Sango or
25 any other Central African language. It was Lingala or perhaps their own local

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 Congolese language.

2 Q. Despite the language characteristic, did the victims and witnesses provide any
3 other features to differentiate or identify the MLC troops?

4 A. There was the clothing they wore, the personal equipment they had. They
5 were not dressed like Central African troops. They were poorly dressed, if you will.
6 They also did not have a very neat personal appearance. Their hair was unkempt.
7 They had different boots than the Central African Republic soldiers. Some had a
8 military top and a civilian bottom, for example. And I think that these are all
9 elements which make it possible to identify them as being MLC troops. There were
10 also child soldiers; a certain number of children were present. They were with the
11 MLC, and there were also women that were present as well. And all those elements
12 made it possible to easily identify them. There was also their physical appearance.
13 I think that when you are looking at a Congolese, that you can recognise them, thanks
14 to their physiological features. So I was easy to recognise them; it was easy to
15 identify them compared with other soldiers, especially compared with our own
16 Central African soldiers.

17 Q. Did the victims and witnesses provide you information about the MLC troops
18 speaking French?

19 A. French, I don't know. I didn't ask the question, in fact. I didn't ask the
20 question in those terms in any event. But I think that most of the MLC units spoke
21 their language. Some spoke a little bit of French or they, you know, made an effort
22 to speak Sango, which they also didn't speak very well. Most of them spoke Lingala.

23 Q. From your investigations, when did Mr Bemba's troops arrive in the Central
24 African Republic?

25 A. In Bangui? In Bangui, is that what you mean? Yes, the first time they came

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0009

1 into the city in 2001, there was a failed coup d'état. They came for the first time in
2 2001. The second time they came was in 2002, around September or October of 2002.
3 I can't provide you with the exact dates, but I believe it was during that period, 2001,
4 to help with the Head of the States at the time to repulse a rebellion. Then they left
5 and then they came back in October because of Bozizé's troops who were very close to
6 taking control of the city of Bangui. So I think that those were the dates that -- when
7 they came into the country.

8 Q. When did the MLC troops leave the Central African Republic?

9 A. When the regime fell, on 15 March; 15 March.

10 Q. From your investigations where were MLC troops based upon their arrival in
11 Bangui?

12 A. They were in the military bases, in Camp Béal, in the other bases which had
13 previously been occupied by our soldiers, our FACA forces.

14 Q. During the conflict, did the MLC troops develop bases anywhere else in the
15 Central African Republic?

16 A. In the Central African territory, well, I can't -- I don't know. I know that they
17 came from the DRC and that's all. But aside from that, I don't know if they have
18 installations or bases in other areas or places.

19 Q. From your investigations, did the MLC troops deploy from Bangui to other
20 towns in the Central African Republic during the conflict?

21 A. From Bangui to other places? I'm not sure that I've understood the question
22 correctly. If you could repeat the question, please.

23 Q. After the MLC troops arrived in Bangui, did they stay the entire time during the
24 conflict in Bangui, or did they also deploy to other places in the Central African
25 Republic?

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 A. Of course they did. They were also moved into some of the cities in the
2 outlying areas. There in Damara, in Sibut, Bossangoa, Bossembélé. They were
3 pretty much everywhere in the cities in the north of the country and also in the
4 conflict area, so they were sort of everywhere in addition to being in Bangui.

5 Q. You mentioned earlier the rebels of Mr Bozizé. What happened to these rebels
6 when the MLC troops deployed in Bangui? Do you know that from your
7 investigation?

8 A. My investigation didn't have to do with Mr Bozizé's rebels, that's not what we
9 were there to do, and I don't know what happened to them. But when confronted
10 with the threat presented by Mr Bozizé's troops, I think that Mr Bemba's soldiers were
11 called upon and they came to Bangui.

12 Q. Sir, from your investigations, can you tell the Court whether a crisis cell was set
13 up at any time by anyone?

14 A. There was a cell which was set up by the President of the Republic, he was still
15 in power at the time, and this cell was composed of a certain number of people from
16 the country. So there was a crisis cell which had been created. Now, as far as how
17 it operated, I can't really tell you very much. I can't really provide you with any
18 detailed information.

19 Q. Do you recall who the members of this crisis cell were, without referring to the
20 specific name, rather than the title?

21 A. There was the President of the Republic, the Prime Minister, the Chief of Staff.
22 This was what was told to me during the investigation. The President, the Prime
23 Minister, the Minister of Defence, the heads of army, the head of the Presidential
24 Guard, the Director-General of the Gendarmerie, and the head of the police. There
25 you are. Those are the people who made up that cell.

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 Q. You mentioned that you do not know exactly how this cell operated. Can you
2 tell the Court what the function or the mandate of this crisis cell was?

3 A. I imagine that they were supposed to think about the strategy to be adopted
4 concerning what was going on on the ground. I don't know what their mandate was.
5 I don't think that there was any particular mandate assigned to that cell. I think they
6 wanted to think about how they should organise things, what kind of tactics should
7 be employed in the field, what needed to be done basically so that the loyalists, which
8 is how they called them at the time, could effectively do their job; how they could
9 effectively operate in the field. I think that is what the cell was created for; how it
10 operated.

11 Q. Do you know where this crisis cell was set up?

12 A. I think that the crisis cell was set up at the Presidency of the Republic.

13 Q. Do you know from your investigations if the MLC was represented in this crisis
14 cell?

15 A. No, madam, I am not in a position to answer this question.

16 Q. Apart from that crisis cell at the presidential level, do you know, sir, from your
17 investigations if there was a coordination cell at the field or ground for the troops?

18 A. I do not think there was a coordination cell that carried out those functions. If
19 I had said that the leaders directly reported to the Head of State that's what I said but,
20 as far as I could tell, there was no coordination on the ground. There was no
21 particular cell that was in charge of coordinating the operations on the ground.

22 Q. From your investigations, when the Banyamulengue or the MLC troops were
23 operating in the field, were they operating alone, or did they operate with any other
24 group?

25 A. I think I gave your investigators a number of people -- a number of names, a

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 number of military leaders that should be heard to get that type of information. I
2 myself cannot answer you. I think you should ask this question to the people who
3 led those men at the time.

4 Q. Sir, apart from your knowledge of the events obtained from the investigations
5 that you conducted, did you personally witness any of the crimes you have spoken
6 about being committed at the time?

7 A. No, madam. At the time of those events I was 600 kilometres away from
8 Bangui and naturally I couldn't take the risk of going to Bangui from time to time. I
9 think I came only once, for the funeral of a colleague, and I think I stayed in Bangui
10 for about three days. So I wasn't myself witness -- a witness of any abuses
11 committed by those men.

12 Q. During these three days you stayed in Bangui during the relevant time, could
13 you see the MLC troops?

14 A. Yes, I began to see them in Baoro. They were already in Baoro, they had set up
15 barricades and in fact we met with them from Baoro all the way to Bangui.

16 Q. Based on what you saw, can you describe the composition and the general
17 appearance of the MLC troops?

18 A. The composition? I don't know about that, but what they looked like, well, I
19 think I already gave you a very short description today. They were not very well
20 clothed; not well clothed compared to our own troops, to the regular troops. Among
21 them there were small children; quite a few children among them. Their shoes were
22 not good, they didn't have any insignia or berets, their hair was not cut and they
23 didn't speak Sango, let me repeat that, so it's quite easy to differentiate them from any
24 other soldiers.

25 Q. Were you in a position to hear the soldiers from the MLC speaking?

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 A. No, madam, not in Lingala, but there's sometimes one that makes an effort to
2 speak French in a group. So we came to the funeral as a procession and we spoke
3 French, and there would always be one in the group who would come up and ask us
4 for explanations, speaking French.

5 Q. Sir, I'm not sure if my question was clear enough. Were you able to come close
6 to the MLC soldiers to hear them speaking; and I'm not referring to if you were able
7 to understand what they were saying?

8 A. Hear them speaking between themselves? Well, as I said, during the whole
9 trip we had encountered these men. Generally it would -- we would need to discuss
10 matters with them so as to be able to continue and I think I heard them speak on
11 several occasions as a result, but when they speak patois you couldn't understand.
12 When we spoke to them, we would make a special effort. To be sure that they
13 understood we spoke a bit of French, and there would always be one who was in a
14 position actually to understand what we were saying. I hope that's clear.

15 Q. How were you able to identify the language that the MLC soldiers were
16 speaking among themselves as Lingala?

17 A. I cannot guarantee that it really was Lingala, but I can assure you that it was not
18 our national language. It was not one of the languages of our country; not Sango,
19 nor any of the patois in our country. Whether it was Lingala, or another language,
20 well --

21 Q. With regard to the description of the MLC troops that you provided to the
22 Court, does any other identifying feature come to your mind that you haven't
23 mentioned yet?

24 A. No, madam. It was very easy to identify them; very easy to identify them.
25 They would generally move about in groups and, with what they were wearing and

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 the way in which they spoke, it was very easy to identify them.

2 Q. Sir, can you please describe how you can differentiate the MLC troops from
3 other troops; for example, compared to your national forces like the FACA or the
4 USP?

5 A. Yes. The FACA troops, well, they are part of the national armies -- the army,
6 the army of the country. They wear berets and there's a particular colour. They
7 wear red berets. They have insignia, they are all properly clothed, and I'm not
8 saying this because I'm a Central African, but they are well-dressed and so when you
9 see them we know that they are FACA troops. And if you see a member of the
10 presidential security, you also can differentiate them from the FACAs because of the
11 insignia and the colours they wear. So there are distinctive features that associate
12 given people with given corps. The insignia were not found among the troops of the
13 MLC. The MLC men didn't wear berets of a particular colour. They generally wore
14 caps, or else went bare headed, or wore anything they could get their hands on.
15 They also wore boots - I think I said this before - and in this way we could readily
16 distinguish them from our own men. And our men were well-disciplined in military
17 terms. They were not evil.

18 MS KNEUER: Thank you, Mr Witness. Mr Witness, we made quite some progress
19 today. Unfortunately I will not be able to finish your questioning today and so I will
20 have to continue tomorrow, but I believe that in the course of the morning we can
21 conclude the questioning of the Prosecution.

22 Madam President, it would be a good point to stop here for the Prosecution.

23 PRESIDING JUDGE STEINER: Thank you, Ms Kneuer. Mr Witness, thank you
24 very much for your efforts, staying the whole afternoon giving testimony. We are
25 going to suspend now -- to adjourn, better saying, our hearing. We will continue

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0009

1 tomorrow morning, starting at 9.30 in the morning in Courtroom 1.

2 This I think is an opportunity to thank very much the Prosecution team, the
3 representatives of -- the legal representatives of victims, and I hope that Maître
4 Douzima and Maître Zarambaud are able to be here tomorrow morning, that the
5 problems they faced with the planes are solved. I thank you very much the Defence
6 team, Mr Jean-Pierre Bemba Gombo and I thank of course as always our interpreters
7 and court reporters.

8 I ask, please, the court usher to accompany the witness outside the courtroom.

9 (The witness stands down)

10 PRESIDING JUDGE STEINER: This hearing is adjourned.

11 THE COURT OFFICER: All rise.

12 (The hearing ends at 6.00 p.m.)

13 RECLASSIFICATION REPORT

14 Pursuant to Trial Chamber III 's Orders, ICC-01/05-01/08-2223 and

15 ICC-01/05-01/08-3038 and the instructions in the email dated 9 January 2015, the

16 version of the transcript with its redactions becomes Public