

PUBLIC ANNEX A

Table of Evidential Findings Against Bemba
Categorised by Offences and Respective Elements

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# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
Art 70(1)(c) Corruptly Influencing Witnesses: <u>Illicit Coaching</u>						
“[T]he Chamber found that Mr Bemba, jointly with Mr Kilolo and Mr Mangenda, intentionally participated in the illicit coaching of witnesses.” (para 924)						
1. Falsity of Testimonial Evidence						
“The illicit coaching activity encompassed instructions to (i) testify according to a particular script concerning the merits of the Main Case, regardless of the truth or falsity of the information therein; (ii) testify falsely on the number of contacts with the Main Case Defence; (iii) testify falsely about payments, material and non-monetary benefits received from the Main Case Defence; and (iv) testify falsely about acquaintances with other persons.” (para 704)						
2. Actus Reus						
“[Mr Bemba] planned, authorised, and approved the illicit coaching of witnesses and provided precise instructions which were relayed by Mr Kilolo” (para 924)						
“Mr Bemba [...] approved the illicit coaching strategy” (para 106)						
“Mr Bemba [...] planned and gave precise instructions on what to instruct witnesses.” (para 106)						
1	Mr Kilolo reported to Mr Bemba that he had rehearsed with D-15 the three questions he would put to him in court that day: ‘ <i>trois points seulement</i> ’; ‘ <i>les noms de gens à mentionner dans le document</i> ’; ‘ <i>le problème de la DSP comment ils avaient pris la fuite</i> ’; and ‘ <i>je reviens à la question d’hier</i> ’. Mr Bemba expressly approved the three questions: ‘ <i>Ok, non ces trois trucs là, c’est bon, c’est bon</i> ’. He also provided feedback on specific issues, particularly when he felt that Mr Kilolo had handled them wrongly: ‘ <i>Non, no. Attention, attention, attention, les gens sont en train de faire quoi... Il faut ... faut, pas. Attention, attention.</i> ’ The Chamber is therefore satisfied that Mr Bemba knew about and was directly involved in planning Mr Kilolo’s illicit coaching activities concerning D-15. It also shows Mr Bemba’s authoritative control over the presentation of evidence.	168, 568 , 729, 809, 810 ²	<p>Fn 1221: Audio recording, CAR-OTP-0074-1006; Translated transcript of audio recording, CAR-OTP-0079-1744 at 1746, line 21 (<i>‘just three points’</i>).</p> <p>Fn 1222: Audio recording, CAR-OTP-0074-1006; Translated transcript of audio recording, CAR-OTP-0079-1744 at 1746, line 23 (<i>‘the names of people to be mentioned in the document’</i>).</p> <p>Fn 1223: Audio recording, CAR-OTP-0074-1006; Translated transcript of audio recording, CAR-OTP-0079-1744 at 1746, line 25 (<i>‘the problem of the DSP [Division speciale presidentielle - Special Presidential Division] how they fled’</i>).</p> <p>Fn 1224: Audio recording, CAR-OTP-0074-1006; Translated transcript</p>	12 Sep 2013	Intercept between Kilolo and Bemba	Intercepted unauthenticated coded conversation between co-accused who did not testify; Intercept between lawyer and client.

¹ The numbers designated to each finding are for reference purposes.

² The bolded paragraph numbers in this column correspond with the verbatim text lifted from the Trial Judgment in the column to the left. This applies throughout the table.

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
			<p>of audio recording, CAR-OTP-0079-1744 at 1746, line 29 (<i>'going back to yesterday's question'</i>).</p> <p>Fn 1225: Audio recording, CAR-OTP-0074-1006; Translated transcript of audio recording, CAR-OTP-0079-1744 at 1748, line 73 (<i>'OK. No. Those three things - that's fine; that's fine'</i>).</p> <p>Fn 1226: Audio recording, CAR-OTP-0074-1006; Translated transcript of audio recording, CAR-OTP-0079-1744 at 1747, lines 50 and 53 (<i>'No, no. Be careful, be careful, be careful. The people are in the process of, what? ... We should...shouldn't. Be careful, be careful'</i>).</p>			
2	As evidenced by an intercepted call of 12 September 2013, at 21:00, after D-15's second day of testimony, Mr Kilolo [...] conveyed Mr Bemba's satisfaction.	169, 569	<p>Fn 1227: Audio recording, CAR-OTP-0074-1008 (ICC-01/05-01/13-6-Conf-AnxB013); Transcript of audio recording, CAR-OTP-0077-1389 (in French); Translated transcript of audio recording, CAR-OTP-0091-0186 (English translation).</p> <p>Fn 1229: Audio recording, CAR-OTP-0074-1008; Transcript of audio recording, CAR-OTP-0077-1389 at 1391, lines 60-61 and 68.</p>	12 Sep 2013	Intercept between Kilolo and D-15	Remote hearsay in unauthenticated coded intercept from co-accused who did not testify.
3	<p>714. A second example can be found in the same conversation concerning a potential witness named '<i>Bravo</i>'. Mr Kilolo contended that he would only call this witness if he agreed to be briefed by Mr Kilolo '<i>all day and every night</i>'.</p> <p>Kilolo: <i>Parce que BRAVO en question je constate lorsque je</i></p>	714-715, 812, 816	<p>Fn 1647: Audio recording, CAR-OTP-0074-0997; Translated transcript of audio recording, CAR-OTP-0080-0245 at 0251 (as amended in CAR-OTP-0080-0251_01), lines 161-173, (emphasis added) (<i>'Kilolo: Because [the] Bravo in question, I notice when</i></p>	29 Aug 2013	Intercept between Kilolo and Mangenda	Remote hearsay in unauthenticated coded intercept from co-accused who did not testify.

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
	<p><i>m'entretiens avec lui comme il est un peu âgé. (...) Parfois il y a des choses où il revient naturellement à des choses que lui il sait qui sont vraies, il faut chaque fois les recadrer. Alors s'il vient, il est en Afrique nous nous entretenons d'accord. Mais si seulement lui aussi vient, malgré le travail qu'on a fait, mais si je n'ai pas la possibilité que tous les jours et chaque soir, que je fasse encore les briefings avec lui. Ça peut être aussi mauvais.</i></p> <p>Mangenda: <i>Alors là il faut carrément que tu lui dises.</i></p> <p>Kilolo: <i>Ça va diminuer les dégâts sensiblement. Ça va diminuer les dégâts sensiblement. C'est sûr, mais quand même ça va pas atteindre le niveau, le seuil qu'on attend.</i></p> <p>Mangenda: <i>Ah mais là... il faut, il faut le dire au Client, que... que c'est... lui-même qu'il pèse le pour et le contre. Il faut lui dire cet aspect-là des choses, parce que s'il vient et que... il merde c'est... le Client qui perd la face hein?</i></p> <p>715. The exchange between the co-perpetrators highlights the illicit coaching strategy and Mr Kilolo's reluctance to call witnesses unless he had briefed them extensively. It also shows the close collaboration and interplay between the three co-perpetrators. It demonstrates Mr Mangenda's and Mr Bemba's knowledge and approval of the illicit coaching strategy and, furthermore, clearly shows Mr Bemba's ultimate control over who would be called to testify.</p>		<p><i>I speak to him that he's quite old. (...) Sometimes, there are some things that he naturally returns to, things which he knows to be true: they have to be reframed every time. So, if he comes, he's in Africa - we will talk, alright? But also, if only he comes, despite the work that's being done. but if I don't have the opportunity to conduct briefings with him again every day and evening. That could be equally bad.</i></p> <p><i>Mangenda: So you have to tell him straight out. Kilolo: That will significantly reduce the damage. That will significantly reduce the damage. That's a fact, but even so, it won't reach the level, or threshold, expected.</i></p> <p><i>Mangenda: Oh. but now ... you have to ... have to tell the Client that ... that it's ... he's the one who needs to weigh up the pros and cons. He has to be told that side of things, because if he comes and ... he screws up, it's ... the Client who'll lose face, isn't it?').</i></p>			
4	<p>601. During this conversation, Mr Mangenda relayed Mr Bemba's directives concerning D-54 to Mr Kilolo.</p> <p>604. In the same vein, neither of the two interlocutors used Mr Bemba's name. Instead, they refer to him as 'il' or 'notre frère'. [...] Yet, the Chamber is satisfied that, taking into account the context of the conversation, the person referred to as 'il' or 'notre frère' was Mr Bemba. Two elements, in particular, support this conclusion. First, at the beginning of</p>	172, 601 , 604, 652, 811	<p>Fn 1327: Audio recording, CAR-OTP-0074-0995; Translated transcript of audio recording, CAR-OTP-0079-0131 at 0134, lines 35-39 ('<i>C'est pour cela que notre frère a dit qu'il faut que toi tu fasse tout, de façon que tu termines toutes tes affaires avant, parce que le mardi...notre blanc... ira</i></p>	30 Aug 2013	Intercept between Kilolo and Mangenda (and "Mr BONA")	Remote hearsay in unauthenticated coded intercept from co-accused who did not testify.

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
	<p>their conversation, Mr Mangenda insists that Mr Kilolo take notes, underlining the importance of the information to be given. Second, Mr Kilolo was instructed by ‘<i>notre frère</i>’ to finish all business with D-54 before ‘<i>notre blanc</i>’, Mr Haynes, spoke with the witness. The Chamber considers that such instructions to lead counsel, in particular, on important matters concerning the conduct of the defence team, likely emanate from the client. No other person would normally be in a position to instruct lead counsel in this manner.</p>		<p><i>là-bas pour s’entretenir avec lui par téléphone, il faudrait qu’il constate qu’il est vraiment posé’ / ‘That’s why our brother said that you’ll need to do everything, so that you get everything done beforehand, because on Tuesday ... our white guy ... will go there to speak to him on the phone, he needs to see that he is really dependable’.</i></p>			
5	<p>605. The Chamber considers that the information communicated to Mr Kilolo through Mr Mangenda was not merely proposed by Mr Bemba. Rather, the suggestions advanced by Mr Bemba are concrete instructions, both as regards the topics to be addressed and the manner in which D-54 was expected to testify. This is evidenced by the language Mr Mangenda used throughout the conversation, when he specifies that the witness ‘<i>should clearly state</i>’, ‘<i>has to say</i>’, or ‘<i>[i]s going to say</i>’. Mr Bemba’s instructions also pertain to D-54’s behaviour when testifying. As Mr Mangenda told Mr Kilolo, <i>et puis, il [Bemba] a dit lorsqu’il [D-54] va commencer à répondre aux questions, que ce ne soit pas un système ... du tic au tac. Parce que ce n’est pas tout à fait agréable. Donc c’est-à-dire à un certain moment, il pose même une petite question... (...) c’est comme ça que lui-même a demandé car il [Bemba] insistait là-dessus, ç’est pour cela que je t’en parle.</i> This direction demonstrates Mr Bemba’s interest in concretely predicting D-54’s testimony.</p> <p>606. As relayed by Mr Mangenda, the Chamber is satisfied that Mr Bemba directed that D-54 be influenced to: (i) deny any knowledge of events in Mongoumba; (ii) deny having had any power, despite being a member of the ‘<i>organe qui dirigeait la guerre</i>’; (iii) testify that ‘<i>on avait mélangé les troupes</i>’; (iv) testify about when the troops arrived at PK 12; (v) testify that he was a member of ‘<i>le truc de ces gens-là, qui commandaient toute la guerre</i>’ until December 2012,</p>	172, 605 , 606 , 729	<p>Fn 1328: Audio recording, CAR-OTP-0074-0995; Translated transcript of audio recording, CAR-OTP-0079-0131 at 0135, line 97; <i>see also</i> Audio recording, CAR-OTP-0074-0995; Translated transcript of audio recording, CAR-OTP-0079-0131 at 0137, lines 151-152.</p> <p>Fn 1329: Audio recording, CAR-OTP-0074-0995; Translated transcript of audio recording, CAR-OTP-0079-0131 at 0136, line 139.</p> <p>Fn 1330: Audio recording, CAR-OTP-0074-0995; Translated transcript of audio recording, CAR-OTP-0079-0131 at 0137, line 150.</p> <p>Fn 1331: Audio recording, CAR-OTP-0074-0995; Translated transcript of audio recording, CAR-OTP-0079-0131 at 0135, lines 70-77 (<i>‘and then, he [Bemba] said that when [D-54] starts answering questions, it shouldn’t be a system ... a quick-fire system. Because that is not all that pleasant. In other words, at a certain</i></p>	30 Aug 2013	Intercept between Kilolo and Mangenda (and “Mr BONA”)	Remote hearsay in unauthenticated coded intercept from co-accused who did not testify.

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
	<p>when he was replaced; (vi) pretend that he went to visit family members at a certain location; (vii) explain the size of the group of soldiers crossing ‘into a war zone’, namely the CAR; and (viii) not forget to mention ‘les événements qu’ils filmaient’, as well as the ‘deux grands véhicules qu’ils avaient vus’. In relation to this last point, the Chamber notes, in particular, Mr Mangenda’s remark that Mr Bemba insisted that the witness does not forget.</p>		<p><i>point, he slips in a little question ... (...) that’s how he himself asked because he [Bemba] insisted on it, that’s why I’m talking to you about it’.</i></p> <p>Fn 1332: Audio recording, CAR-OTP-0074-0995; Translated transcript of audio recording, CAR-OTP-0079-0131 at 0134, lines 63-66. Mr Mangenda referred to the location not by name but as ‘l’endroit qui nous a cause beaucoup d’ennuis hier’.</p> <p>Noting that D-29 was testifying on 29 August 2013, the Chamber is satisfied that reference was made to the testimony of D-29 who also testified on the alleged commission of crimes by MLC troops in Mongoumba (Trial Chamber III, T-339-Red, p. 53, lines 1-9). Considering the call between Mr Mangenda and Mr Kilolo of 29 August 2013, in which Mr Mangenda ‘complained’ about D-29’s damaging testimony for the defence of Mr Bemba, specifically in relation to the alleged crimes in Mongoumba (Audio recording, CAR-OTP-0074-0995; Translated transcript of audio recording, CAR-OTP-0080-0245 at 0247, lines 14-15), the Chamber is convinced that the unnamed location in the telephone conversation at issue was Mongoumba.</p> <p>Fn 1333: Audio recording, CAR-OTP-0074-0995; Translated transcript</p>			

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
			<p>of audio recording, CAR-OTP-0079-0131 at 0137, line 150 (<i>'the body conducting the war'</i>).</p> <p>Fn 1334: Audio recording, CAR-OTP-0074-0995; Translated transcript of audio recording, CAR-OTP-0079-0131 at 0137, lines 151-152 (<i>'the troops had been intermingled'</i>).</p> <p>Fn 1335: Audio recording, CAR-OTP-0074-0995; Translated transcript of audio recording, CAR-OTP-0079-0131 at 0136, line 132 (<i>'those people who were in charge of the whole war'</i>).</p> <p>Fn 1336: Audio recording, CAR-OTP-0074-0995; Translated transcript of audio recording, CAR-OTP-0079-0131 at 0136, lines 127-133.</p> <p>Fn 1337: Audio recording, CAR-OTP-0074-0995; Translated transcript of audio recording, CAR-OTP-0079-0131 at 0137, lines 168-173.</p> <p>Fn 1338: Audio recording, CAR-OTP-0074-0995; Translated transcript of audio recording, CAR-OTP-0079-0131 at 0136, lines 116-122.</p> <p>Fn 1339: Audio recording, CAR-OTP-0074-0995; Translated transcript of audio recording, CAR-OTP-0079-0131 at 0134, line 50 (<i>'the events that they were filming'</i>).</p> <p>Fn 1340: Audio recording, CAR-OTP-0074-0995; Translated transcript</p>			

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
			<p>of audio recording, CAR-OTP-0079-0131 at 0134, line 54 (<i>'the two large vehicles that they had seen'</i>)</p> <p>Fn 1341: Audio recording, CAR-OTP-0074-0995; Translated transcript of audio recording, CAR-OTP-0079-0131 at 0134, line 52.</p> <p>Fn 1342: Audio recording, CAR-OTP-0074-0995; Translated transcript of audio recording, CAR-OTP-0079-0131 at 0134, lines 46-55.</p>			
6	The following day, 30 August 2013, Mr Mangenda conveyed to Mr Kilolo Mr Bemba's instruction [...]. Mr Bemba also directed that D-54 should explain that a ' <i>grand groupe</i> ' of soldiers crossed over to the CAR because ' <i>il fallait quand même qu'ils soient (...) en mesure de riposter</i> '.	172	No evidence cited.	N/A	N/A	No evidence cited.
7	During that telephone conversation, Mr Kilolo recalled a meeting with Mr Bemba (<i>'notre frère-là'</i>). Mr Mangenda responded that he had witnessed a similar situation in which Mr Bemba gave instructions concerning the witness and his testimony. The Chamber concludes from this evidence that Mr Bemba gave instructions on the expected contents and topics of the witnesses' testimonies.	731	<p>Fn 1685: Audio recording, CAR-OTP-0080-1317; Translated transcript of audio recording, CAR-OTP-0082-1293 at 1301, lines 231-232 (<i>'Mais...mais...oui, mais...j'y... ai déjà assisté une fois, et...et quand il donnait les instructions pour le témoin. Comment il devait déposer.'</i> / <i>'But ... but ... yes, but ... I've ... already taken part once, and ... and when he gave the instructions for the witness. How he was to testify'</i>).</p>	17 Oct 2013	Intercept between Kilolo and Mangenda	Remote hearsay in unauthenticated coded intercept from co-accused who did not testify.

3. Mens Rea: Knowledge / Intention

"[Mr Bemba] was kept updated about the illicit coaching activities and expressed satisfaction with the testimony of the illicitly coached witnesses." (para 106)

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
8	<p>495. Mr Mangenda also reported that Mr Bemba was very pleased with D-25's testimony: <i>'[le client] a vu vraiment que (...) un véritable travail de couleurs a été effectivement fait (...) lui-même il a vraiment senti cela'</i>. [...] [T]he Chamber understands that Mr Mangenda refers to the illicit coaching of D-25 prior to and/or during his testimony. This conclusion is further reinforced by Mr Kilolo's comment that Mr Bemba must have realised it because of the precision with which the witness had testified: <i>'oui, ça il a dû se rendre compte, parce que comment quelqu'un peut lui sortir des vérités? (...) Et puis surtout avec cette précision-là'</i>. [...] [T]he Chamber also concludes from the above conversation that Mr Bemba closely followed the illicit coaching activities of Mr Kilolo.</p> <p>812. Moreover, intercepts of conversations between Mr Bemba, Mr Kilolo and/or Mr Mangenda, as well as further evidence, prove that Mr Bemba knew and approved of the illicit coaching activities. In this regard, Mr Bemba was part of the decision-making process with regard to the calling of witnesses.</p>	161, 495 , 732, 812	<p>Fn 1018: Audio recording, CAR-OTP-0074-0992; Translated transcript of audio recording, CAR-OTP-0079-0114 at 0118 (as amended in CAR-OTP-0079-0118_01), lines 104-107, (<i>'[the client] really saw that (...) thorough colour work was effectively carried out (...) he himself truly felt that'</i>).</p> <p>Fn 1020: Audio recording, CAR-OTP-0074-0992; Translated transcript of audio recording, CAR-OTP-0079-0114 at 0119, lines 108-111 (<i>'yes, he must have noticed that, because how can someone tell him those facts? (...) And especially with such precision'</i>).</p> <p>Fn 1860: See, for example, Audio recording, CAR-OTP-0074-0992; Translated transcript of audio recording, CAR-OTP-0079-0114 at 0118 (as amended in CAR-OTP-0079-0118_01), lines 104-107, (<i>'le client] a vu vraiment que [...] un véritable travail de couleurs a été effectivement fait [...] lui-même il a vraiment senti cela.'</i> <i>'[the client] really saw that (...) thorough colour work was effectively carried out (...) he himself truly felt that'</i>).</p>	27 Aug 2013	Intercept between Kilolo and Mangenda	Remote hearsay in unauthenticated, coded intercept from co-accused who did not testify
9	535. Mr Kilolo reacted to this news by recalling what he purportedly always told 'le client', namely Mr Bemba: <i>'Tu vois maintenant, le problème que... que j'ai toujours dit au Client, de faire encore la couleur. Un ou deux jours avant que la personne passe, pourquoi? Parce que les gens oublient...tu vois? Les gens ne se souviennent pas de tout</i>	165, 535 , 685, 728	Fn 1121: Audio recording, CAR-OTP-0074-0997; Translated transcript of audio recording, CAR-OTP-0080-0245 at 0248, lines 50-52 (<i>'Now you can see the problem that...that I've always told the Client to redo the</i>	29 Aug 2013	Intercept between Kilolo and Mangenda	Remote hearsay in an unauthenticated coded intercept between co-accused who did

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
	<p><i>avec précision</i>'. [...] The Chamber understands that Mr Kilolo referred to prior conversations with Mr Bemba where he clarified the need to properly instruct witnesses concerning their testimonies.</p> <p>812. [...] Moreover, intercepts of conversations between Mr Bemba, Mr Kilolo and/or Mr Mangenda, as well as further evidence, prove that Mr Bemba knew and approved of the illicit coaching activities. In this regard, Mr Bemba was part of the decision-making process with regard to the calling of witnesses.</p>		<p><i>colour. A day or two before the person appears. Why? Because people forget...you see? People don't remember at all accurately')</i></p> <p>Fn 1860: See, for example, Audio recording, CAR-OTP-0074-0997; Translated transcript of audio recording, CAROTP- 0080-0245 at 0248, lines 50-52 (<i>'le problème [...] que j'ai toujours dit au Client, de faire encore LA COULEUR [u]n ou deux jours avant que la personne passe, [...] [p]arce que les gens [...] ne se souviennent pas de tout avec précision' / 'the problem [...] that I've always told the Client to redo the colour. A day or two before the person appears. [...] Because people [...] don't remember at all accurately'</i>);</p>			not testify
10	<p>The Chamber is convinced that Mr Kilolo, in his conversation with Mr Bemba, uttered, <i>'n'oubliez pas, nous avons beaucoup arrangé avec... euh... ROMEO MIKE et vraiment c'est des heures'</i>. The utterance is clearly audible and Mr Kilolo speaks the words <i>'ROMEO MIKE et vraiment c'est des heures'</i>. [...] However, the utterance, as such, does not indicate with certainty that Mr Kilolo was speaking about his illicit coaching activities regarding D-54. That said, the Chamber considers that the assessment of this statement is context-dependent and will therefore be considered in the light of the following events.</p>	174, 616	<p>Fn 1378: Audio recording, CAR-OTP-0080-1323; Translated transcript of audio recording, CAR-OTP-0082-0618 at 0623, lines 129-130 (<i>'don't forget, we arranged a lot with ... erm ... [Redacted] and really it's hours'</i>).</p>	17 Oct 2013	Intercept between Bemba and Kilolo	<p>Unauthenticated coded intercept between co-accused who did not testify;</p> <p>Intercept between lawyer and client</p>
11	<p>181. On 1 November 2013, Mr Kilolo informed Mr Bemba that he had not been able to respond to Mr Bemba's call the previous day as he was on the telephone with D-54. Mr Kilolo informed Mr Bemba that the preparation for D-54's</p>	181, 649 , 729	<p>Fn 1486: Audio recording, CAR-OTP-0080-1372; Translated transcript of audio recording, CAR-OTP-0082-0669 at 0671, lines 15-16 (<i>'yes, yes,</i></p>	1 Nov 2013	Intercept between Bemba and Kilolo	Unauthenticated coded intercept between co-Accused who did

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
	<p>testimony had exhausted him.</p> <p>649. During this conversation, Mr Kilolo declared, ‘<i>si, si, en fait, c’est qui ça m’a beaucoup épuisé. La personne que vous connaissez</i>’. [...] Mindful that, as explained above, Mr Kilolo was twice on the telephone with D-54 the night before, the Chamber understands that Mr Kilolo’s tiredness stems from his dealings with D-54, whom he had to prepare for his last day of testimony before Trial Chamber III.</p>		<p><i>actually, that is who, it really wore me out. That person you know</i>’).</p>			<p>not testify; Intercept between lawyer and client</p>
<p>4. Mens Rea: Intention “[T]he Chamber found that Mr Bemba [...] intentionally participated in the illicit coaching of witnesses.” (para 924) “Lastly, the Chamber also finds that the measures taken throughout the Main Case proceedings, as well as the remedial measures taken to counter the Article 70 investigations into the co-perpetrators – measures that Mr Bemba ordered and approved – demonstrate that Mr Bemba knew that the coaching activity and the payments to witnesses were illicit.” (para 820)</p>						
<p>See <i>supra</i> finding in TJ para 568 (Kilolo rehearsed D-15 cross-examination with Bemba, who approved and gave feedback)</p>						
<p>5. Mode of Liability: Co-Perpetration “The three accused, through their various contributions, illicitly coached the defence witnesses in the Main Case.” (para 105) “[Mr Bemba’s] contribution to the illicit coaching activities was essential, without which the influencing of the witnesses would not have occurred in the same way.” (para 924) “Mr Bemba exercises an overall coordinating role over the illicit activities of the co-perpetrators.” (para 816)</p>						
<p>No separate evidential findings.</p>						
<p>Art 70(1)(c) Corruptly Influencing Witnesses: Monetary Bribery “Mr Bemba authorised the payment of money to witnesses prior to their testimony” (para 924) “Mr Bemba [...] ensured, through Mr Babala, that financial means were available to Mr Kilolo and Mr Mangenda with which they executed their illicit activities.” (para 924)</p>						
<p>1. Falsity of Testimonial Evidence</p>						
<p>2. Actus Reus “Mr Bemba authorised the payment of money to witnesses prior to their testimony” (para 924) “Mr Bemba [...] ensured, through Mr Babala, that financial means were available to Mr Kilolo and Mr Mangenda with which they executed their illicit activities.” (para 924)</p>						

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
924)						
12	<p>374. P-260 (D-2) explained in detail the circumstances of the money handover and quoted Mr Kilolo as having said that this [CFAF 550,000 from Kilolo] was a small gift from Mr Bemba.</p> <p>380. [...] a 'small gift' on behalf of Mr Bemba, which, considering that D-2's testimony was imminent, could only be understood as encouragement to testify in Mr Bemba's favour</p>	139, 374 , 380	Fn 678: T-19-CONF, p. 34, lines 7-16; <i>see also</i> p. 36, lines 10-12; T-20-Red2, p. 10, lines 23-24.	13 Oct 2015 (T-19); 14 Oct 2015 (T-20)	D-2's in-court testimony	<p>In-court testimony from a witness who perjured himself in Main case, and received equivalent of an immunity agreement from Prosecution</p> <p>Remote hearsay involving a co-accused who did not testify;</p>
13	a 'small gift' on behalf of Mr Bemba, which [...] could only be understood as encouragement to testify in Mr Bemba's favour, as confirmed by P-245 (D-3);	380	No evidence cited.	N/A	N/A	No evidence cited.
14	<p>693. Mr Bemba was involved in this payment scheme extensively. This is demonstrated by a significant body of evidence which proves that Mr Babala, who was Mr Bemba's financier, would seek authorisation from or inform Mr Bemba before making any payment to Mr Kilolo or other persons. This included funds that Mr Babala or Mr Kilolo illicitly transferred to the witnesses. To this end, the Chamber relies on extracts from several intercepts provided by the ICC Detention Centre, as submitted by the Prosecution, such as the following conversations:</p> <p>- 2 March 2012, between 11:04 and 11:23, for 19:26 minutes;</p> <p>695. Mindful of the misalignment problems affecting the intercepted recordings from the Detention Centre, the Chamber does not rely on the entirety of the intercepted</p>	693 , 695	<p>Fn 1573: [...] Call on 2 March 2012: Audio recording, CAR-OTP-0074-0478 (19:26 minutes); Transcript of audio recording, CAR-OTP-0080-0343 (in Lingala); Translated transcript of audio recording, CAR-OTP-0080-0466 (French translation);</p> <p>Fn 1574: ICC call log, CAR-OTP-0079-0220, row 4829.</p> <p>Fn 1590: Audio recording, CAR-OTP-0074-0478; Translated transcript of audio recording, CAR-OTP-0080-0466 at 0468, lines 7-10 ('<i>Last night the Colleague from Up There asked for five big ones. (...) ... no, I only</i></p>	2 Mar 2012	Intercept between Bemba and Babala	Unauthenticated, coded, de-synchronised recording between co-accused who did not testify;

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
	<p>conversations but only on selected utterances of Mr Babala and Mr Bemba, and only to the extent that they stand alone. On this basis, the Chamber notes the discrete statements of Mr Babala asking Mr Bemba for authorisation to proceed with the transfer or payment of money to Mr Kilolo. These statements clearly demonstrate Mr Bemba's direct involvement and knowledge of the payments effected, including illicit payments to witnesses. For example, Mr Babala said:</p> <p>- On 2 March 2012: <i>'hier soir le Collègue d'en Haut a demandé cinq grands. (...) ... non je souhaite seulement savoir si c'est OK ou pas'</i>;</p>		<p><i>want to know if it's OK or not'</i>).</p>			
15	<p>693. Mr Bemba was involved in this payment scheme extensively. This is demonstrated by a significant body of evidence which proves that Mr Babala, who was Mr Bemba's financier, would seek authorisation from or inform Mr Bemba before making any payment to Mr Kilolo or other persons. This included funds that Mr Babala or Mr Kilolo illicitly transferred to the witnesses. To this end, the Chamber relies on extracts from several intercepts provided by the ICC Detention Centre, as submitted by the Prosecution, such as the following conversations:</p> <p>[...]</p> <p>- 25 May 2012, between 16:53 and 16:55, for 01:33 minutes;</p> <p>696. Mr Babala also informed Mr Bemba about the status of money transactions inter alia, to Mr Kilolo. The Chamber pays heed, for example, to the following:</p> <p>- On 25 May 2012: <i>'Charly ok, Charly ok, Eke ok, ok. Mama Leki ok, euh... Le Collègue d'en Haut ok.... Hum (...) Charly est déjà euh... c'est déjà parti et même déjà retiré'</i>;</p>	<p>693, 696</p>	<p>Fn 1573: [...] Call on 25 May 2012: Audio recording, CAR-OTP-0074-0697 (01:33 minutes); Transcript of audio recording, CAR-OTP-0077-1175 (in Lingala); Translated transcript of audio recording, CAR-OTP-0077-1341 (French translation);</p> <p>Fn 1575: ICC call log, CAR-OTP-0079-0220, row 4207.</p> <p>Fn 1595: Audio recording, CAR-OTP-0074-0697; Translated transcript of audio recording, CAR-OTP-0077-1341 at 1343, lines 14-18 (<i>'Charly OK, Charly OK, Eke ok, ok. Mama Leki OK, erm ... The Colleague from Up There OK ... Hum (...) Charly is already erm ... he has already left and even already retired'</i>).</p>	<p>25 May 2012</p>	<p>Intercept between Bemba and Babala</p>	<p>Unauthenticated, coded, de-synchronised recording between co-accused who did not testify.</p>

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
16	<p>693. Mr Bemba was involved in this payment scheme extensively. This is demonstrated by a significant body of evidence which proves that Mr Babala, who was Mr Bemba's financier, would seek authorisation from or inform Mr Bemba before making any payment to Mr Kilolo or other persons. This included funds that Mr Babala or Mr Kilolo illicitly transferred to the witnesses. To this end, the Chamber relies on extracts from several intercepts provided by the ICC Detention Centre, as submitted by the Prosecution, such as the following conversations:</p> <p>[...]</p> <p>- 28 September 2012, between 10:21 and 10:26, for 04:33 minutes;</p> <p>695. Mindful of the misalignment problems affecting the intercepted recordings from the Detention Centre, the Chamber does not rely on the entirety of the intercepted conversations but only on selected utterances of Mr Babala and Mr Bemba, and only to the extent that they stand alone. On this basis, the Chamber notes the discrete statements of Mr Babala asking Mr Bemba for authorisation to proceed with the transfer or payment of money to Mr Kilolo. These statements clearly demonstrate Mr Bemba's direct involvement and knowledge of the payments effected, including illicit payments to witnesses. For example, Mr Babala said:</p> <p>- On 28 September 2012: <i>'Le Collègue d'en Haut... m'a demandé de lui envoyer 1 kg, êtes-vous d'accord?'</i>;</p>	693, 695	<p>Fn 1573: [...] Call on 28 September 2012: Audio recording, CAR-OTP-0074-0590 (04:33 minutes); Transcript of audio recording, CAR-OTP-0077-1017 (in Lingala); Translated transcript of audio recording, CAR-OTP-0077-1084 (French translation);</p> <p>Fn 1576: ICC call log, CAR-OTP-0079-0221, row 3364.</p> <p>Fn 1591: Audio recording, CAR-OTP-0074-0590; Translated transcript of audio recording, CAR-OTP-0077-1084 at 1087, line 58 (<i>'The Colleague from Up There ... asked me to send him 1kg, is that OK with you?'</i>).</p>	28 Sep 2012	Intercept between Bemba and Babala	Unauthenticated, coded, de-synchronised recording between co-accused who did not testify.
17	<p>693. Mr Bemba was involved in this payment scheme extensively. This is demonstrated by a significant body of evidence which proves that Mr Babala, who was Mr Bemba's financier, would seek authorisation from or inform Mr Bemba before making any payment to Mr Kilolo or other</p>	693	<p>Fn 1573: [...] Call on 13 November 2012: Audio recording, CAR-OTP-0074-0636 (13:42 minutes); Transcript of audio recording, CAR-OTP-0077-1161 (in Lingala);</p>	13 Nov 2012	Intercept between Bemba and Babala	Unauthenticated, coded, de-synchronised recording between co-

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
	<p>persons. This included funds that Mr Babala or Mr Kilolo illicitly transferred to the witnesses. To this end, the Chamber relies on extracts from several intercepts provided by the ICC Detention Centre, as submitted by the Prosecution, such as the following conversations: [...]</p> <p>- 13 November 2012, between 10:34 and 10:48, for 13:36 minutes;</p> <p>697. Importantly, Mr Bemba authorised Mr Babala to proceed with the payments of money:</p> <p>- On 13 November 2012: <i>'Ok. Elle donnera 2kg, 1 kg ira chez quelqu'un que 07, qui le Collègue d'en Haut te dira, et l'autre kilo, chez le Collègue d'en Haut tu comprends? Tu comprends?'</i>;</p>		<p>Translated transcript of audio recording, CAR-OTP-0077-1324 (French translation);</p> <p>Fn 1577: ICC call log, CAR-OTP-0079-0221, row 3049.</p> <p>Fn 1597: Audio recording, CAR-OTP-0074-0636; Translated transcript of audio recording, CAR-OTP-0077-1324 at 1328, lines 79-80 (<i>'OK. She will give you 2 kg, 1 kg will go to someone that 07, who the Colleague from Up There will let you know, and the other kilo, to the Colleague from Up There, do you understand? Do you understand?'</i>).</p>			accused who did not testify.
18	<p>693. Mr Bemba was involved in this payment scheme extensively. This is demonstrated by a significant body of evidence which proves that Mr Babala, who was Mr Bemba's financier, would seek authorisation from or inform Mr Bemba before making any payment to Mr Kilolo or other persons. This included funds that Mr Babala or Mr Kilolo illicitly transferred to the witnesses. To this end, the Chamber relies on extracts from several intercepts provided by the ICC Detention Centre, as submitted by the Prosecution, such as the following conversations: [...]</p> <p>- 22 November 2012, between 20:05 and 20:07, for 01:51 minutes;</p> <p>697. Importantly, Mr Bemba authorised Mr Babala to proceed with the payments of money: [...]</p> <p>- On 22 November 2012: <i>'...alors regardez chez... qui... euh... demain pour ½ kg, alors tu vas contacter ... le</i></p>	693, 697	<p>Fn 1573: [...] Call on 22 November 2012: Audio recording, CAR-OTP-0074-0624 (01:50 minutes); Transcript of audio recording, CAR-OTP-0077-1147 (in Lingala); Translated transcript of audio recording, CAR-OTP-0077-1307 (French translation);</p> <p>Fn 1578: ICC call log, CAR-OTP-0079-0221, row 2967.</p> <p>Fn 1598: Audio recording, CAR-OTP-0074-0624; Translated transcript of audio recording, CAR-OTP-0077-1307 at 1309, lines 29-30 (<i>'so look, at ... who ... erm ... tomorrow for ½ kg, so you'll contact ... the Colleague from Up There he'll give you the details, you know?'</i>).</p>	22 Nov 2012	Intercept between Bemba and Babala	Unauthenticated, coded, de-synchronised recording between co-accused who did not testify.

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
	<i>Collègue d'en Haut il va te dire les détails, hein...'</i> .					
19	<p>693. Mr Bemba was involved in this payment scheme extensively. This is demonstrated by a significant body of evidence which proves that Mr Babala, who was Mr Bemba's financier, would seek authorisation from or inform Mr Bemba before making any payment to Mr Kilolo or other persons. This included funds that Mr Babala or Mr Kilolo illicitly transferred to the witnesses. To this end, the Chamber relies on extracts from several intercepts provided by the ICC Detention Centre, as submitted by the Prosecution, such as the following conversations:</p> <p>[...]</p> <p>- 30 November 2012, between 14:03 and 14:05, for 02:40 minutes;</p> <p>695. Mindful of the misalignment problems affecting the intercepted recordings from the Detention Centre, the Chamber does not rely on the entirety of the intercepted conversations but only on selected utterances of Mr Babala and Mr Bemba, and only to the extent that they stand alone. On this basis, the Chamber notes the discrete statements of Mr Babala asking Mr Bemba for authorisation to proceed with the transfer or payment of money to Mr Kilolo. These statements clearly demonstrate Mr Bemba's direct involvement and knowledge of the payments effected, including illicit payments to witnesses. For example, Mr Babala said:</p> <p>- On 30 November 2012: '<i>...premièrement je demande la confirmation de 1½ kg et 400 dollars pour... le Collègue d'en Haut qui a dit c'est pour l'enfant qui se trouve à ses côtés</i>';</p>	693, 695	<p>Fn 1573: [...] Call on 30 November 2012: Audio recording, CAROTP-0074-0628 (02:40 minutes); Transcript of audio recording, CAR-OTP-0077-1153 (in Lingala); Translated transcript of audio recording, CAR-OTP-0077-1316 (French translation);</p> <p>Fn 1579: ICC call log, CAR-OTP-0079-0221, row 2921.</p> <p>Fn 1592: Audio recording, CAR-OTP-0074-0628; Translated transcript of audio recording, CAR-OTP-0077-1316 at 1318, lines 5-6 ('<i>... firstly, I am asking for confirmation for 1 ½ kg and 400 dollars for ... the Colleague from Up There who said it's for the child who is with him</i>').</p>	30 Nov 2012	Intercept between Bemba and Babala	Unauthenticated, coded, de-synchronised recording between co-accused who did not testify.
20	693. Mr Bemba was involved in this payment scheme extensively. This is demonstrated by a significant body of evidence which proves that Mr Babala, who was Mr Bemba's	693, 695	Fn 1573: [...] Call on 26 April 2013: Audio recording, CAR-OTP-0074-0490 (01:01 minutes); Transcript of	26 Apr 2013	Intercept between Bemba and Babala	Unauthenticated, coded, de-synchronised

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
	<p>financier, would seek authorisation from or inform Mr Bemba before making any payment to Mr Kilolo or other persons. This included funds that Mr Babala or Mr Kilolo illicitly transferred to the witnesses. To this end, the Chamber relies on extracts from several intercepts provided by the ICC Detention Centre, as submitted by the Prosecution, such as the following conversations:</p> <p>[...]</p> <p>- 26 April 2013, between 11:48 and 11:49, for 01:01 minutes;</p> <p>695. Mindful of the misalignment problems affecting the intercepted recordings from the Detention Centre, the Chamber does not rely on the entirety of the intercepted conversations but only on selected utterances of Mr Babala and Mr Bemba, and only to the extent that they stand alone. On this basis, the Chamber notes the discrete statements of Mr Babala asking Mr Bemba for authorisation to proceed with the transfer or payment of money to Mr Kilolo. These statements clearly demonstrate Mr Bemba's direct involvement and knowledge of the payments effected, including illicit payments to witnesses. For example, Mr Babala said:</p> <p>- On 26 April 2013: <i>'j'attends que... euh... vous puissiez me donner votre quoi ça... euh... votre appréciation pour les kilos du Collègue d'en Haut... pour que je les prépare le lundi matin'</i>;</p>		<p>audio recording, CAR-OTP-0079-1638 (in Lingala); Translated transcript of audio recording, CAR-OTP-0079-1724 (French translation);</p> <p>Fn 1580: ICC call log, CAR-OTP-0079-0221, row 2021.</p> <p>Fn 1593: Audio recording, CAR-OTP-0074-0490; Translated transcript of audio recording, CAR-OTP-0079-1724 at 1726, lines 9-10(<i>'I'm waiting ... erm ... you can give me your you know, that ... erm ... your assessment for the kilos of the Colleague from Up There ... so I can prepare it on Monday morning'</i>).</p>			recording between co-accused who did not testify.
21	<p>693. Mr Bemba was involved in this payment scheme extensively. This is demonstrated by a significant body of evidence which proves that Mr Babala, who was Mr Bemba's financier, would seek authorisation from or inform Mr Bemba before making any payment to Mr Kilolo or other persons. This included funds that Mr Babala or Mr Kilolo illicitly transferred to the witnesses. To this end, the Chamber relies on extracts from several intercepts provided by the ICC Detention Centre, as submitted by the Prosecution, such as</p>	693, 696	<p>Fn 1573: [...] Call on 29 April 2013: Audio recording, CAR-OTP-0074-0514 (04:07 minutes); Transcript of audio recording, CAR-OTP-0079-1640 (in Lingala); Translated transcript of audio recording, CAR-OTP-0079-1727 (French translation);</p> <p>Fn 1581: ICC call log, CAR-OTP-</p>	29 Apr 2013	Intercept between Bemba and Babala	Unauthenticated, coded, de-synchronised recording between co-accused who did not testify.

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
	<p>the following conversations:</p> <p>[...]</p> <p>- 29 April 2013, between 11:52 and 11:56, for 04:07 minutes;</p> <p>696. Mr Babala also informed Mr Bemba about the status of money transactions inter alia, to Mr Kilolo. The Chamber pays heed, for example, to the following:</p> <p>- On 29 April 2013: <i>'Non, rien d'autre. Bon, le Collègue d'en Haut a été servi'</i>.</p>		<p>0079-0221, row 1992.</p> <p>Fn 1596: Audio recording, CAR-OTP-0074-0514; Translated transcript of audio recording, CAR-OTP-0079-1727 at 1730, lines 58-59 (<i>'No, nothing else. Good, the Colleague from Up There has been served'</i>)</p>			
22	<p>693. Mr Bemba was involved in this payment scheme extensively. This is demonstrated by a significant body of evidence which proves that Mr Babala, who was Mr Bemba's financier, would seek authorisation from or inform Mr Bemba before making any payment to Mr Kilolo or other persons. This included funds that Mr Babala or Mr Kilolo illicitly transferred to the witnesses. To this end, the Chamber relies on extracts from several intercepts provided by the ICC Detention Centre, as submitted by the Prosecution, such as the following conversations:</p> <p>[...]</p> <p>- 6 May 2013, between 11:10 and 11:18, for 08:04 minutes.</p> <p>695. Mindful of the misalignment problems affecting the intercepted recordings from the Detention Centre, the Chamber does not rely on the entirety of the intercepted conversations but only on selected utterances of Mr Babala and Mr Bemba, and only to the extent that they stand alone. On this basis, the Chamber notes the discrete statements of Mr Babala asking Mr Bemba for authorisation to proceed with the transfer or payment of money to Mr Kilolo. These statements clearly demonstrate Mr Bemba's direct involvement and knowledge of the payments effected, including illicit payments to witnesses. For example, Mr</p>	693, 695	<p>Fn 1573: [...] Call on 6 May 2013: Transcript of audio recording, CAR-OTP-0087-2093 (in Lingala and French); Translated transcript of audio recording, CAR-OTP-0087-2258 (French translation).</p> <p>Fn 1582: ICC call log, CAR-OTP-0079-0221, row 1933.</p> <p>Fn 1594: Translated transcript of audio recording, CAR-OTP-0087-2258 at 2262, lines 82-83 (<i>'Otherwise, nothing at all ... OK, I'm just waiting for the go-ahead. As soon as I get the go-ahead, I will act in accordance with what the Colleague from Up There said, you know'</i>).</p>	6 May 2013	Intercept between Bemba and Babala	Unauthenticated, coded, de-synchronised recording between co-accused who did not testify.

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
	Babala said: - On 6 May 2013: ' <i>Sinon rien de tout... bon, moi j'attends juste le GO, hein. Dès j'ai le go j'exécute conformément à ce que le Collègue d'en Haut avait dit, hein</i> ';					
3. Mens Rea: <u>Knowledge</u>						
23	<p>117. On 16 October 2012, the day before D-64 traveled to The Hague for his testimony, [...] Mr Bemba and Mr Babala discussed on the telephone the importance of payments to witnesses shortly before their testimony at the Court alluding to the fact that these payments were aimed at securing certain testimony. Mr Babala told Mr Bemba, '<i>C'est la même chose comme pour aujourd'hui. Donner du sucre aux gens vous verrez que c'est bien</i>'. With this, Mr Babala referred to the payment of USD 665 made earlier that day to D-57's wife, suggesting that the payment should be the same amount.</p> <p>267. [...] Considering the accused's references throughout the conversation to, for example, '<i>Whisky</i>', '<i>le Collègue d'en haut</i>', and '<i>Bravo Golf</i>', the Chamber understands that they used coded language in their communication. Against this background, the Chamber understands that, in using '<i>la même chose comme pour aujourd'hui</i>' and '<i>donner du sucre aux gens</i>', Mr Babala refers to the payment of money to D-57's wife earlier the same day. [...] The Chamber further finds that it proves Mr Bemba's knowledge about money transfers to witness.</p>	117, 267,	<p>Fn 362: Audio recording, CAR-OTP-0074-0610; Translated transcript of audio recording, CAR-OTP-0077-1299 at 1301, lines 8, 11 and 22.</p> <p>Fn 363: See paras 748-761. [<i>section on modus operandi of using coded language</i>]</p> <p>Fn 364 See para. 243 (<i>re money transfer to D-57's wife</i>)</p>	16 Oct 2012	Intercept between Bemba and Babala	Unauthenticated, coded, de-synchronised recording between co-accused who did not testify.
4. Mens Rea: <u>Intention</u>						
	No separate evidential findings.					

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
5. Mode of Liability: <u>Co-Perpetration</u>						
	No separate evidential findings.					
Art 70(1)(c) Corruptly Influencing Witnesses: <u>Non-Monetary Promises</u>						
1. Falsity of Testimonial Evidence						
24	D-55 testified before Trial Chamber III from 29 to 31 October 2012. During his testimony and in line with Mr Kilolo's instructions, he untruthfully mentioned only three contacts and concealed, despite being asked, his meeting with Mr Kilolo in Amsterdam and the telephone call with Mr Bemba. Likewise, the Chamber also finds that it was upon Mr Kilolo's instruction that D-55 lied, like other Main Case Defence witnesses, that he had not received any money from the Main Case Defence, including any legitimate reimbursement of expenses. He also denied having been given any promises, even though he was told that he would benefit from Mr Bemba's good graces	301, 303, 304, 305	<p>Fn 457: See Trial Chamber III, T-264-CONF; T-264-Red2; Trial Chamber III, <i>Prosecutor v. Jean-Pierre Bemba Gombo</i>, Transcript of Hearing, 30 October 2012, ICC-01/05-01/08-T-265-CONF-ENG ET; ICC-01/05-01/08-T-265-Red2-ENG WT ('T-265-Red2'); Transcript of Hearing, 31 October 2012, ICC-01/05-01/08-T-266-CONFENG ET; ICC-01/05-01/08-T-266-Red2-ENG WT.</p> <p>Fn 458: Trial Chamber III, T-264-Red2, p. 62, line 22 to p.66 line 23.</p> <p>Fn 459: Trial Chamber III, T-265-Red2, p. 15, lines 1-12.</p> <p>Fn 460: Trial Chamber III, T-265-Red2, p. 15, lines 13-18.</p>	29 Oct 2012 (Main Case T-264); 30 Oct 2012 (Main Case T-265); 31 Oct 2012 (Main Case T-266)	D-55's in-court testimony (Main Case)	Main Case testimony subject to judicial notice, and not admitted for the truth of its contents.
2. Actus Reus "Mr Bemba also spoke with D-55 personally on the telephone at times and under circumstances that rendered this contact unlawful." (para 924)						

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
25	<p>123. On 5 October 2012, Mr Kilolo facilitated a conversation between D-55 and Mr Bemba by way of a multi-party call using the privileged line of the ICC Detention Centre.</p> <p>296. The Chamber notes that the relevant call data records also corroborate the fact that P-214 (D-55) spoke to Mr Bemba. They demonstrate that, on 5 October 2012, at 19:49, Mr Kilolo received, on his Belgian telephone number (+32495483939) a call from number +31705159999 which lasted about 32½ minutes. As already set out above, Mr Kilolo called D-55 at 20:05 on the same day for approximately 3½ minutes using the same Belgian telephone number.</p>	123, 296, 740	<p>Fn 447: Call Data Record, CAR-OTP-0072-0391, tab 'CALLS 32495483939_1_1', row 709.</p> <p>Fn 1694: See para. 296; Call Data Record, CAR-OTP-0072-0391, tab 'CALLS 32495483939_1_1', rows 709-710.</p>	N/A	TSP CDR (Base Belgium)	<p>Unauthenticated Call Data Record; Rule 68 statement;</p> <p>In-court testimony from a witness who perjured himself in Main case, and received equivalent of an immunity agreement from Prosecution</p> <p>Unsworn confirmation submissions of a co-accused.</p>
			<p>Fn 1695: See paras 293-298.</p>	22 Jan 2014	D-55's witness statement	
				5 Nov 2015	D-55's in-court testimony	
			<p>Fn 1696: Kilolo Defence Submission, ICC-01/05-01/13-674-Conf-Anx3, p. 21, row 69 (<i>'Me Kilolo n'a jamais admis avoir facilité des contacts téléphoniques entre M. Bemba et des témoins visés dans l'acte d'accusation, à part D- 55'</i> / <i>'Mr Kilolo did not admit to having facilitated telephone contact between Mr Bemba and the witnesses referred to in the document containing the charges, apart from D-55'</i>); see also Kilolo Defence Closing Brief, ICC-01/05-01/13-1903-Corr2-Red, para. 209.</p>	12 Sep 2014 (ICC-01/05-01/13-674-Conf-Anx3)	Kilolo Defence submissions	
	11 Sep 2014, 20 July 2016 (Kilolo Defence Closing Brief)					
26	<p>P-214 (D-55) consistently stated, in both his January 2014 statement and before this Chamber, that although they did not discuss the content of his upcoming Main Case testimony, the other person on this call, presumed to be Mr Bemba, thanked D-55 for agreeing to testify in Mr Bemba's favour.</p>	123, 293, 692	<p>Fn 440: Prior recorded testimony, CAR-OTP-0074-0872-R03 at 0879-R03; see also T-36-Red, p. 65, lines 20-21.</p>	22 Jan 2014	D-55's witness statement	<p>Rule 68 statement;</p> <p>In-court testimony from a witness who perjured himself in Main case, and</p>
				5 Nov 2015	D-55's in-court testimony	

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
						received equivalent of an immunity agreement from Prosecution.
27	<p>294. In this regard, the Chamber notes that P-214 (D-55) never positively stated that he actually spoke with Mr Bemba. Rather, in an attempt at accuracy, he stated that he assumed that the person on the other end of the line was Mr Bemba, even though Mr Kilolo did not introduce Mr Bemba by name and Mr Bemba did not identify himself.</p> <p>295. P-214 (D-55) testified that the telephone conversation was conducted in Lingala, which Mr Bemba speaks.</p> <p>295. [P-214 (D-55)] characterised Mr Bemba as a powerful man with many friends outside detention. The Chamber finds that this description matches Mr Bemba. In this regard, the Chamber considers it unlikely that, in the light of D-55's loss of trust in Mr Kilolo and his request to speak to Mr Bemba personally, Mr Kilolo would pass the call through to a person other than Mr Bemba.</p>	293, 294, 295, 692	<p>Fn 441: Prior recorded testimony, CAR-OTP-0074-0872-R03 at 0879-R03; <i>see also</i> T-36-CONF, p. 66, lines 9-10.</p> <p>Fn 442: Prior recorded testimony, CAR-OTP-0074-0872-R03 at 0879-R03; T-35-Red, p. 20, lines 14-25; T-36-Red, p.35, line 23 to p.36, line 16.</p> <p>Fn 443: Prior recorded testimony, CAR-OTP-0074-0872-R03 at 0880-R03.</p> <p>Fn 444: Prior recorded testimony, CAR-OTP-0074-0872-R03 at 0879-R03.</p> <p>Fn 445: It is also noted that the witness referred to Mr Bemba as the 'senator', <i>see</i> T-35-Red, p. 26, line 19; T-36-CONF, p. 20, line 14.</p>	22 Jan 2014	D-55's witness statement	Rule 68 statement.
				5 Nov 2015	D-55's in-court testimony	
28	Indeed, P-245 (D-3) clearly and imperturbably testified that Mr Kilolo promised [...] that Mr Bemba, once released from detention, would meet the witnesses individually in Kinshasa, DRC.	138, 373, 419, 692	Fn 673: T-23-Red2, p. 15, lines 18-19; p. 17, line 25 to p.18, line 1; T-27-Red, p. 20, lines 10-11; p. 86, lines 4-6.	20 Oct 2015 (T-23); 23 Oct 2015 (T-27)	D-3's in-court testimony	In-court testimony from a witness who perjured himself in Main case, and received equivalent of an

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
						immunity agreement from Prosecution Remote hearsay from a co-accused who did not testify;
29	Towards the end of the intercepted conversation, Mr Kilolo is also recorded as having reassured D-6 that Mr Bemba (<i>'le sénateur'</i>) was very pleased with the witnesses' performance in court and that Mr Bemba would meet every witness individually once released. As was the case with D-3 and D-55, promises of a non-pecuniary nature were made as a reward for the witnesses' testimony in the Main Case.	146, 406 , 692	Fn 787: Audio recording, CAR-OTP-0080-1332; Transcript of audio recording, CAR-OTP-0082-0562 at 0568, lines 193-196.	21 Oct 2013	Intercept between Kilolo and D-6	Remote hearsay in an unauthenticated intercept involving co-accused who did not testify.
30	During this conversation, Mr Kilolo thanked D-15 [...] on Mr Bemba's behalf.	170, 586	Fn 1291: Audio recording, CAR-OTP-0074-1012; Transcript of audio recording, CAR-OTP-0077-1414 at 1415, lines 21-23.	13 Sep 2013	Intercept between Kilolo and D-15	Remote hearsay in an unauthenticated, coded intercept involving co-accused who did not testify;
3. Mens Rea: <u>Knowledge</u>						
	No separate evidential findings.					
4. Mens Rea: <u>Intention</u>						

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
31	In the light of the above, the context and timing, the Chamber is convinced that Mr Bemba, with the intention of motivating D-55 to give specific testimony, agreed to and did speak to D-55 personally on 5 October 2012 and thanked him for agreeing to testify in his favour.	298, 305, 692	No evidence cited.	N/A	N/A	No evidence cited
5. Mode of Liability: <u>Co-Perpetration</u>						
	No separate evidential findings.					
Art 70(1)(c) Corruptly Influencing Witnesses: <u>Modus Operandi</u>						
As part of its findings on Mr Bemba's criminal liability under Art 70(1)(c), "the Chamber recalls the measures Mr Bemba took, as agreed with other co-perpetrators, to conceal the common plan, including exploitation of his privileged line at the ICC Detention Centre and remedial measures once informed of the Article 70 investigation." (para 924)						
1. Concealing Illicit Activities						
"The three accused also adopted a series of measures with a view to concealing their illicit activities" (para 109)						
a) Abuse Privileged Phone Line						
"such as the abuse of the Registry's privileged line in the ICC Detention Centre." (para 109)						
32	Mr Bemba used the privileged line, inter alia, to talk to Mr Babala without being recorded. The ICC Detention Centre's documentation for the years 2012 and 2013 reveal that the privileged telephone numbers for Mr Bemba included telephone number +243819071111, which was indicated as belonging to Mr Kilolo. Yet, this telephone number actually belonged to Mr Babala, who was not entitled to a privileged - and thus unmonitored - line with Mr Bemba. In making this finding, the Chamber relies on the information contained in the contact list that was forensically extracted from Mr Kilolo's cell phone.	738	Fn 1689: ICC Document, CAR-OTP-0090-1872 at 1873.	24 Jul 2015	Extracts of contact book from the <i>carte mémoire</i> seized from Kilolo	Undated, unauthenticated and coded data extract from memory card tendered through bar table.
	See <i>supra</i> finding concerning paras 123, 296, 740 (D-55 multi-party call)					

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
33	Likewise, the Chamber finds that Mr Kilolo enabled another multi-party call via his privileged line between Mr Bemba and D-19 on 4 October 2012. The call data records show a connection on 13 January 2013, at 15:22, for approximately 88 minutes between Mr Bemba and Mr Kilolo involving the same telephone numbers as in the above-cited call of 4 October 2012. The call data records also reflect a call connection shortly thereafter at 16:32, for approximately 17 minutes, between Mr Kilolo's telephone number +32495483939 and number +243855255001, attributable to D-19. Accordingly, the entire 17-minute conversation with D-19 overlapped with the last part of the telephone conversation between Mr Kilolo and Mr Bemba. The Chamber finds it unreasonable and far-fetched that one of the interlocutors would be on hold for such a substantial period. The Chamber further gives weight to the fact that it established in the case of D-55 that Mr Kilolo did enable such a multi-party call the following day. It finds it can thus rely on the fact that Mr Kilolo had the technical abilities as well as the idea for such a multi-party call in mind as early as 4 October 2012. Therefore, the Chamber finds that the only reasonable conclusion is that Mr Kilolo interconnected the telephone lines to enable a multiparty call between D-19 and Mr Bemba on 4 October 2012.	741	<p>Fn 1697: Call Data Record, CAR-OTP-0072-0391, tab '[Redacted]', row 16728. The 2013 ICC Detention Centre call log reflects an official call between Mr Bemba and Mr Kilolo's above-mentioned telephone number on 13 January 2013 at 15:22 for 01:28 hours, <i>see</i> CAR-OTP-0074-0066, row 21.</p> <p>Fn 1698: Call Data Record, CAR-OTP-0072-0391, tab '[Redacted]', row 16732; the attribution of the telephone number to D-19 is based on ICC documentation in which this telephone number was registered to the Court by the witness or the Main Case Defence as belonging to D-19, <i>see</i> ICC Document, CAR-OTP-0077-0942 at 0942, row 16 from the top.</p>	13 Jan 2013	TSP CDR (Base Belgium); Detention Centre Privileged call log	Unauthenticated Call Data Record.
<p>b) Use Coded Language "Mr Bemba, Mr Kilolo and Mr Mangenda used coded language when on the telephone, making reference to individuals using acronyms or particular expressions such as the term '<i>faire la couleur</i>', or variants thereof, signifying the bribing or illicit coaching of witnesses." (para 109) "The co-perpetrators' use of coded language was consciously and scrupulously followed. It assisted in keeping the illicit coaching and bribing activities hidden from others, including the Court's officials. The co-perpetrators endeavoured to speak to one another in coded language at all times when on the telephone and would remind each other to do so." (para 751)</p>						
Regarding ' <i>faire la couleur</i> ', <i>see</i> finding on paras 161, 495, 732; finding on paras 165, 535, 685, 728						
34	During the telephone conversation on 23 August 2013, Mr Bemba reminded Mr Kilolo to use code when speaking to a woman referred to as ' <i>la maman</i> '.	109, 753	Fn 1735 : Audio recording, CAR-OTP-0074-0986; Translated transcript of audio recording, CAR-OTP-0079-	23 Aug 2013	Intercept between Bemba and Kilolo	Unauthenticated coded intercept

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
	<p>Bemba: ...ou bien je vais appeler la maman vers 20 heures 20, avant de terminer avec elle, je vais lui demander de t'appeler pour qu'elle te demande, qu'elle t'envoie un message.</p> <p>Kilolo: Ok.</p> <p>Bemba: Pour vérifier si tu l'as eu, si tu l'as eu, bon...nous savons comment nous nous parlons par des codes, tu me dis un peu comment ça se passe quoi.</p>		0102 at 0110, lines 207-211 ('Bemba: ... or I will call the mother at around 8.20 p.m., before I finish with her, I will ask her to call you so that she can ask you, for her to give you a message. Kilolo: OK. Bemba: To check that you got it, that you got it, well ... we know how we speak using code, you tell me something about how that works, you know?').			between co-accused who did not testify; Intercept between lawyer and client.
<p>c) Transfer money to third person "Money transfers to defence witnesses were effected through third persons or to persons close to the defence witnesses so as to conceal any links between the payments and the Main Case Defence." (para 109)</p>						
<p>2. Frustrating Art. 70 Investigation "From [11 October 2013] as the three accused learnt that they were being investigated, a number of remedial measures were conceived and implemented with a view to frustrating the Prosecution's investigation." (para 110)</p>						
35	<p>774. In the first conversation, Mr Kilolo reported to Mr Mangenda that he had just informed Mr Bemba of the commencement of the Article 70 investigation and that Mr Bemba had panicked. [...]</p> <p>775. In the second telephone call later that evening, Mr Kilolo described to Mr Mangenda in more detail Mr Bemba's reactions to the news of an investigation. Mr Kilolo reported that he had calmed Mr Bemba down and explained the possible consequences, namely, that they would 'lose' all the work that had been done so far and that Mr Bemba could face another five-year prison sentence distinct from any sentence pronounced in the Main Case.</p> <p><i>Je ne le reconnais pas, il était vraiment paniqué, donc c'est moi qui ai dû même lui dire : « non, sois calme ne crains pas. Moi-même je sais. Tu me laisses gérer ça à mon niveau, avec notre frère. Je sais...euh... les pistes des solutions à ma disposition. » (...) Alors... euh... c'est alors qu'il m'a</i></p>	774, 755, 788	<p>Fn 1791: Audio recording, CAR-OTP-0074-1031; Translated transcript of audio recording, CAR-OTP-0080-0322 at 0325, lines 63-65; at 0327, lines 123-126.</p> <p>Fn 1793: Audio recording, CAR-OTP-0074-1032; Translated transcript of audio recording, CAR-OTP-0079-1762 at 1766, lines 75-101 (emphasis added) ('I didn't recognise him, he was really panicked, so it was me who had to tell him "no, calm down, don't be afraid. I know. Let me handle that at my level, with our brother. I know ... erm ... the solutions available to me". (...) Then ... erm ... then he asked me "But what is he afraid of?" I answered that he was afraid of</p>	16 Oct 2013 (both intercepts)	Intercept between Kilolo and Mangenda	Remote hearsay in unauthenticated intercept from co-accused who did not testify

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
	<p><i>demandé : « Mais de quoi a-t-il peur? » J'ai répondu mais il a peur de la Prison... pour lui-même. Tu vois donc du coup... euh... et puis... et puis il y aura des conséquences fâcheuses aussi pour... pour vous-même, parce que si tel est le cas ça veut dire que tous les efforts qu'on a fournis sont tombés dans l'eau. (...) Ce qui va compter c'est seulement...euh... et puis d'abord ils vont vous poursuivre, vous aussi le détenu qui êtes déjà là dedans. (...) Ils vont vous poursuivre et vous pouvez, peut-être écoper 'd'une condamnation de 5 ans, donc ce qui n'a même rien à avoir avec l'autre. (...) Là, ça commence à compter à 0 à partir de ce jour-là. (...) Ça n'a rien à avoir avec les 5 ans déjà purgés. (...) Parce que c'est pour d'autres faits. (...) Mais c'est des... c'est ce que je lui ai dit, mais il était devenu fou.</i></p> <p>788. Mr Mangenda also reported that he explained to Mr Bemba the implications of the Article 70 investigation for the Main Case.</p> <p><i>Ça lui est entré, donc je lui avais d'ailleurs dit que... Heureusement d'ailleurs que moi, euh, on m'avait informé sur ce point parce que si on ne m'avait pas informé, mais ça aurait été terrible. « Mais maintenant comment cela va-t-il faire par rapport à mon dossier ? » Moi je lui ai dit mais toi tu ne comprends pas que c'est une autre affaire sur base de l'article 70, il y aura maintenant des répercussions sur notre dossier initial... Ça va maintenant détruire tous les témoins que nous avons. Et quand ça... ça les anéantit, on ne peut plus contrer les éléments de preuves du procureur pour dire que ce... ce n'est pas établi au-delà du doute raisonnable quoi. Ces faits sont sensés prouvés.</i></p>		<p><i>Prison ... for himself. You see then suddenly ... erm ... and then ... and then there will be regrettable consequences as well for ... for you yourself, because if that is the case, it means that all our efforts have been wasted. (...) What will count is only ... erm ... and then they are going to come after you first, you, the detainee who is already inside. (...) They will come after you and you could be sentenced to 5 years, so this has nothing to do with the other. (...). There, it starts to count from 0 from that day. (...) That has nothing to do with the 5 years already served. (...) Because it's for other offences. (...) But it's ... it's what I told him, but he'd already gone mad').</i></p> <p>Fn 1826: Audio recording, CAR-OTP-0080-1324; Translated transcript of audio recording, CAR-OTP-0082-1326 at 1336, lines 330-337 (emphasis added) ('He got that, so I told him besides that ... Fortunately, besides, I, erm, I was informed on this point because if I hadn't been told, but that would have been terrible. "But now how is he going to do that in relation to my case?" I told him but you don't understand that it's another case based on article 70, there will now be repercussions on our initial case ... That will now destroy all the witnesses we have. And when that ... that blows them out of</p>	<p>17 Oct 2013</p>	<p>Intercept between Kilolo and Mangenda</p>	<p>Remote hearsay in un-authenticated intercept from co-accused who did not testify</p>

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
			<i>the water, we can't challenge the prosecution evidence to say that ... it is not established beyond reasonable doubt, you know. These facts are supposedly established').</i>			
36	<p>776. In an effort to contain the situation, Mr Bemba directed Mr Kilolo to call each of the defence witnesses the same night in order to ascertain whether any of them had leaked information to the Prosecution. Mr Kilolo reacted critically, but only as regards the feasibility of carrying out that instruction. As Mr Kilolo explained to Mr Mangenda,</p> <p><i>Maintenant il me dit non, que je fasse le tour d'horizon. Que j'appelle toutes ces personnes l'une après l'autre, cette même nuit. Tout ça. (...) Comment vais-je les appeler ? Ce n'est pas non plus des gens... euh... que tu appelles comme ça en 5... et dit mais tu peux passer en revue comme ça ... 15... 10, 15 personnes. Moi je dis non, ça ce n'est pas ce que tu penses. Tu ne vas pas non plus appeler juste les gens en 5 minutes : « Non, non, je voudrais juste savoir si... euh... on ne t'a pas influencé... euh... que sais-je ». Non (...) Ce n'est pas comme ça que ça marche. (...) Ce n'est pas comme ça qu'on vérifie les choses.</i></p> <p>785. [On 17 October 2013] Approximately an hour later, Mr Bemba called Mr Kilolo again. In that second follow-up conversation, Mr Bemba checked on the status of Mr Kilolo's 'tour d'horzion'.</p> <p>Bemba: <i>Il y a des nouvelles?</i></p> <p>Kilolo: <i>Euh...non, pas encore.</i></p> <p>Bemba: <i>Il n'y a rien du tout ?</i></p> <p>Kilolo: <i>Je continue à attendre ... pas encore.</i></p> <p>Bemba: <i>Ok. Tu n'as eu personne du côté de CHARLY, alors</i></p>	110, 776, 785, 786	<p>Fn 1794: Audio recording, CAR-OTP-0074-1032; Translated transcript of audio recording, CAR-OTP-0079-1762 at 1764, lines 19-28 (emphasis added) (<i>'Now he's telling me no, that I should get an overview. That I should call all those people one by one, that very night. All that. (...). How am I going to call them? They are not even the kind of people ... erm ... that you call just like that at 5 ... and say but you could go through them like that ...15 ... 10, 15 people. I said no, it's not what you think. It's not just going to take 5 minutes to call them either: "No, no, I just wanted to know if ... erm ... you hadn't been influenced ...erm ... what do I know? "No. (...). It doesn't work like that. (...) That's not how you check things'.</i>)</p> <p>Fn 1824: Audio recording, CAR-OTP-0080-1321; Translated transcript of audio recording, CAR-OTP-0082-0614 at 0616, lines 9-14 (<i>'Bemba: Is there any news? Kilolo: Erm ... no, not yet. Bemba: Nothing at all? Kilolo: I'm still waiting ... not yet. Bemba: OK. You've not had anyone from Charly's side then? Kilolo: No,</i></p>	16 Oct 2013 (CAR-OTP-0074-1032); 17 Oct 2013 (CAR-OTP-0080-1321)	Intercept between Kilolo and Mangenda	Remote hearsay in unauthenticated intercept from co-accused who did not testify.

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
	? Kilolo: <i>Non, pas encore (...)</i> .		<i>not yet (...)</i> '.			
37	786. According to the co-perpetrators' pattern of using the NATO alphabet or other terms to indicate initial letters of names or terms, the Chamber understands that the reference to ' <i>personne du côté de CHARLY</i> ' refers to witnesses residing in Cameroon. Accordingly, the Chamber concludes that this intercepted communication demonstrates that Mr Kilolo was implementing Mr Bemba's instruction to contact the Main Case defence witnesses and keeping him updated. It shows Mr Bemba's ability to direct Mr Kilolo and their close and coordinated cooperation.		No Evidence cited for para 786	N/A	N/A	No evidence cited.
38	Before Mr Kilolo talked with Mr Bemba for a third time that day, Mr Mangenda informed Mr Kilolo of his visit to Mr Bemba in detention that afternoon. Mr Mangenda reported that he discussed the situation with Mr Bemba at length and advised him on the steps to be taken. He conveyed Mr Bemba's concrete instructions, including (i) to contact a third person called 'Bravo', and ask him to approach the Cameroonian witnesses in question and persuade them to collaborate with the Main Case Defence; and (ii) to make the witnesses sign a document stating that whatever they had said to the Prosecution was untrue. In the Chamber's view, it is clear from this evidence that Mr Bemba gave concrete instructions and coordinated the actions of his coperpetrators from within the ICC Detention Centre. It also shows that Mr Mangenda was part of the planning and assisted in the implementation of Mr Bemba's instructions. The Chamber also concludes that the aim of the contemplated measures by the three co-perpetrators was to frustrate the Prosecution's investigation into Article 70 allegations.	787	Fn 1825: Audio recording, CAR-OTP-0080-1324; Translated transcript of audio recording, CAR-OTP-0082-1326 at 1332, lines 181-190; <i>see also</i> Audio recording, CAR-OTP-0080-1325; Translated transcript of audio recording, CAR-OTP-0082-1065 at 1072, lines 186-189.	17 Oct 2013 (both intercepts)	Intercept between Kilolo and Mangenda	Remote hearsay in unauthenticated coded intercept from co-accused who did not testify.
					Intercept between Bemba and Kilolo	Unauthenticated coded intercept between co-accused who did not testify; Intercept between lawyer and client.

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
39	<p>783. In the first conversation, Mr Kilolo informed Mr Bemba of his suspicion that D-2, to whom he referred as the man who is very skilled in the French language, may have been the Prosecution insider in the context of the Article 70 investigation. D-3 was described as someone who sided with D-2. Mr Kilolo assured Mr Bemba, who was perceptibly disturbed, that he would take care of the matter. Mr Bemba responded that, in the worst case scenario, Mr Kilolo would have to deny everything.</p> <p>812. [...] The Chamber further draws upon Mr Bemba's reaction upon learning of the Article 70 investigation, when Mr Bemba suggested that, in the worst case scenario, Mr Kilolo deny everything with regard to the allegations. [...] In this regard, Mr Bemba was part of the decision-making process with regard to the calling of witnesses.</p>	783, 812, 855	<p>Fn 1820: Mr Kilolo told Mr Bemba that D-2 had studied and writes long emails using very good French, <i>see</i> Audio recording, CAR-OTP-0080-1320; Translated transcript of audio recording, CAR-OTP-0082-1309 at 1314 (as amended in CAR-OTP-0082-1314_01), lines 122-126. P-260 (D-2) confirmed during his testimony before this Chamber that he had attended school [Redacted] and acquired diplomas, T-18-CONF, p. 35, lines 5-12.</p> <p>Fn 1821: Audio recording, CAR-OTP-0080-1320; Translated transcript of audio recording, CAR-OTP-0082-1309 at 1312 line 40 to 1314, line 129.</p> <p>Fn 1822: Audio recording, CAR-OTP-0080-1320; Translated transcript of audio recording, CAR-OTP-0082-1309 at 1325, lines 537-539.</p>	17 Oct 2013	Intercept between Bemba and Kilolo	<p>Unauthenticated coded intercept between co-accused who did not testify;</p> <p>Intercept of lawyer-client contact.</p>
40	<p>Mr Mangenda also reported that he advised Mr Bemba to act swiftly and to incentivise the witnesses to change their minds.</p> <p><i>Alors je disais déjà qu'on propose aux gens de venir en Europe, bon maintenant pour faire contrepoids on doit aussi proposer quelque chose du même genre. (...) Et on doit faire quelque chose le plus vite possible pour contrer cela. (...) On doit le faire par tous les voies et moyens se battre contre eux, ces gens en question. Non c'est-à-dire il comprenait aussi le message codé que je lui disais, parce que s'il connaît déjà que. (...) Il comprenait aussi le message codé que j'étais en train de lui dire de manière claire suivant ce dont nous avons parlé. (...) Quand je dis faire tous les voies et moyens</i></p>	110, 790	<p>Fn 1827: Audio recording, CAR-OTP-0080-1324; Translated transcript of audio recording, CAR-OTP-0082-1326 at 1336, lines 349-357 (emphasis added) ('<i>So I was just saying that it has been suggested the people come to Europe, good now to counterbalance that we must also suggest something similar. (...) And we must do something as quickly as possible to counter that</i>').</p> <p>Fn 1828: Audio recording, CAR-</p>	17 Oct 2013	Intercept between Kilolo and Mangenda	Remote hearsay in unauthenticated coded intercept from co-accused who did not testify.

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
	<i>donc c'est-à-dire déboursier les moyens comme exigé d'habitude, exiger que quelqu'un change d'idées.</i>		OTP-0080-1324; Translated transcript of audio recording, CAR-OTP-0082-1326 at 1342, lines 573-581 (emphasis added) ('(...) <i>We must do it by all ways and means to fight them, those people in question. No, that's to say he also understood the coded message that I told him, because if he knew already that (...). He also clearly understood the coded message that I was telling him after what we had spoken about. (...) When I say use all ways and means then that means pay the funds as normally required, ask someone to change their mind</i> ').			
41	<p>The co-perpetrators' determination to distort the truth by brushing off everything as a lie is reinforced by Mr Kilolo's subsequent remark on the <i>Barasa</i> Case. Strikingly, Mr Kilolo presents the <i>Barasa</i> Case as '<i>une histoire similiaire</i>', likening that situation to their own.</p> <p>Bemba: <i>...je voudrais quand même... j'aime toujours savoir un peu... qui... que...</i></p> <p>Kilolo: <i>Tu as écouté une histoire similaire qui s'est passé à ... à KILO ECHO ... NOVEMBRE hein... un truc similaire... KILO ECHO NOVEMBRE YANKEE... Voilà.</i></p> <p>Bemba: <i>Ah oui d'accord, d'accord... je vois, je vois, je vois oui.</i></p> <p>Kilolo: <i>Euh... Je ne voudrais même pas que... qu'on arrive à ce genre des choses.</i></p>	111, 784, 820	<p>Fn 1823: Audio recording, CAR-OTP-0080-1320; Translated transcript of audio recording, CAR-OTP-0082-1309 at 1325, lines 544-549 (emphasis added) ('Bemba: ... <i>I would like, nevertheless ... I still want to know a little ... who ... what ...</i> Kilolo: <i>You've heard a similar thing happened to ... to Kilo Echo ... November ... um ... something similar ... Kilo Echo November Yankee ... There you are. Bemba: Ah yes, OK, OK ... I see, I see, I see, yes. Kilolo: Erm ... Even so, I wouldn't want that ... us to get into that kind of thing. Bemba: Ah yes, yes, I see, I see, I see</i>').</p>	17 Oct 2013	Intercept between Bemba and Kilolo	<p>Unauthenticated coded intercept between co-accused who did not testify;</p> <p>Intercept between lawyer and client.</p>

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
	<p>Bemba: <i>Ah oui, oui, je vois, je vois, je vois.</i></p> <p>820. [...] [Mr Bemba] also discussed with the coperpetrators the existence of similar proceedings in the <i>Barasa</i> Case and the penalisation of their conduct under Article 70 of the Statute, which indicates that Mr Bemba was aware of the illegality of their actions. In particular, his interest in knowing whether the actions of Walter Osarpiri Barasa could have any legal consequences for one of the high-profile accused in the Kenya cases pending before the Court at the time demonstrates that Mr Bemba understood that similar actions by his co-perpetrators could have consequences for him personally.</p>		<p>Fn 1871: Audio recording CAR-OTP-0074-1027; Translated transcript of audio recording, CAR-OTP-0079-0191 at 0197, lines 145-162.</p>	2 Oct 2013	Intercept between Bemba and Mangenda	
42	<p>In that conversation, Mr Kilolo, who was absent from the Court at the time, reported that he had informed Mr Bemba about the need to pay another USD 2000 to '<i>ces gens-là</i>'. Since he did not have sufficient cash at hand, he asked Mr Mangenda to send through Western Union an additional sum of USD 1,500 the same day. The co-perpetrators refer to the sum of USD 1,000 as '<i>livre</i>'.</p> <p>Kilolo: <i>...je lui ai expliqué que ces gens-là réclament encore Deux Livres en plus.</i></p> <p>Mangenda: <i>Ok.</i></p> <p>Kilolo: <i>Bon, il m'a demandé que moi-même je paye et puis il va me rembourser.</i></p> <p>Mangenda: <i>Ok.</i></p> <p>Kilolo: <i>Alors, je lui ai expliqué qu'ici je ne pourrais donner que 600 dollars...</i></p> <p>Mangenda: <i>Ok.</i></p> <p>Kilolo: <i>...mais il manquera 1,400 dollars. (...) donc, en tout cas il faut qu'il rembourse 2000 Dollars quoi...</i></p>	766	<p>Fn 1774: Audio recording, CAR-OTP-0080-1362; Translated transcript of audio recording, CAR-OTP-0082-0649 at 0651, lines 7-13 and 36 ('Kilolo: ... <i>I've explained to him that those people are asking for another Two Books.</i> Mangenda: <i>OK.</i> Kilolo: <i>Well, he asked me to pay it myself and then he would reimburse me.</i> Mangenda: <i>OK.</i></p> <p>Kilolo: <i>So, I explained to him that I could only give 600 dollars here ...</i> Mangenda: <i>OK.</i> Kilolo: <i>... but that would leave him 1,400 dollars short (...) so, in any case he needs to reimburse 2,000 dollars, you know ...').</i></p>	26 Oct 2013	Intercept between Kilolo and Mangenda	Remote hearsay in unauthenticated coded intercept from co-accused who did not testify.

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
43	<p>Subsequently, Mr Kilolo talked for a third time with Mr Bemba at 18:26 that day. He informed him that he had established contact with D-3 in the meantime, who had told him about the Prosecution's visit and interview in the context of the Article 70 investigation. Mr Kilolo further recounted that he had asked for D-3's assistance in establishing contact with D-2. In that connection, Mr Kilolo also warned D-3 that the witnesses could themselves be arrested.</p> <p><i>Alors, moi je lui ai dit ceci, j'ai dit: « Écoute, j'ai besoin d'urgence ...euh... comme tu es en contact avec l'autre...euh... le... le... franco de français-là... euh... je souhaite lui parler... euh... dis-lui de ne pas avoir peur... qu'il n'ait pas peur de rien. Mon intention est de parler avec lui afin d'arranger ça, parce que ces gens-là sont en train de l'induire en erreur. Mais il faudra qu'il m'écoute pour que je lui explique comment ils veulent l'attraper. Puisqu'il peut même quitter là-bas, et aller là où ils l'amèneront, qu'il ne pense pas que c'est pour être libre, mais lui-même peut se retrouver en prison. Parce que déjà, si lui-même déclare des choses pareilles, ça veut dire qu'il s'accuse... (...) la première personne qui sera arrêté mais c'est bien lui. Donc, qu'il fasse attention ».</i></p>	792	<p>Fn 1829: Audio recording, CAR-OTP-0080-1325; Translated transcript of audio recording, CAR-OTP-0082-1065 at 1067, lines 11-16; at 1068, lines 49-63. In the conversation, Mr Kilolo used the code '<i>l'équipe de l'HOMONYME</i>' to refer to the Office of the Prosecutor, <i>see</i> CAR-OTP-0082-1065 at 1068, line 49, and at 1070, lines 122-126. The same code was used in his earlier conversation with Mr Bemba on 17 October 2013 at 13:01 (<i>see</i> paras 782-784) when Mr Kilolo informed Mr Bemba about his suspicion that the investigation had been triggered due to D-2's complaints, <i>see</i> Audio recording, CAR-OTP-0080-1320; Translated transcript of audio recording, CAR-OTP-0082-1309, at 1312, line 56. P-245 (D-3) confirmed during his testimony before this Chamber having met with representatives of the Office of the Prosecutor on '27 February' (T-22-CONF, p. 36, lines 1-16.).</p> <p>Fn 1830: <i>See also</i> Audio recording, CAR-OTP-0080-1325; Translated transcript of audio recording, CAR-OTP-0082-1065 at 1071, lines 162-175.</p> <p>Fn 1831: Audio recording, CAR-OTP-0080-1325; Translated transcript of audio recording, CAR-OTP-0082-1065 at 1069, lines 101-111 (emphasis added) ('<i>So, I, I told him</i></p>	<p>17 Oct 2013 (CAR-OTP-0080-1325; CAR-OTP-0080-1325)</p> <p>19 Oct 2015 (T-22)</p>	<p>Intercept between Bemba and Kilolo</p> <p>D-3's in-court testimony (citation not relevant to findings concerning Bemba)</p>	<p>Unauthenticated coded intercept between co-accused who did not testify;</p> <p>Intercept between lawyer and client.</p>

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
			<p><i>this, I said: "Listen, I urgently need ... erm ... as you are in contact with the other one ... erm ... the ... the ... franco, the French ... erm ... I want to talk to him ... erm ... tell him not to be afraid ... not to be afraid of anything. I intend to speak to him to arrange that, because those people there are going to mislead him. But he needs to listen to me so that I can explain to him how they want to catch him out. Because he could even leave there, and go wherever they take him, he shouldn't think that's to be free, but he himself could find himself in prison. Because already if he himself is saying such things, that means he's incriminating himself ... (...) the first person to be arrested will certainly be him. So he needs to pay attention").</i></p>			
44	<p>Mr Bemba, worried about the developments, reacted by asking again whether Mr Kilolo would be successful in his attempts to change matters in the defence's favour. The following excerpt shows how Mr Kilolo, upon direction of Mr Bemba, intentionally targeted the witnesses and sought to convince them to side with the Main Case Defence.</p> <p>Bemba: <i>Donc, pour toi, tu penses, que... tu as la capacité de... changer tout ça ?</i></p> <p>Kilolo: <i>Oui. Ça, c'est sûr. Parce que déjà comme j'ai commencé à m'entretenir à cet enfant-ci, déjà, lui je sais que je vais le sortir de ces histoires-là.</i></p> <p>Bemba: <i>Mm.</i></p> <p>Kilolo: <i>Le plus jeune, mais le morceau dur c'est l'autre du</i></p>	794	<p>Fn 1832: Audio recording, CAR-OTP-0080-1325; Translated transcript of audio recording, CAR-OTP-0082-1065 at 1070, lines 127-131 ('Bemba: <i>So as far as you're concerned, you think that ... you can ... change all that?</i></p> <p>Kilolo: <i>Yes. Of course. Because when I started to talk to that child, I already knew I'd be able to get him out of that mess. Bemba: Mm. Kilolo: The youngest, but the hard nut, is the Frenchman's other one').</i></p>	17 Oct 2013	Intercept between Bemba and Kilolo	<p>Unauthenticated coded intercept between co-accused who did not testify;</p> <p>Intercept between lawyer and client.</p>

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
	<i>français.</i>					
45	<p>As an intercepted telephone call dated 18 October 2013 between Mr Kilolo and Mr Mangenda demonstrates, Mr Bemba explicitly endorsed the tactic of discouraging defence witnesses from talking to the Prosecution in the context of the Article 70 investigation [...] During that conversation, Mr Kilolo again reports on Mr Bemba's concerns about the Prosecution's investigation:</p> <p><i>Tout est calme, c'est seulement notre frère qui est en train de s'agiter. (...) Donc je lui ai dit que la personne en question va m'appeler aujourd'hui. (...) Il a dit que non, dis lui que... lui aussi court le risque d'être comme ça, comme ça. Je lui ai répondu OK, ça va.</i></p>	796	<p>Fn 1840: Audio recording, CAR-OTP-0080-1326; Translated transcript of audio recording, CAR-OTP-0082-0626 at 0628, lines 23-29 (emphasis added) (<i>'It's all quiet, it's only our brother who is getting jumpy. (...) So I told him that the person in question will call me today. (...) He said no, tell him that ... he also risks being like that, like that. I replied OK, that's OK'</i>).</p>	18 Oct 2013	Intercept between Kilolo and Mangenda	Remote hearsay in unauthenticated coded intercept from co-accused who did not testify.
46	<p>The 21 October 2013 conversation includes an exchange between Mr Babala and Mr Kilolo that [...] demonstrates that the accused would only make payments with Mr Bemba's approval.</p> <p>Kilolo: <i>Je voulais juste m'assurer si tu as reçu mon SMS d'hier.</i></p> <p>Babala: <i>Euh... non. Non, non. (...)</i></p> <p>Kilolo: <i>Donc, je vais renvoyer. C'était un SMS avec un budget. (...)</i></p> <p>Babala: <i>Tu as parlé avec le client?</i></p> <p>Kilolo: <i>J'ai parlé avec le client, oui. On a convenu ça hier soir.</i></p>	798	<p>Fn 1847: Audio recording, CAR-OTP-0080-1330; Transcript of audio recording, CAR-OTP-0082-0547 at 0548, lines 7-25 (<i>'Kilolo: I just wanted to make sure that you had received the SMS I sent yesterday. Babala: Erm ... no. No, no (...). Kilolo: OK, I'll send it again. It was an SMS with a budget. (...) Babala: Have you spoken to the client? Kilolo: Yes, I've spoken to the client. We agreed that last night'</i>).</p>	21 Oct 2013	Intercept between Kilolo and Babala	Remote hearsay in unauthenticated coded intercept from co-accused who did not testify.
47	Leaving aside small amounts of money, Mr Babala would not effect any payment without Mr Bemba's authorisation.	816	No evidence cited.	N/A	N/A	No evidence cited.
48	818. The Chamber notes that no direct evidence exists that Mr Bemba also directed or instructed false testimony regarding (i) the nature and number of prior contacts of the	818-819	No evidence cited for para 818. Fn 1868: See paras 773-776 and 784-	17 Oct 2013	Intercept between Bemba and Kilolo	Unauthenticated coded intercept between co-

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
	<p>witnesses with the Main Case Defence, (ii) payments and material or non-monetary benefits received from or promised by the Main Case Defence, and/or (iii) acquaintances with other individuals. However, on the basis of an overall assessment of the evidence, the Chamber makes the inference that Mr Bemba at least implicitly knew about these instructions to the witnesses and expected Mr Kilolo to give them. It bases this inference on the following considerations.</p> <p>819. Mr Bemba, Mr Kilolo and Mr Mangenda agreed to illicitly interfere with witnesses in the context of defending Mr Bemba against the charges in the Main Case in order to ensure that these witnesses would provide evidence in favour of Mr Bemba. It was critical for the success of such a plan that this influence on the witnesses be concealed, as their testimony would otherwise lose all credibility. The Chamber found that Mr Bemba was kept abreast of the coaching activity and the contacts, as well as payments to the witnesses. Yet, he also saw in the proceedings before this Chamber that the witnesses consistently gave testimony on these issues that was incorrect. Thereafter, there is evidence that he nevertheless expressed his satisfaction with the witnesses' testimony overall, including those who testified falsely on the above topics. Furthermore, as elaborated, the evidence on his reaction to the ongoing Article 70 investigation shows that his intention was to cover and conceal the coaching activity. In particular, he suggested that, in the worst case scenario, Mr Kilolo simply deny everything with regard to the allegations. The Chamber thus concludes that Mr Bemba, along with his instructions on testimony regarding the merits of the Main Case, also authorised and thereby approved, at least tacitly, instructions regarding false testimony on the three above-mentioned points. He therefore also knew and intended that the Main Case Defence would present false evidence to the Court.</p>		<p>785.</p> <p>Fn 1869: <i>See</i> para. 783</p> <p>Fn 1869: <i>See</i> [...] Audio recording, CAR-OTP-0080-1320; Translated transcript of audio recording, CAR-OTP-0082-1309 at 1325, lines 537-539.</p>			<p>accused who did not testify;</p> <p>Intercept of lawyer-client contact.</p>

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
<p>Art 70(1)(b) <u>Presenting False Testimony</u> “Having participated in the illicit coaching activities together with Mr Kilolo and Mangenda, Mr Bemba intentionally presented the evidence in the knowledge that it was false.” (para 928)</p>						
<p>1. Falsity of Evidence “[T]he falsity of the testimonial evidence relates only to the witnesses’ (i) prior contacts with the defence in the Main Case, (ii) the receipt of money, material benefits and non-monetary promise, and (iii) the witnesses’ acquaintance with third persons.” (para 927)</p>						
<p>No separate evidential findings.</p>						
<p>2. Actus Reus “Having participated in the illicit coaching activities [...] Mr Bemba intentionally presented the evidence in the knowledge that it was false.” (para 928)</p>						
<p>No separate evidential findings.</p>						
<p>3. Mens Rea: <u>Knowledge</u> “Mr Bemba’s reactions to the Article 70 investigation demonstrate his knowledge of the illicit nature of the co-perpetrators’ activities, including the presentation of false evidence.” (para 928) The “reactions” include “Mr Bemba’s directions [...] that witnesses should be (i) approached to sign a declaration that the information they provided to the Prosecution in the Article 70 investigation was untrue and (ii) offered incentives to cease cooperation with the Prosecution” (para 928) “[H]aving issued instructions to Mr Kilolo concerning the coaching activities and the content thereof, Mr Bemba knew that the evidence presented was false when he heard testimony from the witnesses that was consistent with his instructions and/or sought to conceal the illicit coaching activities he himself had planned, authorized and approved.” (para 928)</p>						
<p>No separate evidential findings.</p>						
<p>4. Mens Rea: <u>Intention</u> “Mr Bemba intentionally presented the evidence in the knowledge that it was false.” (para 928) “Knowing the results of his activities, namely false evidence, he nonetheless continued to plan, authorize and approve the witness coaching activities in relation to other witnesses. The Chamber is therefore satisfied that he intended that false evidence be presented.” (para 928)</p>						
<p>No separate evidential findings.</p>						

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
<p>5. Mode of Liability: <u>Co-Perpetration</u> “As set out above in relation to the coaching activities and for the same reason, Mr Bemba’s contributions to the presentation of false evidence were essential.” (para 927) <i>Cf. “His contribution to the illicit coaching activities was essential, without which the influencing of the witnesses would not have occurred in the same way.” (para 924)</i></p>						
No separate evidential findings.						
<p>Art 70(1)(a) <u>Giving False Testimony</u> “Given Mr Bemba’s established role in the common plan, the Chamber is satisfied that – through Mr Kilolo and Mr Mangenda – Mr Bemba, asked for or urged conduct with the explicit and/or implicit consequence of prompting each of the 14 Main Case defence witnesses to provide false testimony.” (para 932)</p>						
<p>1. Falsity of Evidence “[T]he falsity of the testimonial evidence relates only to the witnesses’ evidence on (i) prior contacts with the defence in the Main Case, (ii) the receipt of money, material benefits and non-monetary promise, and (iii) the witnesses’ acquaintance with third persons.” (para 931)</p>						
See <i>supra</i> , section “Art 70(1)(b) <u>Presenting False Testimony</u> – 1. Falsity of Evidence”.						
<p>2. Actus Reus / Mode of Liability: <u>Solicit</u> “[T]hrough Mr Kilolo and Mr Mangenda – Mr Bemba, asked for or urged conduct with the explicit and/or implicit consequence of prompting each of the 14 Main Case defence witnesses to provide false testimony” (para 928)</p>						
49	On the evidence, the Chamber concludes that Mr Bemba asked, either personally or through Mr Kilolo, the 14 Main Case Defence witnesses to give false testimony on the above-mentioned three issues. It arrives at that conclusion based on the following considerations. Mr Bemba, Mr Kilolo and Mr Mangenda agreed to illicitly interfere with witnesses in defending Mr Bemba against the charges in the Main Case and in order to ensure that these witnesses would provide evidence in favour of Mr Bemba. The success of this plan depended on the influence on these witnesses remaining hidden, as their testimony would otherwise lose all credibility. Against this backdrop, the Chamber is convinced of the agreement between Mr Bemba, Mr Kilolo and Mr	853	No evidence cited.	N/A	N/A	No evidence cited.

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
	Mangenda to take the appropriate measures to hide their illicit activity and that Mr Bemba – at least implicitly – urged Mr Kilolo to take the concrete actions, including instructing the witnesses to lie on the three issues.					
See <i>supra</i> , findings on paras 783, 812, 855 (“worst case scenario” Kilolo should deny everything with regard to allegations)						
50	Mr Bemba’s conduct had an effect on the commission of the offence of false testimony by the 14 Main Case Defence witnesses. The Chamber is satisfied that without Mr Bemba’s authoritative influence, personally or through Mr Kilolo and/or Mr Mangenda, the untruthful testimony would not have occurred in the same manner before Trial Chamber III.	857	No evidence cited.	N/A	N/A	No evidence cited.
51	Although no direct evidence proves that in these telephone conversations [with D-19 and D-55] Mr Bemba urged or asked these witnesses about the specifics of their testimony, the Chamber is convinced, assessing the evidence as a whole, that the fact that he illicitly spoke to them on his privileged line in the ICC Detention Centre indicates that he urged them to cooperate and follow the instructions given by Mr Kilolo.	856	No evidence cited.	N/A	N/A	No evidence cited.
3. Mens Rea: <u>Knowledge & Intention</u> “Mr Bemba also knew and intended that these witnesses would and did give false testimony, and intended that they do so.” (para 932)						
No separate evidential findings.						
The Existence of a Common Plan						
1. The Agreement “The implementation of the agreement made between Mr Bemba, Mr Kilolo and Mr Mangenda resulted in the commission of offences against the administration of justice involving 14 Main Case Defence witnesses.” (para 113)						
52	Mr Bemba, Mr Kilolo and Mr Mangenda jointly agreed to illicitly interfere with defence witnesses in order to ensure that these witnesses would provide evidence in favour of Mr Bemba.	103	No evidence cited.	N/A	N/A	No evidence cited.

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
53	The agreement was made in the course of the Main Case among the three accused at the latest when the Main Case Defence arranged for the testimony of D-57	103	No evidence cited.	N/A	N/A	No evidence cited.
54	[The agreement] involved the corrupt influencing of, at least, 14 defence witnesses, together with the presentation of their evidence.	103	No evidence cited.	N/A	N/A	No evidence cited.
55	The agreement among the three accused manifests itself in their concerted actions with each other and with others, including Mr Babala and Mr Arido.	103	No evidence cited.	N/A	N/A	No evidence cited.
56	The Chamber notes the Prosecution's failure in its closing statements to clearly articulate a definition of what it considered to be the common plan between Mr Bemba, Mr Kilolo and Mr Mangenda, for the purposes of assessing their responsibility under Article 25(3)(a) of the Statute. That being said, the Chamber is satisfied that, on its reading of the evidence, Mr Bemba, Mr Kilolo and Mr Mangenda jointly committed the offences of corruptly influencing the 14 witnesses and presenting false evidence as part of an agreement or common plan. The Chamber is convinced that Mr Bemba, Mr Kilolo and Mr Mangenda, in the context of defending Mr Bemba from the charges in the Main Case, agreed to illicitly interfere with witnesses in order to ensure that those witnesses would provide evidence in Mr Bemba's favour. More precisely, Mr Bemba, Mr Kilolo and Mr Mangenda agreed to instruct or motivate defence witnesses to give a specific testimony, knowing the testimony to be false, at least in part, by giving monies, material benefits or promises, and subsequently to present these witnesses to the Court.	681	No evidence cited.	N/A	N/A	No evidence cited.

2. Common Plan / Prior Plan

“Mr Bemba, Mr Kilolo and Mr Mangenda carefully and consciously planned their activities in advance.” (para 104)

“On all the relevant evidence analysed above, the Chamber is persuaded that there was a common plan between Mr Bemba, Mr Kilolo and Mr Mangenda, in the context of defending Mr Bemba from the charges in the Main Case, to illicitly interfere with defence witnesses in order to ensure that these witnesses would testify in favour of Mr Bemba.” (para 802)

# ¹	Evidential Findings against Bemba	TJ para	Referenced Evidence	Date of Evidence	Description of evidence	Type
57	In the course of the Main Case and by, at least, the time that D-57's testimony was arranged, Mr Bemba, Mr Kilolo and Mr Mangenda agreed to the plan. As laid out above, the agreed plan involved, at least, the corrupt influencing of 14 Main Case defence witnesses, together with the presentation of their evidence. Accordingly, the common plan involved a critical element of criminality of which all co-perpetrators were aware.	802	No evidence cited.	N/A	N/A	No evidence cited.