

Trial Hearing
Witness: CAR-OTP-PPPP-0006

(Open Session)

ICC-01/05-01/08

1 International Criminal Court
2 Trial Chamber III - Courtroom 1
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08
5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and Judge Kuniko Ozaki
6 Trial Hearing
7 Monday, 11 April 2011
8 (The hearing starts in open session at 9.33 a.m.)
9 THE COURT USHER: All rise. The International Criminal Court is now in session.
10 Please be seated.
11 THE COURT OFFICER: Good morning, your Honours, Madam President. We are
12 in open session.
13 PRESIDING JUDGE STEINER: Good morning. Could, please, the court officer call
14 the case.
15 THE COURT OFFICER: Yes, Madam President. Situation in the Central African
16 Republic, in the case of The Prosecutor versus Jean-Pierre Bemba Gombo, case
17 reference ICC-01/05-01/08.
18 PRESIDING JUDGE STEINER: Thank you very much. Good morning, Prosecution
19 team. Ms Kneuer, welcome back. Good morning legal representatives of victims,
20 good morning Defence team, Mr Jean-Pierre Bemba Gombo. Good morning our
21 interpreters and court reporters.
22 We will start this morning with -- continue with the testimony of Witness 06, and for
23 that purpose I ask, please, the court usher to bring the witness in.
24 (The witness enters the courtroom)
25 WITNESS: CAR-OTP-PPPP-0006 (On former oath)

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1 (The witness speaks French)

2 PRESIDING JUDGE STEINER: Good morning, Mr Witness.

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

4 PRESIDING JUDGE STEINER: We hope you had a nice weekend. At least the
5 weather was good.

6 THE WITNESS: (Interpretation) Indeed, the weather was very fine.

7 PRESIDING JUDGE STEINER: Are you ready to continue giving your testimony,
8 Witness?

9 THE WITNESS: (Interpretation) I'm ready.

10 PRESIDING JUDGE STEINER: I need to remind you that you are still under oath.
11 Do you understand that, sir?

12 THE WITNESS: (Interpretation) I am still aware that I'm under oath.

13 PRESIDING JUDGE STEINER: Thank you very much. So I'm giving the floor to
14 Maître Kilolo. The Defence will continue questioning you. Maître Kilolo, please.

15 MR KILOLO: (Interpretation) Thank you, your Honour. Thank you for this
16 opportunity to address the Court.

17 QUESTIONED BY MR KILOLO: (Interpretation)

18 Q. Witness, good morning.

19 A. Good morning, counsel.

20 Q. Today we will continue and I would like to ask you to make the same effort as
21 last time, that is to say to be as concise as possible, and I in turn will try to be specific
22 when I ask my questions so that we can make progress quickly. Is that all right?

23 A. Entirely.

24 MR KILOLO: (Interpretation) Thank you. I'd like to ask the court officer to
25 display on the screen document -- this is document number 7 on our list, on the

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1 Defence team's list, CAR-OTP-0019-0211.

2 THE COURT OFFICER: Counsel, could you please indicate the level of
3 confidentiality of this document? So far I have that this document --

4 MR KILOLO: (Interpretation) This is a confidential document.

5 PRESIDING JUDGE STEINER: Court officer, please lower the blinds.

6 THE COURT OFFICER: Document CAR-OTP-0019-0211 is available on your screens,
7 but you can view it by pushing the button "PC1" in the remote controls.

8 MR KILOLO: (Interpretation)

9 Q. Witness, you have a document before you and this document begins with the
10 heading "Bangui Appellate Court, Bangui Local Court," and I'll read out one
11 particular extract. Here it says:

12 "Statement, the year 2003, 17 November, before us Pamphile Oradimo, senior
13 examining judge at the Bangui Court, with the assistance of Mr Magloire Dieudonné
14 Maliki, sworn court officer, in the presence of the Prosecutor of the Republic attached
15 to the Bangui tribunal. Before these people appeared Bombayake Ferdinand." Can
16 you confirm that?

17 A. This is the statement that was taken from General Bombayake. I can confirm
18 that.

19 MR KILOLO: (Interpretation) Once again I'd like to ask the court officer if he could
20 display page 0214 of this same document.

21 Q. Witness, you have this page on the screen in front of you and I will read out
22 from the very bottom, "Nothing further to declare. This statement has been read out
23 to the person in question and confirmation thereof." Can you confirm that General
24 Bombayake did indeed sign this document?

25 A. I'm not very familiar with his signature, but I can say that immediately after the

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1 questioning the person in question must read over the statement and sign it. I'm not
2 very familiar with his signature, but I think it must be that.

3 MR KILOLO: (Interpretation) Thank you. Once again I would like to ask the
4 court officer to go back to the earlier page; that is, page 0211 of this same document.
5 Court officer, if you could please scroll down to the last paragraph on this page.
6 Perfect.

7 Q. Witness, I would like to read out the last paragraph of this document -- this
8 page to you, and this is in actual fact the statement given by General Ferdinand
9 Bombayake and I quote:
10 "In my opinion, before answering your question it would be useful to explain to you
11 that I carried out my duties for a State and under the Republican institutions; in
12 particular, reporting to a democratically elected Head of State in accordance with a
13 constitution that sets out the fundamental principles that govern the Central African
14 Republic. That being the case, at that particular time I had been appointed by
15 government order from the Chief Of State in the year 2000, I had been appointed
16 Director General of the security unit responsible for the protection of the President of
17 the Republic; consequently, I came under the orders of the Minister of the Defence
18 and the President Of The Republic."

19 Witness, is this the statement that was given to you, to you and to the examining
20 judge, by Mr Bombayake?

21 A. General Bombayake was questioned on several occasions and this was part of
22 his statement as well. I recognise my signature on the document.

23 MR KILOLO: (Interpretation) I'd like to ask the court officer if he could move to
24 page 0212.

25 PRESIDING JUDGE STEINER: Mr Yillah.

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- 1 MR YILLAH: With your indulgence, Madam President, we're just a bit concerned.
2 When your Honour asked about the level of confidentiality of this document, counsel
3 indicated that it is confidential, and we are still in public session and the record is
4 being read, content of this statement is being read into the record of the case in public
5 session. I'm wondering whether your Honour would solve that problem.
- 6 PRESIDING JUDGE STEINER: You are a hundred per cent right. Maître Kilolo,
7 you are reading in its integrality a document that is confidential and you are doing it
8 in public session.
- 9 MR KILOLO: (Interpretation) Your Honour, if you wish, we can go into private
10 session but it seems to me, all the same, that the content of all the various passages
11 that I am reading out are documents that are rather public in nature in terms of the
12 Central African Republican procedure, unless the witness contradicts me on that
13 point.
- 14 THE WITNESS: (Interpretation) Under Central African Republic law, I don't think
15 so. The inquiry was done in camera and the matter was brought before the Court
16 and, indeed, this -- these proceedings were not held in public within the Central
17 African Republic. So there you have it. So I would point out that this information
18 is not yet in the public domain in the Central African Republic.
- 19 (Pause in proceedings)
- 20 PRESIDING JUDGE STEINER: Court officer, please, let's turn into private session.
- 21 *(Private session at 9.49 a.m.) Reclassified as Open session
- 22 THE COURT OFFICER: We are in private session, Madam President.
- 23 PRESIDING JUDGE STEINER: Maître Kilolo, we will continue in private session,
24 and let's see for the next documents that the Defence intends to quote if we clarify
25 with the witness whether these documents can be made public or not before we start

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1 quoting parts of the document, in order to avoid possible prejudice. You can
2 continue, please.

3 MR KILOLO: (Interpretation) Thank you, your Honour. A bit of an aside, if you
4 don't mind. Honestly, when I glance at the various passages to be read out to the
5 witness, I just don't see what kind of confidential information would be found there
6 that would threaten a witness. All the names are names that have been mentioned
7 repeatedly in public session; General Bombayake, General Mazi.

8 And what's more, I am somewhat concerned about the public nature of the trial,
9 which is a safeguard of a fair trial, because all day we will be dealing with such
10 documents before ending today or tomorrow and, to be perfectly honest, I don't quite
11 see why people cannot hear this information in open session.

12 PRESIDING JUDGE STEINER: I tend to agree with you, Maître Kilolo, but you are
13 the one, when you called for the document to be displayed, that informed that the
14 document was confidential. In that case, we have two alternatives, we go into
15 private session or we reclassify the document; what we cannot is to expose the whole
16 of an information that is deemed confidential.

17 MR KILOLO: (Interpretation) Your Honour, the Defence would -- craves your
18 indulgence to reclassify the document.

19 PRESIDING JUDGE STEINER: My first question is, is the Defence tendering this
20 document into evidence?

21 MR KILOLO: (Interpretation) Quite so, your Honour.

22 PRESIDING JUDGE STEINER: Does the Prosecution have any objection as to the
23 level of confidentiality that the Defence intends to give to this document?

24 MR YILLAH: Madam President, I don't know. I think on the first question as to
25 tendering, we believe that it meets the requirement, given the jurisprudence of this

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1 Court in terms of tendering.

2 Now, in relation to classification, Madam President, there are two issues: I think we
3 have a witness here who has said he was part of the process, and I think the evidence
4 of the witness, to our mind, is very crucial as the witness has just answered in respect
5 of this particular document.

6 The second issue, Madam President, is that the Prosecution is merely in possession of
7 this document. Ownership of this document still lies with the Central African
8 authorities. And since we have a witness who is part of the Central African
9 authority, maybe on a document-by-document basis, we suggest, that the witness
10 assist the Court with an answer as to the level of confidentiality of the document;
11 otherwise, we may say that we have no problem with reclassification, but on a matter
12 of procedure we have to inform the Central African authorities who have -- who still
13 retained ownership over these documents. They've passed them over for the
14 proceedings. That's the position of the Prosecution.

15 PRESIDING JUDGE STEINER: Maître Kilolo.

16 MR KILOLO: (Interpretation) Your Honour, the Defence's position is that it is not
17 up to the witness to make any kind of statement regarding the confidentiality of the
18 documents submitted to the Court. This document is in no way the property of the
19 Central African Republic. This trial has suffered greatly in terms of the lack of
20 public proceedings. I believe many hearings have been held in private session, and
21 each time the general public has been unable to follow the entire proceedings.

22 We have a witness here who is crucial, he is providing a great deal of information
23 about the command structure, and it is very important for the Defence to ensure that
24 the public is able to listen to the proceedings and I don't see why this would be of
25 particular concern to the Prosecution.

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1 PRESIDING JUDGE STEINER: Just a comment, Maître Kilolo, the witness was not
2 asked about the level of confidentiality of this document before this Court. The
3 question was in relation to the level of confidentiality of this procedure in the Central
4 African Republic. So let's be clear about that. Here it is the Chamber who decides
5 on the level of confidentiality, after consulting the parties.

6 (Trial Chamber confers)

7 PRESIDING JUDGE STEINER: Maître Kilolo, the Chamber regrets very much that
8 the Defence didn't come with this request in advance, instead of putting the Chamber
9 in a situation to have to decide on the spot after most parts of the document had been
10 already read in public session, which is really, really regrettable. For the time being,
11 the document will continue to be considered as confidential and, therefore, if you
12 want to quote parts of the document you are going to do it in private session.
13 In relation to the other documents, I would like to ask the Defence and Prosecution to
14 give a look in the list of documents provided by the Defence and come, on the
15 beginning of the second part of this hearing, with information in relation to the
16 remaining 40-something documents in order to avoid that the same problem arises
17 every time a document is put on the screen. For the time being, you continue, please,
18 in private session.

19 I just had to order the redactions of the whole transcript, so this is the kind of problem
20 that I would like to avoid. But you can continue, please, Maître Kilolo.

21 MR KILOLO: (Interpretation) Thank you, your Honour. I shall continue.

22 Q. Witness, now I think you have this document before you - this is document
23 CAR-OTP-0019-0212 - and I would like to read out a passage from this document;
24 namely, the statement given by General Bombayake: "With regard to the
25 intervention by the Banyamulengue in the city, I wish to inform you that these people

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1 had been called upon for the first time the day after the events of 28 May 2001. I was
2 not part of the arrangements or the other negotiations that led to these combatants
3 from the Congo coming to the Central African Republic at that time.

4 They had crossed the river to join with the navy, and after that they were made
5 available to the Chief of Staff at the time, the current Chief of State, General François
6 Bozizé, who was assisted by the late Colonel Abel Abrou, who was the operational
7 commander of the eastern zone. After he died, General Mazi took over. During the
8 events of 28 May 2001, the Banyamulengue conducted operations in cooperation with
9 the FACA, with the Central African Army." Witness, is this the statement that was
10 given to you by General Ferdinand Bombayake?

11 A. That is part of the statement made by General Bombayake. I can confirm that.

12 Q. Thank you. Now, on this very same document I would like to ask the court
13 officer to show us the last two paragraphs on this same page, if you will. Thank you,
14 very good.

15 Witness, I am going to read out another excerpt from the statement made by General
16 Bombayake, and I quote, "The combatants of Jean-Pierre Bemba, once they had
17 arrived in Zongo, had been resupplied in fuel by Mr Lionel Gan-Befio under the
18 instructions of the Head of State. Once they had crossed, the Banyamulengue were
19 grouped with the force naval, the navy, so as to be taken to the support regiment
20 under the command of General Mazi and Colonel Lengbe." Witness, now this
21 excerpt, is this indeed a statement made by General Ferdinand Bombayake?

22 A. Yes, I can confirm that.

23 Q. Thank you. I'm going to read out yet another excerpt from the statement made
24 by General Ferdinand Bombayake and I quote, "For the purpose of harmonising the
25 operations, an operation centre was set up at the camp and made up of General Mazi,

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1 Colonel Lengbe, a number of the FACA officers, and the USP was represented by
2 Commander Mokodoui and a representative, an officer representing the
3 Banyamulengue." Witness, can you confirm that this is indeed a statement made by
4 General Ferdinand Bombayake?

5 A. I can confirm that.

6 Q. Thank you. Still on this same page, the last paragraph now, this was a
7 question addressed to General Ferdinand Bombayake: "Could you give us the name
8 of the persons that made up the crisis council that was established at the time of those
9 events, and could you tell us what the tasks of that council were?" And I go on to
10 the next page - could you please give it to us, court officer - 0213. This was
11 Ferdinand Bombayake's answer, and I'm quoting him: "The crisis council is
12 composed differently; its makeup differs depending on whether it is held under the
13 authority of the President of the Republic or under that of the Minister for National
14 Defence. In the first case, it is made up of the President of the Republic, the Prime
15 Minister, the Minister for Defence, or his deputy, the Minister for the Interior, the
16 party's Executive Bureau, the General Chief of Staff for the Army, and the General
17 Inspector for the Army, the DG, Director-General of the Gendarmerie, the police, the
18 Director-General for the Police, the Director-General, the DG for the USP, the Unit for
19 the Security of the Presidency, the Chief of Staff, the special Chief of Staff of the Head
20 of State, and the head of the military cabinet at the Presidency."

21 This excerpt of his answer, is this truly the statement of General Ferdinand
22 Bombayake?

23 A. It is indeed.

24 Q. I shall go on. Another excerpt from the answer given by General Ferdinand
25 Bombayake, and I quote, "As regards the Ministry for National Defence, the

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1 composition is as follows: The Minister for Defence, or his deputy, the Minister for
2 the Interior, the General Chief Of Staff, the General Inspector for the Armies, the DG,
3 Director-General of the Gendarmerie, the DG, Director-General of the Police, and for
4 some meetings the DG, Director-General of the USP, Unit for the Security of the
5 Presidency. The role of this committee, as regards the Ministry for Defence, was to
6 collect and exchange information as between the various operational corps for the
7 purpose of reporting to the Head of State by the ministry -- by the Minister for
8 Defence." Witness, was what I just read out declared to you by General Ferdinand
9 Bombayake?

10 A. I can confirm that.

11 Q. I shall continue; another excerpt from the statement made by General Ferdinand
12 Bombayake as regards the Presidency of the Republic. "The committee is in charge
13 of taking the main decisions for the purpose of organising operations on the ground.
14 The members of this committee are also in charge of conveying certain decisions
15 taken by the Head of State to the rank and file." Witness, is what I just read out the
16 reflection of what General Ferdinand Bombayake said?

17 A. That is indeed the statement made by General Ferdinand Bombayake.

18 Q. Can you confirm that when the General Bombayake talks about the Head of
19 State in his statement, he's talking about the former Head of State, Ange-Félix
20 Patassé?

21 A. The Head of State was Ange-Félix Patassé at the time.

22 Q. Thank you. Now, staying on this same page, let me ask the court officer to
23 exhibit the last paragraph, if you will. Thank you. Here is the question addressed
24 to General Ferdinand Bombayake, I quote: "Tell us the types of relationships that
25 you had with Mr Abdoulaye Miskine." This is the answer given by General

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1 Ferdinand Bombayake, I quote: "Mr Abdoulaye Miskine was appointed by means of a
2 decree issued by the Head of State as the head of an anti-Zaraguina brigade based in
3 Batangafo and Kabo. This brigade was placed under the direct authority of the
4 Head of the State. Witness, is what I just read out the statement made by General
5 Ferdinand Bombayake?

6 A. I can confirm that, yes.

7 Q. When a reference is made so this brigade that was under the direct authority of
8 the Head of State, it was Ange-Félix Patassé, the person involved.

9 A. General Bombayake was indeed referring to Ange-Félix Patassé when he
10 referred to the Head of State.

11 Q. Thank you. I would like to ask the court officer now to display 0214 of the
12 very same document. I'm going to read out a question that was addressed to
13 General Ferdinand Bombayake, and I quote: "The Miskine's men and the USP's men
14 in certain situations are mixed up, it being said that they wore the same uniforms, the
15 same medals, and that the vehicles they used had the same -- bore the USP licence
16 plate. What do you say to that?"

17 This is the answer given by General Ferdinand Bombayake and let me read it out to
18 you. I quote: "The vehicles used by Miskine were rented from individuals by the
19 head of government. At one point in time, he also requisitioned vehicles in the field.
20 Later on, President Patassé gave him a Land Cruiser on which he had marked the
21 acronym 'USP'." Witness, is what I just read out the statement made to you by
22 General Ferdinand Bombayake?

23 A. That is indeed the case. That was his statement.

24 MR KILOLO: (Interpretation) Thank you. Let me now ask the court officer to go
25 to this document, CAR-OTP-0019-0215.

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- 1 PRESIDING JUDGE STEINER: One moment, Maître Kilolo. Court officer, please
2 turn into open session first.
3 (Open session at 10.16 a.m.)
4 THE COURT OFFICER: We are in open session, Madam President.
5 PRESIDING JUDGE STEINER: I ask, please, the court officer to assign an EVD-T
6 number to the previous document.
7 THE COURT OFFICER: Yes, Madam President. Document CAR-OTP-0019-0211
8 will be attributed the following reference, EVD-T-D04-00017, and will be marked as
9 confidential.
10 PRESIDING JUDGE STEINER: Thank you very much. Maître Kilolo, I presume
11 the next document is document number 10 in your list of documents; is that correct?
12 MR KILOLO: (Interpretation) Yes, indeed, your Honour.
13 PRESIDING JUDGE STEINER: Is it possible for you to continue your questioning
14 without mentioning the name of the person who gave this statement?
15 MR KILOLO: (Interpretation) Yes, your Honour. Perhaps I could make a
16 reference to him in private session and then we could come back into open session
17 and I wouldn't mention him any more?
18 PRESIDING JUDGE STEINER: You want to start with the closed, or the private, or
19 to the questioning and at the end you could ask the witness to confirm?
20 MR KILOLO: (Interpretation) In private session, if you would, to begin with.
21 PRESIDING JUDGE STEINER: Court officer, please, private session.
22 *(Private session at 10.19 a.m.) Reclassified as Open session
23 THE COURT OFFICER: We are in private session, Madam President.
24 MR KILOLO: (Interpretation)
25 Q. Witness, you have before you a document. It is another document, Court of

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1 Appeals of Bangui, Local Court of Bangui, and the title is "Minutes of Interview bis,"
2 and you can see "2003, 18 November, before us Pamphile Oradima, chief of the
3 investigating judges at the Local Court of Bangui, assisted by Mr Magloire Dieudonné
4 Maliki, certified court officer, in the presence of the Prosecutor for the Republic at the
5 Local Court of Bangui, appeared Ferdinand Bombayake." Can you confirm that?

6 A. I can confirm that.

7 Q. Witness, we are now going to go back into open session so as to ensure that the
8 trial is public. Every time that I will be talking about Ferdinand Bombayake I will
9 simply refer to him as "the general" without mentioning his name, but we will be
10 talking about General Bombayake. If I talk about any other general, then I will
11 specify his name.

12 Your Honour, could we go back into open session, please?

13 PRESIDING JUDGE STEINER: Is that procedure agreeable to the Prosecution?

14 MR YILLAH: Madam President, just briefly, your Honour posed two questions
15 earlier when I was up and I thought we had already found a way out when we said
16 that we -- there is no objection to the tendering of this document, because given your
17 jurisprudence it meets the requirements, but also the same concern that we expressed
18 earlier still attaches to this procedure. If counsel wants to read the record of this
19 statement -- I mean, if we can agree, counsel can agree, that -- we do not object to
20 tendering this statement at all, the entire statement, into evidence, into the record of
21 the case, but this procedure of reading the contents again in private session, the same
22 concern still. It does not abate the concern that we expressed earlier. We are
23 entirely in your Honours' hands.

24 PRESIDING JUDGE STEINER: The fact is that, if the name of the witness in that
25 procedure is not mentioned, at least that witness is protected. So what would be the

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1 problem of making public the content of testimony if it's not known to the public who
2 gave the testimony? That's my question.

3 MR YILLAH: Madam President, may I just have a short moment to confer?

4 Madam President, my attention has just been drawn to two issues. Firstly,
5 the -- your Honour has quite rightly resolved the question of witness protection by
6 the order you have just proposed, but in terms of the content of the document, if your
7 Honours were to look through, take a quick glance through the document, you will
8 see a number of names mentioned throughout the document and we do not know the
9 status. We know the status of some, but we do not know the status of all these
10 individuals. And secondly, Madam President, it is on record today, it is in evidence,
11 without questioning, without being prompted, the witness himself, being an authority,
12 part of the authority of the Central African Republic, has given his evidential opinion
13 on the status of this document.

14 Also, Madam President, when the appeals -- we recall that during the admissibility
15 decision, the Appeals Chamber reclassified - sought reclassification - of certain
16 documents from the Central African Republic, and as a matter of procedure -- I don't
17 have the number at hand here, but just in a few moments we can furnish your
18 Honours with the relevant reference. They sought the consent of the Central African
19 Republic authorities as a matter of procedure. If counsel had made this application
20 earlier, Madam President, just a week ago at a minimum, this problem would have
21 been resolved easily.

22 Madam President, my attention has just been drawn that the Appeals Chamber
23 decision I am referring to on reclassification of Central African documents is decision
24 number 973, just for reference, your Honour.

25 But, Madam President, we believe that your first proposal resolves any difficulty.

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1 You asked about whether we object to the tendering of this document. We do not
2 object to the tendering of this document. Whether the records form part -- what is
3 being read forms part of the document. It's a permanent document. We do not
4 object. All this procedure and this difficulty would be easily resolved if we agree
5 that we do not object to the tendering of the evidence and then we can move on, just
6 to resolve the problem, Madam President.

7 PRESIDING JUDGE STEINER: Maître Kilolo, we need first and foremost to have the
8 confirmation from Central African Republic authorities that the contents of these
9 documents can be made public. If the State, through its judicial institutions or
10 political institutions, provided the Prosecution with documents that we don't know
11 whether they were provided in the condition of confidentiality, the content of these
12 documents should be not made public without previous -- previous consent of the
13 State that provided for the documents.

14 We have here -- since the Defence had not made any request in advance enough for
15 the Chamber to rule on the reclassification level of these documents, we have only
16 two alternatives. We can have a public session, in which you just draw the attention
17 of the witness to a certain paragraph, ask the witness to read the paragraph and to
18 confirm its content, or we have to proceed in private session. These are the two
19 options that for the time being the Chamber can provide the Defence.

20 MR KILOLO: (Interpretation) Your Honour, subject to the observations that might
21 be made to you just after the break, as you asked earlier on, I suggest we should do
22 two things: First of all, I will ask the witness questions about a series of people,
23 calling them by their name and their title, without actually going into the reading of
24 the document, as such. And I don't think that should raise any issue because Patassé,
25 Ziguele, Angoa, all these well-known names we have already quoted them on several

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1 occasions.

2 And I would like to take this opportunity to draw your attention, respectfully, to the
3 fact that this is not the first time that we are looking at the report of investigations
4 carried out in Bangui. Compared to other reports, for instance, reports about victims
5 that were read out and discussed in open session, well, there was no problem. Why
6 is there one now?

7 And when we talked about the Prosecution case, it was a very important document,
8 all these excerpts were read out in public and that was no issue. Why, all of a
9 sudden, once we get to an absolutely essential document that gives names of people
10 who were directly involved in the command of operations on the ground, Central
11 African Republic officers, all of a sudden the Prosecution finds that there is a problem
12 with discussing this in open session.

13 It seems to me that that is a bit of an issue as regards their duty towards truth in
14 respect of the Court; i.e., to accept both evidence against but also exculpatory
15 evidence that arises from the testimonies of officers.

16 If we talk about Ferdinand Bombayake, this general was a very important officer,
17 high-ranking officer, (Redacted)
18 (Redacted) And, furthermore, this general was
19 not even called as a witness for Prosecution.

20 Why do we have this unequal treatment when it comes to the defence of
21 Mr Jean-Pierre Bemba on the basis of the investigations of the Prosecution's office
22 itself? Why is this an issue when we come to talking about this in open session?
23 So my suggestion, if you are willing to go along with it, is to simply ask questions
24 about a number of people, calling them by their name and their title, and for the rest
25 of this document we could go into private session.

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1 PRESIDING JUDGE STEINER: Maître Kilolo, we can proceed in that way but just,
2 once again, I remind the Defence that once the Defence tenders this document into
3 evidence, this document is part of the case file and will be analysed in its totality by
4 the Chamber.

5 So the fact that Defence wants to ask paragraph-by-paragraph of a document, it
6 doesn't make such a difference whether it is in public or private session because the
7 document in any case will be analysed as a whole. So don't be afraid that the
8 document will not be considered in its probative value just because it was discussed
9 in private or in public session. But you can proceed.

10 MR KILOLO: (Interpretation) Thank you very much, your Honour.

11 Q. Witness, as I was saying earlier, we are still in private session. When we ask
12 you a question regarding General Bombayake, I will simply refer to "the general"
13 without specifically naming him. I'm sure you'll understand that. Do you agree
14 with this?

15 A. Yes, I do.

16 MR KILOLO: (Interpretation) Court officer, could we go into open session, please?
17 (Open session at 10.34 a.m.)

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

19 MR KILOLO: (Interpretation) Court officer, could you please highlight the lower
20 part of the page on the screen. Thank you.

21 Q. Witness, I would like to know whether in the measures taken in Bangui you
22 cross-questioned -- cross-examined Ange-Félix Patassé, the former President of the
23 Central African Republic?

24 A. I said that Ange-Félix Patassé had not been heard by ourselves because after
25 the -- the following day after 15 March 2003 he was in exile in Togo. The hearing did

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1 not include his statement.

2 Q. When you were cross-examined by the investigators from the ICC in Bangui,
3 did they ask you questions in order to make contact with Ange Patassé in order to
4 cross-examine him?

5 A. I cannot answer for them, for the Court, for the investigators who asked me.
6 They took my statement based on what I knew about the case, and it went no further.

7 Q. Now, regarding your dealings in Bangui, did you cross-examine Martin Ziguele,
8 the former Prime Minister of the Central African Republic at the time of the events.

9 A. Mr Martin Ziguele was not cross-examined either because he was also outside
10 the country; he was in exile in France.

11 Q. Did the investigators from the ICC ask you whether you had information
12 enabling them to contact Mr Martin Ziguele?

13 A. As I said in the first instance when I made my statement, I was to give the
14 information I had and this was regarding the events that took place.

15 Q. During your dealings in Bangui, did you cross-examine Mr Pierre Angoa, the
16 former Defence Minister of Central Africa?

17 A. Indeed, this person was cross-examined.

18 Q. Did the investigators from the ICC --

19 JUDGE ALUOCH: Mr Kilolo, I'm sorry. Excuse me. You're using the
20 terminology "cross-examine," giving the impression that these persons gave evidence
21 and subsequently were being questioned on that evidence. I'm getting a bit
22 confused.

23 What terminology, what do you really mean, because you are using -- the transcript
24 refers to "cross-examine," "cross-examine." Is that what you're talking about, they
25 gave evidence and subsequently they were being cross-examined, like in a trial; is that

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1 what you mean? That's what the transcript reads, "cross-examine," "cross-examine,"
2 so I'm assuming that's the word you're using.

3 MR KILOLO: (Interpretation) Your Honour, now I'm being told this may be an
4 interpretation problem here. I'm not talking about "cross-examination," all I was
5 doing was asking the witness -- I wanted to find out whether he, himself, as the
6 Prosecutor questioned these persons and, on the other hand, the issue of establishing
7 whether the investigators from the ICC who met him in Bangui asked him whether he
8 had information which would enable them to find these persons. Now, I don't know,
9 of course, how that's interpreted into English.

10 JUDGE ALUOCH: Yes, that's -- sorry. That's what I thought you meant, but the
11 English transcript reads differently.

12 MR KILOLO: (Interpretation) Thank you for this clarification, your Honour.

13 Q. Witness, were you able to question as part of your legal proceedings Mr Morris
14 Regonessa, the former Defence Minister of Central Africa who took over from the
15 former Minister Pierre Ngoa?

16 A. I have no clear recollection regarding General Regonessa, but I do believe that
17 he was questioned, although I have no specific recollection. Or during his
18 questioning, maybe one of my alternates questioned him.

19 Q. Did the investigators from the ICC ask you -- did they ask you whether you had
20 information which would enable them to find this person?

21 A. Again, I reiterate my statement whereby this statement focussed exclusively on
22 factual information that I had on this legal proceeding, and it went no further.

23 Q. During your legal proceedings, were you able to question Mr Jackson Mazette,
24 the former Internal Affairs Minister of the Central African Republic.

25 A. I do believe he was questioned. He was in Bangui at the time, I believe.

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1 Q. Did the investigators from the ICC ask you whether you had information that
2 would enable them to find this person?

3 A. I do apologise. Again, I reiterate, no.

4 Q. Were you able to question Mr Joseph Muzoule, the former Internal Affairs
5 Minister for the Central African Republic?

6 A. Mr Muzoule was deceased, I believe. I believe he died before the events of
7 15 March 2003.

8 Q. Do you know the names of the persons of the Executive Committee of the
9 MLPC party at the time the events took place?

10 A. I cannot be exhaustive on this because congresses take place, names change, but
11 what I can say is that the President of the party was the -- was President Ange-Félix
12 Patassé, who was seconded, unless I'm mistaken, by Mr Dondon Konamabaye but I
13 don't really have any specific details on the organisation, the names of the bureau. I
14 believe that Dondon was a member of the Bureau. I think there was Mr Gabriel
15 Koyambounou who was also a member, as well as other persons.

16 Q. Did the ICC investigators who met you ask you questions regarding those in
17 charge of the MLPC Executive Bureau in order to establish contact with them?

18 A. I was asked about persons such as Ange-Félix Patassé, but the questions seeking
19 to establish information as to establishing the whereabouts, no, there were no such
20 questions.

21 Q. During your legal proceedings, were you able to question General Antoine
22 Gambi, who was the former Chief of the Army High Command in Central Africa?

23 A. I do believe so. I do believe that General Gambi was also questioned. There
24 was a list of officers drawn up at the request of the examining magistrate which was
25 submitted to the army hierarchy and to -- and the senior command had authorised

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1 these officers to be questioned and I believe that General Gambi was among them?

2 Q. Did the ICC investigators seek to establish contact through yourself with this
3 general?

4 A. No. Maybe they met him, but this wasn't through me.

5 Q. During your legal proceedings, did you question General Gombadi, the former
6 Chief Inspector of the Armies of the Central African Republic?

7 A. No, I have no recollection. It's -- there's nothing clear in my mind regarding
8 this officer. I don't think so.

9 Q. However, did the ICC investigators whom you met, did they seek through you
10 to make contact with him?

11 A. No, I was not questioned for information to be given in order to enable them to
12 meet General Gombadi, to enable the ICC investigators to meet General Gombadi.

13 Q. At the time, during your legal proceedings, did you question the examining
14 magistrate, Mr Paul Tony Morombaye, the former Director-General of the
15 Gendarmerie of the Central African Republic?

16 A. The examining magistrate, Paul Tony Morombaye, no. There was a long,
17 complicated procedure for examining -- questioning a magistrate, but to my
18 knowledge, no.

19 Q. During your legal proceedings, did you question Mr Sinfeï Moïdamse, the
20 former Director-General of the Central African Police Force?

21 A. Yes, I do believe that he was questioned.

22 Q. Did the ICC investigators who you met seek to make contact with him through
23 you?

24 A. No.

25 Q. Did you question -- did you question Mr Sabangle -- I'm having a bit of trouble

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1 with the pronunciation, S-A-B-A N-G-L-E, the former Director-General of the Central
2 African Police Force?

3 A. I do believe he was questioned because he was still in Bangui. Yes, he was
4 questioned.

5 Q. Did the ICC investigators seek, through you, to make contact with him?

6 A. No.

7 Q. Did you question Colonel Alain, the former Chief of the Private Senior
8 Command of President Ange Patassé.

9 A. Colonel Allam was indeed questioned.

10 Q. Did the ICC investigators seek through you to contact him?

11 A. No.

12 Q. We have just gone over the names of specific persons. I would now like to ask
13 whether you are able to confirm that the general to whom we referred earlier in
14 closed session confirmed that all these persons represented the crisis committee under
15 the Presidency of the Republic at the time of the events?

16 A. When he was questioned, the examining magistrate posed the question to the
17 General and he was asked to give the names of the members of the crisis committee at
18 two levels: The Presidency of the Republic and the Minister of Defence, and the
19 names on the report are the names which he himself gave. Therefore, I confirm.

20 Q. At the time of your legal proceedings, did you question Colonel Bouba, * the
21 former deputy Minister for Defence in the Central African Republic at the time of the
22 events?

23 A. I have no clear recollection but I am convinced, I'm sure that he was heard.

24 Q. Did the ICC investigators whom you met seek to make contact with him
25 through you?

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1 A. No.

2 Q. Did you question General Alphonse Gombadi, the former Chief Inspector of the
3 Army, in the Central African Republic?

4 A. I said earlier in the courtroom that I have no clear recollection of the questioning
5 of General Gombadi, and I specified that perhaps the examining magistrate
6 questioned him in the presence of an alternate, but I have no clear recollection of the
7 questioning of this officer.

8 Q. I'm going to quote several names and I will ask you to confirm that the general
9 to whom we referred in private session stated that this was the crisis committee at the
10 defence ministry. *I quote, "The Defence Minister Angoa, the deputy Defence
11 Minister, General Yangongo, the deputy Minister for Defence, General Regonessa, the
12 deputy Minister for Defence, Colonel Bouba, the Internal Affairs Minister,
13 Mr Mozoule, the Chief of Staff, General Mbetibangui, the Chief of Staff General
14 Antoine Gambi, the Chief Inspector of the Army, General Alphonse Gombadi, the
15 Director-General of the National Gendarmerie, Mr Paul -- Mr Anthony Morombaye,
16 the Director-General of the Central African Police Force, Mr Sinfeï Moïdamse. Next,
17 Mr Sabangle, the former Director-General of the Police Force of the Central African
18 Republic, and for some meetings the Director-General of the USP. Can you confirm
19 that all these persons were members of the crisis committee which was established at
20 the defence ministry?

21 A. I confirm that all these names were given by the general to whom you are
22 referring. In answer, in response to the question for specifying the members of the
23 crisis committee under the defence ministry, he quoted them as a member of the
24 committee. Therefore, I confirm this.

25 MR KILOLO: (Interpretation) Your Honour, we only have two or three minutes to

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1 go. Perhaps we could move into the break.

2 PRESIDING JUDGE STEINER: Thank you, Mr Kilolo. Mr Witness, we are going to
3 suspend for half-an-hour, to have a break in order for you and to our interpreters and
4 court reporters to take some rest. It's almost 11 o'clock. We will resume at 11.30.
5 I ask, please, court usher, to take the witness outside the courtroom.

6 (The witness stands down)

7 PRESIDING JUDGE STEINER: Maître Kilolo, I ask you, are you continuing with
8 this same document after the break?

9 MR KILOLO: (Interpretation) I will move on to another document and then we'll
10 go back to this document.

11 PRESIDING JUDGE STEINER: I ask the court officer to assign an EVD-T number to
12 the last document.

13 THE COURT OFFICER: Yes, Madam President. Document CAR-OTP 0019-0215
14 will be attributed the following reference, EVD-T-D04-00018, and will be marked as
15 confidential.

16 PRESIDING JUDGE STEINER: Thank you very much. The hearing is suspended.
17 (Recess taken at 11.00 a.m.)

18 (Upon resuming in open session at 11.34 a.m.)

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

20 PRESIDING JUDGE STEINER: Welcome back. Could, please, the court usher
21 bring the witness in.

22 (The witness enters the courtroom)

23 PRESIDING JUDGE STEINER: Welcome back.

24 THE WITNESS: (Interpretation) Thank you. Thank you.

25 PRESIDING JUDGE STEINER: Are you ready to continue giving your testimony,

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1 sir?

2 THE WITNESS: (Interpretation) I'm ready.

3 PRESIDING JUDGE STEINER: Maître Kilolo.

4 MR KILOLO: (Interpretation) Thank you, your Honour, for allowing me to
5 address the Court. I would like to ask the court officer if he could be so kind as to
6 display on the screen a document number CAR-OTP-0042-0239.

7 PRESIDING JUDGE STEINER: Confidential?

8 MR KILOLO: (Interpretation) It's a confidential document.

9 PRESIDING JUDGE STEINER: Court officer, the blinds are to be lowered. Maître
10 Kilolo, if I may, which document in your list is it? Which number is this document
11 in your list?

12 MR KILOLO: (Interpretation) Document number 14, page 0239 of document 14 on
13 the Defence list.

14 Q. Witness, you have a document at hand - and I would suppose that we are in
15 open session, your Honour. Thank you. Witness, do you remember very much
16 talk of Commander Service?

17 A. Yes, quite so.

18 Q. Was that Commander Service Alfred?

19 A. Yes, indeed.

20 Q. Did you have an opportunity to question him personally?

21 A. Commander Service was questioned within the proceedings that began
22 regarding him before the examining judge and this was in reference to a number of
23 murders that were committed in a province - a locality - in the Central African
24 Republic.

25 Q. Were these events related to the events that concern us between October 2002

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1 and March 2003?

2 A. No.

3 Q. Do you remember speaking about the operations centre that was established at
4 Camp Béal in relation to the events that are of concern to us?

5 A. Yes, certainly.

6 Q. I would now like to ask you a number of questions about Central African
7 Republic military officers that were involved in the command of operations who were
8 at these operational centres. Did the ICC investigators try to contact Commander
9 Alfred Service through you?

10 A. No. As I said earlier, the ICC investigators did not ask me for information
11 about the position of Commander Service, or they did not ask me to get in touch with
12 him.

13 Q. Did they try to work through you to contact Kouagou Ismaël?

14 A. No, no, Lieutenant Kouagou Ismaël.

15 Q. Did the ICC investigators ask you what these two Central African Republic
16 officers had to do with the planning cell within the command centre at Camp Béal?

17 A. No, I've said no.

18 Q. Did you have an opportunity to ask questions of Lieutenant Dobique Adolphe?
19 Lieutenant Dobique Adolphe.

20 A. No.

21 Q. Did you have an opportunity to ask questions of Lieutenant Yaounde Luc?

22 A. No.

23 Q. Did the Prosecution investigators ask you what these two Central African
24 Republic officers had to do with the situation and synthesis cell at Camp Béal?

25 A. No, no.

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1 THE INTERPRETER: Message from the interpreters. If someone could remind the
2 witness of the five-second rule, please.

3 MR KILOLO: (Interpretation)

4 Q. Did you have an opportunity to ask questions of Sub-lieutenant Sakama
5 Freddie?

6 A. No.

7 PRESIDING JUDGE STEINER: I am sorry to interrupt you. I need to remind both
8 Maître Kilolo and the witness about the five-second rule. The interpreters are
9 having difficulties following you. That's the problem when you both speak the same
10 language. You forget that people here need a translation into English. Thank you.

11 THE INTERPRETER: Many thanks from the interpreters.

12 MR KILOLO: (Interpretation) Now, up until now, has everything been
13 transcribed?

14 PRESIDING JUDGE STEINER: The last question was: "Did you have an
15 opportunity to ask questions of Sub-lieutenant Sakama Freddie?" Sakama Freddie.

16 MR KILOLO: (Interpretation)

17 Q. Just for the purposes of the record, could you answer that question; namely, did
18 you have an opportunity to ask questions of Sub-lieutenant Sakama Freddie?

19 A. Myself, no. Perhaps -- I repeat: Personally, myself, no; perhaps the
20 examining judge.

21 Q. Did you have an opportunity to ask questions of Leppa Gervais Arthur?

22 A. No.

23 Q. Did the ICC investigators ask you what these two Central African Republic
24 officers had to do with the conduct of operations cell within the operations centre at
25 Camp Béal?

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- 1 A. No.
- 2 Q. Did you have an opportunity to ask questions of Lieutenant Zolo?
- 3 A. No.
- 4 Q. Did you have an opportunity to ask questions of Lieutenant Ngboya
5 Emmanuel?
- 6 A. No.
- 7 Q. Did the ICC investigators ask you what these two Central African Republic
8 officers had to do with the intelligence cell within the operations centre at Camp Béal
9 during the events?
- 10 A. No.
- 11 Q. Did you have an opportunity to ask questions of Captain Dambourou Denis?
- 12 A. No.
- 13 Q. Did you have an opportunity to ask questions of Lieutenant Barsin Bruno?
- 14 A. No.
- 15 Q. Did the ICC investigators ask you what these two Central African Republic
16 officers had to do with the logistics cell within the operations centre at Camp Béal?
- 17 A. No.
- 18 Q. Did you have an opportunity to ask questions of Captain Sila Joachim?
- 19 A. No.
- 20 Q. Did you have an opportunity to ask questions of Lieutenant Ndagbia Justin?
- 21 A. No.
- 22 Q. Did the ICC investigators ask you what these two Central African Republic
23 officers had to do with the transmission cell within the operations centre that it was
24 established at Camp Béal during the events?
- 25 A. No.

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1 Q. Did you have an opportunity to ask questions of Commander Nzoba Alphonse
2 Devalor?

3 A. I believe that the examining judge did question him, but not me.

4 Q. Did you have an opportunity to ask questions of Sub-lieutenant Bandandekoy
5 Benjamin?

6 A. No.

7 Q. Did the investigators of the ICC ask you what these two Central African
8 Republic officers had to do with the communication unit within the operational centre
9 during the events; namely, October 2002 to March 2003?

10 A. No.

11 Q. Now, just for the record of the case, all these questions have to do with
12 document CAR-OTP-0042-0239. This is document number 14 on the list of Defence
13 documents.

14 PRESIDING JUDGE STEINER: Maître Kilolo, are you tendering this document into
15 evidence?

16 MR KILOLO: (Interpretation) Please, your Honour.

17 PRESIDING JUDGE STEINER: Court officer, please assign an EVD number.

18 THE COURT OFFICER: Yes, Madam President. The document which ERN
19 number is CAR-OTP-0042-0237 will be attributed the following reference
20 EVD-T-D04-00019, and will be marked as confidential.

21 MR KILOLO: (Interpretation)

22 Q. Witness, we have now finished with a series of questions that had to do with the
23 crisis committee that was established within the office of the President of the Republic,
24 and a few moments ago you confirmed that the general that we were speaking of
25 when we were in private session, you confirmed that with regard to the office of the

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1 President that committee was responsible for taking the major decisions to organise
2 operations in the field, and this was document CAR-OTP-0019-0213. Do you
3 remember that?

4 A. I do remember. It was his statement that was transcribed and placed in his
5 statement.

6 MR KILOLO: (Interpretation) Your Honour, for the record, we wish to draw your
7 attention to the fact that, at the appropriate time, we will be making written
8 submissions regarding the fact that we have just received confirmation here of the
9 statements made by the general who was mentioned and the statement makes
10 reference to a number of military figures both within the crisis committee that was set
11 up within the office of the presidency of the Republic and also the crisis committee
12 that was established within the Defence Ministry; both military officers who had set
13 up the command structure at the -- at this operational centre at Camp Béal,
14 approximately 30 military officers whose names were mentioned and established here
15 with the witness.

16 You shall see in our next filing that none of these witnesses were called by the Office
17 of the Prosecutor to give testimony before you. The Defence makes this remark
18 insofar as the burden of proof lies entirely with the Office of the Prosecutor. On the
19 other hand, with regard to the Defence, we do not have to call a witness and make
20 this point.

21 Now, in any event, the Prosecutor cannot avoid exculpatory evidence and not bring
22 witnesses who may contradict their theory. On the contrary, the Prosecution is a
23 party to the trial and, furthermore, the Prosecution is to serve as an agent of justice
24 and, consequently, the Prosecutor has the duty of truth and must call all witnesses
25 that can help the Chamber establish the truth.

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1 In this particular case, your Honour, in light of the various passages that we have
2 read out, the Prosecution is well aware that a certain number of Central African
3 Republic military officers, General Bombayake, General Mazi and others, other
4 officers whom they interviewed and even others whom they refused to interview and
5 to bring as witnesses, could entirely contradict their allegations regarding essential
6 matters relating to command structure.

7 Today the Defence finds itself obliged to make use of the current witness to confirm
8 that -- although indirectly, to confirm the position of a number of high-ranking
9 military officers and their role with regard to the events relating to this trial.

10 Now, the Prosecution apparently wishes to address the Court. Now, if they are not
11 going to bring all these important witnesses - 30 in number, approximately - for
12 cross-examination, we will ask you to draw the appropriate conclusions regarding
13 this refusal from the Prosecution to call all these witnesses; witnesses without whom
14 it is impossible to establish the truth. I thank you.

15 PRESIDING JUDGE STEINER: I'm sorry. I didn't want the Defence to be
16 interrupted in its submissions. Now you have the floor.

17 MR YILLAH: Entirely understandable, Madam President. Madam President, your
18 Honours, the Prosecution would make two requests at this stage. Your Honours
19 elaborately drew up a decision on the direction of conduct of proceedings at trial,
20 directing the parties as to how to proceed when eliciting evidence from witnesses and,
21 as far as we are concerned, we are at the stage of the procedure based on your
22 decision on the direction of conduct of proceedings where it is the obligation of both
23 parties to elicit evidence from the witness.

24 And as far as the Prosecution is concerned, based on that decision and your Honours'
25 direction, we are not at the stage of closing statement. We are at the stage of

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1 questioning, examining witnesses. What the Defence has effectively done, your
2 Honour, from page 31 -- and I shall be making an extraordinary request at this stage,
3 because that has been done, I rely entirely on the professional judgment of the Bench
4 to handle this matter but, just for the record, the Prosecution shall be making -- shall
5 be asking your Honours to expunge from the record from page 31 -- from page 38,
6 lines 1 to up to the end, up to page 39, lines 20, because what the Defence counsel has
7 effectively done is to make a summary, a closing argument, and not elicit evidence
8 from the witness.

9 If your Honours do not accept that request, if it's extraordinarily, I entirely rely on
10 your professional judgment, your Honours, but what the Defence counsel has done in
11 the last 10/15 minutes is not to question the witness, but to effectively make a closing
12 argument instead of eliciting evidence from the witness.

13 We think this is an improper procedure; we think it's unacceptable and it violates
14 your decision on the direction of conduct of proceedings, given the stage in which we
15 are and given that your Honours had set out the time limit for making closing
16 argument in your decision on the direction of conduct of proceedings.

17 And the second ground, your Honour, our application is also based on Rule 64(1) that
18 it is not evidence. We are objecting to that and we ask either that it be expunged
19 from the record or whichever other relief your Honour may grant the Prosecution for
20 the statement made by the Defence, because it's effectively a closing argument, it is a
21 summation. It is not evidence from the witness. Thank you, your Honour.

22 PRESIDING JUDGE STEINER: Does the Defence want to respond?

23 MR KILOLO: (Interpretation) Thank you, your Honour. Once again, the
24 Prosecution is going back to its strategy which is to avoid the truth within the
25 framework of these proceedings. I don't think that one can just dismiss essential

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1 elements and wipe the transcript clean. We have brought out a number of points
2 and we are trying to respond and we really don't think that all these items of
3 information can be simply swept aside.

4 (Trial Chamber confers)

5 PRESIDING JUDGE STEINER: Maître Yillah, so the Chamber now has listened to
6 the Prosecution, to the response of the Defence. This is not -- as a matter of fact it is
7 not the first time that Defence comes with submissions at the end of questioning
8 witnesses. Maybe this is not the best technique but, on the other hand, the Chamber
9 sees no prejudice for the proper conduct of the proceedings.
10 Although it was not provided for in the decision on the conduct of the proceedings,
11 the fact that Defence sometimes likes to present its case at the end of each witness is
12 not something that can cause any prejudice to the same -- very same proper conduct
13 of the proceedings. It can be improper, as the Prosecution said, but not
14 unacceptable.

15 The fact that the Prosecution as well calls Article 64(1), there is no need to say that.
16 Defence submissions are not considered as evidence, and that's why we have here a
17 Bench with three professional Judges that know quite well how to distinguish or
18 differentiate evidence from submissions or opinions given by Prosecution or Defence
19 while questioning witnesses.
20 For these reasons, the Chamber is not ordering the expunged -- that the transcript is
21 expunged. This is not best practice on the view of this Chamber, but the Defence
22 and Prosecution being aware that the Chamber knows quite well what to consider,
23 what is to be considered evidence, what is to be considered the Defence or even the
24 Prosecution who knows, or legal representatives sometimes advancing their points of
25 views in relation to the evidence, this will not give or bring to the Chamber any

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1 difficulties in separating the evidence of personal considerations in relation to the
2 very same evidence.

3 I am asking Maître Kilolo whether it will continue questioning the witness, or this
4 was the "grand final"?

5 MR KILOLO: (Interpretation) Thank you, your Honour. We had just ended with
6 this part concerning military figures. We want to go on now and certainly we hope
7 to finish by tomorrow morning. I would like to ask the court officer if he would please
8 display page 0019-0216. Perhaps you could scroll up to the second half of the page.
9 Thank you.

10 Q. Witness, the issue of confidentiality vis-a-vis this document has yet to be ruled
11 upon and as a result I shall not read out the document. I will simply ask you a
12 number of questions on the content of this document and I would ask you to look at
13 this document when I ask you those questions.

14 PRESIDING JUDGE STEINER: Which number is in your list of evidence, please, just
15 to facilitate the Chamber?

16 MR KILOLO: (Interpretation) It is number 10 in our list.

17 PRESIDING JUDGE STEINER: Maître Kilolo, there is something missing here in the
18 English transcript. Oh, thanks. You can continue, Maître Kilolo.

19 MR KILOLO: (Interpretation) Thank you, your Honour.

20 Q. Witness, I shall ask you a question and would request you to look at the text
21 that comes just after the word "question" that you can see on your monitor. Is it
22 right to say, Witness, that during the interview at Bangui with the Central African
23 Republic general whose name I quoted, he was asked under whose orders the men of
24 Jean-Pierre Bemba were operating?

25 A. Indeed that question was addressed to that general during one of the interviews

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1 with him.

2 Q. Is it right to say that in his answer that general from the Central African
3 Republic, whose name I shall not mention, answered by saying that the
4 Banyamulengue operated under the orders of the Deputy Chief of Staff, General Mazi,
5 the Central African Republic general and under the orders of another Central African
6 Republic national, Colonel Lengbe?

7 A. Yes, indeed, he gave a two-stage answer. To begin with, he specified that
8 General Mazi and Colonel Lengbe were in control or, rather, the operations took place
9 under the command of General Mazi and Colonel Lengbe.

10 Q. I would like you to go on to the second part.

11 A. Yes, I can confirm that you are right.

12 Q. Is it right to say that that general from the Central African Republic declared to
13 you that only General Mazi and Colonel Lengbe could provide you with the details
14 concerning the practical arrangements implemented as regards the Banyamulengue?

15 A. He answered in that way, but in his statement he spelt out that the two officers
16 that you just mentioned handled the operations in the first twin operation between
17 the Banyamulengue and the FACA.

18 Q. Is it true to say that the general from the Central African Republic, whose name
19 we shall not mention, stated to you that during the first offences of the support
20 regiment, which took place in the vicinity of the Lycée Barthélemy Boganda, and in
21 the 4th arrondissement, Boy-Rabé, an incident had occurred between the
22 Banyamulengue and the FACA troops and that had led to the temporary suspension
23 of the advance?

24 A. Yes, indeed, that is what he stated.

25 Q. Is it right to say that that general from the Central African Republic, whose

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1 name we shall not mention, declared that in view of the atrocities of which the
2 Congolese troops were accused of, General Mazi had appointed a number of officers
3 in the gendarmerie, and in the Central African Republic Army, who were expected to
4 retrieve stolen goods from the people who had taken them away and as far as
5 possible try and limit the damage?

6 A. That is indeed what he declared.

7 Q. Still on the same page, at the very bottom, is it right to say that when this
8 general from the Central African Republic was interviewed he was asked whether the
9 requisitions of vehicles for the Banyamulengue had been done in writing or orally,
10 and in addition whether -- what the number of requisitions issued were and what the
11 types of vehicles involved were?

12 A. That question was indeed addressed to that general.

13 MR KILOLO: (Interpretation) I would like to ask the court officer to display the
14 next page.

15 PRESIDING JUDGE STEINER: Court officer, I would suggest that we go into
16 private session, please.

17 *(Private session at 12.13 p.m.) Reclassified as Open session

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

19 MR KILOLO: (Interpretation)

20 Q. We are now in private session, Witness. Since that is the case, I will read out to
21 you an excerpt from the answer made by General Bombayake, and I quote, "My role
22 consists in this particular case in ensuring that the vehicles requisitioned either by the
23 gendarmerie or by the IGE, under the instructions of the head of the government, and
24 putting them at the disposal of the Ministry for Defence for the purpose of being used.
25 Under these circumstances, I cannot therefore say to you whether or not the

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1 requisitions were implemented in a written form. Most of the time, the vehicles that
2 were subject to those requisitions were administrative vehicles and corporate vehicles.
3 It was very unusual for privately owned vehicles to be requisitioned."

4 Witness, can you confirm that that was indeed the statement made by General
5 Ferdinand Bombayake?

6 A. I confirm that that is indeed the answer provided by the General Ferdinand
7 Bombayake when he was being questioned.

8 MR KILOLO: (Interpretation) Thank you very much. Let me ask the court officer
9 to display page 0218 of the same document for us, please.

10 PRESIDING JUDGE STEINER: Maybe now we can go back into open session, please,
11 court officer.

12 (Open session at 12.16 p.m.)

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

14 MR KILOLO: (Interpretation)

15 Q. I would like to ask you to concentrate on the last paragraph that appears on
16 your screen. It is the longest paragraph there. I will be concentrating on the
17 second-to-last sentence, which begins "The troop." Mr Witness, could you tell us
18 whether it is true to say that the general from the Central African Republic whose
19 name we shall not mention declared to you that the Libyan troop did not in any way
20 depend on the unit for the security of the presidency and that it received absolutely
21 no orders from the USP and did not have any report -- did not have to report to the
22 USP but that, on the other hand, it did operate on the terrain and reported its
23 activities exclusively to the Head of State, the Supreme Commander of the Armies?

24 A. I can confirm that that part of the statement that you have just read out does
25 indeed reflect what the general that we are talking about stated.

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1 MR KILOLO: (Interpretation) Thank you. Your Honour, I no longer need this
2 document on the display.

3 Q. Witness, did General Ferdinand Bombayake inform you that the MLC soldiers
4 had been at Camp Béal for two weeks when the advance was interrupted after the
5 first operation carried out jointly with the FACA forces?

6 A. Perhaps you could repeat that question, would you?

7 Q. Do you remember, Witness, that earlier on you confirmed the fact that you had
8 received information, or a statement, from an officer in the Central African Republic
9 who reported that initially there had been a joint operation between the
10 Banyamulengue and the FACA troops? Do you remember that?

11 A. Yes, I remember that clearly.

12 Q. Do you remember that you confirmed that that joint operation had taken place
13 on the Boganda road in the vicinity of the Lycée Boganda?

14 A. I would like to correct something. It was the Lycée Boganda that is located
15 close to the Avenue de France, not the Avenue Boganda, and I do confirm what you
16 have just said, subject to that.

17 Q. I'm sorry, I forgot the five seconds. Do you remember that you confirmed that
18 this first joint operation between the Banyamulengue and the FACA troops had taken
19 place in the 4th arrondissement at Boy-Rabé, according to the statement made by that
20 officer from the Central African Republic?

21 A. All that is in the statement of that officer. The first operation was close to
22 parliament, close to the Lycée Boganda, and went slightly into the 4th arrondissement,
23 which is practically adjacent to the Boy-Rabé neighbourhood, which is up on a hill
24 that overlooks the national assembly and the Lycée mentioned and which is
25 practically opposite the support regiment.

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1 Q. Witness, this joint operation between the Banyamulengue and FACA troops in
2 the 4th arrondissement close to the hill and close to Boy-Rabé, how many minutes
3 does it take to walk to get to Boy-Rabé going over the hill?

4 A. I'm sorry, I don't really understand your question. How long does it take to
5 walk from the base to the border of the neighbourhood? Or was it how far it was
6 where they stopped in Boy-Rabé?

7 Q. My question is as follows: Since there was a joint operation between the
8 Banyamulengue and the FACA troops on the basis of the statement made by this
9 Central African Republic officer, and that at one point in time these joint troops were
10 located in the 4th arrondissement and you said that that was approximately close to a
11 hill that leads to Boy-Rabé; is that right?

12 A. Yes.

13 Q. So starting -- or, rather, when you are at that hill, how long does it take to walk
14 to get to the entrance point of Boy-Rabé?

15 A. Boy-Rabé is on the hill and it's not far, but in any case Boy-Rabé is on the hill
16 and it is a large, I wouldn't say neighbourhood, but an assembly, a group of
17 neighbourhoods, actually. From the Lycée Boganda to go up the hill and reach the
18 entry point to Boy-Rabé, well, it's a hill but it wouldn't take any more than five
19 minutes. It's not very far.

20 Q. Do you remember that you confirmed on the basis of the statements made by
21 this officer from the Central African Republic that following a skirmish between these
22 joint forces, the Banyamulengue and the FACA, the advance was stopped and the
23 Banyamulengue retreated?

24 A. Yes, I do confirm that.

25 Q. Did you learn from General Bombayake that when this advance was stopped,

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1 this advance of the Banyamulengue was stopped, they actually were quartered for
2 approximately two weeks in the Camp Béal or else in the support regiment?

3 A. Let me just correct one thing. Their base where they withdrew to was the
4 support regiment; perhaps also the Camp Béal, but that's just next door. The
5 duration, a two-week duration? No, that's not right. Perhaps it was -- well, it was
6 just a withdrawal, and I think they continued onwards one or two days later and
7 certainly not two weeks later.

8 Q. Could you confirm that to the Chamber that in actual fact you don't know how
9 long afterwards they did continue their advance because you weren't there to see
10 what was going on?

11 A. No, I certainly was not there to see that myself, but within the context of the
12 proceeding before the examining judge, we did find out towards what date they were
13 at PK12 and that is why I say that there were not two weeks involved, but rather one
14 or two days. It was not two weeks.

15 Q. In any case, the Defence's position on that point is that they did remain
16 quartered between the support regiment and the Camp Béal for some two weeks, and
17 we would like to refer to the statement CAR-OTP-0027-0190, a statement made in
18 French, line 318 to 330.

19 Witness, did General Bombayake inform you that from his standpoint and as far as he
20 knew, Jean-Pierre Bemba was never informed of the pillaging and theft attributed to
21 the MLC soldiers?

22 A. I believe that in the document that we just saw and that you just put into the file,
23 he did specify that the reports on the operations carried out, well, they were done to
24 President -- submitted to President Patassé and to Mr Jean-Pierre Bemba. He also
25 specified that Mr Jean-Pierre Bemba was well-informed of the cruelty being -- of the

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1 cruel acts on the ground and he completed that by saying that General Mazi had
2 given instructions to stop the looting and these unfortunate acts, if I remember
3 correctly what this document contained. I think it is true to say all this.

4 Q. Witness, I have no personal recollection of having seen or heard what you've
5 just stated but, whatever the case may be, the position of the counsel for the Defence
6 is clear on this; Mr Jean-Pierre Bemba was never aware of pillage, of plundering, or
7 rape or any other such acts committed by MLC soldiers. And for the Chamber, we
8 are referring to a document, a statement, by the witness because -- OTP-0027-0242,
9 statement in the French language, line 343 to 347.

10 Witness, did General Bombayake inform you that the alleged booty taken by officers
11 of the Central African Republic appointed by General Mazi were returned to the
12 owners further to evidence being provided?

13 A. I'm still referring to the last paragraph to which I referred earlier where he said
14 that General Mazi gave instructions to stop the plundering, but I have no clear
15 recollection as to the question you've asked; namely, the return of the goods to some
16 of the victims if they produced documents. Maybe this was so, but I have no clear
17 recollection.

18 Q. The council's view is that the organisation of the return of the personal effects to
19 their lawful owners was managed by the Central African Army and that goods were
20 indeed returned. For the Chamber, we are referring to document in the French
21 language witness statement CAR-OTP-0027-0257, lines 382 to 384.

22 Witness, did General Bombayake inform you that it was only after the events - in
23 other words, after 15 March 2003 - that people began to complain to the police and to
24 denounce the atrocities they had suffered during the events that took place from
25 October 2002 to March 2003?

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1 A. This is the declaration of General Bombayake, so that's his statement. Now,
2 this is in -- if it's in the report, then it's his statement and I respect that. However, on
3 this specific point, I gave full details in terms of the populations' appeals, the NGOs,
4 the intervention of President Patassé in Bangui, the arrival of Jean-Pierre Bemba and
5 I think that's what I said, but the general -- if General Bombayake made this statement,
6 then I respect his statement and this is in the report.

7 Q. (No interpretation)

8 A. At the time, no answer had been produced. I was the Prosecutor for the
9 Republic in order to bring -- to give you any definite evidence on the statements made
10 by the victims to the legal -- the judicial authorities, so I cannot state this in any
11 definite way.

12 Q. The council's position is that it's only after 15 March that people really started to
13 denounce the crimes they suffered, be they rape, plunder, murder, which are -- come
14 under this case. For the Chamber, we are referring to a document which is the
15 witness statement in the French language CAR-OTP-0027-0263, lines 602 to 619.

16 PRESIDING JUDGE STEINER: Maître Kilolo, sorry to interrupt you. I just want to
17 confirm with the witness. I see under the English transcript that the answer to the
18 last question is page 52, there is no transcript on the question, line 24 starts the answer.
19 And the answer, as it is in the transcript, says "At the time, no answer had been
20 produced. I was the Prosecutor for the Republic in order to bring -- to give you any
21 evidence." Did you say that you were the Prosecutor in that time, or that you
22 weren't?

23 THE WITNESS: (Interpretation) Thank you, your Honour. I said that at the time
24 I was not the Prosecutor for the Republic.

25 PRESIDING JUDGE STEINER: Thank you. Maître Kilolo, you can proceed.

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1 MR KILOLO: (Interpretation)

2 Q. Now, further to this clarification, the Defence's position, Witness, is that neither
3 you nor the Office of the Prosecutor opposite us has been able to date to present a
4 single document of a complaint made by a victim prior to 15 March 2003. Witness,
5 did General Bombayake inform you that at his level he had no direct information to
6 the effect that General Mukiza was directly submitting reports to Mr Bemba and that,
7 moreover, he never saw Colonel Moustapha personally making contact with
8 Mr Bemba?

9 A. I have no recollection of this. Maybe this is in the report, but I have no
10 recollection of such a statement.

11 Q. It is very clear, you cannot state the contrary. The Defence's position on this is
12 that there is no trace in any statement by you that direct contact was established
13 between Colonel Moustapha and Mr Bemba. The Defence is referring to witness
14 statement in French CAR-OTP-0027-02356 recorded as page 3 and document
15 CAR-OTP-0027-0357 recorded as page 8.

16 Witness, we have finished for the time being regarding General Ferdinand
17 Bombayake. I would now like to draw your attention to General André Mazi. I
18 would like to ask the court officer to display document CAR-OTP-0019-0230. This is
19 document number 14 -- sorry. Sorry. Document number 13 in the list of the
20 Defence's documents.

21 Your Honour, could we please go into private session?

22 PRESIDING JUDGE STEINER: Court officer, please.

23 *(Private session at 12.42 p.m.) Reclassified as Open session

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

25 MR KILOLO: (Interpretation)

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1 Q. Witness, you have before you a document entitled "Report on the Hearing of a
2 Witness, Appeals Court of Bangui, Tribunal de Grande Instance of Bangui." I'll read
3 the relevant passage: "In 2004 on 4 February before us Pamphile Oradimo, Dean of
4 the Examining Magistrates at the Grand Instance Court of Bangui, assisted by
5 Mr Pacôme-Arsène Kolomeke, the court officer, André Mazi appeared," and lower
6 down we have a reference to General André Mazi who was heard in the presence of
7 the Prosecutor of the Republic. Can you confirm this?

8 A. Well, this may well be at the bottom of the page.

9 MR KILOLO: (Interpretation) Court officer, could you please scroll up. Thank
10 you.

11 THE WITNESS: (Interpretation) Yes. Okay, I confirm.

12 MR KILOLO: (Interpretation)

13 Q. Do you confirm that throughout the events we are examining between
14 October 2002 and March 2003 General André Mazi was the Deputy Chief of Staff of
15 the Army of the Central African Republic?

16 A. Yes, I confirm this.

17 MR KILOLO: (Interpretation) Your Honour, could we please go into open session.

18 PRESIDING JUDGE STEINER: And from now on this person is "general"?

19 MR KILOLO: (Interpretation) "General number 2," to avoid any confusion with the
20 other one.

21 (Open session at 12.45 p.m.)

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

23 MR KILOLO: (Interpretation) Court officer, could you please display the same
24 document at page 0231, please.

25 Q. Witness, I would like you to focus on the last paragraph. Court usher -- court

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1 officer, could we please enlarge somewhat the last paragraph for the witness. Right.

2 Witness, during your enquiries, or your proceedings in Bangui, did general number 2

3 confirm that in the early hours following the arrival of Jean-Pierre Bemba's men in

4 Bangui an operational unit had been set up under his orders, under him?

5 A. Yes, this is what he said in his statement.

6 Q. For the report on the hearing, we do agree, do we not, that when we refer to the

7 operational unit set up in the early hours following the arrival of the MLC soldiers

8 under his orders, we are indeed referring to the general number 2 of the Central

9 African Republic?

10 A. Yes.

11 Q. Is it true that the general of the Central African Republic, general number 2,

12 stated that further to the loss of mutual trust between him and President Patassé all

13 operations, both in Bangui and in the regions, were organised and run by General

14 Bombayake of the Central African Republic who was in fact, in effect, the Chief of

15 Staff?

16 A. Could you please repeat so that I can concentrate on my answer?

17 Q. Well, it's basically the first sentence to be read out and I don't want to read it

18 since we are in open session.

19 A. I do confirm this. I simply hadn't seen this section of the document.

20 Q. Witness, to sum-up, can we record the following regarding general number 2 of

21 the Central African Republic? He stated the following: That the command of

22 operations was managed in two phases. There was a first phase, during which the

23 MLC soldiers were put under the orders of the -- of general number 2 of the CAR and

24 that further to the loss of mutual trust between -- in the second phase the Central

25 African General Bombayake took over command of the operations conducted by the

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1 MLC soldiers, both in Bangui and in the regions, based on the statement made by
2 general number 2?

3 A. This is the essence of his statement. I have nothing to add or to criticise in this
4 regard.

5 MR KILOLO: (Interpretation) Court officer, could we display page 0232.

6 Q. Witness, could you please focus on the first -- the top two paragraphs on the
7 page. My question is as follows: Is it true that during the hearings in Bangui of
8 CAR general number 2, the question -- he was asked whether he knew of the nature
9 of the relationship between General Ferdinand Bombayake and the chief of
10 Jean-Pierre Bemba's militia?

11 A. I confirm that this question was indeed asked to general number 2.

12 Q. Is it true that his answer, the answer of general number 2 of the CAR, was to say
13 that General Ferdinand Bombayake was indeed in permanent contact with
14 Commander Moustapha, who was the chief of the Banyamulengue in Bangui, and
15 that he even specified that they were often together and often went to meet the Head
16 of State, President Ange-Félix Patassé, whenever they felt it was necessary to meet
17 him?

18 MS KNEUER: May I suggest we go into private session? I believe the Defence is
19 bypassing your Honour's ruling.

20 PRESIDING JUDGE STEINER: Ms Kneuer, if you could elaborate a little bit more on
21 your objection, because as a matter of fact I don't see how the Defence would be
22 trans-passing the orders of the Chamber, but maybe you could clarify the Chamber
23 on that?

24 MS KNEUER: Of course, Madam President. It may be slightly difficult to do that
25 in public session, but I will try.

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1 PRESIDING JUDGE STEINER: If need be we go into private and then you can
2 elaborate on that. Court officer, please.

3 *(Private session at 12.55 p.m.) Reclassified as Open session

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

5 PRESIDING JUDGE STEINER: Ms Kneuer.

6 MS KNEUER: Madam President, it was my understanding that your Honour had
7 ruled that Defence counsel would not quote from these types of documents in a
8 public session. Well, Defence counsel is not verbatimly quoting anymore but by
9 summarising the information it is exactly the same effect.

10 The idea of the Prosecution's submission earlier was to convey our concern not only
11 on the witness protection but also on the content, as such, of the document. If I recall
12 correctly, your Honours had put two options to the Defence. The one was to go into
13 private session and quote from the statement, or to ask questions simply about
14 individuals, and now we are going back to the version to take the information from
15 the confidential document and putting it to the witness in public session. That's
16 what I mean by bypassing your Honour's ruling not to quote from the statement. I
17 hope I expressed myself clearly.

18 PRESIDING JUDGE STEINER: Do you want to answer, Maître?

19 MR KILOLO: (Interpretation) Yes, your Honour, I would like to say two things:
20 First of all, on Friday in open session we read out many passages in the statements.
21 The summing up is part of the Central African case in the same way as the report.
22 Indeed, it's an even more important document, because it contains all the evidence
23 and all the information which is scattered across the reports, so whatever the case
24 may be the information arising from these reports have already been discussed in
25 open session when we were quoting the excerpts from the order of dismissal.

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1 Since on Friday the Prosecutor's office felt that it was unnecessary to raise any
2 objection in this regard, we must conclude that it decided to renounce this procedural
3 prerogative.

4 In open session, at no point did I quote or mention the name of General André Mazi.
5 This was done in private session. At no point did I suggest in open session that the
6 questions I was asking were based on information that could be used in the content of
7 the report, which means that the objection raised by Madam Petra in actual fact
8 consists in preventing us from asking the relevant questions which must be asked in
9 this case.

10 PRESIDING JUDGE STEINER: Ms Kneuer.

11 MS KNEUER: Madam President, I do not want to re-engage in the entire argument
12 again. Perhaps I can make a proposal, a practical proposal.

13 As the Prosecution had indicated, we would prefer to obtain the consent of the
14 Central African Republic government with regards to this kind of documents for your
15 consideration to reclassify the documents. I believe all questions can be asked, some
16 of them in private, some of them in public session, but even if more questions are
17 asked in private session, once we obtain the consent of the Central African Republic's
18 government, and you had made a ruling on the reclassification of the documents in
19 question, there's still a possibility to reclassify also the transcripts. Perhaps this is
20 also an alternative, but I do not believe that there is any prejudice to the Defence.

21 They can ask all the questions. It is the interest of the Prosecution to help, or to assist,
22 your Honours with the integrity of the proceedings and to follow the procedural rules.
23 We do our utmost, but certainly it's your final decision to reclassify the document.
24 We just want to offer support and practical solutions.

25 PRESIDING JUDGE STEINER: Ms Kneuer, in this case I must confess that I'm not a

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1 hundred per cent convinced. I think that since we cannot -- or the public cannot
2 come to the conclusion that these questions and answers are part of the proceedings
3 of the testimony of Mr André Mazi, I don't see the prejudice that could be caused by
4 the questions that could -- whose information could have been taken from any other
5 source. So, as far as the Defence does not make reference to the statement and to the
6 name of the witness in question, I don't see what could be the problem. Please,
7 Ms Kneuer.

8 MS KNEUER: Thank you very much, your Honours. Perhaps I may direct your
9 attention, for example, to page 57. At the very top - perhaps we start at line 3 where
10 the answer is, "I do confirm this. I simply hadn't seen this section of the document,"
11 and then the question is, "Witness, to sum up, can we record the following regarding
12 general number 2 of the Central African Republic?" He stated the following and we
13 briefly checked. To the best of our knowledge, it appears to be a summary of the
14 document that was shown to the witness. However, of course I do agree with your
15 Honours that these questions could be asked in a more inconspicuous way, definitely,
16 so that there's no reference to a document and it's not clear from the context with an
17 inference to the public that it could come from the document being shown.

18 PRESIDING JUDGE STEINER: In relation to this last comment, I think the Defence
19 could consider to continue its questioning on the basis of the document without
20 making express references to the document itself. Look at the page -- for instance,
21 asking the witness to look at such a page of the Central African Republic proceeding.
22 So, trying to pass the information without necessarily referring to the source of such
23 information.

24 I think we need a break. Then the Prosecution and Defence can think on the best
25 way of proceeding with the questioning of the witness without so many interruptions

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1 and, for that purpose, we are going to suspend. Let's go first into open session,
2 please, court officer.

3 (Open session at 1.03 p.m.)

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

5 PRESIDING JUDGE STEINER: Thank you very much. So, giving some time for the
6 parties to think on the best way of conducting the questioning and the objections in
7 order not to have so many interruptions during the questioning of the witness, we are
8 going, sir, to suspend now for our lunch break that you deserve to take some rest, as
9 well as our interpreters and court reporters and all parties and participants to this
10 hearing.

11 We will resume at 2.35, in order to have exactly a one-and-a-half hour break. I ask,
12 please, the court usher to take the witness outside the courtroom.

13 (The witness stands down)

14 PRESIDING JUDGE STEINER: The hearing is suspended.

15 THE COURT OFFICER: All rise.

16 (Luncheon recess taken at 1.05 p.m.)

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

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

19 PRESIDING JUDGE STEINER: Good afternoon. Welcome back. We will
20 continue with the testimony of Witness 06. The Chamber hopes that during the
21 lunch break the Prosecution and Defence had reviewed their positions in relation to
22 the manner by which the questioning of the witness will proceed, in order for us not
23 to have so many interruptions and at the same time in order for the confidentiality of
24 national proceedings to be kept until we have a confirmation from the authorities that
25 the whole content of the proceedings can be disclosed - publicly disclosed.

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1 So I ask, please, the court usher to bring the witness in.

2 (The witness enters the courtroom)

3 PRESIDING JUDGE STEINER: Good afternoon, sir.

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

5 PRESIDING JUDGE STEINER: I hope you had the opportunity to take some rest
6 and that you feel ready to continue giving your testimony.

7 THE WITNESS: (Interpretation) Certainly. Entirely so.

8 PRESIDING JUDGE STEINER: Thank you very much. Maître Kilolo.

9 MR KILOLO: (Interpretation)

10 Q. Witness, I would like to hark back to the last question that was asked of you just
11 before we had our lunch break and the question is as follows. We are still talking
12 about CAF general number 2 -- correction, CAR general number 2. Is it correct to
13 say that this general from the Central African Republic, general number 2, was
14 questioned about his knowledge of the kind of dealings between General Bombayake
15 and the head of the militia of Mr Jean-Pierre Bemba?

16 A. Yes, quite so.

17 Q. Is it correct that general number 2 said that General Bombayake was on
18 ongoing -- was in ongoing touch with Commander Moustapha, the leader of the
19 Banyamulengue in Bangui, and that they were often together, often they would go off
20 together to meet with the Head of State, President Patassé, each time that they
21 thought it was necessary to meet with that person?

22 A. That is correct.

23 MR KILOLO: (Interpretation) We will remain with this same document,
24 CAR-OTP-0019-0232.

25 PRESIDING JUDGE STEINER: Maître Kilolo, I hope you're not going to quote the

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1 document again.

2 MR KILOLO: (Interpretation) Well, I won't be quoting it, but I'd like for it to be put
3 on the screen so that the witness can glance at it each time I ask him a question about
4 it. Could the court officer be so kind as to display the last two paragraphs of this
5 particular page.

6 Q. Witness, is it correct that Central African Republic general number 2 maintained
7 that the members or the militia belonging to the SCPS, the Société Centafricaine de
8 Protection et de Sécurité, had weapons, had been given weapons from President
9 Patassé and Mr Kianzi, that they operated under the authority of Mr Kianzi and
10 certain USP officers, USP standing for the Presidential Security Unit. With regard to
11 Miskine and his men, general number 2 stated that Miskine's men also had received
12 equipment from the USP and they enjoyed better upkeep compared to the FACA.
13 They received an overall food allowance of 5,000 francs.

14 A. Yes, that is correct.

15 PRESIDING JUDGE STEINER: Maître Kilolo, if we don't find a way to comply with
16 the instructions of the Chamber, I will not allow any more this kind of questioning by
17 the Defence. Again, we are turning back to the same point; you quote or paraphrase,
18 which is exactly the same from a confidential document in a public session. It's not
19 possible that there is no other way for the Defence to get the information the Defence
20 needs without breaking the level of confidentiality of a document?

21 MR KILOLO: (Interpretation) If you don't mind, your Honour, if I could consult the
22 other members of my team.

23 Thank you, your Honour. The Defence has understood your decision and we assure
24 you that each time we again make use of confidential documents we will do so in
25 private session and, later on, we will ask that all documents from the Central African

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1 Republic be reclassified as public documents.

2 If we could go into private session, please.

3 *(Private session at 2.48 p.m.) Reclassified as Open session

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

5 MR KILOLO: (Interpretation)

6 Q. Witness, did General Mazi inform you that the health of the troops was

7 managed by the Director-General responsible for the health unit within the national

8 Central African Republic Army that had provided the operations centre at Camp Béal

9 with the services of a physician? We are no longer referring to the document that is

10 on the screen. If an EVD --

11 PRESIDING JUDGE STEINER: Please, court officer. EVD number to the previous
12 document.

13 THE COURT OFFICER: Yes, Madam President. The document referenced as

14 CAR-OTP-0019-0230 will receive the EVD reference as follows: EVD-T-D04-00020

15 and will be marked as confidential.

16 MR KILOLO: (Interpretation) Before you answer, Witness, could we ask the court

17 officer to please display document number 14 on the list of the various documents

18 from the Defence, page 0238. Could we have the next page, please.

19 Q. Witness, this is a document that was found amongst the various documents that

20 you forwarded to the ICC, various documents from the proceedings in Bangui, and

21 my question is as follows, with regard to the health of the soldiers: Did General

22 Mazi inform you that the health of the troops would be managed by the

23 Director-General of the health unit of the Central African Republic Army and that this

24 unit had provided Camp Béal with the services of a physician?

25 A. This is what we see from this memorandum regarding the operational centre.

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1 In actual practice, in practical terms, I don't know whether it was done in that
2 manner.

3 Q. For the reference, for the Chamber, this is document CAR-OTP-0042-0238, that
4 being the French version of the document. Witness, did General André Mazi inform
5 you that the operation centre that had been established, with regard to the events that
6 are of concern to us, managed the planning of military operations, intelligence,
7 logistics and communications?

8 A. Thank you. If it is in the memorandum for the establishment of an operational
9 centre, that means that it is correct; that is what had been decided. But in his
10 statement during the questioning, during the interview, I don't remember him saying
11 or giving that item of information. But if it's in the memorandum, it means that was
12 what had been decided.

13 Q. Could I ask the court officer to display the previous page, 0237, once again of
14 the same document. Witness, I've asked for this document to be shown on the
15 screen, the document that you wanted to look at. Perhaps this will refresh your
16 memory. Now, did General Mazi inform you that the operation centre that was
17 established at Camp Béal, with regard to the events that are of concern to us,
18 managed the planning of military operations as well as intelligence, logistics and
19 communications?

20 A. I don't remember with regard to his statement during the interview, but with
21 reference to the document this is what one sees from the memorandum that set up the
22 operational command. That is what was provided for.

23 Q. For the Chamber's purposes, we are making reference to document
24 CAR-OTP-0042-0238 as well as CAR-OTP-0042-0240; that being the French version.
25 Once again, I would like to ask the court officer to be so kind as to move on to the

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1 next page, page 0238. Witness, were you informed by General André Mazi that the
2 fourth office of the army headquarters had provided for the necessary transportation
3 and fuel for the missions that had been entrusted to the operational centre in Camp
4 Béal?

5 A. During the interview, I don't exactly remember what he had said but once again,
6 if I make reference to this memo of 18 December 2002, that was what was provided
7 for and that must have been what was done.

8 MR KILOLO: (Interpretation) For the Chamber, we are making reference to
9 document CAR-OTP-0042-0238. Your Honour, I no longer require this document to
10 be displayed. Could an EVD number be allocated to it, unless that has already been
11 done.

12 THE COURT OFFICER: If I may, just for the record of the case, document
13 CAR-OTP-0042-0237 already bears EVD reference EVD-T-D04-00019 and is currently
14 marked as confidential.

15 MR KILOLO: (Interpretation) Your Honour, I now have a series of questions to ask
16 of the witness that do not make direct reference to documents from the Central
17 African Republic legal system, and I do want to ask one question. If we make use of
18 information that we may have received from review of the entire file, but at the end
19 of each question, just for the Chamber, I will provide the relevant reference. Do you
20 think that would be possible? Could we go into open session if we proceed in this
21 manner?

22 PRESIDING JUDGE STEINER: Let's try. Let's try, Maître Kilolo. Court officer,
23 please.

24 (Open session at 3.00 p.m.)

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

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1 MR KILOLO: (Interpretation)

2 Q. Witness, I won't be showing you any documents; I simply want to call on your
3 knowledge of this case. Witness, were you informed by General Mazi that, under
4 the instructions of President Patassé, the Central African Minister for Defence,
5 Mr Demafouth, gave orders to have MLC soldiers hosted in Bangui?

6 A. I don't remember exactly, but I'm trying to see. Mr Demafouth, was he still
7 Minister of Defence, or was that later? Because he was arrested and -- tracked down
8 and arrested, but I can't remember the exact date. If he was still minister at that time,
9 then that is very possible; but if he wasn't any longer, then I don't think that can be
10 said.

11 MR KILOLO: (Interpretation) On this topic, I'd like to respectfully draw the
12 attention of the Chamber on document CAR-OTP-0007-0136, the prior statement of a
13 witness in the French language.

14 Q. Witness, were you informed through the file that General Mazi had personally
15 handled some of the Banyamulengue operations; not only in Bangui, but also in the
16 provinces up to -- all the way to Damara?

17 A. No, I didn't have any specific information on that. On the basis of the
18 information I had concerning General Mazi, the arrival of the men, the men of the
19 MLC, and then the first deployment, that was in the hands of General Mazi. But for
20 the remainder and as for possible operations all the way to Damara, well, I have no
21 knowledge of them.

22 Q. Witness, from your answer is it to be understood that, in this respect, you have
23 only some very partial knowledge which is limited to the operations that General
24 Mazi had handled but only those that took place in Bangui and related to the FACA
25 and MLC men?

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1 A. As I already said, I didn't conduct any investigations beyond Bangui; that is
2 what I said. Now, if General Mazi did conduct operations outside of Bangui in
3 Damara, and if I had knowledge of those, I don't see why I would say I didn't
4 have -- I didn't know about them. I can only tell you what I know about.

5 Now, as for that particular question, the operations that might have taken place
6 beyond Bangui in respect of General Mazi, well, I have no knowledge of that.

7 Q. It is the Defence's submission that the Central African General Mazi who, at the
8 very early stages, when the Banyamulengue arrived, himself conducted certain
9 operations not only in Bangui but all the way to Damara. The Defence team refers to
10 the document CAR-OTP-0007-0137, prior statement of a witness in the French
11 language.

12 Witness, perhaps I already asked this question, but sometimes it is a good idea to
13 have things repeated. For the purposes of the transcript of this hearing, were you
14 informed on the basis of the file that the President Patassé was the one who had taken
15 charge of the transportation of the MLC troops from the Congolese territory Zongo
16 before they got to Bangui?

17 A. No, I don't know that. Whether President Patassé looked after the
18 transportation of the troops, well, I have no knowledge of that. But in the file, what
19 is in the file, is a witness - and I can't remember his name - and he spoke about
20 payment for the few -- for the MLC troops from Zongo by Mr Lionel Ganbefio. That
21 is what I can say on this topic.

22 Q. Witness, Mr Lionel Ganbefio, is he an official of the Central African Republic?

23 A. I don't know what his function and practice was, but he was close to the
24 President of the Republic and he handled -- well, he ran a discotheque and he was a
25 former -- he was a French citizen and he was in the vicinity of the president, but

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1 I don't know exactly what his function was; a former French (indiscernible).

2 Q. When you say that Mr Lionel Ganbefio paid for the fuel from Zongo to facilitate
3 transportation of the MLC troops to Bangui, when you speak about Zongo, are you
4 talking about part of the territory of the Democratic Republic of Congo?

5 A. Zongo is a city. It is the town that is opposite Bangui, and what I just said was
6 the statement of a witness. I was repeating the testimony of a witness. Zongo is
7 simply a part of the Democratic Republic of Congo; it is one of the cities of a country
8 that has several such cities.

9 Q. For the purposes of the transcript of this hearing, when you say that Mr Lionel
10 Ganbefio was close to the President of the Republic, are you talking about Ange-Félix
11 Patassé?

12 A. Yes, of course.

13 MR KILOLO: (Interpretation) Your Honour, I would like to respectfully call your
14 attention to document CAR-OTP-0007-0152, preliminary statement by a witness in
15 the French version. Your Honour, could we perhaps go into private session for a
16 short while?

17 PRESIDING JUDGE STEINER: Court officer, please.

18 *(Private session at 3.10 p.m.) Reclassified as Open session

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

20 MR KILOLO: (Interpretation) I would like to ask the court officer if he would please
21 display the document CAR-OTP-0019-0207. This is document number 9 in our list.

22 Q. Witness, we are in private session and before you, you have a document where
23 I can read out the relevant passages: "Appeal Court of Bangui, local court of Bangui,
24 report of interview 2004, 6 January. Before us Pamphile Oradimo, Senior Examining
25 Judge at the Bangui local court, assisted by Pacôme Arsène Kolomeke, court officer

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1 under oath, in the presence of the Prosecutor of the Republic at the local court of
2 Bangui appeared Pierre Angoa." Can you confirm this?

3 A. I can confirm that.

4 MR KILOLO: (Interpretation) I would like to ask the court officer if he would be
5 so kind as to display page 0208 for us.

6 Q. Witness, I can see a little lower down on this document that a reference is made
7 to the fact -- "nothing else being declared, with the accused having read the report,
8 the latter persists and signs, together with ourselves and the court officer." Since
9 you were there, Witness, could you tell us whether Pierre Angoa actually did sign his
10 statement?

11 A. Yes, he did that because I can see his name there. He did sign it, and
12 I remember that interview.

13 Q. On this same page, let me read out the very last paragraph. I'll read out a
14 short excerpt from his statement, and I quote, "Messrs Abdoulaye Miskine, Paul Barril
15 and the SCPS depended exclusively on the Presidency of the Republic." Can you
16 confirm that that was actually what Pierre Angoa stated?

17 A. I can confirm that that is indeed what Pierre Angoa stated.

18 Q. Can you also confirm to the Chamber that Mr Pierre Angoa is a former Minister
19 for the Defence at the time of the events?

20 A. Yes, I can confirm that.

21 MR KILOLO: (Interpretation) May I ask the court officer to come back to the
22 previous page now of this same document. Please display the last paragraph on this
23 page.

24 Q. Witness, can you confirm that Mr Pierre Angoa was appointed Minister for
25 National Defence in the Central African Republic on the date of 30 August 2001 and

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1 remained in that position up to -- or, in any case, during the period of the events since
2 he was dismissed on 22 January 2003?

3 A. Yes, I can confirm that.

4 MR KILOLO: (Interpretation) Witness, well we have finished with the questions
5 relating to Mr Pierre Angoa. I will no longer need this document. Your Honour,
6 perhaps we could have an EVD number assigned to it?

7 PRESIDING JUDGE STEINER: Court officer, please.

8 THE COURT OFFICER: Yes, Madam President. The document referenced as
9 CAR-OTP-0019-0207 will be attributed reference EVD-T-D04-00021 and will be
10 marked as confidential.

11 MR KILOLO: (Interpretation) I would like to ask the court officer to please display
12 document CAR-OTP-0019-0234. This is document number 8 in the Defence team's
13 list.

14 Q. Witness, we are still in private session. I'm afraid that the quality of what I see
15 on the screen is practically unusable by the witness, but hopefully he will be able to
16 manage. I can see him nodding, so perhaps it will be all right.

17 Witness, this is a statement made by Mr Xavier-Sylvestre Yangongo. It is the report
18 of the hearing of the witness. I can see Court of Appeals of Bangui, Local Court of
19 Bangui. Perhaps you could confirm to us that General Xavier-Sylvestre Yangongo
20 was indeed heard in the framework of the proceedings that you were in charge of?

21 A. Yes, indeed, I can confirm that.

22 Q. On that same page, I'm going to read out to you an excerpt of this statement.
23 It's much further down. Perhaps the court officer could scroll down so that we can
24 see the second half of this page. There we are. This is what General Yangongo
25 declared and I quote: "Following the events related to the attempted coup of 28 May

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1 2001, a crisis staff was established under the authority of the Minister for Defence.
2 This committee, or rather this staff, was made up of high-ranking military officers
3 whose role it was to coordinate the various operations. The staff sits at the request
4 of the Head of State at any moment, if so requested. The raison d'être for this staff
5 was to allow the Head of State to personally follow the operations on the ground."

6 Witness, can you confirm that General Yangongo did indeed state this?

7 A. I can confirm that.

8 MR KILOLO: (Interpretation) Could I ask the court officer to please go on to the
9 next page, 0235. Okay.

10 Q. Witness, I'm going to read out to you the question that was addressed to
11 General Yangongo. I quote, "How was it that the Minister for Defence organised the
12 operations on the ground?" His answer is this, "At the time, there were several
13 forces on the ground," and he quotes, "The USP troops, Mr Jean-Pierre Bemba's men,
14 Miskine Abdoulaye's men, Paul Barril's men, the SCPS militia, the Libyan troops, the
15 CEN-SAD troops."

16 Do you confirm that all this was indeed stated by General Yangongo?

17 A. I can confirm that.

18 Q. For the needs of the transcript for this hearing, could you tell the Court what
19 exactly the function of General Yangongo was?

20 A. I do believe * he was deputy Minister for Defence at that time, if I'm not mistaken.

21 MR KILOLO: (Interpretation) Your Honour, I have finished with that particular
22 document. Could we please assign it an EVD number?

23 PRESIDING JUDGE STEINER: Court officer, please.

24 THE COURT OFFICER: Yes, Madam President. The document referenced as

25 CAR-OTP-0019-0234 will be attributed the reference EVD-T-D04-00022 and will be

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1 marked as confidential.

2 MR KILOLO: (Interpretation) I'm so sorry, court officer. I'd like you to come back
3 to the previous page, 0235.

4 Q. To be complete, let me once again read out the question addressed to General
5 Yangongo and the complete answer he provided to that question. First of all the
6 question, "In what way did the Minister for Defence organise the operations on the
7 ground?" General Yangongo's answer, "At the time, there were several forces on the
8 ground: The USP men; Jean-Pierre Bemba's men; Abdoulaye Miskine's men; Paul
9 Barril's men; the SCPS militia; the Libyan troops; and CEN-SAD's troops." And then
10 General Yangongo adds, "All these forces depended directly on the Head of State.
11 They reported their activities directly to the latter, who from time to time would
12 inform us thereof by telephone," end of quote. Can you confirm that that was
13 indeed the statement made by General Yangongo?

14 A. I can confirm that.

15 Q. For reasons of clarity in the transcript for this hearing, could you confirm to the
16 Chamber that, when General Yangongo refers to "the Head of State" on which all
17 these troops - these foreign troops - depended, he is indeed talking about Ange-Félix
18 Patassé?

19 A. That is true.

20 MR KILOLO: (Interpretation) Your Honour, I don't think we need this document
21 any more and I think an EVD number has already been assigned to it.
22 Your Honour, I would once again like to come back to open session. I will no longer
23 be submitting witness statements to our witness. I am simply going to be asking
24 him a series of questions to test his knowledge gained through the file, and at the end
25 for the Chamber I will be referring to the referenced documents.

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1 PRESIDING JUDGE STEINER: Court officer, please let's turn into open session.

2 (Open session at 3.29 p.m.)

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

4 MR KILOLO: (Interpretation)

5 Q. Witness, were you able to obtain any information through your knowledge of
6 the file about the fact that the Central African Colonel Koue, who was in charge of the
7 communication centre for the USP, did handle all the defence frequencies, as well as
8 the programming of all communications devices during the events that we are
9 interested here, from October 2002 to March 2003?

10 A. Could you please repeat the name of the person in question, which might help
11 me to refresh my memory?

12 Q. K-O-U-E.

13 A. No, I do not remember this.

14 Q. In this regard, the Defence's position is that all information regarding
15 operations on the ground were managed by the communication centre of the USP
16 and, in this regard, we are referring for the Chamber to document
17 CAR-OTP-0039-0046, identified as page number 9, preliminary statement by the
18 witness in the French language version. Witness, at the present stage of our
19 exchange, can we state that to the best of your knowledge the CAR General André
20 Mazi was the commander of operations conducted by MLC troops, at the very least in
21 the Bangui zone, from the moment they arrived on Central African territory?

22 A. Yes, I confirm regarding their first moves.

23 Q. The Defence backs up this statement and we will refer for the Chamber to
24 document CAR-OTP-0020-0206, identified as page 15 of the preliminary statement of
25 the witness in French. Witness, given your file for the proceedings in Bangui, were

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1 you able to obtain information showing that Colonel Moustapha had been
2 summonsed by President Patassé to -- in order to work together with CAR Army
3 officers appointed by President Patassé himself?

4 A. No, I cannot confirm that. This -- I was not given this information during the
5 questioning and if it is stating that Colonel Moustapha was convoked by President
6 Patassé to be given instructions to work with officers who were maybe put at his
7 disposal to conduct operations, no, I cannot state this.

8 Q. Do you remember having confirmed to the Chamber that you received
9 information for your file submissions showing that Colonel Moustapha worked in
10 close cooperation with General Bombayake?

11 A. Yes, I recognise that I said this but, regarding the convocation to receive
12 instructions to work with these men, I have to be certain to be able to state this. But I
13 said that Colonel Moustapha was working in close conjunction with General
14 Bombayake.

15 Q. Do you remember stating to the Chamber that you received information
16 showing that from time to time General Bombayake, together with Colonel
17 Moustapha, went to see President Patassé whenever they saw this as being
18 necessary?

19 A. Yes, that is correct.

20 Q. The Defence in relation to this question refers to document CAR-OTP-0020-0228,
21 identified as page 13, preliminary statement of the witness in French. Witness, did
22 you receive information through the proceedings stating that President Patassé
23 regularly went through General Ferdinand Bombayake in order to give orders to
24 Colonel Moustapha?

25 A. No, in order to give directives to Colonel Moustapha, no, I don't remember that

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1 but I do remember that General Bombayake, in his -- during his hearing, said that he
2 received instructions from President Patassé and he ensured these instructions were
3 carried out. He gave orders to ensure the instructions were implemented.

4 Q. Witness, we agree, and regarding this question the Defence refers to document
5 CAR-OTP-0020-0230, identified as page 15 of the preliminary witness statement in
6 French. Witness, through the proceedings in Bangui, were you able to gather
7 information specifying that at no point and in no instance the MLC troops advanced
8 on the ground without having received prior instructions from the High Command of
9 the CAR Army?

10 A. No, I cannot confirm this. I don't confirm this and I specify that even in the
11 statement of general number 2 earlier he stated that the first incursion of the MLC,
12 when there was an incident, the MLC troops moved alone. So in this respect, I have
13 no specific information enabling me to back-up, to confirm, what you have just asked
14 me about.

15 Q. Witness, the Defence's position is very specific on this. At no point the MLC
16 contingent moved without prior orders from the Army of the Central African
17 Republic and we are referring to the document of the Prosecutor's office
18 CAR-OTP-0020-0258, paragraph 648, preliminary witness statement in French.

19 PRESIDING JUDGE STEINER: Yes, Mr Yillah.

20 MR YILLAH: Yes, Madam President, I really apologise for getting up, but I really
21 wanted to heed your direction to ensure that we proceed expeditiously and without
22 interruption.

23 But I don't know whether your Honour may want to defer this to the end of the
24 examination or to resolve it now. It appears to the Prosecution that counsel is
25 providing evidence instead of asking questions, in addition to our earlier objection to

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1 them making closing statements.

2 I mean, your Honours have set out several procedures; they can do this through the

3 Bar table, they can do it by several means that you have set out. But just maybe at

4 the end of the hearing or now, your Honours may want to resolve this issue about

5 Defence putting their thesis and referring to several documents.

6 If I make a count now, the documents would be at least 15 to 20, but I just wanted to

7 raise it up at this stage and ask whether you wish to resolve it now or to defer it to the

8 end of the testimony of the witness, but I just wanted to state our position on the

9 record and would ask for your guidance, really, that they are offering evidence

10 instead of putting questions to the witness.

11 PRESIDING JUDGE STEINER: Thank you very much, Mr Yillah. Of course, the

12 Chamber has already noticed the number of times that Defence is not only making

13 closing statements but exactly right now giving testimony. The Chamber will know

14 how to consider or the weight or no weight to be given to these kinds of statements.

15 I'm sure that the Prosecution should not be so concerned, the Chamber is really aware,

16 as the Chamber was once when Maître Zarambaud also was giving testimony.

17 Maître Kilolo, you can proceed.

18 MR KILOLO: (Interpretation) Your Honour, if I may answer for one moment on this

19 point: I would simply like to say that the Defence is asking these questions and

20 I think that at the end the Defence is entitled to submit its thesis to the witness and it's

21 up to the witness to respond or not and if we are referring to specific documents it's

22 simply for two reasons: First of all, in order to be transparent in relation to the

23 Defence's position and also to help the Chamber to identify the pertinent items which

24 we are raising.

25 We make no claim to provide evidence or proof; we're quite simply basing ourselves

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1 on the answers given by the witness. Thank you, your Honour.

2 Q. Witness, through the file in Bangui did you receive information saying -- stating
3 that Colonel Moustapha Mukiza reported to the CAR General Mazi on a daily basis,
4 even when he was on the battlefield, and that General Mazi is the person to whom he
5 submitted the requests for troops for the MLC?

6 A. Thank you. I cannot confirm this because I am not aware of this statement.

7 MR KILOLO: (Interpretation) For the Chamber, the Defence team is referring to
8 the Prosecutor's document, which is document CAR-OTP-0020-0269, identified as
9 page 6, together with the next page being document CAR-OTP-0020-0270.

10 Q. Witness, at the present stage of our exchange, can we state that you received
11 information through the inquiries, the file, in Bangui describing the chain of
12 transmission of orders on the ground in the following way: Starting from President
13 Ange-Félix Patassé, the orders were conveyed to General Ferdinand Bombayake, who
14 conveyed them to General André Mazi, and the latter passed them on for execution to
15 Colonel Moustapha, who passed them down to the troops, at least in the initial stage
16 of their arrival in Bangui?

17 A. If you're referring to the early stages, it's possible; as for the rest, no. There are
18 nuances to be made regarding this conveying of orders in terms of the authorities
19 who should be -- who were to be receiving the orders, those who were in charge of
20 executing the orders. That's what I can say. Perhaps, for the first part, up to the 4th
21 arrondissement, the 4th district, it's possible because at that point the FACA were
22 operating with the MLC troops, but from then on, further to the incident which
23 occurred, the situation was no longer the same.

24 MR KILOLO: (Interpretation) For the report of the hearing, and it's only for the
25 Chamber, the Defence is referring on this item to a document from the Prosecutor's

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1 office, CAR-OTP-0020-0271, identified as page 8, preliminary witness statement in
2 French.

3 Q. Witness - and this is probably my last question regarding the various military
4 persons involved in the theatre of operations - through your investigations did you
5 obtain information which show that all the essential information on the ground - in
6 particular, information on the enemy positions, the positions of the rebels - were
7 provided to the MLC troops through the CAR battalion which General Ferdinand
8 Bombayake had provided them?

9 A. Could you please repeat, because you're talking about a battalion. I don't
10 know whether you's are referring to the USP, or what. I don't fully understand.

11 Q. Did you receive information on two aspects, first of all, showing that General
12 Ferdinand Bombayake had provided a battalion to the MLC troops; secondly, this
13 battalion provided the essential intelligence, military intelligence, on the ground,
14 namely, the positions of the MLC troops?

15 A. No, I cannot confirm this.

16 Q. Witness, do you recollect having recognised in the Chamber that, based on the
17 information that you gathered, President Patassé provided military intelligence to
18 MLC troops; in particular, on the military activity of the CAR Army, as well as the
19 radio frequencies which were used? Do you remember this?

20 A. I don't recollect. I have no precise recollection of having made such a
21 statement to the Court. What I know is that what -- in terms of what was going on,
22 President Patassé was the chief of the troops and the MLC troops were in favour of
23 him. He was in charge of -- he wanted to defend his regime and, therefore, he
24 wanted to follow the situation closely. That was normal; he was following the
25 situation, he was gathering, taking the information. He had to be aware, he had to

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1 be informed, of all the positions. That goes without saying.

2 MR KILOLO: (Interpretation) I would like to ask the court officer to display
3 document number 2 on the list of the Defence team's documents, page 0109.

4 Q. Witness, without going into detail on the document which you have before you,
5 I'm sure you can read the second paragraph and answer my question, which is as
6 follows: Through your investigations, did you obtain information showing that
7 President Patassé provided military intelligence to MLC troops; in particular, on the
8 number of troops, the military activity of the Central African Republic, on the
9 frequency -- on the channel of this space?

10 A. This is the accusation; these are the charges which are on the basis of the article,
11 on the basis of which these charges are made.

12 Q. This is information which you have already confirmed, as a preliminary?

13 A. Yes, counsel, this is what I've just said; it's part of the charge, part of the charges,
14 which are pressed after the demonstration of the facts and the charges are based on
15 the law which punishes on the basis of this -- this forms the basis of the charges
16 against President Patassé.

17 Q. Do you confirm these facts based on the information in your file?

18 A. Yes, completely.

19 MR KILOLO: (Interpretation) Your Honour, the Defence team would, on this
20 question, like to refer to a document from the Prosecutor's office, it's document
21 CAR-OTP-0027-0653, identified as page 24, preliminary witness statement in French.
22 Court officer, I no longer need the document.

23 Your Honour, I see it's almost 4 o'clock, and I think that the next series of questions
24 could be conducted tomorrow.

25 PRESIDING JUDGE STEINER: Is it still Defence's estimation that tomorrow

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1 morning the Defence will be able to finalise the questioning of the witness?

2 MR KILOLO: (Interpretation) We, in order to be succinct, we hope to have
3 completed by 1 p.m. Of course, we rely on the joint efforts of both the examiners
4 and the witness.

5 PRESIDING JUDGE STEINER: The witness has been quite cooperative in this
6 respect, Maître Kilolo.

7 May I ask Ms Kneuer whether the next witness, 229, is ready to start tomorrow, or
8 whether you have any information in that respect?

9 MS KNEUER: Madam President, Witness 229 would be available for tomorrow.

10 PRESIDING JUDGE STEINER: Mr Witness, thank you very much for another long
11 day of questioning. The Chamber appreciates very much your efforts in giving all
12 possible answers in a very objective, direct and concise way. The Chamber also
13 acknowledges, of course, the efforts made by the Defence in this last part of the
14 hearing in order to avoid discussions related to the confidential nature of some of the
15 documents. So the Chamber very much appreciates the efforts by Defence.

16 Mr Witness, thank you very much for another long day in questioning. The
17 Chamber appreciates very much your efforts in giving all possible answers in a very
18 objective, direct and concise way. The Chamber also acknowledges, of course, the
19 efforts made by the Defence in this last part of the hearing in order to avoid
20 discussions related to the confidential nature of some of the documents. So the
21 Chamber very much appreciates the efforts by the Defence.

22 We are going to adjourn for today. We will resume tomorrow morning at 9.30 in
23 this same courtroom. I thank very much the Prosecution team, the legal
24 representatives of victims, the Defence team, Mr Jean-Pierre Bemba Gombo. We
25 thank very much our interpreters and court reporters.

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1 I will ask, please, the court usher to take the witness outside the courtroom.

2 (The witness stands down)

3 PRESIDING JUDGE STEINER: This hearing is adjourned.

4 THE COURT OFFICER: All rise.

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

6 CORRECTIONS REPORT:

7 The Court Interpretation and Translation Section has made the following corrections
8 in the transcript:

9 * Page 23 lines 20-21:

10 "the former deputy -- delegated Minister for Defence in the Central African
11 Republic" is corrected by

12 "the former deputy Minister for Defence in the Central African Republic"

13 * Page 24 lines 10 to 14 :

14 "I quote, "The Defence Minister Angoa, the delegated Defence Minister, General
15 Yangongo, the delegated Minister for Defence, General Regonessa, the delegated
16 Minister for Defence, Colonel Bouba, the Internal Affairs Minister, Mr Mozoule, the
17 Chief of High Command, General Mbetibangui, the Chief High Command, Senior
18 Command General Antoine Gambi," is corrected by

19 "I quote, "The Defence Minister Angoa, the deputy Defence Minister, General
20 Yangongo, the deputy Minister for Defence, General Regonessa, the deputy Minister
21 for Defence, Colonel Bouba, the Internal Affairs Minister, Mr Mozoule, the Chief of
22 Staff, General Mbetibangui, the Chief of Staff General Antoine Gambi"

23 * Page 62 line 20:

24 "he was Junior Minister for Defence" is corrected by "he was deputy Minister for
25 Defence"

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- 1 RECLASSIFICATION REPORT
- 2 Pursuant to Trial Chamber III 's Orders, ICC-01/05-01/08-2223 and
- 3 ICC-01/05-01/08-3038 and the instructions in the email dated 3 December 2014, the
- 4 version of the transcript with its redactions becomes Public