

Trial Hearing
Witness: CAR-D04-PPPP-0053

(Open Session)

ICC-01/05-01/08

1 International Criminal Court
2 Trial Chamber III - Courtroom 1
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08
5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and
6 Judge Kuniko Ozaki
7 Trial Hearing
8 Tuesday, 14 August 2012
9 (The hearing starts in open session at 9.34 a.m.)
10 THE COURT USHER: All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE STEINER: Good morning, everyone, and welcome back. First,
14 I would ask, please, court officer to call the case.
15 THE COURT OFFICER: Thank you, Madam President.
16 Situation in the Central African Republic, in the case of The Prosecutor versus
17 Jean-Pierre Bemba Gombo, ICC-01/05-01/08.
18 PRESIDING JUDGE STEINER: Thank you very much. I would like to welcome the
19 Prosecution team and just for the record, since we are starting a new phase in the
20 present case, I would ask, please, Prosecution to introduce yourself and your team.
21 MR IVERSON: Good morning, Madam President, your Honours. Today on behalf
22 of the Office of the Prosecutor we have Sanyu Ndagire, Sylvie Vidinha, Petra Kneuer
23 and myself, Eric Iverson.
24 PRESIDING JUDGE STEINER: Thank you. Good morning. Welcome legal
25 representatives of victims and I would like to ask, please, you to introduce

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1 yourselves.

2 MS DOUZIMA LAWSON: (Interpretation) Thank you, your Honour. Good
3 morning. I am Maître Marie-Edith Douzima Lawson, legal representative of victims.

4 MR ZARAMBAUD: (Interpretation) Good morning, your Honours. I am
5 Mr Zarambaud Assingambi, legal representative of victims, and we have our case
6 manager with us, Ms Virginie Roche. I thank you.

7 PRESIDING JUDGE STEINER: Thank you very much. I welcome the Defence
8 team, Mr Jean-Pierre Bemba Gombo. Maître Kilolo, could you please be so kind and
9 introduce again yourself and your team.

10 MR KILOLO: (Interpretation) Thank you, your Honour. The Defence team is
11 made up of the following: Mr Peter Haynes, co-counsel; Ms Kate Gibson, legal
12 assistant; Mr Jean-Jacques Kabongo Mangenda, case manager; and myself, Aimé
13 Kilolo, lead counsel.

14 PRESIDING JUDGE STEINER: Thank you very much.

15 Today the Defence will commence presenting its evidence in this trial and in
16 accordance with the Chamber's decision number 2225 of 7 June 2012 the Defence will
17 commence its presentation of evidence with the testimony of the expert witness called
18 by Defence.

19 Also in accordance with the Chamber's decision number 1023 of 19 November 2010,
20 the order of questioning during the presentation of evidence by the Defence will be as
21 follows: First, Defence will question the witness, then the Prosecution will be given
22 the opportunity to question the witness and finally, provided that a written
23 application has been filed and leave to ask questions has been granted, the legal
24 representatives of victims may pose the questions authorised by the Chamber to the
25 witness. Lastly, pursuant to Rule 140(2)(d) of the Rules of Procedure and Evidence,

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1 the Defence will be given the opportunity to question the witness once more, being
2 the last to question the witness.
3 The first witness called by the Defence is Witness CAR-D04-PPPP-0053, a military
4 expert, General Jacques Seara, who will commence presenting evidence today. No
5 application for protective measures or special measures has been made for the
6 current -- the witness that will sit today before the Chamber and therefore, I just ask,
7 please, the court usher to bring the witness into the courtroom.

8 (The witness enters the courtroom)

9 WITNESS: CAR-D04-PPPP-0053

10 (The witness speaks French)

11 PRESIDING JUDGE STEINER: Good morning. Welcome, General Seara, to this
12 courtroom.

13 First of all, we would like to thank you for taking the time to come and to give
14 testimony before this Court.

15 I think that in front of you you can see a card with the wording of the oath. If not,
16 court usher please could provide the witness with the card.

17 Mr Witness, I would like to ask you, please, to read out the words of the card.

18 Would you please?

19 THE WITNESS: (Interpretation) Could I first ask a question?

20 PRESIDING JUDGE STEINER: Go ahead.

21 THE WITNESS: (Interpretation) Very well. In 2008 I applied to be certified by the
22 Court as a military expert. I was put on a list of military experts and accredited by
23 the Court. I was not put on any list of witnesses, however. A witness is someone
24 who has gone through things, who has experienced things, who has heard things. I
25 was asked to provide advice, so to speak, and to ask -- answer questions, so in the

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1 oath that you are asking me to give, what truth are you referring to exactly?

2 PRESIDING JUDGE STEINER: Maître Kilolo, would you like to clarify your witness,
3 please?

4 MR KILOLO: (Interpretation) Good morning, General. You have been asked to
5 swear an oath insofar that being an expert when you come and give your opinion
6 here as an expert you do so as an expert witness, and from that point of view when
7 you are asked to tell the truth, nothing but the truth, well, that is the usual wording of
8 the oath and it really is just a sincere expression of your willingness to provide your
9 opinion to the best of your knowledge.

10 THE WITNESS: (Interpretation) I understand. In French law a witness and an
11 expert are not the same thing, so perhaps in this case this is a different form of law
12 that prevails here, but I will make this solemn commitment to continue and I do so in
13 a very open and sincere way. I wish to state that I shall tell the truth, the whole truth
14 and nothing but the truth.

15 PRESIDING JUDGE STEINER: Thank you, General Seara, and in order to make it
16 very clear what your oath expresses, my following question is that you have provided
17 the Court with a report which is dated 12 July 2012, comprised of 56 pages. To the
18 best of your knowledge, are the contents of that report a true reflection of your views
19 impartially stated?

20 THE WITNESS: (Interpretation) Yes, I believe that this is the case. However, I do
21 have two points that I would like to correct, if you don't mind?

22 PRESIDING JUDGE STEINER: Go ahead, Mr Witness.

23 THE WITNESS: (Interpretation) First of all, there is a minor error at paragraph 204
24 that I would like to correct.

25 THE INTERPRETER: Message from the interpreter: This error has to do with a

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1 name.

2 THE WITNESS: (Interpretation) The name that I put here as Chief of Defence Staff

3 I put "General Gambi," but at the time this was General Betibangi.

4 And the second point I would like to make, this is a minor point I'd like to clear up,

5 paragraph 217. This is something that might be misinterpreted. At paragraph 217 I

6 made reference to an agreement that was reached on 2 October 2002. In actual fact,

7 that date, 2 October, is the date of the decision that was taken to remove CEN-SAD

8 and to have CEMAC come in. The agreement was actually signed on 19

9 October 2002 and the draft provided for a gradual handing over of the responsibility

10 from CEN-SAD to CEMAC.

11 So this transition, this hand over, was over after 19 October and continued until

12 December and this hand over was gradually carried out and that actually continued

13 into the following year. So those were the two points that I wanted to clear up, two

14 points stemming from my report.

15 PRESIDING JUDGE STEINER: Thank you very much, General, for these corrections

16 that are on the record of the case and therefore integrated in your report.

17 General, although you'll be testifying in open court with your identity known to the

18 public in general, there are other persons, victims or witnesses or persons connected

19 with this case, whose identities are not publicly known. I would ask therefore that

20 you exercise caution, with the help of Defence, in mentioning names of persons who

21 may be considered vulnerable in the context of these proceedings. If need be, Maître

22 Kilolo, the Chamber will ask you to provide the witness with code-names that you

23 deem necessary in order to protect identities of vulnerable persons and that will be

24 done of course in private session.

25 General Seara, you'll be questioned first by the Defence, later on by the Prosecution,

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1 by legal representatives of victims and finally Defence will be given again the
2 opportunity to put to you some follow-up questions. The legal representatives of
3 victims authorised to participate in the proceedings, the decision on the questions
4 authorised to put to you will be issued in due time.

5 Before, sir, I give the floor to the Defence, there are some important ground rules that
6 must be observed during the questioning which I'm afraid make the process
7 somewhat artificial, but are necessary.

8 As you can see in either sides of our courtroom, we have interpreters and I welcome
9 our interpreters and we have court reporters who I welcome as well. They have a
10 very difficult job, because they need to provide us with simultaneous interpretation,
11 in your case in English and French, so it's absolutely critical that you bear in mind
12 that without being too slow you are asked to speak slower than normal and this is
13 why I said it could seem artificial, but it's necessary to give the interpreters and court
14 reporters the time they need to do their job.

15 As well, General Seara, we have here what we call a five-seconds golden rule. That
16 means that, after any of the parties put a question to you, you should start -- you
17 should wait five seconds before you start giving your answer in order to allow
18 interpreters to finish the translation of the questions. If it happens that you start
19 speeding up, I will have to interrupt you and please don't take offence. This is just
20 for practical reasons.

21 I will now give the floor to the Defence to start with your -- with its questioning,
22 reminding the Defence that Defence was granted 12 hours to question its expert
23 witness.

24 Maître Kilolo, you have the floor.

25 MR KILOLO: (Interpretation)

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1 QUESTIONED BY MR KILOLO: (Interpretation)

2 Q. Once again, good morning, General. General, could I ask you to introduce
3 yourself? Could you please provide us with your full name and tell us your
4 profession?

5 A. I am Seara, Jacques, and I am a retired French army officer.

6 Q. General, could you please briefly tell us your past life path, including your
7 academic training?

8 A. Well, I began my military training in 1964 when I passed the entrance exam and
9 joined the Saint-Cyr military school. After two years of military training, I continued
10 and had one year of infantry training at the French infantry school, and after that I
11 served at all ranks within the infantry and also at staff headquarters. I began as a
12 head of section, then commanded a larger unit, then I was a captain. After that I
13 tried the exam to join the French Staff College and had training there.
14 After that, I went to the British Army Staff College in Camberley and with that
15 particular training I had British qualifications. After that, I passed the entrance exam
16 and studied at the French school of war in Paris. Then I commanded a regiment of
17 2,000 men, about the same size as the brigade that was sent to the Central African
18 Republic.
19 After that I was assigned to the headquarters of the land forces where I took on a
20 number of duties within the land forces, and as part of those duties I was responsible
21 for the dealings between the French land forces and foreign armies that we had been
22 co-operating with and we worked in that particular field, expanding co-operation
23 between these units. After that I was a member of -- correction, then I was assigned
24 to Vienna, Austria, and I ended my career in Paris at the military school and I was
25 working on the harmonisation of a document there that allowed for harmonisation of

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1 French military terminology and NATO military terminology. So there you have it.

2 Those were the highlights of my career.

3 Q. General, how many years exactly did you spend working for the French army?

4 A. 37 years.

5 Q. More specifically, what was your last rank within the French army?

6 A. Brigadier-General.

7 THE INTERPRETER: Message from the interpreters: Could the witness be asked
8 to respect the five-second rule?

9 MR KILOLO: (Interpretation)

10 Q. General, could I remind you of the five-second rule. General, did you receive
11 any honorary ranks, any distinctions, during your career?

12 A. Well, I was give the rank of Officer of the Legion of Honour, the National Order
13 of Merit as well, and I am also an Officer of the Legion of Merit of the German
14 Republic.

15 Q. Have you any experience in the actual conduct of military operations?

16 A. Well, I did receive training and gained experience that way at the French Staff
17 College, at the British Staff College and that training is equivalent to the conduct of
18 operations. The training that I received at the Superior School of War was at a
19 higher level; that is to say that training was intended to allow officers to assume the
20 highest levels of responsibility within the French army. I also held responsibility at
21 the regimental level and at that level, at the level of the regiment, I was head of
22 operations and intelligence officer within the French division and then I took part in
23 many allied operations in Germany working also with NATO counterparts, with
24 American, British, Canadian counterparts and German counterparts. So I also have
25 experience within -- working within an allied command structure.

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1 Q. Do you have experience in the area of military intelligence?

2 A. I was intelligence officer for a division, so I am familiar with all the principles
3 that govern the intelligence service at the level of a division, but not at a higher level.

4 Q. According to you, what is the importance of intelligence within the framework
5 of a military operation?

6 A. Intelligence is crucial and it covers various aspects. To begin with, for the
7 officers in charge, intelligence requires them to have received training relating to the
8 organisation, functioning and manner of action of potential enemies, and within the
9 context of the work of the intelligence officer in the General Staff you have planning
10 and sometimes you have to put yourself in the place of the enemy and to establish
11 hypotheses relating to the possible reactions of the enemy, taking into account the
12 available resources, the landscape and the population. So you have to come up with
13 intelligence research plans and then you ask for the units on the ground to look for
14 the intelligence information that the intelligence officer needs to confirm his
15 hypothesis.

16 Then this information is gathered and cross-checked, giving a relatively clear idea of
17 the situation of the enemy and this is compared with the information provided by
18 counterpart officers in the other sections of the General Staff, and this relates
19 particularly to the possible reactions of the enemy. That in a nutshell is what the
20 general officer, the intelligence officer in the General Staff, does.

21 Q. Do you have any experience in the command of troops who have been sourced
22 from different command -- different chains of command?

23 A. Yes. In the course of the various allied forces manoeuvres in which I
24 participated, and this was some time back, it was during the time of the Cold War,
25 everybody was afraid of a possible third world war which finally did not take place,

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1 so it was important for us to have the experience of working in collaboration with our
2 allies and it was within that context that I acquired that experience.

3 Q. Did you ever work in an operations centre?

4 A. Yes, absolutely. I worked in an operations centre at the level of a division, and
5 a French division was a large unit at the time, at the time. I also commanded an
6 operations centre for a regiment which currently would correspond to a brigade, so I
7 am perfectly familiar with the work of a General Staff officer who is under the
8 authority of the Army Chief of Staff. I am also familiar with the role of the
9 commander of an operations centre, because this is a position that I once occupied.

10 Q. General, what specifically is the role of an operations centre?

11 A. In a nutshell, I would say that this is a tool for the commander of the forces on
12 the ground. It is the General Staff that organises the work of the operations centre
13 and makes it possible for the commanders to have a complete summary of all the
14 elements that are necessary for him to be able to take a decision. So what a
15 commander expects from his General Staff is to have an overview of the situation and
16 proposed solutions and then it would be up to him to decide on a solution from
17 amongst the various solutions proposed to him. That is the solution that seems to
18 him to be most appropriate in relation to the prevailing circumstances.

19 Q. Do you have any experience in the area of the management of relations between
20 civilians and soldiers in a conflict area?

21 A. Not specifically in a conflict area. However, when I was a member of the
22 French delegation to the organisation for security and co-operation in Europe, I had
23 as one of my duties the Code of Conduct of the OSCE. I am not going to give you
24 details here, but the Code of Conduct underscores the democratic control of the
25 armed forces. So it is an authority that is democratically elected that has powers

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1 over the armed forces and the armed forces have to be constituted in a reasonable
2 manner; that is, it has to be consistent with the resources available to the country, it
3 has to be proportional to the size of the country, the population of the country and
4 potential threats. So the relationship between the soldiers and the civilians is really
5 the relationship between the soldiers and the civilian authorities; that is the soldiers
6 come under the authority of the legitimately elected civilian authorities.

7 Q. Apart from the OSCE, do you have any work experience with other regional or
8 multinational military structures?

9 A. As part of my duties as head of the international relations of the French army, I
10 was quite frequently in contact with my foreign counterparts. We used to travel and
11 meet them, with a delegation of course, and we also received them in France.

12 Q. In your military career, did you ever have anything to do with the NATO
13 military structure?

14 A. Yes, of course. A short while ago I talked about the military manoeuvres that
15 were carried out by the NATO allies, which involved not only the General Staffs, but
16 also the forces of the various member States. There was only one difference with
17 other military operations and that is because no one was killed. People were
18 designated in advance to be the victims of such operations in order to bring in the
19 health services of the armies so that the military manoeuvres should be as realistic as
20 possible.

21 Q. You mentioned the infantry. Do you have any specific experience in the area
22 of the training of infantry officers?

23 A. To begin with, an officer is a permanent instructor. He is there every day to
24 train those who are under his authority, correct their errors and perfect their training.
25 Apart from that I was an instructor in the infantry school, as well as at other levels.

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1 I can say that I trained non-commissioned officers and junior officers, particularly
2 staff officers, as well as senior officers, particularly those who were preparing for the
3 entrance examination into the school -- the war school.

4 Q. General, can we therefore say that you have very good experience in the area of
5 the organisation and exercise of military command?

6 A. I believe that you can say that. Generally speaking, in order to be a good
7 commander you have to be able to have organised your forces, so it is the daily duty
8 of the officer to organise and command as well as to train, so I believe that over the
9 37 years that I spent in the French army I believe that I have considerable experience
10 in organisation and command.

11 Q. Did you perform any other duties; that is after the end of your career in the
12 French armed forces?

13 A. From 2004 to 2006, I was the regional director of the OSCE in Tuzla in
14 Bosnia-Herzegovina which was in the northeast sector of Bosnia-Herzegovina, which
15 was very important because that is where the town of Srebrenica is located. My
16 duties were diplomatic in nature and I supervised the implementation of the
17 programmes put in place by the OSCE. I was in permanent contact with the military
18 and civilian authorities in my area of responsibility.

19 MR KILOLO: (Interpretation) I would like now to ask the court officer to display
20 the third document from the Defence list. It's a public document,
21 CAR-D04-0003-0342, the first page.

22 THE COURT OFFICER: I wish just to inform that you can see the document when
23 pressing on "PC1".

24 MR KILOLO: (Interpretation)

25 Q. General, you can see a document on your screen there titled "Situation in the

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1 Central African Republic in the case The Prosecutor versus Jean-Pierre Bemba Gombo,
2 Military Expert Report for the Defence by Retired Brigadier-General Jacques Seara."

3 Does this document ring a bell?

4 A. This is the document that I produced.

5 MR KILOLO: (Interpretation) I would like to ask the court officer to display page
6 54 of this document; that is CAR-D04-0003-0395. Can the signature also be displayed,
7 please, that is at the bottom of the page?

8 Q. General, I will read out an extract of the conclusion of this report and then I'll
9 ask you a question. In paragraph 292 it is written, and I quote, "It is clear that the
10 command of operations during the entire duration of the conflict was Central African
11 and this is perfectly consistent with the regulations and standards in force in this type
12 of engagement." There is a date 12/07/2012 and then there is a signature and the
13 name "General Jacques Seara." Do you recognise this part of your conclusion as well
14 as the signature?

15 A. Yes.

16 Q. Let me seize this opportunity, General, to remind you of the five-second rule.
17 Court officer, please display the next page, which is CAR-D04-0003-0396.
18 General, you have there a document which is actually a sketch. The title is "Annex 1:
19 Structure of the Central African Command." Are you able to see that at the very top
20 there inside the square you have "President Patassé, Commander-in-Chief of the
21 Army," and then below at the bottom you have "FACA, MLC, Miskine, Barril, Libyans,
22 CEN-SAD, Karakos and USP." Do you recognise this document?

23 A. This is a summary document, an organisation chart that I prepared to show the
24 three strategic -- the three levels, that is the strategic, operational and tactical levels,
25 and this also shows the chain of command of the Central African forces from October

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1 to December 2002.

2 MR KILOLO: (Interpretation) Court officer, I'm done with this document.

3 Q. Now, General, do you know who drafted each of the paragraphs of this report?

4 A. That report is entirely my responsibility. I was responsible for preparing and
5 producing it. It is not in my nature to dictate to anybody, so I prepared this

6 document based on the documents that I received in English and French that were
7 sent to me by the Defence and the document -- my report was also based on the
8 interviews that I conducted with witnesses in Kinshasa and then in Brazzaville.

9 Q. Witness, as from page 5 of your report, that is CAR-D04-0003-0346, it is entitled
10 "List of reference documents and (Redacted)
11 (Redacted) that you consulted before drafting your
12 report, and I can see that from page 5 to page 9 this list includes amongst others
13 General Opende who is the military expert of the Prosecutor, there is General
14 Bombayake, Colonel Thierry Lengbe, General Mazi, the Central African Officer Albert
15 Ouandane, the Central African Officer Alain José Bemondombi, the Central African
16 Officer Bruno Barsin, Officer Zéphirin Mamadou, the Central African General
17 Sylvestre Yangongo, Officer Boykoule-Nzongele and Magistrates Firmin Findiro and
18 Pamphile Oradimo and this list is not exhaustive.

19 My question to you is as follows: Did you personally read and (Redacted)
20 (Redacted)
21 (Redacted)

22 A. I read all the documents that were sent to me by the Defence and, as I said a
23 short while ago, I read them both in the French and English versions and incidentally
24 some of the translations leave something to be desired.

25 Q. General, which languages do you understand and speak?

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1 A. My mother tongue, that is French. I also studied the English language
2 throughout my entire career and even afterwards, because as the regional director for
3 the OSCE in Bosnia-Herzegovina the working language was English, and I should
4 also add that I have an acceptable knowledge of German.

5 PRESIDING JUDGE STEINER: I ask, please, court officer to turn very briefly into
6 private session.

7 (Private session at 10.30 a.m.)* Reclassified as Open session

8 THE COURT OFFICER: Your Honours, we are in private session.

9 PRESIDING JUDGE STEINER: I just wanted a clarification mainly, maybe
10 Mr Iverson could give us some light. All these names that were mentioned in public
11 session (Redacted)

12 MR IVERSON: (Redacted)

13 PRESIDING JUDGE STEINER: Any comment, Maître?

14 MR KILOLO: (Interpretation) Madam President, I would like first of all to draw
15 your attention to the fact that this document, the expert report, is a public document.

16 Secondly, I mentioned two categories of persons. There is one category of
17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted) I therefore do not see any difficulty with

21 mentioning the names that were mentioned a short while ago, like (Redacted) and

22 (Redacted) and others who have already died. It is quite deliberately that I didn't
23 mention (Redacted) whose name I now mention in private session.

24 PRESIDING JUDGE STEINER: Maybe, Maître, we have a problem with the English
25 transcript, because on page 19 it's clear that your question was (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 You have the floor, Maître.

17 MR KILOLO: (Interpretation) Madam President, I would like to recall for the
18 benefit of the entire Court that when I questioned the two Central African magistrates
19 in court, Oradimo and Findiro, their names were mentioned in open session and that
20 did not cause any challenge from the other side.

21 PRESIDING JUDGE STEINER: Maître, again I would try to make myself
22 understood. (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 For the time being, before we clarify the matter in order not to give any -- not to delay
2 further the proceedings, I ask, please, court officer to prepare a decision on the
3 redaction from -- on page 18, from lines 20 to 25. Later the redactions can be lifted.

4 (Redacted)

5 (Redacted)

6 We can come back into open session, please.

7 (Open session at 10.36 a.m.)

8 THE COURT OFFICER: Your Honours, we are in open session.

9 PRESIDING JUDGE STEINER: Maître Kilolo, please.

10 MR KILOLO: (Interpretation)

11 Q. General, apart from these various persons whose statements you read and
12 analysed, that is their statements and testimonies to this Court, did you talk to any
13 other persons before drafting your report?

14 A. Before I finalised my report, I asked you for permission to meet a sampling of
15 persons in whom I was interested, and I asked for suggestions as to names and
16 positions of these persons to enable me to choose from among those suggestions after
17 determining the positions that were held by those persons at the time of the events.
18 You made a number of suggestions and I selected mainly those who experienced the
19 conflict as closely as possible to the commander of the MLC detachment to the
20 Central African Republic at that time. I then also wanted to meet the Central African
21 officers who had decided not to follow the President of the Republic, but to join the
22 rebels, and I did so in order to get their point of view on the unfolding of the conflict.
23 That is what I needed to conclude my report. Defence was kind enough to offer me
24 that opportunity, which was very useful and which enabled me to finalise the
25 drafting of my report.

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1 Q. The information obtained from these officers, be they Central African or
2 Congolese, did such information corroborate or confirm the information that you
3 found in the various documents you consulted?

4 A. Most of the statements I was able to gather from the Congolese side did confirm
5 a number of deductions or assumptions of facts that were contained in my report.
6 Some interesting details shed more light on some of the conclusions that I had already
7 drawn from my analysis. When I interviewed the Central African Republic officers
8 who at the time of the conflict were on the side of the rebels was quite enlightening
9 and provided new information for me to the extent that none of the documents that
10 had been submitted to me dealt with that aspect of the conflict, so it gave me an
11 opportunity to see the other side of the picture, if I may say so.

12 MR KILOLO: (Interpretation) I would like to ask the court officer to display
13 document number 3 of the Defence list of documents, last page, and that will be page
14 CAR-D04-0003-0397.

15 THE COURT OFFICER: The document can be viewed on "PC1".

16 MR KILOLO: (Interpretation)

17 Q. General, this is a second sketch that is now before you. We had looked at the
18 first sketch captioned "Annex 1: Structure of the Central African command from
19 October 2002 to December 2002." Now, Annex 2, which is before you, reads as
20 follows: "Structure of the Central African command from December 2002 to
21 March 2003." On that sketch you see at the very top a box in which is written
22 "President Patassé, Commander-in-Chief of the Army." Then at the bottom of the
23 page you have a number of boxes, including respectively "FACA, MLC, Miskine,
24 Barril, Libyans, CEN-SAD, Karakos and USP."
25 General, does this diagram ring a bell to you?

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1 A. Yes, this is the second organisation structure which I designed to depict the
2 three levels of command, strategic, operational and tactical, between December 2002,
3 at which point the head of the presidential security unit was given more powers.

4 MR KILOLO: (Interpretation) Court officer, I no longer need this document on the
5 screen.

6 Q. Now, General, following from that, I would like to ask whether the information
7 you gathered from the various documents you consulted as well as from your
8 personal research and interviews with Central African and Congolese officers, did
9 that information appear to be sufficient for you to come to an informed opinion as
10 you finalised your report?

11 A. The amount of information gathered was quite significant. I read through a
12 number of documents, I conducted a number of interviews and it became possible for
13 me quite sincerely to come to an opinion; an opinion which would be useful for the
14 Court in the matter before the Court. That opinion came to me gradually over time
15 as I delved into the details while reading through the documents, and I think it was
16 sufficient.

17 Although one may not always be fully satisfied with the work that one has done
18 because one may always need some more time to delve even deeper, but I was
19 working within certain time-frames and I had the possibility to look into information
20 both written and verbal which to my mind were sufficient to enable me come to a
21 reasoned opinion.

22 Q. General, on the basis of the documents you analysed and the interviews you
23 had with Congolese and Central African officers, as well as your personal research
24 and even by virtue of your military experience, were you able to somehow
25 reconstruct in your mind the events that occurred in the Central African Republic

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1 between October 2002 and March 2003?

2 A. The answer is yes. In spite of the amnesia that may have stricken a number of
3 persons who were questioned or interviewed, particularly on specific issues, some
4 kind of collective amnesia given that many of those who were interviewed or who
5 made statements do testify or state that there are no written documents of what
6 happened during the period under review, that is the situation and therefore I read
7 the documents to the best of my ability, I read them over and over again, I analysed
8 them and I think that there are a number of testimonies and statements which quite
9 simply put a smile on my face, so to speak.

10 Q. General, based on the documents you analysed, were you able to determine the
11 different levels of military command within the Central African military forces
12 between September 2000 -- October 2002 and March 2003?

13 A. Yes, certainly. The three levels of command were in place. The President of
14 the Republic, President Patassé, by virtue of the constitution was the
15 commander-in-chief of the army, and at his disposition or available to him was a
16 defence committee which was made up of all the defence senior authorities of the
17 State and he could convene them whenever he needed to. This, Counsel, included
18 the Prime Minister, the Minister of Defence, the Minister Delegate for Defence, the
19 Minister of the Interior, the Director of the Police, the Director of the Gendarmerie
20 and the Commander of the Presidential Security Unit. Whenever he wanted to, he
21 was free to invite other ministers or other senior State officers to attend meetings of
22 that council.

23 At the operational level, the Chief of Staff of the army was in place. There were
24 Chiefs of Staff of the army and then there was the headquarters of the Operational
25 Command Centre during the conflict which brought together a headquarters, that

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1 is -- or a General Staff that is usually in place, but it must be stated that this General
2 Staff existed before the conflict and then we have the operational command where all
3 the detachment commanders meet subject to the Chief of Staff and the chief of the
4 Central African Army.

5 MR KILOLO: (Interpretation) I would like to ask the court officer to kindly display
6 document 71 of the Defence list of documents, page CAR-DEF-0001-0132. Please
7 kindly refer to Article 21, please. Can you please focus better on Article 21 and put it
8 at the centre of the page? Thank you.

9 Q. General, I would like to read out a brief excerpt of the Central African
10 constitution which you have referred to. I want to read Article 21, which reads as
11 follows, "Article 21, paragraph 1, the President of the Republic is the Head of State.
12 He is the incarnation and symbolises national unity. He shall ensure that the
13 constitution is respected. He shall by way of arbitration ensure that the public
14 services function properly as well as ensure the continuity and sustainability of the
15 State. He is the guarantor of national independence, territorial integrity and respect
16 for treaties and agreements."

17 Paragraph 6 of Article 21 states that, "He is the commander-in-chief of the army. He
18 shall convene and chair the Supreme Council for national defence," end of quote.
19 General, these functions or duties of the Head of State as outlined in Article 21, were
20 they effectively carried out on the ground regarding the various loyalist forces,
21 including the MLC?

22 A. I would like first of all to say that this article of the Central African Republic
23 constitution was effectively implemented when the president chaired the Defence
24 Council. It was at the Defence Council meeting that upon reviewing the available
25 resources in the face of an aggression that the determination was made as to whether

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1 to proceed single-handedly or to call for help. The president's decision was thus
2 taken at the Defence Council to call for help from the MLC forces.

3 Now, turning to his powers, as commander of the army he was in a position to
4 appoint the Chief of Joint Staff who was in charge of all the forces in the Central
5 African Republic and such a chief was supposed to receive orders from the Defence
6 Council and convey them to the General Staff for the planning and preparation and
7 conduct of the operations to be undertaken compliant with the decisions of the
8 Defence Council and the President of the Republic, President Patassé.

9 PRESIDING JUDGE STEINER: General, we will go now for a short break, a
10 half-an-hour break, deserved by our interpreters, court reporters and our witnesses as
11 well. It's 11 o'clock. We will resume at 11.30, but before I ask, please, the court
12 usher to accompany the witness outside the courtroom. In the meantime, before we
13 suspend, I will ask court officer to turn very, very briefly into private session.

14 (The witness stands down)

15 (Private session at 10.58 a.m.) * Reclassified as Open session

16 THE COURT OFFICER: Your Honours, we're in private session.

17 PRESIDING JUDGE STEINER: Maître Kilolo, I would like to put to you a question.

18 In the report of the expert, in the report of the expert witness, at page 0350, the
19 witness - the expert witness - in paragraph 4 adds a list of the persons that he
20 interviewed. In relation to the witness he interviewed or the persons he interviewed
21 in Congo-Brazzaville, there are three Defence witnesses, and my question is any of
22 these witnesses one of those whose current location should be kept confidential; and
23 I'm talking about Defence witness 22, 23 and 25?

24 MR KILOLO: (Interpretation) Your Honour, to my knowledge, given that the
25 address has not been provided in public, there is no problem specifying that they are

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1 in one particular country or another.

2 PRESIDING JUDGE STEINER: I would ask as well the Prosecution if possible
3 during the break to prepare an information for the Chamber on which names should
4 be redacted from pages 346 to 350.

5 MR IVERSON: We will do that, Madam President.

6 PRESIDING JUDGE STEINER: Thank you very much.

7 This hearing is suspended. We resume at 11.35.

8 THE COURT USHER: All rise.

9 (Recess taken at 11.01 a.m.)

10 (Upon resuming in open session at 11.39 a.m.)

11 THE COURT USHER: All rise.

12 Please be seated.

13 PRESIDING JUDGE STEINER: Welcome back.

14 The Chamber is informed that the Prosecution would like to address the Chamber in
15 private session. Court officer, please let's go briefly into private session.

16 (Private session at 11.40 a.m.) * Reclassified as Open session

17 THE COURT OFFICER: Your Honours, we're in private session.

18 MR IVERSON: Madam President, during the break we took the opportunity to look
19 at the transcript and came to what we think is a pretty reasonable solution for the
20 issue of redactions.

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 PRESIDING JUDGE STEINER: Thank you, Mr Iverson.
- 2 Maître Kilolo, any comment?
- 3 MR KILOLO: (Interpretation) No comment in particular, your Honour.
- 4 PRESIDING JUDGE STEINER: So, therefore, the Chamber orders the lifting of the
- 5 redactions previously applied.
- 6 Sorry, Mr Iverson?
- 7 MR IVERSON: I'm sorry, Madam President, I didn't mean to interrupt you. I just
- 8 had one additional issue that's related, but maybe it would be best to let you finish
- 9 with what you were saying.
- 10 PRESIDING JUDGE STEINER: The Chamber then orders the lifting of the
- 11 redactions order previously and, on the other hand, orders the court officer to apply
- 12 redactions (Redacted)
- 13 Mr Iverson, you have the floor.
- 14 MR IVERSON: Madam President, in addition to -- this is also an issue of redactions.
- 15 Because the expert report, which is (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 Is that fine with you, Maître?
- 25 MR KILOLO: (Interpretation) No problem, your Honour. In any event, the

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1 Defence does not intend to make use of those particular pages.

2 PRESIDING JUDGE STEINER: Thank you very much.

3 Court officer, please turn back into open session.

4 (Open session at 11.46 a.m.)

5 THE COURT OFFICER: Your Honours, we are in open session.

6 PRESIDING JUDGE STEINER: I ask, please, court usher to bring the witness in.

7 (The witness enters the courtroom)

8 PRESIDING JUDGE STEINER: General, welcome back.

9 THE WITNESS: (Interpretation) No problem.

10 PRESIDING JUDGE STEINER: Maître Kilolo, you have the floor.

11 MR KILOLO: (Interpretation)

12 Q. General, just before the break, you began speaking about the command at the
13 strategic level within the Central African Republic. Now, judging by the documents
14 that you analysed, could you tell us about the various decisions that were taken at the
15 strategic level within the framework of this particular conflict occurring in 2002 and
16 2003?

17 A. Well, within the Defence Council, that was a global analysis that had to be
18 conducted, and it was a matter of setting objectives according to the various capacities
19 and resources that were available. Entering into a conflict means having money, so
20 at that level one takes stock of the means available, possible requests for assistance
21 that might have to be made, and then each ministry would work in light of the
22 decision taken by the Defence Council.
23 Now, one can imagine that when the Defence Council met it would have been
24 decided that the first phase would have been to find the money, so to speak, and then
25 secondly drive back the rebels to the border with Chad, since they came from Chad.

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1 So one would expect that there were two major periods of time within the
2 engagement and that all means had to be put into place and everything would have
3 had to be devoted to those particular objectives, so each ministry would have had to
4 work to support these decisions taken by the Defence Council and by the President of
5 the Republic.

6 Q. You mention the President of the Republic. Which one are you speaking of?

7 A. President Patassé.

8 Q. Which units did these decisions apply to; the decisions taken by the Defence
9 Council?

10 A. Well, from a military point of view, the person responsible for deployment of
11 the forces was the Chief of Joint Staff, General Beti --

12 THE INTERPRETER: Inaudible.

13 THE WITNESS: (Interpretation) -- who would have had to organise all of that and
14 ensure proper cohesion within the various forces that were to take part in the conflict.
15 It so happened that his health was extremely precarious at the time and so it was his
16 assistant. I believe I could give the name, General Mazi. He was the one who acted
17 on his behalf, since the Chief of Staff who was -- actually who was there was in such
18 poor health.

19 MR KILOLO: (Interpretation)

20 Q. Now, tell us about the operations of the Defence Council within the Central
21 African Republic at the time. Did that Defence Council work in the usual sort of
22 way, judging by military standards?

23 A. Well, the national -- this National Defence Council would take decisions and
24 then soldiers would take note of these decisions and turn them into military
25 operations, conduct operations, prepare various means and resources, bring them all

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1 together, all with a view to meeting the objectives that had been set; the military
2 objectives. Other objectives may have been entrusted to another ministry and that
3 other ministry would have had to mobilise to reach the objective in question, but from
4 a military point of view it was the Chief of Joint Staff who was responsible for
5 implementation of all military aspects relating to such decisions.

6 Q. A few moments ago, you mentioned General Mazi. Now, what level was he at
7 within the command structure of the Central African Republic forces at that time?

8 A. Well, since he was Chief of Joint Staff, replacing the other general who was ill,
9 he was at the operative level, you see, and his responsibility was the one that I just
10 defined; namely, prepare and implement all military forces needed to meet the
11 objectives that had been set by the Defence Council.

12 Q. Now, judging by your analysis, was there a particular structure implemented
13 within the Central African Republic to assist the general, the Chief of Staff, with these
14 operative matters?

15 A. There was an Operational Command Centre and, you see, the
16 headquarters - the military headquarters - of the Chief of Joint Staff, well, once you
17 begin a conflict, the staff headquarters becomes an Operational Command Centre.
18 So the Operational Command Centre was set up in 2001, I believe, and naturally that
19 was implemented to assist General Mazi to help him prepare these military
20 operations.

21 Q. Now, in light of your experience, could you tell us whether you could imagine a
22 military operation of the scope such as this one going into effect without a specific
23 command structure?

24 A. No, it's not possible for a Chief of Joint Staff to implement an entire system, with
25 all that that entails, without the assistance of staff headquarters that would deal with

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1 all the various military aspects. It just is not possible. A single man cannot handle
2 everything relating to national security.

3 Q. Were you in a position to review the various decisions taken at the operative
4 level in relation to the ALC detachment in the Central African Republic?

5 A. Well, I think we'll have to go back in time somewhat. Once President Patassé
6 called upon the MLC and asked for reinforcements, it was up to the staff
7 headquarters to integrate those forces with the forces of the CAF (sic) forces and other
8 components of the forces that were there and who had remained loyal to President
9 Patassé, and this with a view to planning and co-ordinating and setting out the
10 actions of these various forces, and all of this would have to be part of a consistent,
11 coherent system that would be working towards those objectives set by the Defence
12 Council and by President Patassé himself.

13 Q. Well, given your military experience, could you tell us whether the commander
14 of -- the theatre commander at the operative level could within this context give
15 orders from his command post without actually going into the field?

16 A. Well, he could give orders from his command post in light of various proposals
17 brought to his attention by the staff headquarters, but any military leader within a
18 conflict needs to go to the field. He needs to go and actually see the terrain, see the
19 men. He needs to see the commanders in the field so he can see what their
20 difficulties are, what their concerns are, and perhaps give them verbal advice or
21 instructions that allows them to really get a proper feeling of the situation and better
22 understand things by actually going out and being in the field.
23 The command, the orders, the operational orders, that comes -- they come from the
24 command post. You see, a high-level commander will go to the field and get a sense
25 of the situation but, you see, orders come from the headquarters. There's a

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1 distinction here between oral orders and written orders.

2 Q. In light of your experience, could you tell us what is meant by "lead nation"
3 within international operation?

4 A. Well, just to sum up, I would say that within a multinational operation, the lead
5 nation is the one that provides most of the support for the operation and the largest
6 contingent of men. Since such a nation would be at the grass roots level and would
7 be able to provide a certain weight, so to speak, or influence, that nation is deemed to
8 be the lead nation. *The person who leads the operation is from the lead nation.

9 That is what I mean, generally speaking. There may be changes over time, but that is
10 what I mean by lead nation.

11 Q. Based on your analysis, was there a lead nation during the conflicts in Central
12 African Republic; that is between 2002 and 2003?

13 A. From all evidence, the lead nation was the Central African Republic. The
14 conflict was played out in its territory and not the territory of any other country.
15 The Central African Republic had its Central African Republic forces which had been
16 undermined by the fact that some members of those forces had changed sides.
17 However, the usual structures were still present and of course there were other
18 elements from elsewhere that came and joined the Central African forces, and these
19 forces were fewer in number, so it was normal for the Central African Republic to be
20 able to pilot or lead operations on its own territory.

21 Q. Lastly, General, based on your understanding of the issue, who was the field
22 commander, that is in the area in which the MLC carried out its operations; that is
23 between October 2002 and March 2003?

24 A. It was General Mazi, that is by delegation, and then later on it was General
25 Bombayake who had been appointed by President Patassé to carry on those duties.

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1 Q. How did you arrive at that conclusion, General?

2 A. It is clear that before the death of Chief of Staff Betibodi (phon), General Mazi
3 was acting at interim and after the general's death President Patassé appointed a new
4 Chief of Staff, Joint Chiefs of Staff, and this new general had all the prerogatives of the
5 Chief of Staff, the Joint Chief of Staff, and this was General Gambi.
6 However, President Patassé had doubts about General Gambi and since General
7 Bombayake was a trusted subordinate, a trusted general of President Patassé's, he
8 was actually given the duties to such an extent that even though General Gambi still
9 had all the powers on paper in reality he really did not have many powers on the field.
10 So there was a sort of transfer of powers from the Chief of Staff to the commander of
11 the Presidential Guard Unit. There was a progressive transfer of powers to this
12 person because of the individual that he was. That is how I analysed this issue over
13 time.

14 Q. Based on your analysis, from whom did the field commander of operations
15 receive his orders; that is between October 2002 to March 2003?

16 A. Initially, the orders or directives came from the Defence Council chaired by
17 President Patassé, but with the changes over time that I have just described it is clear
18 that President Patassé took on many more responsibilities and he actually issued
19 many more directives or instructions during that second phase to General Bombayake
20 with regard to the conduct of operations possibly in addition to the advice that might
21 have been given by the Defence Council. So there was a more direct link between
22 the President of the Republic and the commander of the Presidential Guard Unit; that
23 is with regard to the conduct of operations.

24 Q. What about the Operations Command Centre, that is the CCOP, was this centre
25 responsible for operations during the two phases of that conflict?

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1 A. During the first phase of the conflict, the CCOP was fully responsible for those
2 activities because they received all the reports from the field and they also issued all
3 the orders to the forces on the ground. However, with time and the changes that
4 took place the operational centre was still indispensable.

5 I said a short while ago that the command of such operations cannot be the sole
6 responsibility of a single person, that is not possible, so General Bombayake could not
7 cut all links from the operation centre because that centre received a certain number
8 of reports that made it possible for it to monitor the evolution; that is changes in the
9 conflict.

10 And General Bombayake did not have access to such information directly, so he had
11 to be in touch with the operation centre to be able to know what was going on on the
12 ground. So it was not only one single person commanding operations. There were
13 nine commanders for nine different forces, so it is not possible for someone to
14 command all those nine forces without having a summary - summary reports - that
15 would make it possible for him to have an overview of those nine forces on the field
16 and the way in which they had to face up to the enemy in front of them.

17 Q. General, based on your military experience, is it possible that there might have
18 been various commands at the operational level; that is within the loyalist forces at
19 that time?

20 A. When you have objectives that you have to achieve there is the principle of war,
21 that is the proportion between the resources and availability of -- and the economy of
22 forces, so you have to decide which force to use in which particular situation.
23 During the first phase -- can you once again please clarify your question?

24 Q. You have stated that there were about nine different pro-Patassé units on the
25 ground. Is it possible that each of those units had a different and distinct command

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1 at the level of planification and conduct, planning and conduct of operations?

2 A. That is not possible. One cannot imagine several units of those forces working
3 as free electrons, whereas other forces would be pursuing the objectives that would
4 have been set. This would lead to chaos and possibly incidents of friendly fire
5 because when you have such a unit, such a situation, you may lose your friends and
6 your neighbours and then you end up not knowing who is where.

7 So what you need is a single and co-ordinated command, which makes it possible to
8 use all the forces most effectively in order to achieve the objectives that have been set
9 by the command, by the High Command.

10 Q. In light of your understanding of the situation, which was the structure that was
11 responsible for planning of the operations carried out by the MLC?

12 A. The organisation and planning took place at the national level, so they had to
13 plan which forces were where and carrying out which missions to achieve which
14 objectives. So there was a single planning structure which was the operations centre.

15 Q. On the basis of your analysis, were you able to identify who was co-ordinating
16 or commanding the operations centre?

17 A. We have to talk about how that army functioned. You have the Chief of Staff,
18 who has at his disposal the operations centre, so you need a Chief of Staff to
19 co-ordinate the activities of the operations centre and that Chief of Staff was General
20 Lengbe. He was the one who was responsible for co-ordinating the various units of
21 the operations centre to organise their activities, collate reports on their activities and
22 then analyse the reports, draw conclusions and submit those conclusions to the army
23 General Staff. So the operations centre was under the authority of the Chief of Staff
24 and at that time it was Colonel Lengbe. That is at the beginning of the conflict.

25 Q. Were you able to find out whether this co-ordination or operation centre

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1 continued functioning under the authority of Colonel Lengbe until the end of the
2 conflict?

3 A. There were certain things that I realised; that is at one point Colonel Lengbe left
4 the operations centre, that is accompanied by some of his men, and he took refuge in
5 Cameroon. So the only option left was to appoint someone to replace him, so it was
6 Commander Bemondombi who was appointed to replace Colonel Lengbe as
7 commander of the operations centre. So there was continuity here. There was a
8 period when there was a bit of a vacuum with the abrupt departure of the
9 commander, which lasted until the new commander was appointed by the General
10 Staff.

11 Q. Based on your analysis, General, were the foot soldiers on the ground in the
12 Central African Republic involved in the decision-making; that is between
13 October 2002 and March 2003?

14 A. Of course the Central African Republic forces were involved, as well as all the
15 other pro-Patassé forces, and we are talking here about the operational level. So at
16 the operational level decisions had to be taken, so each of the battalions of the ALC
17 was reinforced by members of the Central African forces, and these were support
18 units for the ALC battalions because those units had mortars and Central African
19 detachments were made available to each of the ALC battalions and so this meant
20 that they came under the command of the ALC.

21 Q. Apart from the Central African land forces, did the naval forces or the air force
22 become involved in the ongoing operations?

23 A. Regarding the naval forces, which are actually operational on the river, they
24 were involved from the very beginning, because they made available ferries that were
25 used to help the ALC forces cross the river. The air force did not have fighter planes.

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1 They had a few helicopters, but very little is mentioned about them in the documents
2 that I have consulted, apart from the use of helicopters a few times in order to move
3 Central African forces.

4 Q. In light of the documents that you have analysed, let us suppose that there were
5 more than one chain of command, that there were two or more chains of command.
6 What type of information would you have found in the documents relating to that
7 operation?

8 A. I can say that some forces received specific orders in writing, but I did not find
9 any trace of that in the documents that I analysed. I therefore cannot see how there
10 could have been several chains of command, whereas the objective was one. The
11 objective was clear for the Central African Republic. The objective was to liberate
12 Bangui to begin with and then push back the rebel forces to the Chadian border, so
13 restore peace after repulsing the rebels, so I cannot imagine that there would be
14 several chains of command for the same objective. In such cases, you have a single
15 chain of command that deploys all the resources available to achieve that single
16 objective. You cannot have free electrons operating, because you need to have
17 resources for that. That would be disproportionate.

18 Q. General, where would you place Colonel Moustapha in the chain of command;
19 that is within the context of the conflict in the Central African Republic at that time?

20 A. He was at the tactical level. He was far away from the commanders that were
21 commanding the loyalist forces in order to achieve the objective, so he was under the
22 orders of the Central African Republic authorities and there were regular meetings in
23 the operations centre. This has been cross-checked. These evening, or rather these
24 meetings took place every evening, and during the meetings the operations of the day
25 were reviewed and the plans made for the following day. So each of the

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1 commanders, including Colonel Moustapha, explained what was going to happen in
2 the future.

3 Commander Moustapha had his forces there, so he had the right to give an opinion
4 regarding what was happening. Each commander was responsible for his men, and
5 so if he is deployed in a situation where there might be considerable losses he can
6 question that and have changes made, but once the discussions were exhausted,
7 instructions were drawn up and orders were issued, after consultation with
8 everybody, and these were orders that had to be implemented. Otherwise, we
9 would no longer be dealing with a traditional military structure. We would be
10 dealing with a situation of chaos, if everybody had to do what they felt like doing.
11 So Colonel Moustapha would have had to give his opinion, based on the number and
12 strength of the men under his command and the situation in which they found
13 themselves, so each commander had to give their opinion regarding what would be
14 happening in the next day or two.

15 Q. Concretely, General, what were the various prerogatives or attributions of the
16 various commanders at the tactical level in the conflict that we are dealing with?

17 A. Each commander would have been aware of the missions of the others and the
18 space-time context within which those missions had to be carried out, and so each
19 commander would be responsible for preparing the missions of those under his
20 authority, based on who was doing what, to carry out the mission that had been
21 assigned to them. So, once the instructions had been received at the level of Colonel
22 Moustapha, they would study those missions, taking into account the available
23 resources, and then assign secondary missions to the various components of his unit
24 and all those particular units would then work towards the achievement of the
25 objective that he had been assigned at his level.

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1 Q. Did the responsibilities of Colonel Moustapha, that is at the tactical level,
2 correspond to traditional military principles as you know them?

3 A. Yes, indeed, but there is a slight difference. In a multinational force, it is
4 normal for the administrative aspects, that is the first bureau, and also the operational
5 command should be the prerogatives of the national authorities. In this particular
6 case, the ALC forces that were made available to the Central African Republic found
7 themselves in a situation that was slightly different because there was a mission
8 relating to personnel management, that is the responsibility of the first bureau, but
9 this remained the responsibility of Colonel Moustapha but the logistical
10 responsibilities were carried out by the Central African Republic authorities. So
11 Moustapha was not responsible for logistics, but he was responsible for the other
12 activities within his unit while maintaining the organic link with his superiors in the
13 Democratic Republic of the Congo.

14 Q. From your observations and analysis, did Colonel Moustapha have the
15 possibility to receive orders from General Mazi and General Bombayake and
16 implement them at the same time, or rather failed to implement them?

17 A. No, he could not, he couldn't do so, otherwise it would amount to
18 insubordination; namely, I will no longer take any orders, I behave as if I was on my
19 own territory, and that was not possible. He had been sent to the Central African
20 Republic as reinforcement to the loyalist forces and to assist or help President Patassé
21 to maintain a state of law in his country. So he obeyed orders that were given to
22 him.

23 I do not see how he could have proceeded otherwise because they would not have
24 had any other role to play in the Central African Republic. They would have been
25 thrown out. If they had carried out their own war or prosecuted their own war what

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1 would the goal have been? What would they have achieved? What would they
2 have been doing there. They were in the Central African Republic to fight the war of
3 the Central African Republic and restore the rule of law in that country.

4 MR KILOLO: (Interpretation) I would like to ask the court officer to kindly display
5 on the screen document number 3 on the Defence list of documents, that is the
6 military expert report, and I would like to look at page 13 which is
7 CAR-D04-0003-0354.

8 Q. General, you have before you paragraph 25 of your report. I would like to
9 kindly ask you to read your own report at paragraph 25, please.

10 A. This paragraph summarises the forces that were at the disposition of President
11 Patassé as he sought to meet his goals and restore the rule of law. The Central
12 African forces remained loyal to him clearly; the support regiment at Camp Béal, the
13 parachute battalion and the territorial infantry battalion as well. Then that was for
14 the armed forces, the land forces, and it is in that -- in those forces that the ALC was
15 called upon to be reinforced by the FACA troops.

16 As for the navy, this is the force that dealt with the ferry system and then we had the
17 air force. Further on we have the Central African forces and then the ALC forces of
18 about 1,500 troops, and by my own reckoning the figure must have been 1,500, more
19 1,500 than 2,000. Then you had the forces of Miskine. Miskine's forces were an
20 armed organisation, as well as the forces of Paul Barril.

21 Then we go on to militia of the Central African Republic for protection and
22 surveillance. This militia was armed for the purposes of participation in the
23 operations. Then the Libyan forces were already on ground and then you had the
24 CEN-SAD forces as well.

25 Then there was Karakos. Karakos was actually an effort to arm the youths, in order

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1 to increase the number of troops, youths who were members of President Patassé's
2 party who would then be assigned secondary missions because of their lack of
3 military training. So they would, for example, guard sensitive points and ministries
4 and similar areas but on the screen you are not able to see the other unit, that is the
5 Presidential Security Unit. There it is, thank you.

6 The Presidential Security Unit, according to some and going by the reports that I was
7 able to read, was a very well-equipped unit. It had armoured tanks and heavy
8 weaponry, but it was not a unit that initially was assigned to the war. Initially, it
9 was set up for the purposes of presidential security. That is why that unit was not
10 fully engaged or committed in the first phase because their duty was mainly to
11 provide security for the president.

12 So part of that unit became involved in the fighting in Bangui, but it is only in the
13 second phase that General Bombayake was given extra powers in the conduct of the
14 operations that he made more use of the USP in order to beef up his resources as he
15 sought to achieve his goal.

16 Q. According to your expert opinion, why was it absolutely necessary for the ALC
17 forces to come in as reinforcement to the armed forces of the Central African
18 Republic?

19 A. Because it was determined that, and you may want to know that when one is
20 assessing a situation from a strategic point of view one must first consider the volume
21 of what one is facing. At that time General Bozizé had a reasonably strong force in
22 place, so looking at the strength of his force, that is the attacking force, it was
23 necessary to determine a strength of the other force at at least 2.1 or two-to-one of the
24 force opposite, otherwise one will not be able to win.

25 So the relation had to be -- or the ratio had to be two-to-one, or at least -- or

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1 three-to-one, mindful of the strength of the rebels on the one hand and the available
2 forces to the government, and that is how it became necessary to even provide arms
3 for some troops that were not truly soldiers, and that is why after an analysis it was
4 clearly obvious that the balance of strength was not in favour of the government and
5 that is why the ALC was called upon to assist. You know, there had already been a
6 previous intervention in 2001.

7 Q. According to your expert opinion, could the ALC forces single-handedly have
8 conducted the operations leading up to awarding of Bozizé's rebels?

9 A. No, I don't think that single-handedly they would have had the necessary
10 strength to do so. However, the ALC forces were probably used in a position of
11 priority as compared to the Central African forces which were smaller, and so they
12 however remained under the command of the Central African forces which were
13 deployed according to the desires of the command office of the Central African forces.

14 Q. You were able to identify nine forces, nine loyal forces, loyalist forces on
15 President Patassé's side. Were you able to determine how those forces were
16 deployed on the ground?

17 A. Basically, the forces that led the main offensive were deployed as follows; that is,
18 there was an involvement of the ALC and the Central African forces, which came
19 together to conduct the operations. Now, as for the other forces that joined
20 subsequently and mindful of the experience that -- the little experience that Karakos
21 had and SCPS had, one can clearly think that, as I said a short while ago, once Bangui
22 would have been liberated those troops would then become support troops for the
23 purpose of securing the city of Bangui.

24 Now, if you were to move forward attacking, leaving the town behind exposed, then
25 something could happen at night and you would be under attack. So while

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1 progressing in the attack there is a need to retain some troops behind in order to
2 provide security for the city, and I think that this is what was done by most of the
3 other forces mentioned, except the ALC and the Central African forces which were
4 fully involved in the attack.

5 Now, as for the Presidential Security Unit, it was a special unit which, as I said, was
6 mainly set up to provide security for President Patassé and then secondarily to be
7 engaged in the fighting and this became increasingly the case in the second phase of
8 the conflict.

9 Q. When you say that the core of the active forces were made up of the Central
10 African Republic forces and the ALC, that they were working together, in military
11 terms what does this mean?

12 A. Working together articulated or structured together means that in each
13 battalion -- as I explained a short while ago, in each of the ALC battalions there were
14 troops of the Central African government who had been placed under the command
15 of Colonel Moustapha for operational reasons.

16 Now, let me open a parenthesis here and say something which may need to be
17 clarified. To be under the command, or to be under operational control, these are
18 two different things. It is not the same thing. You see, when you are under
19 somebody's command, or under operational command, the authority in place has the
20 power to assign a mission to all the forces under its command. However, when a
21 force is under operational control of a command structure, it is generally for a limited
22 time frame, within a limited time frame, during which the commander has the power
23 to assign a mission, but only to the force that is under his control. He cannot change
24 the structure of the force that has been placed under his control.

25 Now, this explains why the ALC was not under the operational control of the Central

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1 African forces. It was under the command of the Central African forces, because
2 there was a change in the structure of the ALC and the Central African army which
3 led to the setting up of the joint or mixed forces which will subsequently include
4 troops from the USP, or the Presidential Security Unit.

5 Q. From your professional point of view, why did the ALC forces have to fight
6 together with the FACA and the USP?

7 A. First of all, it is a matter of resources or means. The distribution of resources
8 for the purpose of combat had to be as balanced as possible, and the allocation of
9 resources had to also be done according to the decisions of the command office. So
10 the Central African forces and the other detachments that worked alongside the ALC
11 had to be sort of mindful of these considerations, but there is also a moral aspect to
12 this, one may say. Maybe the High Command did not want it to be ultimately
13 perceived that it was the ALC that had restored the rule of law in the Central African
14 Republic. It was the ALC and the Central African forces. So each of those forces
15 had its role, but it may also have been a matter of national pride to see the armed
16 forces of a country involved in restoring order in their country, rather than leaving it
17 to a foreign force.

18 Q. As you analysed the entire military situation that obtained in the Central
19 African Republic at the time, would you say that Colonel Moustapha received orders
20 from his national hierarchy in Gbadolite?

21 A. The answer is clear. General Moustapha confirms the answer himself on two
22 occasions. The first time he confirms that he was under the orders of the High
23 Command of the Central African authorities and that he complied with their orders.
24 Secondly, in the texts he said himself that he never waited for clearance or the green
25 light from whosoever in order to continue to discharge the duties he had been

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1 assigned by the Central African forces, so he was clearly under the orders of the
2 Central African forces and no one else.

3 Q. Given that Colonel Moustapha was not receiving orders from Gbadolite, how
4 does one interpret that in terms of the chain of command?

5 A. This means that once the decision was taken to place this part of the ALC under
6 Central African command in support of President Patassé, there was no longer any
7 hierarchical link between the representative of the MLC and Colonel Moustapha.
8 However, it is also clear that the ALC detachment continued to be a member of the
9 ALC, and in terms of structure, therefore, there was a link, as I mentioned a short
10 while ago.

11 You see, in all multinational operations there are two links: The administrative link
12 and the logistics link. In this case, the logistics link did not exist because the logistics
13 was under the command of the Central African Republic. However, there was the
14 administrative link which remained, as I mentioned, in connection to the first office.
15 So there is this structural link which continues to exist, because when a national
16 contingent joins a multinational force it does not lose its nationality. It maintains its
17 nationality. So the ALC contingent that was assigned to the Central African
18 Republic continued to be part of the ALC clearly, but there was however no longer
19 any hierarchical link between that detachment and the ALC proper.

20 MR KILOLO: (Interpretation) I would like to ask the court officer to please display
21 document number 24 from the Defence list of documents, page CAR-OTP-0042-0237.

22 PRESIDING JUDGE STEINER: Maître Kilolo, is it a public document?

23 MR KILOLO: (Interpretation) Yes, your Honour.

24 THE COURT OFFICER: The document can be viewed on "PC1."

25 MR KILOLO: (Interpretation)

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1 Q. General, you have before you a document which was part of the documents that
2 had been made available to you, and this is captioned "Note de Service." At the very
3 top of the document, I can see "Ministry of National Defence, General Staff, Bureau
4 number 3," and the subject is the setting up of an operations centre at the military
5 headquarters. Part 1 refers to "Mission" and states the following, "Placed under the
6 direct authority of the commander-in-chief of the armed forces, the operations centre
7 shall mainly prepare, plan and conduct military operations throughout the national
8 territory," end of quote.

9 I would like to ask the court officer to move to the next page, CAR-OTP-0042-0238,
10 and to the very bottom of the page, please. General, you can see at the very bottom
11 that the document is signed by Brigadier-General, Chief of -- Deputy Chief of Staff, or
12 Joint Staff, André Mazi.

13 First question: Can you tell the Court whether the missions of the operations centre,
14 as outlined in this document, actually were reflected in reality on the ground
15 according to your analysis?

16 A. Yes, indeed. The operations centre was set up according to the instructions
17 and it had its several offices. The annex to this instrument also outlines the officers
18 who were part of the operations centre, and then it is also stated that the centre would
19 run 24 hours on 24, so there was a rotation system, or a shift system, in place to
20 ensure that the centre was operational 24/7.

21 MR KILOLO: (Interpretation) It is almost 1 p.m. Maybe we should break now?

22 PRESIDING JUDGE STEINER: Thank you very much, Maître Kilolo.

23 General, we are going now to our lunch-break. It's almost 1 o'clock. We will
24 suspend and resume at 2.30.

25 I ask, please, court usher to accompany the witness outside the courtroom, and in the

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- 1 meantime we will suspend to resume at 2.30.
- 2 (The witness stands down)
- 3 THE COURT OFFICER: All rise.
- 4 (Recess taken at 12.58 p.m.)
- 5 (Upon resuming in open session at 2.35 p.m.)
- 6 THE COURT USHER: All rise.
- 7 Please be seated.
- 8 PRESIDING JUDGE STEINER: Welcome back. We will continue with the
- 9 testimony of Witness 53 from the Defence. Before I ask court usher to bring the
- 10 witness in, I would like to ask please court officer to turn very briefly into private
- 11 session in order for the Chamber to issue a decision.
- 12 (Private session at 2.36 p.m.) * Reclassified as Open session
- 13 THE COURT OFFICER: Your Honours, we are in private session.
- 14 PRESIDING JUDGE STEINER: Thank you very much. It's just an oral decision
- 15 shortening the time for the Defence to respond to the Prosecution's motion.
- 16 On 10 August 2012 the Office of the Prosecution filed its Prosecution motion on
- 17 procedure for contacting Defence witnesses and to compel disclosure requesting that
- 18 the Chamber order the Defence to prepare a neutral script disclosed to the
- 19 Chamber and the Prosecution to be read to the Defence witnesses when seeking their
- 20 consent, consent for being interviewed by the Prosecution.
- 21 Second, the Defence to comply with its obligation to facilitate contacts between the
- 22 Prosecution and Defence witnesses.
- 23 Three, that any costs incurred by the Defence in relation to these meetings shall be
- 24 borne by the Defence .
- 25 Four, that the Defence may not interfere in meetings that occur between the

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1 Prosecution and Defence witnesses.

2 And five, the Defence disclose to the Prosecution certain documents and information
3 requested by it on 2 August 2012.

4 In making this ruling, the Chamber has considered in accordance with Article 21(1) of
5 the Statute, Article 64(2) of the Statute that the Regulation 34 of the Regulations of the
6 Court, taking into account the fact that Defence witnesses start providing testimony
7 today, the Chamber is of the view that in order for it to be able to rule on the
8 application sufficiently promptly the normal time limit for the filing of observations
9 or the response by the Defence must be reduced.

10 The Chamber therefore orders the Defence to file its observations or response on the
11 application if any by no later than 4 o'clock on 17 August 2012.

12 Court officer, please, we can turn back into open session.

13 (Open session at 2.39 p.m.)

14 THE COURT OFFICER: Your Honours, we are in open session.

15 PRESIDING JUDGE STEINER: I ask, please, court usher to bring the witness in.

16 (The witness enters the courtroom)

17 PRESIDING JUDGE STEINER: General, welcome back. Are you ready to continue
18 with your testimony/report?

19 THE WITNESS: (Interpretation) Absolutely.

20 PRESIDING JUDGE STEINER: Maître Kilolo, you have the floor.

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

22 Good afternoon, sir.

23 I would like to ask the court officer if she could place document 24 on the screen,
24 CAR-OTP-0042-0237, document 24 on the Defence list of documents?

25 (Pause in proceedings)

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1 THE COURT OFFICER: I'm sorry for the wait. We're just having a little technical
2 problem.

3 PRESIDING JUDGE STEINER: Maître Kilolo, would it help if we provide the expert
4 with a hard copy of the document? I think Prosecution probably has a hard copy,
5 no?

6 If we have one -- I have one copy that could be given to the Prosecution and maybe
7 another one that can be given to legal representatives, if Prosecution and legal
8 representatives agree.

9 Maître Kilolo, you have a copy for the witness?

10 MR KILOLO: (Interpretation) Yes, indeed, your Honour.

11 PRESIDING JUDGE STEINER: I do apologise for the public that the document
12 cannot be displayed. This is the burden we have when we work on an eCourt
13 environment. It appears that we have an alternative solution for the document to be
14 displayed through that equipment.

15 THE COURT OFFICER: To be able to view the document, which will be placed now
16 on the ELMO, please press on "Witness Cam." Sorry, the button to press is "Docu
17 Cam Witness."

18 PRESIDING JUDGE STEINER: Yes, Mr Haynes?

19 MR HAYNES: I'm sorry, and good afternoon, your Honour, but I wonder what the
20 prognosis is for eCourt, because I know that Mr Kilolo's examination of this witness
21 will involve now the examination of a number of similar public documents which the
22 accused would like the public to see and, if we're going to have to adopt this process
23 with every single document, it's going to be a very truncated exercise. So I wonder
24 if we could inquire whether there is any prospect of eCourt working at all this
25 afternoon?

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1 PRESIDING JUDGE STEINER: You have your answer, Mr Haynes. It's already
2 working.

3 MR HAYNES: Fabulous.

4 PRESIDING JUDGE STEINER: Maître Kilolo.

5 MR KILOLO: (Interpretation) First of all, I would like to ask the court officer if she
6 could scroll up so that we can see the very top of this page, the letterhead?

7 Q. Sir, I'll be asking you a series of questions about this particular document, and
8 I would like to ask you to pay close attention to these questions and to look at these
9 documents most carefully.

10 Could I ask the court officer to now move down to the bottom of this document?

11 We have a heading here. It is "Organisation."

12 Sir, when did you see this document for the first time?

13 A. This is one of the documents that the Defence provided me with so that I could
14 carry out my analysis.

15 MR KILOLO: (Interpretation) Could I ask the court officer to move on to the next
16 page, CAR-OTP-0042-0238?

17 Q. Sir, do you know where this document comes from?

18 A. This document has been stamped by the Joint Services Chief of Staff and is
19 signed by the general; the general who was acting on an interim basis.

20 MR KILOLO: (Interpretation) Could I ask the court officer to scroll down a bit so
21 we can see the signature? Could we also have a close look at the left side of this
22 document, the heading that is -- the heading "Destinataires," distribution? Could we
23 see the entire -- that entire segment of the letter?

24 Q. Witness, could you please explain why a series of people were included for
25 distribution, why these people were CC'd for this document?

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1 A. Well, this correspondence is entirely in keeping with the French style of
2 memoranda. The people there are not CC'd for information purposes. When you
3 put "Destinataires" at the bottom of a memorandum, it means that they are intended
4 to see this document so that they can take action. Now, at the bottom you have
5 "Copy to" and that is where we see some information; a copy to the Minister of
6 Defence, ATCR, which means for the purposes of the record, and to the minister - the
7 delegated minister, the associate minister - also for the purposes of the record.
8 So this document was intended for these various people so that they could implement
9 the actions, and the Minister of Defence and the Associate Minister or Deputy
10 Minister of Defence were merely informed of the memorandum; received a copy of
11 the memorandum.

12 Q. Now, do you know who this memorandum was meant for?

13 A. Well, we see a number of acronyms: The head of staff, the chief of the
14 military cabinet of Mr Mazi, that is to say; IGAN, I don't know what that means;
15 CEMAA, Chief of Staff Air Force; then all Chiefs of Staff; COMECO, I'm not sure; and
16 USP, so the commander of the Presidential Security Unit would also be receiving this
17 for action purposes.
18 Director-General National Gendarmerie; Director-General IAN; and then we have
19 DGSSAN, I don't know. I believe this is the health services of the national army.
20 Then it says, "All offices and all units of the FACA," the Central African Republic
21 forces, and then A and C, Archives and Chronology. So one copy goes to the
22 archives and the other is placed in another log, sort of a chronology -- chronological
23 log.
24 So really this covers all the people who were responsible, including the USP; so really
25 all the people responsible for various tasks and duties within the forces.

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1 Q. Now, according to your analysis, what is going on here through this document?

2 A. Could you repeat?

3 Q. According to your analysis, from a military point of view what is going on
4 through this particular document, or what would you say the value of this document
5 is from a purely military point of view?

6 A. Well, this is a way of setting up an operations centre and each person must
7 make a contribution. That is why the various people who received this
8 memorandum will have staff, will -- it's sort of like a birth certificate, so to speak.
9 This is a memorandum that has to be carried out by all the people who received it, all
10 the various units within the Central African Republic army.

11 MR KILOLO: (Interpretation) I would like to ask the court officer if we could
12 move on to the next document, CAR-OTP-0042-0238?

13 THE COURT OFFICER: We're experiencing again a technical problem, so we will
14 display it on the ELMO for the time being. Thank you.

15 THE INTERPRETER: Interpreter correction: The last reference number provided
16 by Mr Kilolo was 0239.

17 THE COURT OFFICER: So in order to view this document, please press "Docu Cam
18 Witness."

19 MR KILOLO: (Interpretation)

20 Q. Sir, you have there an annex to the memorandum and the title is "List of staff
21 members of the CO," or operations centre. Now, General, did you analyse the level
22 of training and competence of the various officers who were in charge at the
23 operations centre during the period that we are discussing?

24 A. Before answering your question, you can read at the top there that the head of
25 the operations centre is Commander Bemondombi. So this is a letter reorganising

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1 the operations centre after the departure of Colonel Lengbe, with a certain number of
2 officials. So that is why the document is dated 18 December 2002 whereas this
3 centre had been existing prior to that. So this is a reorganisation of the centre under
4 the command of Commander Bemondombi.

5 Now regarding the training of the officers, most of the officers of the Central African
6 Republic at that time were trained in France, which did not prevent them of course
7 from pursuing other training courses in other countries. So the information that I
8 was able to obtain about the qualifications of the officers who were there seems to be
9 that the training was of a high level and the officers were competent.

10 Now, with the departure of Colonel Lengbe and a number of other General Staff
11 officers, it was necessary to go and take a second lieutenant from the conduct unit,
12 and this was a young officer who had to come and take the place of this person in
13 addition to another officer who had received training in the French Military Academy.
14 But regarding this page and the other pages, the information that I received regarding
15 the officers serving in the operations centre, that information in my opinion was quite
16 positive.

17 Q. Did you examine the role of the planning and future manoeuvres unit?

18 A. That unit was responsible for planning operations, taking into account a
19 long-term view of what was going to happen the next day or over the next two days
20 based on the prevailing situation, and they would monitor the changes in the
21 situation thanks to the intelligence unit which would gather information about the
22 rebels.

23 The conduct unit, that is number 4 or, rather, number 5 would update the general
24 map of the general situation concerning the friendly forces and the enemy forces
25 based on the information received. Then you have the logistics unit that would take

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1 into account the information received from all the units in the field. Then you have
2 the signals unit that was responsible for the good functioning of the transmission
3 activities and then you had the communication VIP unit. This unit was responsible
4 for communication inside or within the Central African Armed Forces but also
5 communication with the external actors or stakeholders, including the media, if they
6 needed to be informed.

7 Q. Let me now ask the court officer to move to the next page, that is
8 CAR-OTP-0042-0240. Sir, did you examine the role of the liaison officers within the
9 CCOP?

10 A. The role of the liaison officers was to provide information about what was
11 going on in the field and also to report to the superior officers on a certain number of
12 difficulties. They had to provide their opinions in the area of the preparation of
13 orders and the organisation of operations, so their responsibility was not limited to
14 liaison within the operations centre but to establish the link with their own superiors
15 regarding future decisions even before those decisions were made. So they had a
16 very active role within the operations centre as well as in relation to their own
17 superiors.

18 Q. A little earlier on you talked about the first bureau of the General Staff. What
19 are the responsibilities of that bureau?

20 A. The first responsibility of this bureau is staff management or personnel
21 management, so these are issues related to staff strength, discipline, sanctions,
22 compensation and honours. They also deal with the welfare of the soldiers, that is
23 including the payment of salaries and feeding allowances, everything related to the
24 staff management and the general management of the various staff members of the
25 units.

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1 Q. Did Colonel Moustapha provide reports to his own national authorities in this
2 area?

3 A. Yes, he must have done so, because in a multinational force there are two levels;
4 there is administration, that is staff management, and then there is logistics. In the
5 Central African case, the logistics aspect was the responsibility of the Central African
6 authorities so there was then the issue related to personnel management. So
7 Moustapha had to make regular reports on the situation of the troops, the losses
8 incurred, those injured, the morale of the soldiers, cases of indiscipline and so on and
9 so forth, and he would even have to mention the names of people who exceeded
10 themselves, their responsibilities, during the operations and this would form part of
11 the reports that he would send to his superiors.

12 Q. Can you tell us based on your analysis to which national authority Moustapha
13 reported?

14 A. All the messages that I saw, and there are many of them, had as addressee
15 ALCEMG, that is the General Staff headquarters of the ALC. There was a
16 communications centre in Gbadolite, that is at the General Staff headquarters, and the
17 first person to receive this message would be the Chief of Staff. After that the Chief
18 of Staff would then inform his superior about the messages received or copy those
19 messages to his commander, to his superior. I saw many messages, and 99 per cent
20 of those messages were addressed to the ALC staff headquarters and some of
21 them -- in some of them it was indicated that they were for information, for the
22 information of the commander-in-chief. So the messages were sent to the
23 headquarters, the General Staff headquarters, and when these messages were
24 received then they were sent to the Chief of Staff and then he would inform his
25 commander-in-chief.

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- 1 PRESIDING JUDGE STEINER: Do you still need, are you going to still need this
2 (Overlapping speakers) the same that is on --
3 MR KILOLO: (Interpretation) Not for the time being.
4 PRESIDING JUDGE STEINER: (Overlapping speakers) -- the document and inform
5 that eCourt is already functioning, so if need be further documents can be displayed.
6 THE INTERPRETER: From the interpreter: There is a lot of overlapping,
7 particularly from the Presiding Judge who does not wait for the interpretation to be
8 completed.
9 MR KILOLO: (Interpretation)
10 Q. Do you know who was the addressee of the messages from Moustapha at that
11 time; that is the Chief of Staff of the ALC?
12 A. Can I mention the name? Well, it was General Amuli, who had been
13 appointed Chief of Staff by Mr Bemba.
14 Q. Was there a specific meaning in the fact that it was General Amuli who received
15 the messages from Colonel Moustapha?
16 A. Yes, that was the general practice. As I said a short while ago, the leader
17 cannot do everything alone. He has to have a General Staff and a Chief of Staff.
18 The commander-in-chief cannot be inundated with messages not only from the
19 Central African Republic, but also from elsewhere. All those messages arrive at the
20 communication centre and, based on the content of the messages, they are
21 transmitted to those concerned. So it is the Chief of Staff who is initially informed,
22 and if there is a need to inform Mr Bemba directly because of the seriousness then he
23 would be included amongst the addressees; that is commander-in-chief and then
24 Chief of Staff. So it would be indicated that there are two addressees: One
25 message would go to the Chief of Staff and one message would go to Mr Bemba.

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1 Q. Based on your experience, did the reports submitted to General Amuli by
2 Colonel Moustapha form part of operational control?

3 A. No. This was a report -- these were reports on aspects related to the personnel,
4 and he often concluded his messages by describing the situation in the various areas
5 occupied by the ALC units. He would indicate, for example, that the situation was
6 calm, or it was tense, or that things had normalised after fighting had taken place.
7 So these were reports that dealt with the situation of the management of ALC
8 personnel and which generally ended with a brief description of the prevailing
9 situation; that is to indicate whether the forces were engaged, whether they were
10 waiting to engage, or whether they were in a calm or a conflict area. In a nutshell,
11 that would be the content of those messages.

12 Q. In light of your experience, would it be normal for a force that was placed under
13 foreign command to send such reports to its authority of origin?

14 A. Yes. I have explained that, when it comes to a multinational force, staff
15 personnel and the logistics do not come under the national authorities. We have
16 already said that in the case of the Central African Republic the logistics aspect was
17 handled by the Central African authorities, but in the area of staff management it was
18 quite normal for this particular aspect to be handled by the commander in
19 collaboration with his national authorities and that is the normal practice.

20 Q. Let me come back to you now on the issue of military intelligence. As far as
21 you know, what was the role of the intelligence unit within the CCOP? What was
22 the type of intelligence that was gathered?

23 A. The intelligence unit plans all intelligence operations, draws up a plan, then
24 gathers information, sorts the information and cross-checks all the information about
25 the enemy. They collate this information in the form of summary reports, and based

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1 on that information it is possible to determine what type of action the enemy might
2 engage in in the future. So there is information or intelligence about the enemy,
3 which is frequently transmitted by units that are in contact with the enemy, so just by
4 being in contact with the enemy a particular unit would be able to report on the
5 specific location of the enemy. They can also report on the manoeuvre being
6 implemented by the enemy.

7 You also have field intelligence that is provided; that is what is happening on the
8 ground, whether the landscape is favourable to the enemy, or to decide in which the
9 unit operates. There is also the presence or not of a civilian population, so the fact of
10 knowing whether there are members of the population there is quite important. If
11 civilians have left the area that is important information because operations would be
12 very delicate if civilians are present, and so if members of the population have left the
13 area there is no risk for collateral damage when the armies come face-to-face and so
14 the conflict could be much more violent.

15 So when it comes to intelligence, the sources vary. You have information that is
16 provided by units that are in contact with the enemy, but there is also information
17 that can be sourced from members of the population, that is if they are present there,
18 but care - great care - has to be taken because members of the population can favour
19 one side or the other, or they may be neutral. So a great deal of care has to be taken
20 when sourcing information from members of the public. Such information has to be
21 cross-checked to ensure that it is consistent with reality, and that is because in conflict
22 areas members of the population are usually frightened, they are concerned about
23 preserving their lives and they are always hesitant about providing information to
24 one side or the other and being targeted by possible acts of vengeance.

25 So after gathering all this information, and this may include informers on the ground

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1 who communicate through various communication means including cellphones, the
2 information is verified, cross-checked and summarised and the summaries are used
3 to determine the type of manoeuvres to be undertaken at that time, or in the future.
4 From that moment on it is the responsibility of the third bureau, which is responsible
5 for operations, to plan the manoeuvres that are appropriate.

6 Q. Did you know whether the ALC had the -- the CCOP had the possibility of
7 intercepting communication from Bozizé's rebel forces?

8 A. This was possible, but it was reciprocal because General Bozizé himself was the
9 former Chief of Staff of the Central African army and he was familiar with the
10 communication services of that army. He was also in contact with several officers
11 who were very familiar with the communication units, so it was possible to monitor
12 communication on both sides. Intercepting communication means gaining access to
13 the enemy network by pretending to be a friend, so when someone bites the bait it is
14 possible to obtain information and so monitoring enemy information and intercepting
15 messages could be done on one side or the other.

16 Q. What conclusions can you draw from the fact that the CCOP was the one
17 directing or managing military operations?

18 A. I believe that the management was well done, because the officers responsible
19 were competent. The intelligence service was there to provide information relating
20 to the enemy, but it was not that unit that would implement the manoeuvres. These
21 manoeuvres were put in place in collaboration with the operations unit. They
22 would put side-by-side the means of action of the forces on the ground and the
23 enemy forces and then a decision would be taken regarding the most appropriate
24 manoeuvre, which proposal would be submitted to the commander-in-chief, or rather
25 to the commanders, and it would be the Chief of General Staff that would decide and

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1 then propose for example two possible manoeuvres to the Joint Services Chief of Staff.
2 It would be up to the Joint Services Chief Of Staff to decide on the particular
3 manoeuvre to be adopted. He would possibly add his own personal touch, but
4 based on the proposals that would have been made to him.

5 Q. Did you review, or analyse, whether the ALC detachment to the Central African
6 Republic had its own system of operations at the time?

7 A. General Moustapha had a small General Staff in place and he had an
8 intelligence officer. The intelligence officer within his brigade was able to gather
9 some information from combat units and then come up with his own summaries that
10 he would forward to Moustapha, and then they would be subsequently forwarded to
11 the operational centre providing information therefore to the intelligence office at the
12 operational centre.

13 Q. Is it common practice for a brigade under a foreign command to have its own
14 intelligence officer?

15 A. Yes, yes, a brigade can have a small General Staff which would run all the
16 functions including intelligence. Intelligence officers generally would be found in
17 armies and even within regiments. Each regiment would have an intelligence officer,
18 and that is normal practice. It is therefore not out of order to have an intelligence
19 officer within a brigade, and we think that the ALC force in the CAR was as big as a
20 brigade.

21 Q. Did you consider whether Mr Jean-Pierre Bemba was able to receive
22 information in real-time about the situation of the Bozizé rebel forces on the ground
23 and the population in the Central African Republic?

24 A. That situation was generally in the hands of the operational centre of the
25 Central African forces and no one else. All the troops on the ground fighting for

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1 President Patassé had their own partial visions or views of the situation without
2 having a global view of the overall situation. The overview of the situation was
3 actually in the hands of the operation centre, and it is in that capacity that they were
4 able to plan and envisage future manoeuvres. It is only through direct and
5 permanent contact with the operational centre of the Central African Republic that
6 Mr Bemba was able to have, should I say, an overview of the entire set of operations
7 on the ground.

8 Q. The lack of a general overview of the situation on the ground by Mr Jean-Pierre
9 Bemba, did it have any particular bearing on the command of the operations from a
10 military standpoint?

11 A. If one did not have this global view of the situation of all the armies of all the
12 identified enemy troops, one cannot command. It is for this reason that at the level
13 of the Central African forces General Mazi would not have been able to command
14 without his General Staff or his staff headquarters providing him with that overview,
15 overview which came from intelligence, from logistics and what have you. It is not
16 possible to plan an extended operation if one is not sure that there will be fuel for the
17 vehicles and ammunition for the weapons. All of that is part and parcel of an entire
18 strategy and the global view therefore is put together by the General Staff for the
19 benefit of the Chief of Staff and the commander of the operations.

20 Now, if one does not have a General Staff headquarters that summarises all the
21 aspects of the manoeuvre, then it becomes impossible to command the operations;
22 otherwise one would simply be groping in the dark without knowing the reasons for
23 which orders are being given and what results can be expected therefrom.

24 Q. Would you please kindly remind us of the responsibilities of the third bureau of
25 the headquarters of the Central African forces at the time?

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1 A. The third bureau had as responsibility to plan future operations in liaison with
2 the intelligence bureau. Its responsibility was to monitor the situation of friendly
3 troops on the ground and to prepare action plans for future manoeuvres. As I
4 explained a short while ago, these action plans are cross-checked with those from the
5 intelligence office and working together comparing these plans it then becomes
6 possible for decisions to be made that end up in the issuing of specific orders.

7 MR KILOLO: (Interpretation) I would like to ask the court officer to please display
8 document number 64, it is a public document, number 64 of the Defence lists of
9 documents.

10 THE COURT OFFICER: The document is displayed now on eCourt.

11 MR KILOLO: (Interpretation)

12 Q. General, before you is a document and I would like to ask you to read it out,
13 please.

14 A. This is a message porté from the General Staff of the army. A message porté is
15 a message that is generally transmitted in an envelope and handed individually to
16 each of the addressees. The content of the document seeks to provide information
17 on the effective engagement of the allied MLC and FACA troops. Why this
18 engagement? For a counter-offensive operation in the centre and the north of the
19 country under the command and control of the chief -- or the joint -- the Chief of Joint
20 Services, the Chief of Staff of Joint Services, and the matter is notified as being urgent.
21 All the major services have been listed as addressees, including the Minister of
22 Defence who is informed accordingly. This is a decision taken at the General Staff of
23 the Joint Services and at the time of that decision the Chief of Staff of Joint Services
24 was General Gambi, and this is when General Gambi was promoted after General
25 Betibangi had died. This is standard practice when it comes to message porté and

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1 that is also part of the various mechanisms that were used by the French army at the
2 time of the events to convey information.

3 Q. Do you know the addressees of this message porté?

4 A. The conseil, or the technical adviser of the Chief of General Staff of the army,
5 and I do not know his name, maybe the court officer could zoom in on the last part of
6 that document entitled "Destinataires," or addressees. Well, that is not very clear but
7 I think we can see that there is IGAN, I don't know what that represents, we have the
8 director of the health services, DGIFACA, that is the general director in charge of
9 logistics of the Central African army, the health director, the major -- or the Major de
10 Garnison is the officer of the army who was in charge of the City of Bangui, and then
11 we have Colonel Moustapha, that is the commander of the MLC, and the document is
12 also filed and the Minister of Defence is copied accordingly. Colonel Moustapha at
13 the time also received a copy of this message porté.

14 Q. The fact that such a document was issued by the Chief of General Staff of the
15 Central African Armed Forces, that such a document be addressed to Colonel
16 Moustapha, does that have any special military significance?

17 A. Yes, because the text provides that it is placed under the control of the Chief of
18 Staff of the Central African army. This means that the detachment of the ALC that is
19 in the Central African Republic is under the command and the control of the Central
20 African forces.

21 MR KILOLO: (Interpretation) I would like to ask the court officer to please display
22 the part of the text that is slightly above the entry "Message porté."

23 Q. Now, General, can you tell us the date on which this document was issued?

24 A. 20 November 2002.

25 MR KILOLO: (Interpretation) I would now ask the court officer to also highlight

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1 document number 65 on the Defence list of documents.

2 Q. General, you now have a second document displayed for your attention.

3 Please would you kindly read it?

4 A. Once again, this is a letter from the General Staff of the Joint Services from the

5 Chief of Staff Betibangi and it is to the commander of the MLC. The subject of the

6 letter is, "Total engagement of the MLC forces alongside the armed forces of the

7 Central African Republic in counter-offensive operations." The issue here is a

8 request for a battalion to be made available to the General Staff for a

9 counter-offensive -- for counter-offensive operations in the centre and north regions

10 of the Central African Republic.

11 Q. Are you able to identify the date on which this document was issued?

12 A. 25 November 2002.

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

14 lower part of that document, which shows the signature.

15 Q. Do you know the author of this document?

16 A. The document is signed by General Gambi. The Minister of Defence is

17 informed accordingly by way of a report being forwarded to him. He was the

18 Minister of Defence, victims, war victims, disarmament, restructuring of the army.

19 It was the same person who held that position and so the letter is copied to that

20 person, but the addressee of the letter is the commander of the MLC, namely

21 Mr Bemba, and the letter asks for a battalion to be made available to the General Staff

22 for the purposes of a counter-offensive. The letter was issued on 25 November.

23 Q. General, what according to you is the military significance of this document?

24 A. Well, the date is 25 November, and I think that the Defence Council had met in

25 Bangui and a decision was taken at that Defence Council to call for reinforcement by

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1 the MLC forces. That is the reason for which this letter was written, first to ask for a
2 battalion to be made available -- a battalion of the MLC forces to be made available to
3 the FACA; that in application of the decision that was taken in the Defence Council
4 meeting.

5 MR KILOLO: (Interpretation) I would like to ask the court officer to please display
6 document number 68 on the Defence list of documents.

7 Q. General, this is a third document now displayed before you. Would you
8 please kindly read it -- read it out?

9 A. Once again it is a message porté from the Chief of Staff of the Joint Services who
10 reports to the Minister of Defence and, the addressee of the letter is the commander of
11 the military civil engineering corps. It is an urgent - a very urgent - message porté,
12 or hand-delivered message, asking the addressee to take all necessary measures to
13 ensure that the electricity, arms and ammunition depots, as well as other such
14 facilities, health-related facilities, are made available for the MLC battalion. This is
15 notified as an urgent message.

16 What this amounts to is an order from the Chief of Joint Services to the commander of
17 the military civil engineering corps to make urgent arrangements to receive and host
18 the ALC battalion that was on its way. Unfortunately I am not able to see the date
19 on which this document was issued, but it could be November 2002. I see that it's
20 November 2002, but I'm unable to read the exact day or date.

21 Q. Can you explain to the Court what the role of the military civil engineering
22 corps is?

23 A. The motto of the military civil engineering corps is "Build often and destroy
24 now and then." Now, I cannot talk about the role of the military civil engineering
25 corps in times of peace, but in time of war its role is to support the forces at war by

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1 providing them with specific facilities that relate either to an offensive, in which case
2 they prepare passage and build bridges where bridges have been destroyed and so on
3 and so forth, and from a defensive point of view put in place obstacles to slow down
4 the enemy, with levelling facilities that can be used to protect the forces when they
5 are in a defensive position.

6 So I cannot provide too much detail in this particular circumstance, but here and
7 relating to this message it is the commander of the civil engineering corps who was
8 assigned to prepare for the arrival of the MLC contingent. Ordinarily it would have
9 been the director of logistics who would have handled this kind of assignment but,
10 because the civil engineering corps of the military was closer to the Begoua school, it
11 might have been more appropriate for them to prepare the grounds for the arrival of
12 the ALC contingent.

13 Q. What is the military significance of this document?

14 A. This simply means that, from the time the agreement was made to dispatch an
15 ALC battalion as reinforcement to the Central African forces, the Central African
16 authorities began to make all the arrangements to receive these forces under the best
17 possible conditions in view of their engagement alongside the Central African forces.
18 In that context, therefore, this message indicates that the Central African forces are
19 doing everything that is necessary to receive a foreign force.

20 MR KILOLO: (Interpretation) Your Honour, it will soon be 4 p.m., I notice.

21 PRESIDING JUDGE STEINER: Thank you very much, Maître Kilolo.

22 General, thank you very much. Today's hearing came to an end. We are going to
23 adjourn and resume tomorrow morning at 9.30. We wish you a very restful night in
24 The Hague.

25 I thank very much the Prosecution team, legal representatives of victims, the

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1 Defence team, Mr Jean-Pierre Bemba Gombo. Thank you very much our
2 interpreters and court reporters.
3 I will ask the court usher, please, to accompany the witness outside the
4 courtroom ,and in the meantime we will adjourn and resume tomorrow morning at
5 9.30.

6 (The witness stands down)

7 THE COURT OFFICER: All rise.

8 (The hearing ends in open session at 3.57 p.m.)

9 CORRECTION REPORT:

10 The Court Interpretation and Translation Section has made the following correction
11 in the transcript:

12 *Page 29, Lines 8 to 10

13 " That is the country that leads the operations. That is what I mean, in a -- general
14 speaking. There may have been exceptions in the past but that is what I mean by
15 lead nation." IS CORRECTED BY "The person who leads the operation is from the
16 lead nation. That is what I mean, generally speaking. There may be changes over
17 time, but that is what I mean by lead nation."

18 RECLASSIFICATION REPORT

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

20 ICC-01/05-01/08-3038, the version of the transcript with its redactions becomes Public.