

Trial Hearing
Witness: CAR-OTP-PPPP-0036

(Closed Session)

ICC-01/05-01/08

1 International Criminal Court
2 Trial Chamber III - Courtroom 1
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08
5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and Judge Kuniko Ozaki
6 Trial Hearing
7 Friday, 16 March 2012
8 *(The hearing starts in closed session at 9.38 a.m.) Reclassified as Open session
9 THE COURT USHER: All rise. The International Criminal Court is now in session.
10 Please be seated.
11 PRESIDING JUDGE STEINER: Good morning, everyone. I welcome the
12 Prosecution team, legal representatives of victims, Defence team, that today is
13 composed of a single member. Good morning, Mr Jean-Pierre Bemba Gombo.
14 Good morning our interpreters, court reporters.
15 WITNESS: CAR-OTP-PPPP-0036 (On former oath)
16 (The witness speaks French)
17 (The witness gives evidence via video link)
18 PRESIDING JUDGE STEINER: Good morning, Mr Witness.
19 THE WITNESS: (Interpretation) Good morning, Madam President.
20 PRESIDING JUDGE STEINER: I hope you had opportunity to rest throughout the
21 night, that you are feeling well and ready to continue with your testimony?
22 THE WITNESS: (Interpretation) Yes, Madam President, I am indeed ready to
23 begin again.
24 PRESIDING JUDGE STEINER: I was informed by court officer about two requests
25 to be made by Mr Haynes. Mr Haynes, you have the floor.

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1 MR HAYNES: Well, your Honour has observed the lonely situation I find myself in
2 this morning. It's -- I say straightaway it's no expression of disrespect. Part of the
3 team have left on a mission which has been in planning for some time and had
4 eventually to be launched whether or not we saw this current witness at this time or
5 not. What I didn't know until earlier this morning was that another part of the team
6 is engaged in clearing the personal effects of Maître Nkwebe from his apartment here
7 in The Hague which inconveniently was scheduled for today and necessarily involves
8 us because of course those effects include confidential information.

9 I'm assured, though not greatly, that I will be accompanied this afternoon, but in the
10 meantime there are serious practical difficulties with my receiving contemporaneous
11 instructions from my client and it is his wish, and I ask on his behalf if it can
12 practically be achieved, that he be permitted to sit directly behind me, rather than two
13 rows behind me. So that's the first matter and I don't propose to amplify that.
14 The second is that I have very real concerns where ever he sits about the practical
15 realities of conducting a cross-examination on my own. Now, I don't know how
16 long for example Ms Douzima-Lawson is going to take in today's proceedings.
17 I -- she suggested to me, I don't know if in jest or not, but she might take two sessions,
18 so it may be an academic question any way, but I simply mark up that concern now
19 and I apologise for it and I don't have any particular application to make in that
20 regard at this stage because we can get on with the questioning of the victims'
21 representatives, but it may well be that I wish for you to consider whether -- well, to
22 consider some application later on today.

23 PRESIDING JUDGE STEINER: Thank you, Mr Haynes. The Chamber is fully
24 aware and understands the difficulties that Defence may face starting
25 cross-examining or, sorry, I don't like the use of this expression, starting questioning

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1 the witness without the assistance of the lead counsel, the case manager, et cetera.
2 So in case it is confirmed their unavailability to come to courtroom, of course the
3 Chamber will consider the possibility of adjourning and for the Defence to start its
4 questioning on Monday morning, even because Defence has already advanced that it
5 is not going to take so long as first estimated for its questioning. So of course the
6 Chamber will give the proper consideration to this possibility.
7 In relation to your first concern, I'm afraid we have difficulties in allowing the
8 changing of the seating arrangements in courtroom. The Chamber, as well as all
9 other parties and participants, are bound by some rules imposed by security and we
10 would prefer not to confront security or to have to go to the right channels within the
11 Court of security in order to ask permission for an exceptional seating arrangement
12 inside the courtroom. So I hope Defence can live with that. If need be, as many
13 times as necessary, Mr Haynes of course will be allowed to ask for a short suspension
14 to consult with his client, but in principle the seating arrangements will stay as they
15 are.

16 MR HAYNES: Thank you very much for your kind consideration.

17 PRESIDING JUDGE STEINER: Good morning, Mr Rojas. Is Mr Rojas present in
18 the room with the witness?

19 THE COURT OFFICER (DRC): (Interpretation) Yes, Madam President. Good
20 morning. I am indeed here and I am sitting next to the witness.

21 PRESIDING JUDGE STEINER: So we will start then with the continuation of the
22 questioning of Witness 36 by legal representatives of victims, more specifically Maître
23 Zarambaud. Maître, you have the floor.

24 Sorry, Maître Zarambaud, before I give you the floor, Mr Witness, I need to remind
25 you that you are still under oath. Do you understand that, sir?

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1 THE WITNESS: (Interpretation) Yes, Madam President, I understand that only too
2 well.

3 PRESIDING JUDGE STEINER: Maître Zarambaud, you have the floor.

4 MR ZARAMBAUD: (Interpretation) Thank you, Madam President.

5 QUESTIONED BY MR ZARAMBAUD: (Interpretation) (Continuing)

6 Q. Good morning, Mr Witness.

7 A. Good morning, Counsel.

8 Q. In view of what I said to you yesterday, notably that a number of questions had
9 already been responded to when you answered the OTP's questions, and also in view
10 of the fact that you expressed a certain number of views, and for us to finish with our
11 examination as rapidly as possible, there are some questions that I will no longer need
12 to put to you. I'm saying this for the purposes of informing the Chamber. I had
13 come to the 14th question in my list yesterday and this morning I intend to move on
14 to the 15th and 16th questions. I shall -- correction, I intend to pass over the 15th and
15 16th and move straight on to number 17.

16 Now, this section concerns robbery and rape. I shall not read through the various
17 excerpts of your statement relevant to this, but I shall put the question to you directly,
18 the question that I had outlined previously. The question is as follows: Did you
19 find out that Madam Mustapha's property had been looted in addition to an
20 important sum of money, that Madam Mustapha's property had been looted and also
21 an important sum of money in Mongoumba in the republic -- in the CAR and that as a
22 reprisal, after having informed Mr Bemba over the Thuraya and after having obtained
23 his permission ordering them to go and clean up Mongoumba, Mustapha had
24 brought troops in to -- which had looted Mongoumba and then subsequently raped
25 some women?

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- 1 A. No, I do not know anything about this subject, but it wasn't the canoe or
2 riverboat as such that had been looted. (Redacted)
3 (Redacted)
4 lorries transporting foodstuffs via Mongoumba and it wasn't transport on water, if
5 you like, because here mention is made of a riverboat and one thinks of a floating
6 vehicle, but, no. It was in fact via the road to Mongoumba and those lorries were
7 looted, so they lost the entire delivery of foodstuffs and as a result President Patassé
8 in a form of compensation called Mustapha with a view to giving him some money so
9 that he could go ahead and buy other foodstuffs in replacement. (Redacted)
10 (Redacted) -- I do not know whether it was his wife or not, but
11 it was a military lady, if you like, or a female soldier, who was constantly in his
12 company and she was the lady who had actually been raped. (Redacted)
13 (Redacted) She was military personnel and she was female. (Redacted)
14 (Redacted) His -- as for his discussion with Mr Jean-Pierre Bemba, I know
15 nothing about this. I do not know what was discussed on this subject and I do not
16 know what instruction Mr Jean-Pierre Bemba gave to Colonel Mustapha. I have no
17 idea.
18 Q. Yes, well I thank you, Mr Witness. Now, the second question still within this
19 17 series of questions, did you come to know that MLC troops had publicly raped two
20 young women at the football stadium in Damara and that they left them there naked
21 and that as -- in form of punishment Mustapha had had the rapists publicly lashed or
22 whipped and without actually sending them to Gbadolite for them to be tried?
23 A. I have no idea about this. (Redacted)
24 Q. Yes, thank you. I would like now to move on to the 21st series of questions
25 that I shall now be combining with the 22nd series of questions. The reference here

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1 is CAR-OTP-0002, and we are speaking here of 0015, page 0015. There are a number
2 of paragraphs here that we shall look at. You stated, and you talked about
3 punishment inflicted upon the perpetrators of violent acts, you stated that the
4 commission only completed its work halfway because only the perpetrators of looting
5 were arrested and not the rapists or the murderers and you said that only a small
6 number of individuals were punished; notably, approximately ten people. You went
7 on to say - and I believe that the reference here is CAR-OTP-00402, and it's at page
8 00436 - and you said with the exception of the individuals that the commander --

9 THE INTERPRETER: Message from the English booth: Could counsel please be
10 requested to slow down? We cannot follow. If counsel quotes at such speed the
11 interpreters cannot follow. Please request him to slow down immediately.

12 MR ZARAMBAUD: (No interpretation).

13 THE COURT OFFICER: (No interpretation).

14 MR ZARAMBAUD: (No interpretation)

15 Q. So I shall start again. "Those individuals who were arrested, are those
16 individuals for whom or in the company of whom or in the possession of whom one
17 found the individuals belonging to other people, the possessions belonging to other
18 people. We did not find any possessions of great value. In fact, these were
19 individuals who were stealing property for their own purposes. This shows that the
20 true objective was to rid people of any guilt and when Bemba set up a court-martial, it
21 was with a view to saying that the court-martial had indeed conducted its
22 investigation and that he was no longer responsible." End of quote.

23 So the first question is as follows: Do you believe, therefore, that rapes were also
24 committed?

25 A. Yes, I do believe so, because as I said yesterday commentaries broadcast over

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1 the radio by third parties did indeed mention that there had been cases of rape and I
2 said that I believed that there had been cases of rape because they were being
3 reported on and reported on in the media, but personally, I did not see a single
4 soldier arrested for having perpetrated any rape and even the information that you
5 have just imparted with regard to what went on at Damara stadium, I am hearing that
6 for the first time now (Redacted)
7 (Redacted) There
8 we are.

9 Q. Now, this is the second question still within this series of questions. Do you
10 continue to believe today that setting up a court-martial was just merely to enable
11 Bemba to rid himself of any guilt and it was not with a view to really seeking out and
12 trying those who were truly responsible?

13 A. No, not exactly. First and foremost, the court-martial or the war commission, if
14 you like, was there to investigate everything that was reported on, everything that
15 people were talking about, notably rapes, murders and also cases that neither the
16 commander nor the battalions referred to, and also in addition the cases of looting.
17 So it was entirely in keeping with what was going on, but as far as he was concerned
18 this court-martial was due to arrest all these offenders and not only that, but he had
19 also in his lecture or -- that he had given at PK12, he had also talked about this when
20 lecturing the troops. Unfortunately, the court-martial only managed to collar those
21 soldiers who had looted and looted minor property, or minor assets, as I said
22 yesterday, such as radios, watches, televisions and money found in somebody's
23 pockets. And I said that this was minor property in comparison to what people were
24 reporting back.

25 Now, as far as Jean-Pierre Bemba is concerned, I could say that he really was counting

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1 on this court-martial in the sense that one day he would then be in a position to say
2 that the court-martial had been set up and had the court-martial not completed or
3 conducted its duty then it was not his fault. So he was the one who set it up. There
4 we have it.

5 Q. Thank you, Witness. For the benefit of the Chamber, I'll mention that I'm
6 moving on to my next set of questions. Regarding the possibility of also arresting
7 officers, you were asked a question and the question was as follows, I quote: "How do
8 you interpret the fact that no high-ranking officer was punished?", end of quote, and
9 your reply was as follows, and I quote: "Well, that was part of the various effective
10 measures that were not taken and the only person who could have taken such
11 measures was him. I wonder why he did not replace those officers and I don't
12 understand why he did not take those measures. If he had done so, that would have
13 shown the soldiers that he was opposed to such behaviour," end of quote. And then
14 another quote once again: "I meant that his concern was his image, the image of
15 himself and his movement. He -- I meant that what he was concerned about was his
16 own image and the image of his movement. He was very concerned about the effect
17 of this information on his reputation, but he didn't care about the victims' suffering
18 because, otherwise, he would have taken true measures. He would have really done
19 something. The soldiers who were arrested, well, they were arrested so that if one
20 day questions were asked of him he would be able to reply and say that he had set up
21 an investigation," end of quote.

22 My question is as follows: Do you think that if these measures had been taken
23 would the violence and abuse have stopped, or at the very least would they have
24 lessened considerably?

25 A. Yes, I do think so. You pointed out - and I think everyone's noticed this - that

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1 no commander, no high-ranking commander, for instance no battalion commander or
2 even a company commander, and these were the people who were responsible for
3 finding a certain -- providing a certain framework for the soldiers, none of them were
4 arrested or questioned and he did not replace any of these commanders. (Redacted)
5 (Redacted)
6 (Redacted)
7 (Redacted)
8 (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted)

13 THE INTERPRETER: Interpreter's correction: The witness spoke of the
14 indifference of the population, not the difference.

15 THE WITNESS: (Interpretation) And so the commander-in-chief, well, he had his
16 own way of looking at things and understanding things. It was very difficult. It
17 was very difficult to persuade him of something once he had made a particular
18 decision and it was not an easy task for someone -- for someone else to oppose a
19 decision taken by the commander-in-chief so -- given the way he was. (Redacted)
20 (Redacted) -- well, if measures like that had
21 been taken perhaps things would have been different, things might have been
22 different, because you see what was lacking was a proper control over the troops,
23 monitoring of the troops. So there you have it.

24 MR ZARAMBAUD: (Interpretation) Thank you, Witness, for being so kind as to
25 reply to my questions and I thank the Bench for this opportunity to question the

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1 witness.

2 PRESIDING JUDGE STEINER: Thank you very much, Maître Zarambaud.

3 I now give the floor to Maître Douzima.

4 MS DOUZIMA-LAWSON: (Interpretation) Thank you, your Honour.

5 QUESTIONED BY MS DOUZIMA-LAWSON: (Interpretation)

6 Q. Good morning, Witness.

7 A. Good morning, Counsel.

8 Q. Witness, I'll introduce myself to you. I am Marie Edith Douzima-Lawson and
9 I'm a member of the Central African Republic Bar. I'm also a citizen of the Central
10 African Republic. And I am the legal representative of a good number of victims
11 who have been given permission to take part in this trial and thus it is my mandate to
12 present the concerns and questions of the victims before this Court. The personal
13 interests of the victims are affected by your statements, both written statements you
14 may have given and statements you may have given orally. That is why I have a
15 number of questions relating to the statements you made during the interview
16 conducted by the OTP and, in light of the various replies that you gave to the
17 Prosecution during the hearings of 13, 14 and 15 March, I will have questions as well.
18 So, Witness, I would like to begin with a statement that you made during the
19 investigation. The reference is CAR-OTP-0009-0402, at page 0413. Witness, you
20 stated that the international community was putting pressure on people to see to it
21 that the MLC would withdraw from the Central African Republic. Why did the
22 international community need to put pressure on certain parties so that the ALC
23 would withdraw from the Central African Republic?

24 A. Well, it was because the ALC needed to be ready for the movement towards
25 Kinshasa and then the integration into the armed forces of the DRC. In the

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1 meantime, for us as well, the ALC -- well, the reason that I mentioned on the first day
2 were no longer valid, particularly since the Inter-Congolese dialogue had already led
3 to the signature of agreements. So no matter what the cost, we needed to leave the
4 Central African Republic.

5 Q. Thank you. Witness, at the hearing of 13 March - and the reference is to the
6 edited version, page 30, lines 25 to 28, and the following page, line 1 - you stated that
7 the soldiers never received any form of wages, not even a daily allowance, for
8 their -- and this was in response to a question from the Prosecution. So I would like
9 to ask you this: How did they survive if they were not receiving any wages, not
10 even any living or daily allowance?

11 A. That is correct. We did not have any wages, or salary. We did not receive
12 any daily allowance, but all the soldiers were fed. It was enough. They also
13 received healthcare. They were given soap and other basic commodities, except that,
14 yes, indeed, they did not receive any wages, but they did have food. They were
15 fed.

16 Q. And were their families fed as well? Did their families also receive healthcare,
17 given that they were not actually paid?

18 A. Yes, wherever the soldiers were they would move about with their families, and
19 in the case of soldiers whose families had remained at the military headquarters they
20 too were fed. They received food.

21 Q. Thank you, Witness. Now, during the hearing of the 13th, page 51, lines 27 to
22 28, when speaking of training given to the soldiers you stated that the first thing to be
23 taught was discipline, and on page 52, lines 7 to -- 5 to 7, you mentioned a document
24 entitled "Code of Good Conduct" and this code of conduct was explained to the
25 soldiers. Lines 9 and 10 on the same page, you said that (Redacted)

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1 (Redacted) during the lecture on morality and moral matters,
2 the first point touched upon was discipline. So how can you explain the abuses that
3 have been attributed to the ALC troops when they were in the CAR in 2002 and 2003
4 despite this focus on discipline?

5 A. Well, it can happen. It can happen. It is all revealed now. It depends on
6 people's behaviour. Once a thief, always a thief. Even if a person has been arrested
7 several times, once a thief is punished, once he's released he will go out and steal
8 again all the same and that's the truth of it. In any military unit at any military
9 training centre, the first order of business, the highest priority, is discipline.
10 Discipline is what all armies are built on. I am speaking of any army in the world
11 and our army was no exception to that. (Redacted)

12 (Redacted) this document that you mentioned, the Code of Good Conduct. However,
13 a highway robber remains a highway robber and a bandit remains a bandit, and you
14 say that they were not paid wages, that they were poor. That was part of the
15 equation as well and that could have explained why sometimes the soldiers
16 misbehaved or engaged in misconduct, stealing things. That is true. It is true that
17 they only had food, healthcare, and that was not enough. That is true. It was not
18 sufficient. They needed money as well for other needs, that is true, but as for the
19 misconduct, not everyone stole. Not everyone engaged in misconduct. There are
20 also good fellows amongst them. So there you have it.

21 PRESIDING JUDGE STEINER: I am sorry if I interrupt you, but just in order to be in
22 the same line of questioning I would like to ask a clarification from the witness.
23 Mr Witness, here on page 14, as from lines 14, you say that "The soldiers did not
24 receive any daily allowance, but all the soldiers were fed. It was enough. They also
25 received health care. They were given soap and other basic commodities, except that,

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1 yes, indeed they did not receive any wages, but they did have food. They were fed."
2 From the list of questions that was submitted to the Chamber by Maître Zarambaud,
3 in the 16th set of questions Maître Zarambaud quoted some parts of your statement,
4 the statement given to the Prosecution, and among those quotations I would like to
5 quote CAR-OTP-0009-0388, paragraphs 3 and 5. So this I am taking from Maître
6 Zarambaud's list of questions. It is said, and I will have to read in French since I
7 don't have the English translation and here is the quotation, (Interpretation) "Thus,
8 you think that the possible thefts, the looting and the consequences of the fact that the
9 soldiers were not paid, because of this you answered" quotation, "That is one of the
10 consequences because normally if you give -- well, you give everything to a soldier,
11 wages, a house, everything that he needs, and when he committed abuses
12 immediately he could be arrested and punished, but when you yourself are aware in
13 any event that he stole because he was hungry, even if you punish him at one point
14 you say to yourself, well, that is enough. Don't do that ever again." (Speaks English)
15 What you meant by that, Mr Witness? In your statement you appeared to agree that
16 at least in part the pillaging, the robberies were due to the fact that the soldiers did
17 not receive any salaries, they were hungry and that they were not punished because
18 they committed abuses because they were hungry. (Interpretation) "He stole
19 because he was hungry." (Speaks English) This is what you said. Can you please
20 elaborate on this part of your written statement, Mr Witness?
21 THE WITNESS: (Interpretation) Thank you, your Honour. No, I didn't say that
22 such a person could not be punished knowing that he had been hungry. They were
23 always punished, despite that. One can always punish soldiers, but if one knows
24 that he was not given anything, that he was not being fed, that he was hungry, he
25 would be punished and given advice; namely, "Never do that again." That would be

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1 a form of advice after being punished. That's what I said, but I want to specify here
2 that sometimes it might be one reason because only the food given or the medication,
3 the -- or soap, that would not be enough. There may be other difficulties that would
4 explain why such a person would need money, so that is why a soldier might steal
5 because he did not have money, but if a commander caught the person he would have
6 to punish the wrongdoer. Unfortunately, the person may have stolen because he
7 didn't have a particular item, so he would be punished and given advice. Quite
8 often -- well, during the investigation I replied and I said that a soldier who engaged
9 in misconduct like that on a major road after his punishment would be sent elsewhere.
10 He would be sent elsewhere to another road. I don't know whether this is clear or
11 not?

12 PRESIDING JUDGE STEINER: Thank you, Mr Witness. It's very clear, but it
13 appears that you are talking on something in theory and I would like you to be more
14 precise on what happened in the field during the time of the -- between October 2002
15 and March 2003 in Central African Republic. In theory I fully agree with you, but I
16 wanted to know whether you know what was going on on the field at that time in
17 relation to the quantity, quality and sufficiency of the food, for instance, that was
18 given to the soldiers in the Central African Republic?

19 THE WITNESS: (Interpretation) Thank you, your Honour. (Redacted) I
20 said that the food usually was sent to all the various units. I did not deny that there
21 was no cases of looting and theft. I confirmed that point. (Redacted)
22 (Redacted) such cases of looting and theft and rape. I
23 said that some people were arrested (Redacted) It was not
24 just the seven who were -- now, I don't know what the exact number was. That's
25 why I said it was ten or perhaps 12, something like that, and now that it is more clear

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1 I am saying -- I am talking about seven. I suppose that was not sufficient. Even
2 though the commander said that he arrested the people and despite the presence of
3 the commission, this joint commission that was set up to investigate and continue
4 with the arrests of those soldiers who had engaged in misconduct, but they stole.
5 I don't know whether they -- if they stole because they did not have wages, but
6 throughout the entire period of time they never had any wages, even when they were
7 in the Congo. In some cases they were thieves who wanted to steal watches, small
8 amounts of money, a radio set, that is true. I don't deny that. So there you have it,
9 ma'am.

10 PRESIDING JUDGE STEINER: Thank you, Mr Witness. I think I'll have to come
11 back to this issue later, but now I will give back the floor to Maître Douzima.

12 MS DOUZIMA-LAWSON: (Interpretation) Thank you, your Honour.

13 Q. Thank you, Witness, for all these explanations. I would like to return to the
14 matter of the code of conduct. At page 54, you said -- and I am still making reference
15 to the edited transcript of the hearing held on the 13th. Page 54, lines 3 to 8, you
16 stated that this code was written in French and that some soldiers, some soldiers,
17 barely could read or write and some couldn't even read. Could you tell us what the
18 average level of schooling was of the MLC troops?

19 A. I didn't really understand the last question. Are you talking about their level
20 of schooling?

21 Q. I would like you to give us the average level of schooling for the troops; the
22 ALC that is?

23 A. Well, I don't really know. I don't know whether I have really understood the
24 question. There were some soldiers who had studied, yes, and who had reached a
25 certain level of instruction, and there were those who had not attended school at all

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1 and who were illiterate. However, the documents that were in the French language
2 were placed at the disposal of the commanders and one would suppose therefore that
3 the commanders did have a certain level of schooling. They knew how to read, they
4 knew how to read French and interpret what was written, but also in addition there
5 were those documents that we refer to as military regulations that were drafted in the
6 Lingala language. These were in the possession of old veterans and these, together
7 with the Code of Good Conduct, made up the documents, the working documents.
8 These were the instruments that were at the disposal of the commanders of -- the
9 high-ranking soldiers. These were said to be the wise men within the companies,
10 but this was not distributed to all the soldiers, the file and rank, if you like. There we
11 have it.

12 Q. Now, to finish this subject of the code of conduct, I'm referring here to your -- to
13 CAR-OTP-0009-0402, page 0436, you talked about the investigation into the matter
14 and you had us believe, Mr Witness, that these were political commissioners who
15 were in charge of bringing this Code of Good Conduct to the general population, to
16 make it understandable to people. Now, how was or when was this political system
17 set up and how long did it function for?

18 A. This system of political educators had been in place virtually from the outset
19 and it functioned until the very end. These were officers who were part of the
20 General Staff and they were within battalions or they were part of brigades. These
21 officers would work side by side with their commanders and the -- but the major
22 awareness raiser if you like was the commander, whether it be at the company level,
23 whether it be at the battalion level or whether it be at the brigade level, and the
24 political educators were working side by side with their commander with a view to
25 guiding them, and from time to time they might receive authorisation from their

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1 commander to go and speak directly to such-and-such a soldier, to such-and-such a
2 unit directly, so they were there from the very beginning until the bitter end.

3 Q. Thank you very much. I would now like to broach with you the question of
4 the joint commission set up by Jean-Pierre Bemba, and I am here referring to
5 CAR-OTP-0009-0402, page 0436, and you stated that this investigative commission or
6 committee was set up to investigate the violence and abuse perpetrated by the
7 soldiers of the MLC in the Central African Republic and it was made up of Central
8 Africans and Congolese members of the MLC. Could you tell us how many
9 members this commission comprised?

10 A. On the Congolese side, they were four or five in number, I believe. The head
11 of the Congolese team was Colonel Romain Mondonga, as I said yesterday,
12 Mondonga, and on the Central African side I do not know who was present, but it
13 was of course a joint commission.

14 Q. And where was the headquarters of this commission?

15 A. In Bangui.

16 Q. Do you know precisely where in Bangui?

17 A. No, I do not know precisely in which residence or which avenue it was located,
18 but I do know that it was in Bangui town and from time to time they would go back
19 to Zongo, but they were permanently quartered in Bangui.

20 Q. And what was the scope of the investigation?

21 A. Well, the scope in terms of area meant that they had to follow what was going
22 on in terms of military operations and find out precisely what was going on.

23 Q. And to your knowledge did they visit all the towns where those soldiers
24 committed the violent acts?

25 A. I do not know. I'm not in a position to answer you there. This is something

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1 I'm not aware of, but they were able to move around and go anywhere they wanted to
2 because they were in the company of officers from the FACA General Staff.

3 Q. And to your knowledge were victims questioned by this commission?

4 A. Yes, I believe this to be the case and this was in fact their duty. Otherwise,
5 why would they have been there? Why would they have gone there? They were
6 due to question the victims. That was the aim of their investigation. If they did not
7 do so, well -- but I can't tell you who precisely they questioned, but the mandate of
8 their mission was to go and question those individuals but I'm not sure whether they
9 did or did not.

10 Q. And does this transpire in the commission's report, this detail?

11 A. I do not recollect. I do not know.

12 Q. I thank you, Mr Witness. I would now like to broach the subject of one of your
13 statements with regard to this commission dated 15 March, that is to say yesterday.

14 This is the edited version, page 7, lines 27 to 28, and page 8, lines 1 to 2. (Redacted)

15 (Redacted)

16 (Redacted) the looted possessions were -- the returned, restored looted

17 possessions were then being returned to their rightful owners as and when they came
18 down -- they came forward. Was there any record of these returned goods?

19 A. I answered this question yesterday by saying that it was (Redacted)

20 (Redacted)

21 (Redacted) it was the Central African part that was actually in charge of restoring
22 individual property. They were in charge of undertaking those measures that would
23 allow them to find the rightful owners of assets, and of course somebody who loses
24 their possessions must be sure -- well, of course there must have been a document in
25 existence that I did not personally see.

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1 Q. I thank you, Mr Witness. I would like to now move on to one of your
2 statements in the investigation, CAR-OTP-0057-0002 and this is page 0013. Now,
3 Mr Witness, when you say, quote, (Redacted)

4 (Redacted)

5 (Redacted)

6 A. (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. You then said that a court was set up and was presided over by Member of
10 Parliament Bule. Now, who set up this court?

11 A. This was the commander-in-chief, the president.

12 Q. Thank you, Mr Witness. I would now like to move on to one of your
13 statements made during the hearing of 14 March. This is the edited version, page 46,
14 line -- lines 5 to 21. You talked of co-operation between some of the FACA soldiers
15 who were loyal to President Patassé at the time who were telling the ALC troops
16 what itineraries were to be followed, and you said that they would sometimes fight
17 alongside the ALC troops. Are you aware of any violent acts committed by these
18 soldiers of the FACA who were fighting alongside the ALC during that period?

19 A. Yes. (Redacted)

20 (Redacted) cases of robbery, or theft and looting on the part of

21 the soldiers, he said that it was really the Central African Republic soldiers, the CAR
22 soldiers, who were the guilty party in all of this.

23 Q. Thank you, Mr Witness. And these Central Africans, were they arrested
24 within the framework of the investigation itself?

25 A. I do not know. At that moment in time I was no longer in Gbadolite, and

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1 we -- the ALC had returned and we presumed that the Central Africans had remained
2 at their central headquarters.

3 Q. I thank you, Mr Witness. Page 49, lines 9 to 20, I am still making mention here
4 of the edited version of the 14 March transcript, you stated that it was people - certain
5 people - and some of your friends who were telling you about the acts or abuses
6 committed by the MLC troops in the Central African Republic and those people, your
7 friends notably, heard this over the RFI and over other radio stations. Now, what
8 was your reaction when hearing this information?

9 A. I said that when (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. Well, yes, Mr Witness. When speaking of the visit to Bangui and notably the
18 visit to PK12 yesterday, on page 19, lines 8 to 15 of the transcript of yesterday, you
19 said that Jean-Pierre Bemba spoke to the soldiers asking them to behave properly to
20 the population and this was with regard to information that (Redacted) in
21 terms of violent acts committed by the soldiers upon the population. My question is:
22 To your knowledge did these violent acts and abuses come to an end after this lecture
23 on morality and the advice given by Bemba to his troops?

24 A. I do not believe that it came to an end.

25 Q. Thank you. And to finish off, I'm still referring to yesterday's hearing, page 23,

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1 lines 8 to 10, you said that you had no knowledge of the number of visits made by
2 Mr Bemba to the CAR, but that you knew he had conducted other visits apart from
3 that to Bangui (Redacted). Do you know any other towns in the
4 CAR that Bemba visited?

5 A. No, I am not aware of that. His -- his travels took him to Bangui. I am not
6 aware whether he visited other towns apart from Bangui.

7 MS DOUZIMA-LAWSON: (Interpretation) Well, I'd like to thank you, Mr Witness.
8 This brings my examination and this question -- my questions to a close. I would
9 like to thank you also, Madam President.

10 PRESIDING JUDGE STEINER: Thank you very much, Maître Douzima.

11 Mr Witness, coming back to some of the questions that were supposed to be put to
12 you by Maître Zarambaud, but I think Maître Zarambaud tried to abbreviate his
13 questioning in order not to keep you for too long, Mr Witness, some of Maître
14 Zarambaud's questions in my view were quite pertinent and I would like then to ask
15 some clarifications on the basis of some of the information contained in Maître
16 Zarambaud's filing, which is filing 1598-Conf-Corr.

17 And again because we don't have translations from such filings, I will make an effort
18 to read in French some of the excerpts contained in Maître Zarambaud's filing.

19 And this is more related to the 12th set of questions of Maître Zarambaud that deal
20 exactly with the control exercised by Mr Bemba over the troops in the field.

21 In CAR-OTP-0057-0013, last paragraph, and CAR-OTP-0057-0014,
22 paragraph -- paragraphs 1 to 5, these are some questions and answers that are in your
23 written statements, and I read: (Interpretation) "To the question did Bemba set up a
24 reporting system in order to ascertain what was going on in the field and, if so, what
25 system?", (Speaks English) and here I quote, (Interpretation) "With regard to

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1 operations, whether it be top down and inversely, the supreme commander would
2 take all the decisions. He was the commander of operations. (Redacted)
3 (Redacted). As for the unit commanders out in the field,
4 Bemba would speak directly to them. The operators would bring to him the
5 log-books directly. (Redacted) he alone
6 would manage instructions relating or pertaining to operations. (Redacted) not even
7 move a platoon without his authorisation. Everything came from him; instructions
8 to send ammunition, to take a position, to retreat, et cetera." "Was this also the case
9 for the operation in the Central African Republic?" (Speaks English) And you
10 answered, (Interpretation) "Especially in the Central African dossier, especially
11 there it was more of a sensitive situation because it was a foreign country. Mustapha
12 was the one in charge of the operation in the Central African Republic. Bemba
13 would directly give orders to Mustapha. (Redacted)
14 (Redacted)
15 (Redacted) Question: "Bemba, did he give orders for the movement of
16 troops during the operation in 2002 and 2003?" You answered: "The troops, the
17 MLC troops who were there, could not do anything without Jean-Pierre Bemba
18 providing them with the orders himself. Out in the field, when Mustapha was in the
19 Central African Republic, he was under the orders of the Central African Republic,
20 but he couldn't do anything without Bemba's agreement."
21 (Speaks English) Do you confirm these excerpts of your statement and could you
22 please elaborate a little bit more on the so-called control that Mr Bemba had over the
23 troops in the Central African Republic during this period.
24 THE WITNESS: (Interpretation) I thank you, Madam President. Yes, that was
25 precisely the case. The various documents or messages contained in the log-books

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1 that we perused yesterday show this only too clearly. Authorisation for anything or
2 everything had to come from the supreme commander, from the commander-in-chief,
3 Mr Jean-Pierre Bemba, and this has been proven in the documents themselves.
4 When the document -- when the commander, (Redacted)
5 (Redacted) authorisation from Mr Jean-Pierre Bemba.
6 Now, generally speaking, one could not even send a single magazine or take a single
7 magazine out of the depot without receiving the authorisation from the
8 commander-in-chief. Everything was at his disposal. We were just envoys and we
9 were there to monitor the situation and report back to him. Of course, he would talk
10 directly to all the commanders, even from his own residence, from his living room,
11 and that is also proven. (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted) So he was in control of all the units.
16 He would speak to all the commanders and that is the truth.
17 I do not know, Madam President, whether I have made myself understood?
18 PRESIDING JUDGE STEINER: Judge Aluoch.
19 JUDGE ALUOCH: Mr Witness, I just want to ask you (Redacted)
20 (Redacted) is this what happens, or was this unusual? This evidence that you are giving
21 just now, was this an unusual way of operating of a commander -- of Mr Bemba to
22 operate, or is this how it works within the army ordinarily? I want you to clarify this
23 to us, please, not being military people, yes.
24 THE WITNESS: (Interpretation) Thank you for the question. Things don't work
25 exactly that way usually in a classic army, in other armies, in a national army. It

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1 really was a bit much, a bit of an exaggeration so to speak within the MLC, because
2 the Chief of General Staff, of course he has his responsibility and he has his limits as
3 well. It is true that the president of the republic generally speaking -- I don't know
4 whether this is the case in all countries, but in many countries, but as president of the
5 republic that person is the supreme commander of the army and he is the one who
6 also has the authority to declare war, to issue instructions, and the instructions are
7 given to the units through the Chief of Defence Staff, if it be a matter having to do
8 with troop movements, supplies and quite often the Chief of General Staff, well, it is
9 true he cannot do something without asking for authorisation or informing the
10 president of the republic, who is also the commander-in-chief, that is true, but that is
11 not the way things worked in the MLC, as I said in previous days. Even if it was a
12 matter of ten litres of fuel for an officer's vehicle, even then one had to have the
13 authorisation of the commander-in-chief. That is how things were within the MLC.
14 That is why I said it was not a normal situation.

15 I have tried to answer your question. Have I made myself understood?

16 JUDGE ALUOCH: Yes, thank you very much.

17 PRESIDING JUDGE STEINER: Mr Witness, in this series of questions I just have one
18 more that is also -- that also comes from the 20th set of questions proposed to the
19 Chamber by Maître Zarambaud, and this set of questions arises from
20 CAR-OTP-0057-0015, paragraphs 4, 7 and 8. To the question, and here I quote,
21 (Interpretation) "Could you confirm that Bemba was aware of the behaviour of the
22 troops throughout the entire conflict in the CAR?" (Redacted)
23 (Redacted)
24 (Redacted) (Speaks English) end of quotation. First, my question is if you
25 confirm this part of your statement, and second, whether it's of your knowledge that

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1 Mr Bemba at any time have asked or interrogated Colonel Mustapha in relation to the
2 conducts committed by the soldiers - the MLC soldiers - in Central African Republic?

3 THE WITNESS: (Interpretation) Thank you, your Honour. First of all, I can
4 confirm my statement.

5 Secondly, I can't say that I heard or saw that the commander-in-chief was ordering or
6 giving instructions to listen to communications with Colonel Mustapha or brigade
7 commanders, no. So there you have it, your Honour.

8 PRESIDING JUDGE STEINER: Maybe there was a misunderstanding in relation to
9 my second question. My second question related to the fact on whether it is of your
10 knowledge that Mr Bemba interrogated Mustapha, or punished Mustapha, or
11 submitted Mustapha of any kind of punishment for the facts committed by the troops
12 in Central African Republic?

13 THE WITNESS: (Interpretation) Your Honour, I would say, no, he did not do that.

14 PRESIDING JUDGE STEINER: Thank you, Mr Witness.

15 Mr Haynes, now it's time to ask whether it's your intention to start questioning the
16 witness today, whether we should suspend and resume after lunch, because then
17 maybe you have fresh information? We are at your disposal, Mr Haynes.

18 MR HAYNES: Thank you. Certainly I am not going to invite you to keep the
19 witness hanging around until after lunch, so it's either option 1, I have a go at it, or it's
20 option 3, I think we let the witness go and I start on Monday.

21 My preference is option 3 because I can see all sorts of practical difficulties with
22 attempting to question the witness on my own in this configuration, but if you would
23 just give me two minutes I think we can resolve that issue before the tape runs out.

24 (Pause in proceedings)

25 MR HAYNES: Your Honour, I do confirm that I would wish to commence

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1 questioning the witness on Monday, rather than today, and if you agree with that I
2 would be obliged if I could address the witness directly just for a few moments by
3 way of apology so that he understands why this has happened, or indeed if you
4 would explain to him what has happened. I am deeply apologetic for this, but I
5 really don't see it's a practical proposition to undertake this exercise in this situation.

6 (Trial Chamber confers)

7 PRESIDING JUDGE STEINER: So instead of suspending for a break at 11, which
8 should have been done, I ask the interpreters and court reporters whether it is
9 possible for us to have 10/15 minutes more and then we adjourn? Is that --

10 Mr Haynes, you will be given the opportunity if you so wish to address the witness.
11 Before that, however, I just received -- I just could check the -- some information,
12 Mr Witness, that the Chamber received from other testimonies, and I'm referring here
13 to transcript of hearing of 31 May 2011, it's transcript 120, page 21, lines 12 to 18, and I
14 will just quote part of it in order to ask whether the witness is aware of what was
15 going on on the field.

16 It was said that "The soldiers - the ALC soldiers - in the Central African Republic were
17 pillaging houses, stealing clothes, mattresses, motorbikes, refrigerators, et cetera,
18 et cetera," but what counts here, and this is from line 25, "They started to kill domestic
19 animals, such as goats, dogs. They pillaged all the reserves that the population had
20 stocked in their attics." And to the question, the follow-up question, "The
21 Banyamulengue, did they have rations? Were they provided with rations by their
22 hierarchy in order to eat?" "Well, they ate the animals of the population." "So were
23 they provided with rations at all?" "And the answer was, "I think that they received
24 beans and they also got fish, but you imagine if somebody just eats the same thing
25 every day, ate beans, it is difficult to put up with and that is why they preferred to kill

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1 the domestic animals such as goats and others. They ate fish and they ate beans.
2 They ate that every day and then they decided to go and kill animals, domestic
3 animals."

4 In the transcript of hearing of 7 June 2011, transcript 123, page 17, English, page 17,
5 lines 2 to 5 and 12 to 14, we had another witness just saying that the soldiers -- that
6 while Mr Bemba had received money from President Patassé, the soldiers who were
7 on the ground were only eating fish and beans and that's why they had to find food
8 even at the expense of the population.

9 What would you say about these statements, since you said that the troops were fed,
10 Mr Witness?

11 THE WITNESS: (Interpretation) Thank you, your Honour. Well, in those
12 documents what there was -- well, you see, there wasn't a lot of variety in the food
13 that was provided. Meat was not purchased, vegetables were not purchased.
14 Indeed, it was beans that were sent from the General Staff headquarters, palm oil, salt,
15 cassava flour, also called fu-fu in the local way of saying things, and sometimes rice.
16 So when it came to food that is what was generally sent to the soldiers, so there really
17 wasn't a lot of variety in the food provided.

18 As for the food, a little bit of money was given so that the commanders could buy fish
19 locally and reference was made to that as well. So there you have it. There was no
20 other food than that. There was very little variation, variety, in the food provided to
21 the soldiers, because you see that kind of food is easy to transport and keeps well.

22 PRESIDING JUDGE STEINER: Thank you, Mr Witness. And taking aside the lack
23 of variety on the food, in your view the food that was sent to the troops in terms of
24 quantity was enough to feed 2,000 men? You said in the beginning of your
25 testimony that there were about 2,000 ALC soldiers in Central African Republic, so

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1 my question is the food sent was sufficient to feed almost 2,000 soldiers?

2 THE WITNESS: (Interpretation) Yes, it was sufficient from that point of view,

3 (Redacted)

4 (Redacted) Calculations were made and the same calculations were done elsewhere

5 and in Bangui. It was -- the foodstuffs required were calculated and that was done

6 on a monthly basis.

7 PRESIDING JUDGE STEINER: Thank you, Mr Witness.

8 Before we adjourn, I give the floor to Mr Haynes.

9 MR HAYNES: Sir, I've got some good news and some bad news for you. The good

10 news is that you've got the rest of the day to yourself and I hope you are pleased to

11 hear that. The bad news is that you'll have to come back on Monday, and I will then

12 be asking you some questions for probably a day or two and then it should be over.

13 I'm very sorry that we are unable to proceed today and it's really my fault and I hope

14 you accept my apology, but sadly - and you may know about this - one of Mr Bemba's

15 other lawyers died recently and the other lawyers who represent him have to deal

16 with his personal effects here in The Hague today and it makes it difficult for us to be

17 in Court to deal with your examination. I hope you understand that, but please be

18 assured that on Monday I will be as expeditious as possible in asking you the

19 questions that I have for you.

20 Thank you for listening to me.

21 PRESIDING JUDGE STEINER: Thank you, Mr Haynes.

22 Mr Witness, we will adjourn for today and resume only on Monday morning. As

23 Mr Haynes just said we hope that Defence will take not more than maybe two days to

24 complete with your questioning, which means that, as said before, the estimation that

25 you would testify for eight days will be shortened. We hope you have a nice

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- 1 weekend and that you can take some rest together with your family.
- 2 I thank very much the Prosecution team, the legal representatives of victims,
- 3 Mr Haynes, Mr Jean-Pierre Bemba Gombo. I thank very much our interpreters,
- 4 court reporters. We will -- Mr Rojas. Thank you very much, Mr Witness, and this
- 5 hearing is adjourned and we will resume on Monday at 9.30 in the morning.
- 6 THE COURT USHER: All rise.
- 7 *(The hearing ends in closed session at 11.22 a.m.) Reclassified as Open session
- 8 RECLASSIFICATION REPORT
- 9 Pursuant to Trial Chamber III's Orders, ICC-01/05-01/08-2223 and
- 10 ICC-01/05-01/08-3038, the version of the transcript with its redactions becomes Public.