

Trial Hearing

(Closed Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0036

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 Thursday, 15 March 2012

9 (The hearing starts in closed session at 9.40 a.m.) Reclassified as Open session

10 THE COURT USHER: All rise. The International Criminal Court is now in session.

11 Please be seated.

12 PRESIDING JUDGE STEINER: Good morning and welcome the Prosecution team,

13 legal representatives of victims, Defence team, Mr Jean-Pierre Bemba Gombo. Good

14 morning to our interpreters and 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, your Honour.

20 PRESIDING JUDGE STEINER: We hope you had the opportunity to take some rest

21 last night and that you are ready to continue with your testimony?

22 THE WITNESS: (Interpretation) Yes, your Honour, I am ready.

23 PRESIDING JUDGE STEINER: Good morning, Mr Rojas.

24 THE COURT OFFICER (DRC): (Interpretation) Good morning, your Honour.

25 PRESIDING JUDGE STEINER: Before we start with the -- we continue with the

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1 evidence by Witness 36, the Chamber has a short oral decision to be issued relating to
2 the scheduling of the witness's testimony.

3 During the first session of yesterday afternoon, the witness asked the Chamber to
4 decrease the number of sitting days to a period of less than eight days. To that end
5 the witness submitted that, in light of (Redacted), it might be difficult for
6 him to testify during eight days. The witness further explained (Redacted)
7 (Redacted)
8 (Redacted).

9 The Prosecution submitted that, while the witness is a very important witness for the
10 case, it would try to reduce the time required for its questioning by taking into
11 account the answers that have already been provided by the witness.

12 The Defence indicated that the time required for its questioning depends on the
13 questions that would be asked by the Prosecution, but it anticipated that the
14 testimony would last at least two or three days less than eight days.

15 Pursuant to the Chamber's instruction, the Victims and Witnesses Unit contacted
16 Witness 36 in order to discuss any solutions that could ease the conditions of
17 testimony for the witness. Accordingly, in an email sent to the Chamber yesterday
18 evening, the VWU reported that the witness would like to continue with the
19 testimony in the same manner as until now and that he agreed (Redacted)
20 (Redacted).

21 As previously emphasised, the Chamber wishes to recall that, once a witness has
22 started giving testimony, the witness needs to be questioned by the Prosecution, the
23 legal representatives and the Defence and the testimony cannot be suspended before
24 it is completed.

25 In relation to Witness 36, the questioning time initially anticipated by the parties and

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1 participants amounts to 32 hours. Considering that additional time might be
2 required for the Chamber to ask clarifying questions, or to address procedural
3 matters, the testimony was initially scheduled to take up to eight days of hearing.
4 However, in light of the parties' submissions, the actual time required for the
5 witness's testimony might be up to three days shorter than the original estimate.
6 While this estimate does not mean that the Chamber can guarantee that the testimony
7 will be completed by a specific date, the Chamber notes that there are high chances
8 that the witness will be released by the beginning of next week. Accordingly, the
9 Chamber decides that the parties and participants shall endeavour to conduct their
10 questioning in a manner that would enable the witness to complete his testimony
11 after five or six sitting days. Conversely, the Chamber asks the witness to make sure
12 that he's available to appear before the Chamber until completion of his testimony.
13 Mr Witness, before I give the floor to the Prosecution, I need to remind you that you
14 are still under oath. Do you understand that, sir?

15 THE WITNESS: (Interpretation) Yes, I certainly do understand that, your Honour.

16 PRESIDING JUDGE STEINER: Thank you very much, sir. If at any time you feel
17 tired, or for any reason you need a break, you just let us know and you can have the
18 breaks you need in order to take some rest.

19 Maître Badibanga, you have the floor.

20 MR BADIBANGA: (Interpretation) Thank you, your Honour. Good morning,
21 your Honours.

22 QUESTIONED BY MR BADIBANGA: (Interpretation) (Continuing)

23 Q. Good morning, Witness.

24 A. Good morning.

25 Q. Indeed, I do hope you had an opportunity to take some rest and as we

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1 undertook our intent is to conclude our examination today. When we left off
2 yesterday we were discussing some vehicles that had arrived in Bangui, and I would
3 like to ask you (Redacted)
4 (Redacted).

5 A. Thank you. Once again, the vehicles arrived in Gbadolite. You said Bangui.
6 I've understood what you mean, I understand the question. I'll have to correct one
7 point, make a small correction, because I don't want any confusion to be created.
8 Yesterday, I was talking about two or three vehicles. (Redacted)
9 (Redacted). I don't know whether I need to repeat that?

10 Q. No, that's not necessary. I think that was extremely clear, (Redacted)
11 (Redacted).

12 A. Very well, thank you. Indeed, I wanted to clear that point up. There was a
13 jeep that was used by Colonel Bokolombe, but that jeep, Colonel Bokolombe had it
14 from Bangui during the first operation, not during the second operation but during
15 the first. (Redacted)

16 (Redacted)

17 (Redacted)

18 Q. Now, this vehicle being used by (Redacted)
19 (Redacted) was he using that for normal official purposes or
20 was -- or for ordinary, every day purposes, or was he using the vehicle for military
21 purposes?

22 A. Well, the car was made available to him and he used it in a normal way. It was
23 a small car with -- which he was able to travel quite far into the bush. He was able
24 to drive into the bush on roads that were not very good at all for that kind of vehicle,
25 so he used the car for his own requirements. The car was available to him.

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1 Q. You make reference to certain requirements within the town of Gbadolite, so
2 the vehicle wasn't used for military purposes?

3 A. No, not at all.

4 Q. Can you remember under which circumstances the vehicle left Bangui?

5 A. The circumstances? No, I'm not aware of that. All I know is that the two
6 vehicles came from Bangui and, as I told you yesterday, they were taken to Zongo,
7 Gemena and then arrived in Gbadolite.

8 Q. (Redacted)

9 (Redacted)

10 (Redacted)

11 A. (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted).

22 Q. Thank you very much. Now, do you know, regarding the vehicle (Redacted)
23 (Redacted)?

24 A. No, I don't know about that. I don't know whether he gave it to him, but I
25 know that it was a vehicle from Bangui.

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1 THE INTERPRETER: Inaudible.

2 MR BADIBANGA: (Interpretation)

3 Q. To your knowledge, was Mr Bemba aware of the information in the press that
4 the MLC troops were creating -- correction, were conducting crimes in the CAR?

5 A. Yes, as I said yesterday, he was aware.

6 Q. (Redacted)

7 (Redacted)

8 A. (Redacted)

9 (Redacted)

10 Q. Could you tell us what his position was in relation to this information relating
11 to crimes committed by MLC soldiers?

12 A. Yes. His position was that those soldiers had to be punished, and as I told you
13 yesterday he decided that a joint committee would be set up to investigate these
14 abuses and this was a joint committee. It was made up of both people from the
15 Central African Republic and people from the Congo.

16 Q. Do you know who the Congolese representatives were on this joint committee?

17 A. Yes. The representative, I can tell you the head of the Congolese team within
18 this committee, along with the CAR people, it was General Romeo --

19 THE INTERPRETER: Inaudible.

20 MR BADIBANGA: (Interpretation)

21 Q. How long did this fact-finding committee conduct its investigation?

22 A. I couldn't tell you exactly how long it was. One or two weeks, perhaps a
23 month, but I do know that the committee that was set up by Jean-Pierre Bemba did
24 work in Bangui right up until the end, almost to the end of operations.

25 THE INTERPRETER: Correction from the English booth: The name mentioned

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1 earlier was Romain Mondonga, Romain Mondonga.

2 MR BADIBANGA: (Interpretation)

3 Q. And who were these Central African Republic representatives on this
4 committee?

5 A. No, I don't know.

6 Q. And what was the outcome of the investigation carried out by this committee?

7 A. The outcome of the investigation? In my humble opinion, the outcome was
8 not very consistent or coherent. All the same, the committee was able to recover
9 some assets that had been taken by the soldiers, the soldiers who had been arrested,
10 and those assets were given back to their owners. The people from the CAR had a
11 mandate to find the people who owned these goods, or these items, and they were
12 returned to these people. The soldiers who had been arrested, well, the committee
13 had them transferred to Gbadolite and there they were put on trial. A disciplinary
14 committee was set up there.

15 Q. Now, did this committee draft a final report?

16 A. Certainly. They must have drawn up a report.

17 Q. (Redacted)

18 A. (Redacted)

19 Q. (Redacted)

20 (Redacted)

21 (Redacted)

22 A. (Redacted)

23 (Redacted), but to my knowledge it is what I am explaining to you.

24 Q. When you say to us, for example, that the assets were returned to the Central
25 African population, (Redacted)

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1 (Redacted)

2 A. (Redacted)

3 (Redacted)

4 (Redacted) the assets had been recovered, they had been assembled and that they
5 were being returned to the population as the proprietors presented themselves in
6 order for their assets to be returned.

7 Q. And on the Congolese side, with the exception of Mr Romain Mondonga who
8 I believe you said was a colonel, the other Congolese members of this committee were
9 they also military, or were there other civilian members, if you recall?

10 A. I believe that they were military. They were soldiers, unless of course I were to
11 seek further information in order to provide you with clarification on the subject.

12 Q. No, that will not be necessary. What is the precise number of soldiers arrested
13 subsequent to these investigations?

14 A. Yesterday I told you that they were not many in number and, listening to what
15 was said amongst the population and the information gleaned from media sources
16 and other information I received, I would say that there weren't many of them.
17 They did not exceed ten in number. I think maybe seven or eight, something like
18 that.

19 Q. And do you know approximately in which period, or which month of the year,
20 they were tried?

21 A. I believe it must have been at the beginning of the year 2003. It might have
22 been in the month of February, if my memory serves me correctly.

23 Q. And with regard to these approximately eight soldiers who were arrested, on
24 the basis of which crimes were they arrested? What were the charges held against
25 them?

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1 A. It was robbery in general terms; notably looting, extortion, disturbances. You
2 know, robbery in general, in the sense that they had entered people's houses, they
3 had stolen radios, watches, money, televisions and such things.

4 Q. Do you know whether the crime of rape was a crime for which at least one of
5 them was charged?

6 A. No, I do not know. Yes, indeed, rape was mentioned. The Central African
7 Republic civilians did indeed talk about cases of rape, but I did not personally see
8 those individuals who were arrested for cases of rape.

9 THE INTERPRETER: Question without a pause.

10 MR BADIBANGA: (Interpretation)

11 Q. Was murder a charge held against at least one of those individuals?

12 A. I did not hear that and I did not see that detail.

13 THE INTERPRETER: Message from the English booth: Could counsel please be
14 requested by his co-counsel to observe a pause between question and answer?

15 Thank you very much.

16 MR BADIBANGA: (Interpretation)

17 Q. Do you know whether the officers in charge of these soldiers, that is to say their
18 hierarchical superiors, do you know whether those individuals were also arrested?

19 A. No, in terms of people in command nobody was arrested. The highest-ranking
20 soldier arrested was a lieutenant. He was in charge of military intelligence for a
21 battalion; for one of the three battalions.

22 Q. Mr Witness, it would seem that I have to recall to you the golden rule of the
23 five -- of five seconds between each intervention. Do you know what sentences
24 these soldiers received?

25 A. They were arrested. I do not recall precisely for what duration they were

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1 arrested for. I believe they spent quite a long time behind bars and they were still
2 serving their sentence in the holding cell until the moment in time when I left
3 Gbadolite for Kinshasa at the point of integration, (Redacted)
4 (Redacted). We were then, of course, integrating the army from the Central
5 African Republic.

6 MR BADIBANGA: (Interpretation) Madam President, I would like the court
7 officer to please show the witness document CAR-DEF-0002-0001. This is a
8 document entitled "Transmission of ..." --

9 THE INTERPRETER: Counsel read the title of the document far too fast for
10 interpretation purposes.

11 THE COURT OFFICER (DRC): (Interpretation) The number of the document,
12 Madam President, on the list is number 11, and it's CAR-DEF-0002-0001 and it is now
13 being shown to the witness.

14 THE INTERPRETER: Message from the English booth: The document has to do
15 with Willy Bomengo and others, but we did not catch the rest of the title.

16 MR BADIBANGA: (No interpretation).

17 PRESIDING JUDGE STEINER: Maître, sorry to interrupt you. It appears that you
18 are the one speaking too fast, so we are being requested to remind you to slow down
19 a little bit. Thank you, Maître.

20 MR BADIBANGA: (Interpretation)

21 Q. As you can see, Mr Witness, I am also restrained by the golden rule.
22 Now, this document, you can see the first page of this document for the time being.
23 Does this recall you anything? Does this remind you of anything and have you
24 already seen it in the past?

25 A. Yes, I have seen this document.

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1 Q. Is this the document that you said a few moments ago you had seen and that it
2 had to do with the report of the investigating committee, or does this have nothing to
3 do with it?

4 A. Well, of course, it's not that it has nothing to do with it. It is precisely that.

5 Q. Before we address the substance of the matter, I would like you to help us with
6 the -- what is written in the top left-hand corner, where it is written "Operation Ciel
7 Ouvert Bangui." Can you tell us what this means?

8 THE INTERPRETER: Translation into English, "Open Sky Operation".

9 THE WITNESS: (Interpretation) This might be the name of the operation, I do not
10 really recall. It could be -- it could have been the name of the operation.

11 MR BADIBANGA: (Interpretation)

12 Q. This document is signed "JR Mondonga." Is this the individual whom you said
13 was heading up the investigation commission, or committee?

14 A. Yes, indeed that is him. That is he. His name is Romain Mondonga. I do
15 not know what the "J" stands for.

16 Q. With a view to gaining a bit of time, I will read myself the excerpts that I would
17 like you to comment upon. I believe that this will enable us to gain a little bit of
18 time.

19 Now, you can see here that the subject matter is the transmission of the looting
20 dossier, or the file on looting, and then Mr Mondonga says as follows, "I am
21 transmitting to you, annexed to this document for your perusal and jurisdiction, the
22 looting file, or dossier, which has been opened and signed to Mr Willy Bomengo and
23 consorts -- Lieutenant Willy Bomengo and consorts," and you can see in the top
24 right-hand corner that the document is dated 27 November 2002.

25 Now, this is of particular interest to me because you're talking to me about the

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1 duration of the investigation. According to this letter, the investigation came to an
2 end at this very date, because this is in fact a report being addressed by
3 Mr Mondonga. Does this correspond to what you remember or were the
4 circumstances different?

5 A. I believe that Romain Mondonga preferred to transmit this information on
6 27 November, as you say, because he could not keep five people. I can see here the
7 name Willy Bomengo, and the file is accompanied by four people taken in for
8 questioning, or suspects. Now, of course, he could not have taken five people in and
9 kept them. I told you that they were seven or eight in number, but I believe that he
10 must have sent other people subsequently.

11 Q. I'm just looking at the screen here to see whether my previous intervention was
12 actually transcribed completely or whether there is anything lacking, because it
13 would seem that, well, yes, there aren't any difficulties.

14 Mr Witness, at page CAR-DEF-0002-0003, I'm waiting for this page to be shown to
15 you. Is the page up on the screen?

16 THE COURT OFFICER (DRC): (Interpretation) Yes, the page is, indeed, up on the
17 screen, the page CAR-DEF-0002-0003, which corresponds to the third page of the
18 document, is being read by the witness as we speak.

19 MR BADIBANGA: (Interpretation) I thank you, court officer.

20 Q. Mr Witness, I am going to read question number 7 to you and the answer
21 provided. Question number 7, quote: "What is your comment as to the date when
22 operations began in Bangui?" Answer, and this answer is indicated by the letter "R"
23 and the figure 7 on the document, I read, "It was precisely on 25 October 2002, that is
24 to say a day before I arrived in Bangui."

25 Before moving on, does this correspond to your recollection with regard to the time

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1 when the troops of the -- the MLC troops engaged their forces in the Central African
2 Republic?

3 A. Yes, indeed, I do believe that that is correct.

4 Q. I shall read question 8 to you. Quote: "Do you acknowledge having been
5 arrested by your brigade commander, by your battalion commander, on
6 30 October 2002, for having arrested on the charges of infiltration and obvious looting
7 of assets, other members of the Central African Republic in Bangui, and this despite
8 remarks having been made or comments having been made previously?" And I
9 shall hark back with you to the question of the date, Mr Witness. Here mention is
10 made of the fact that Mr Willy Bomengo, he was the one who was questioned, he was
11 arrested on 30 October 2002.

12 Now, does this correspond to the period during which the commission or committee,
13 the Mondonga committee, was conducting its investigations according to your
14 recollection?

15 A. Yes, yes, in accordance with my recollection it does indeed correspond.

16 Q. Witness, this document is more than 50 pages in length, and I shall not be
17 reading it to you in its entirety. I am talking here, of course, and this will be under
18 the monitoring of the Defence team, but according to the pages that I have perused
19 nowhere is there mention made of the assets being returned to the Central African
20 Republic population. So let us return to the sources that you have in terms of return
21 of property. What were these sources and how did you have or receive confirmation
22 in one way or another?

23 A. Yes, well, as luck would have it, as I said to you (Redacted)

24 (Redacted)

25 (Redacted) the assets or property recuperated or recovered

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1 from the soldiers was being returned by the committee to their rightful owners and,
2 of course, this meant that the owners or proprietors had to come forward.

3 MR BADIBANGA: (Interpretation) Madam President, I no longer need this
4 document. I believe it has been discussed at length in previous hearings, and in
5 order to gain time I would ask for us please to now withdraw this document.

6 Q. Mr Witness, which Court were the soldiers arrested during this investigation
7 tried before?

8 A. They were presented before a war commission, and it was this war commission
9 that tried them.

10 Q. Do you remember who was on this war commission or which members
11 comprised the war commission?

12 A. I remember, or I recognise, the president as being a member of this war
13 commission.

14 Q. Would you please tell us who the president or chairman of this war commission
15 was?

16 A. I think now he is a member of parliament and his name is Mr Bule, and at that
17 time he was a major.

18 Q. Do you recall the sentences passed by this war commission presided over or
19 chaired by Mr Bule?

20 A. I do not remember which or what sentence each of these soldiers received, but
21 what I do know is that they were arrested and held until we left Gbadolite for
22 Kinshasa. They remained there.

23 Q. With regard to its operations, was this Court an independent body?

24 A. Yes, indeed, but it did report back on its activities to the supreme commander.

25 Q. And the hearings held before this Court, were they in public session?

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1 A. Yes, indeed, they were open to the public.

2 Q. Do you know whether the judgment delivered or handed down by this Court
3 was produced on an independent basis?

4 A. Yes, I do believe that this was the case. It was drafted or produced on an
5 independent basis.

6 Q. Could you please tell us what is meant by the terms of infringing or violation of
7 instructions?

8 A. This means that when -- this means that a soldier does what was not requested
9 of him by his line superior, that is what was not expected of him, non-compliance
10 with orders.

11 Q. I would ask you to be somewhat more explicit in this regard. For example,
12 might one say that a soldier was not authorised as such to commit the crime of rape
13 and would that then fall within the general category of non-compliance with orders?

14 A. Yes, that would fall within the general category of not complying with orders.

15 Q. I believe that you were aware of the sentences handed down. Would you say
16 that the punishment meted out during this trial was proportional to the crimes
17 committed in the Central African Republic?

18 A. I would say that with regard to the soldiers who were arrested, that is to say the
19 soldiers in whose possession the looted or stolen goods were found and this or these
20 possessions were recovered and returned to the rightful owners, if this person is then
21 arrested and punished and if he serves a sentence in a holding cell for a certain
22 number of years, or for a certain duration, then I think that this is quite acceptable.
23 Yes, this is normal if we are talking here about cases of looting, cases of robbery.

24 Q. Let me revisit what you said a few minutes ago. This is page 17 of the French
25 transcript, lines 17 to 20, and this was when you were answering my question on the

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1 non-compliance or contravention of orders. This is when you said a soldier, for
2 example, does what was not requested of him by his line superior and you said what
3 was not part of general practice. Could you give us examples in concrete terms of
4 what could be described as non-compliance of orders with regard to the explanation
5 you've just provided us with?

6 A. Well, the most simple example I could give you, when a soldier who is acting as
7 a guard in a particular post abandons that post he is guarding in order to go home,
8 for example to eat or whatever, in that case that person is contravening his orders.
9 He is in contravention of orders. He has left the place where he should have been
10 without authorisation. That's a simple example of it.

11 Q. Thank you very much, Witness. Apart from the investigation committee of
12 Romain Mondonga, was there to your knowledge other committees, or commissions,
13 or investigations?

14 A. To the best of my knowledge, no.

15 Q. Now, we have addressed the issue of this commission, because you were saying
16 when -- you were saying that Bemba had taken measures in setting up this
17 investigation committee when I asked you what his opinion was with regards to the
18 crimes. And I can find the reference for that, your Honour, your Honours, and
19 while doing so, Witness, could you tell us to the best of your knowledge did
20 Mr Bemba take other measures to prevent the commission of crimes by these persons;
21 any other measures than the setting up of this commission?

22 A. I have no others.

23 Q. Well, the reference that I have in the French text is that it was on page 8, lines 3
24 to 10, when I was asking, "Could you tell us what the position was of Mr Bemba
25 concerning the crimes?" And the witness replied, "Yes, his position was that the

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1 soldier should be punished, et cetera." That's on page 8, and in the English version
2 it's on -- it's also on page 8, lines 1 to 5.

3 Witness, taking into account the scope of the crimes as they appeared in the media,
4 did you consider, or do you consider, that these measures taken by Mr Bemba by
5 setting up an investigation commission were sufficient in order to deal with this
6 problem?

7 A. I don't think that it was sufficient.

8 Q. Do you know if soldiers were punished for the crimes which were committed in
9 other towns in the Central African Republic; other places than Bangui?

10 A. No, I don't know.

11 Q. Did Mr Bemba replace or punish a high-ranking officer for the crimes
12 committed by Congolese troops in the Central African Republic?

13 A. No, no, a high-ranking officer was not replaced. They remained there in place
14 to the end.

15 Q. (Redacted)

16 (Redacted)

17 A. (Redacted). I think as far as he was concerned,
18 having set up this commission which worked in Bangui with the Central Africans
19 themselves - the commission was next to the Central African HQ - I think he
20 considered that this was sufficient.

21 Q. Witness, did Mr Patassé in your opinion have the power to take sanctions
22 against the MLC troops?

23 A. He could. That's (indiscernible). He could take decisions. He could take
24 decisions, furthermore, because these troops had been made available to him and the
25 MLC troops were working together with the General Staff; the Central African

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1 General Staff.

2 Q. In your opinion, did Mr Patassé have the authority in the military sense over
3 Congolese troops in order to be able to decide on the sanction, or punishment, for
4 soldiers with regards to crimes committed by the soldiers?

5 A. Perhaps not sanctions, but he could ask Jean-Pierre Bemba for example,
6 "Such-and-such an officer, such-and-such a colonel, commander of a battalion, has
7 just committed whatever," or, "He doesn't have the capacity to lead the men," for
8 example, "So could he go back, or could you withdraw him?" That's something he
9 could do. He could do that working with Jean-Pierre Bemba.

10 Q. I would like to ensure that I've understood you. Mr Patassé could therefore be
11 unhappy with the behaviour of the troops possibly, for example, and in that case
12 what he was able to do in his power was to refer this to Jean-Pierre Bemba for such
13 that concrete sanctions be taken against such-and-such a person, such-and-such a
14 soldier. Have I -- is that a correct rendition of what you said?

15 A. Yes, that is what I said. I could add to that, stating that on the other hand his
16 Chief of General Staff continued to ask Jean-Pierre Bemba to reinforce the troops.

17 Q. Just for clarity here, when you say, "... his General Chief of Staff," who are we
18 talking about? Who is his Chief of General Staff? Whose Chief of Staff are we
19 talking about?

20 A. The Chief of Staff of Patassé, the Central Africans who I referred to -- it wasn't
21 yesterday. It was the day before. General Gambi.

22 Q. And I know that you certainly explained this as well, but what do you
23 understand by "renforcer le dispositif," "reinforcing the troops"?

24 A. This is to say increasing the number of soldiers in order to carry out operations
25 better.

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1 Q. Witness, do you know if Mr Bemba went to the Central African Republic during
2 the period of this conflict?

3 A. Yes, he went to the Central African Republic.

4 Q. Were you aware of the objective of his visit, or visits, if visits there were?

5 A. It was much more to go and see President Patassé. (Redacted)
6 (Redacted).

7 Q. (Redacted)

8 A. (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted) were in the northern part of the town. So not in the town itself,
18 but at the exit to the town where Jean-Pierre Bemba was -- for a few minutes he was
19 addressing the soldiers, (Redacted)
20 (Redacted).

21 Q. If you would be so kind, I'd like to take some sequences from this visit. Do
22 you know what Mr Bemba and President Patassé, what they discussed?

23 A. No, I don't know.

24 Q. (Redacted)

25 (Redacted)

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1 A. No, not at all.

2 Q. Do you know what the place is called where the MLC soldiers was based

3 (Redacted) ?

4 A. Yes, it was what we called PK12.

5 Q. Which officers from the Central African brigade were present at this meeting?

6 A. Colonel Mustapha was present, perhaps with other officers. (Redacted)

7 (Redacted). What I do know is that General Mustapha was there.

8 Q. Did Mr Bemba have several meetings, or did he have one single meeting with
9 all the soldiers?

10 A. To my knowledge, he only had one meeting with them.

11 Q. I should have formulated my question in a more precise way. Did Mr Bemba
12 have a meeting with the officers?

13 A. No, I have no idea about that.

14 Q. We shan't ask you to tell us exactly what was said, but perhaps you could
15 summarise what Mr Bemba said to the soldiers. You said he addressed the soldiers;
16 could you tell us what he said?

17 A. Yes, he addressed the soldiers. Sincerely, it was to ask them to behave very
18 well, to collaborate closely with the population, to try very hard to be good with the
19 population, to work in collaboration in co-operation with the soldiers, the officers in
20 general, the Central African ones who were with us in these operations. In a general
21 way, that was it. That would be my summary.

22 Q. This speech, was this held in the framework of what we would call a parade; is
23 that correct?

24 A. Yes, it was a moral discussion, if one can put it like that. Une causerie moral,
25 as we say.

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1 Q. I asked you to sum up what you -- this is something -- I asked you to do a
2 summary, you did so very well, and I would also like you to ask us to develop this to
3 a certain extent, when Mr Bemba says that -- that he asked the soldiers to behave very
4 well. Did he refer to information that there was with regards to possible atrocities
5 which had been committed by soldiers?

6 A. Yes, that is correct, he asked them to behave very well with regards to the
7 population, i.e., you shouldn't harass this population, you should try to have good
8 relations with the population. You shouldn't steal, you should not take from people,
9 cheat them. You should not take their goods. So it was basically that sort of thing.

10 Q. Perhaps my question wasn't very clear. So to -- to behave well, that's what you
11 said, but when he spoke to the soldiers did he tell them to "Behave well, because I
12 have heard that there have been problems with your behaving which is causing
13 difficulties." In his speech, did he refer to the information which he had received or
14 was he quite simply talking in general terms saying "behave well"?

15 A. No, he didn't -- wasn't just general. He addressed the troops following the
16 information that he had had, as a result of the information that he had had, because
17 he said that "I have heard, I have been told that, and you should no longer do this,
18 you should no longer do that, no longer steal, behave well." And so it was a result of
19 the information, it was following the information that he addressed the troops in this
20 way.

21 Q. Do you remember approximately the period in which this visit occurred? Was
22 it right at the start of the operations? We saw that the operations started on
23 25 October, or are we talking about the end of the operations? Is that more the case?

24 A. No, not towards the end of the operations. Not right at the start, but more or
25 less in the middle of it.

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1 Q. (Redacted)

2 A. (Redacted).

3 Q. (Redacted)

4 (Redacted)

5 A. (Redacted)

6 (Redacted).

7 Q. In the field, in PK12, could the people see? Were they quite nearby, or did you
8 just see soldiers?

9 A. The population wasn't very close to the place. They were a certain distance
10 away, 100 metres, 150 metres away. They were curious but on leaving, as I said,
11 they were indifferent.

12 Q. I would like to be sure that I've understood how these things happened, so you
13 explained everything in terms of the measures that were taken by Bemba. You
14 referred to an investigation that had been carried out and which led to the arrest of
15 these soldiers, and -- but nothing else, you said, and now you're telling us that when
16 he addressed the soldiers he told them that they had to behave well with the civilian
17 population. Now, I want to see how we can reconcile these two pieces of
18 information you've given to us. Now, could -- might Mr Bemba have had another
19 speech? Was there some kind of logic in telling them to behave well, but
20 only -- taking this only measure and investigating commission? I'd like to have your
21 opinion of what was going on at that time.

22 PRESIDING JUDGE STEINER: Mr Haynes. Mr Witness, please, before you answer,
23 the Defence counsel has asked for the floor.

24 MR HAYNES: If the witness can answer that question then let him do so, but it
25 seems to me it's at least eight questions accompanied by a little speech. It's a classic

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1 compound question and should be broken down.

2 PRESIDING JUDGE STEINER: Maître Badibanga.

3 MR BADIBANGA: (Interpretation) Your Honour, unless my esteemed colleague
4 has a different understanding of the events to me, I'm just making a summary, two
5 different pieces of information that we've been given, I'm just asking him to tell us
6 if -- or how he can explain (Redacted)

7 (Redacted). I would just like him to

8 explain how these two different pieces of information can be reconciled. I'm not

9 asking him to answer eight different things. There's only really one question in my
10 speech.

11 PRESIDING JUDGE STEINER: Mr Haynes.

12 MR HAYNES: If you may, then ask that one question, please.

13 PRESIDING JUDGE STEINER: First let's see whether the witness understood the
14 question; otherwise, Maître Badibanga, maybe we can rephrase and make it easier for
15 the witness to go to the point.

16 Mr Witness, did you understand the question put by Maître Badibanga?

17 THE WITNESS: (Interpretation) Your Honour, if Mr Badibanga could please ask
18 his question once again.

19 MR BADIBANGA: (Interpretation)

20 Q. Witness, I'm going back to what you told us with regards to what Mr Bemba
21 said in his address to the soldiers. So here I'm going to ask you the question
22 differently, and perhaps this would satisfy my Defence colleague.

23 Did or could Mr Bemba have said something other to his soldiers, or something else
24 to his soldiers, taking into account the presence of the Central African population
25 who were next to him; i.e., could the presence of the Central African population

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1 meant that he would have said something different to the soldiers?

2 A. With regards to the information, with regards to the behaviour of the soldiers
3 where it concerned theft, in a general way what he said was crucial; and then there's
4 just the follow-up, there's the application of it, the follow-up to it, managing the
5 soldiers. What he said was the essential, was essentially that.

6 PRESIDING JUDGE STEINER: Maître?

7 MR BADIBANGA: (Interpretation) Thank you, your Honour. Yes, it is indeed
8 time for the break.

9 PRESIDING JUDGE STEINER: Mr Witness, we'll have now our half-an-hour break
10 in order for you to take some rest. It's 11 o'clock. We'll be back at 11.30. The
11 hearing is suspended.

12 THE COURT USHER: All rise.

13 (Recess taken at 11.01 a.m.)

14 (Upon resuming in closed session at 11.37 a.m.) Reclassified as Open session

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

16 PRESIDING JUDGE STEINER: Welcome back.

17 Mr Witness, welcome back.

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

19 PRESIDING JUDGE STEINER: Are you ready to continue with your testimony, sir?

20 THE WITNESS: (Interpretation) Yes, I am ready, your Honour. Thank you very
21 much. (Redacted).

22 PRESIDING JUDGE STEINER: Thank you very much, Mr Witness.

23 Maître Badibanga, you have the floor.

24 MR BADIBANGA: (Interpretation) Thank you, your Honour.

25 Q. Witness, I think we've made a great deal of progress and I'm really quite

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1 optimistic that the OTP's examination-in-chief is coming to an end quite soon.

2 Now, setting aside this visit (Redacted), do you have any idea how

3 many times President Bemba travelled to the Central African Republic, how many

4 visits he made?

5 A. No, I really don't know how many visits he made, but I know that he visited

6 that country on other occasions.

7 Q. Do you know whether during one of those visits Mr Patassé spoke to him about

8 the abuse and the violence committed by the MLC troops?

9 A. I don't know, (Redacted)

10 (Redacted).

11 Q. Now, do you know whether in the course of these visits he would meet with

12 Colonel Mustapha?

13 A. He must have met with him, but I don't exactly know under what

14 circumstances, or when, other than the meeting that Mustapha had had in Gbadolite

15 when he came with the Chief of General Staff of the CAR and that was in Gbadolite.

16 Q. I'd like to focus in on this information that you've given us, but let's just

17 conclude, or rather deal with one particular point. (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 A. No, he wasn't in a position to travel to the Central African Republic to meet

22 with Mustapha, particularly since, you see, he would give instructions to Mustapha

23 over the telephone, or using the phonie, the radio equipment. (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted).

3 Q. Now, you said that he didn't need to go to the Central African Republic to meet
4 with Mustapha, but each time he went to the Central African Republic to meet with
5 President Patassé, for instance, would he also meet with Mustapha during that visit?

6 A. Yes, he might meet with him. Sometimes he met with him. I don't know
7 exactly, (Redacted)

8 (Redacted)

9 (Redacted).

10 PRESIDING JUDGE STEINER: Mr Haynes.

11 MR HAYNES: Just a small concern. I think this line of questioning may be
12 proceeding on a misunderstanding between Mr Badibanga and the witness. What
13 Mr Badibanga asked of the witness was whether he knew if Mr Bemba had been to
14 the Central African Republic at any other time. He didn't ask him whether he knew
15 whether Mr Bemba had been to the Central African Republic during the course of the
16 period that the MLC were there, and he has then proceeded to assume that the
17 witness's answer means that he knew of other visits during the period of the war and
18 I think that needs clarification, because I see these questions and answers are
19 not -- are proceeding on the basis of a misunderstanding.

20 PRESIDING JUDGE STEINER: Maître Badibanga, please make things clear for the
21 witness and the Defence.

22 MR BADIBANGA: (Interpretation) Thank you, your Honour.

23 Q. Witness, did you understand that these questions were within a particular
24 framework, a framework that we have set ever since yesterday, that is to say these
25 questions have to do with the second operation of the MLC troops in the Central

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1 African Republic?

2 A. Yes, absolutely, I have understood that we are talking about the period during
3 which the MLC troops were in the Central African Republic.

4 Q. I thank you. During that period, do you remember that at one particular
5 moment reinforcements might have been sent to the Central African Republic?

6 A. Other than the three battalions, no, there were no others.

7 Q. Did these three battalions arrive at the same time, or did they arrive one or two
8 at a time on different dates?

9 A. The three battalions did not cross on the same time, or on the same day. They
10 got to Bangui one after another.

11 Q. Who decided to send these battalions one after another?

12 A. It was in no way a matter of deciding to send them progressively, or one after
13 another. The decision to have them cross over - and I said this clearly - that was
14 taken by the commander-in-chief. Now, the three battalions were not at the same
15 place and they were not able to cross at the same time, so I think it really had to do
16 with the distance. It depended on the distance that the battalion had to come from
17 to get to Zongo and then begin crossing over. The ferry-boat only could hold so
18 many people. I don't think it was possible for that boat to carry all three battalions
19 at once. I think those were the conditions under which the battalions made the
20 crossing, one after another.

21 I'd like to add one further point, if I could? In particular, one of the three battalions
22 had gone by way of Basankusu, so that meant the Antonov had to go back and forth
23 several times, many times, so it wasn't possible for all three battalions to arrive at the
24 same time.

25 Q. You make reference to the Antonov. Does it mean that this third battalion did

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1 not take the ferry-boat, did not make a crossing over the river as the other battalions
2 did?

3 A. They went by way of the river. In Zongo there is an airstrip that does -- a
4 landing strip that is large enough for an Antonov.

5 Q. Do you remember the name of this battalion - this third battalion - that came
6 from Basankusu?

7 A. I don't remember, but I do know that it was the battalion led by Yves Dejege
8 (phon). Yves Dejege.

9 Q. I'd like to ask you to cast your memory back once again if possible. Could you
10 try to remember whether this battalion led by Mr Yves crossed after you had already
11 began hearing talk about violence and abuse in the media?

12 A. No, I don't exactly remember. I don't remember the period of time, or the date,
13 but it was the battalion that crossed after the two others.

14 Q. Do you know whether in the case of this battalion before the crossing whether
15 very specific instructions were given not to commit abuses; abuses that perhaps had
16 been reported upon by the media beforehand?

17 A. I really can't remember. I think that that battalion came fairly quickly after the
18 others. It did not drag its heels. It was not tardy.

19 Q. I'd like to finish with this line of questioning and to cut to the chase, so to speak.
20 I'd like to ask you some questions about the power of Colonel Mustapha, his ability to
21 actually take action. Now, during this operation in the Central African
22 Republic - and I'm speaking of the second operation - was Colonel Mustapha in a
23 position to decide about the movements of troops without Mr Bemba's authority, or
24 permission rather?

25 A. Once again, no.

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1 Q. Now, once again, during this operation could Colonel Mustapha designate a
2 particular unit to take a major road without Mr Bemba's authorisation?

3 A. No, he could suggest. He could make a suggestion about the configuration on
4 the field, or the movement, the progress being made with the co-operation of the
5 Central African Republic military authorities. He could make suggestions to the
6 commander-in-chief.

7 Q. In a way you've answered my third question, but I must put it to you clearly.
8 Did President Patassé, or the Chief of General Staff of the CAR, take such decisions;
9 for example, the movement of troops or the choice of units to go to the field? Were
10 those two people in a position to make those decisions?

11 A. They couldn't decide, but depending on the situation, depending on the
12 information regarding the enemy, they did have the opportunity to give advice and
13 Colonel Mustapha in turn -- they could make suggestions to Colonel Mustapha and
14 in turn Colonel Mustapha could give advice to President Bemba.

15 Q. During that period of time, Witness -- Witness, during that period of time,
16 October 2002 to March 2003, was the MLC involved in other military operations
17 within the DRC, or elsewhere?

18 A. Yes, there were other operations underway, not outside of the country.

19 Q. Was there one single operation, or were several operations underway, do you
20 recall?

21 A. The largest one was a single one, but one mustn't overlook some minor
22 operations on other roads. I should point out that the discussions -- the discussions
23 were already underway, the Inter-Congolese dialogue.

24 Q. Now, when you say that there was just one, which operation are you referring
25 to?

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1 A. The operations by Siro (phon) in the area of Isiro, Mambasa, against the
2 RCD-K/ML troops who were allied with or were supported by the government
3 troops.

4 Q. Could you tell us briefly -- could you tell us briefly about the discipline that was
5 enforced in these other operations? Was the level of discipline the same as the level
6 of discipline during the operations in the CAR?

7 A. Yes, I can say that it was the same level since a number of soldiers had been
8 arrested for misconduct during these other operations and what's more, in terms of
9 these other operations, one officer even was arrested, an officer and a soldier who
10 were arrested in the case of a murder.

11 Q. Now, in the case of that particular operation, were there rumours going about
12 about cases of rape?

13 A. Rape? No, I don't think so. The case of murder, I do remember that.

14 Q. And once again if you could tell us briefly, was any kind of investigatory
15 committee set up to look into these events?

16 A. Yes, there was a trial. There wasn't a committee. Rather, the soldiers had
17 been arrested by the officer there, transferred to Gbadolite and they were put on trial
18 by the same group, by the same court-martial.

19 Q. Can you remember what sort of sentences were handed down?

20 A. No, I don't remember what sentences were imposed.

21 Q. And my last question in this regard: Were they tried together, or separately?

22 A. They were tried separately.

23 Q. Mr Witness, in general terms, I am coming out of the framework somewhat that
24 we were operating within; notably, the 2002/2003 period. Now, throughout the
25 entire period of the rebellion, are you aware of any cases where soldiers were

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1 prosecuted and convicted of rape?

2 A. I am searching my memory. I do not recollect, but the cases of murder I do
3 recollect, but as for rape people did speak about it, but I can't remember. I can't
4 remember anybody specific in any place. No, I can't recollect.

5 Q. Well, I suggest that if you do remember before the end of our session, that you
6 please tell us. I shall move forward now and I shall come back to the question of
7 Mr or Colonel Mustapha. Now, did Colonel Mustapha go to Gbadolite during the
8 period of the operations conducted in the Central African Republic, that is to say
9 October 2002 to March 2003?

10 A. Yes, indeed he did go to Gbadolite, as I just mentioned, in the company of the
11 CAR Chief of General Staff.

12 Q. Was this the type of joint mission on the part of Colonel Mustapha and the CAR
13 Chief of General Staff, or was he merely passing through Gbadolite for other reasons?
14 Was this just a coincidental crossing of paths?

15 A. No, they came together in order to attend a meeting on the subject of the
16 operations.

17 Q. And did Colonel Mustapha make any further visits to Gbadolite during the
18 period of the operation, to your recollection?

19 A. I do not recall specifically, but there was nothing holding him back from coming
20 and nothing holding back the other commanders from visiting from time to time.

21 Q. Do you remember when, or at what date, the troops left the Central African
22 Republic?

23 A. Once again I cannot provide you with a specific date because I do not have any
24 recollection of it, but it was during the period around the date of the signing of the
25 Lusaka agreement.

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1 Q. Do you remember the sequence of events in terms of the withdrawal of troops?
2 Was the decision to withdraw taken and did the troops then immediately withdraw,
3 or was there a certain period of days, or weeks, or months that elapsed before the
4 troops withdrew?

5 A. When the decision was taken to leave the Central African Republic, they were
6 not expected to leave at the very same time on the same day. What is more, they
7 were very far afield from Bangui. They were up in the north, in the direction of -- in
8 a northwesterly direction, and this would have taken time. The men had to be
9 prepared, their progression had to be planned in the direction of the various sites and
10 I would go on to say here that every time that they withdrew from a position the
11 troop, or the troops, that they were fighting against would immediately take over that
12 position. This meant that at a certain moment in time (Redacted) any departure
13 would provoke a sort of cascade or avalanche of events, because it was as if they were
14 being pursued whilst they had already packed their bags with a view to going home.

15 Q. (Redacted)

16 A. (Redacted).

17 MR BADIBANGA: (Interpretation) Madam President, with your leave I would
18 like to present the witness with a document. On the list - on the OTP list - it is
19 number 14, bearing reference CAR-DEF-0001-0634. I repeat 0001-0634.

20 THE COURT OFFICER (DRC): (Interpretation) Document 14, corresponding to
21 reference CAR-DEF-0001-0634, is being shown to the witness. This is a document
22 comprising ten pages.

23 MR BADIBANGA: (Interpretation)

24 Q. Witness, I will let you peruse this first page and, as the court officer very kindly
25 mentioned, this document comprises ten pages, which I will not ask you to read, and

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1 in order to save time for all parties involved I would like to quote the various excerpts
2 to you that are of interest to us and then I will invite you to comment upon them.
3 Now, to clarify, this is a memo in two parts on the subject of the organisation of the
4 Congolese Liberation Army and notably its intervention within the Central African
5 Republic.

6 Now, Mr Witness, you will see on this first page that the document bears the date of
7 19 September 2008. If the court officer were in a position to easily do this, could he
8 please show the sixth page to you, this page for which the reference number -- the last
9 four figures are 0639?

10 THE COURT OFFICER (DRC): (Interpretation) Yes, I am showing this page to the
11 witness.

12 MR BADIBANGA: (Interpretation)

13 Q. And you can see at the top of this document that for the second part of this
14 document the date is 25 June 2008, which means that this second part is in
15 fact -- comes before the first part of the document in terms of time, timescale.

16 And finally, court officer, I would ask you to jump a few pages to the last page of the
17 document, for which the final reference figures are 0643, and this page
18 corresponds -- or it is in fact the signature at the bottom of this page that I wanted to
19 show to the witness.

20 THE COURT OFFICER (DRC): (Interpretation) The page is being shown to the
21 witness. This is the page for which the reference number the final figures are 0643.

22 MR BADIBANGA: (Interpretation) I apologise for having interrupted you, court
23 officer.

24 Q. Now, Mr Witness, you can see here that the document is signed by (Redacted)
25 (Redacted), who is the brigade general. My first question to you would be have you

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1 previously seen this document in the past?

2 A. No, I have never laid eyes upon this document.

3 Q. With regard to the two dates indicated on the document, notably 25 June 2008
4 and 18 September 2008, what was the status of the ALC as an army at that time?

5 A. At those two dates the ALC was no longer in existence, and as an army, well, it
6 ceased to exist in the year 2003 at the time of the integration and the -- and the
7 formation of the army for the Democratic Republic of the Congo.

8 Q. Do you know who was the line superior for (Redacted) at the time when
9 these documents or memos were drafted; that is to say, in the month of
10 September 2008?

11 A. Yes, his superior at the time - and to date still - was the (Redacted)
12 (Redacted). He was or is the
13 (Redacted).

14 Q. When you say he is the deputy, are you referring to (Redacted)?

15 A. Yes, I believe that is him, that is he, (Redacted) that is.

16 Q. Was (Redacted) still reporting to Mr Bemba at the time when these
17 documents were drafted; that is to say in June and September of the year 2008?

18 A. No, not at all. He no longer reported to Jean-Pierre Bemba on the day when he
19 took an oath to integrate the DRC forces in the year 2003, or to join the forces in the
20 year 2003.

21 Q. You might not know the answer to this question, but I must put it to you. Do
22 you know whether this memo was drafted or addressed -- I apologise, drafted in
23 response to requests on the part of the armed forces of the DRC?

24 A. I have no idea, sincerely, (Redacted)
25 (Redacted) and as the organisation

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1 of the armed forces and the responsibility of that head of staff was under him, that is
2 notably within the (Redacted) departments, et cetera, I believe that
3 within such an organisation this would have been conducted at that very level of the
4 (Redacted).

5 Q. Mr Witness, if we consider that this memo was drafted within the framework of
6 the ALC, even if we have understood your explanation that the ALC was no longer in
7 existence at the time and had no longer existed for five years, but let us make the
8 effort to imagine that this memo was indeed drafted within the framework of the
9 ALC. In terms of presentation, in terms of the actual format of the document, does
10 this correspond to documents that are drafted by people who were in charge of the
11 ALC? I'm talking here about the cover page, or the titles, the classification or
12 reference numbers, et cetera. What can you tell us about the format of this
13 document?

14 THE INTERPRETER: Request from the English booth: Could counsel please be
15 requested to slow down?

16 THE WITNESS: (Interpretation) This does not have any format corresponding to
17 logic or what we might talk or speak of in terms of military correspondence, because
18 we do have of course a system. We have a system for drafting messages. Starting
19 with the presentation itself, well, we can see immediately that there is no true logic in
20 this document in terms of military correspondence. There is no sender. There is no
21 numbering system. It does not bear a reference number. The signature formula
22 does not really correspond to military reality, if you like, so you can see that there is
23 no logic behind this kind of drafting.

24 PRESIDING JUDGE STEINER: If you allow me, again the interpreter from the
25 English booth is asking you, please, to slow down. Thank you.

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1 Mr Haynes.

2 MR HAYNES: I know Mr Badibanga does it with the best of intentions, namely the
3 saving of time, but if general comments are going to be elicited from the witness
4 about the whole of this document he should probably read the whole of this
5 document. He says he has never seen it before, he doesn't know what it is, it has not
6 been introduced to him, and he has just been shown three isolated pages. So if he is
7 going to be asked general questions about what it is, how its form compares with
8 other documents, he should be given the opportunity to read it all, I think.

9 PRESIDING JUDGE STEINER: Mr Haynes, maybe I misunderstood Defence, but
10 what I understood is that the witness was asked to comment on the format of the
11 document as a memo and not on its content, but in any case Maître Badibanga, you
12 have the floor to respond if you so wish?

13 MR BADIBANGA: (Interpretation) I shall continue with my examination, Madam
14 President, and I believe that if my adversary is somewhat patient he will see that we
15 will be picking through this document in quite an extensive manner.

16 Now, my question now is on the subject of the form or format and I believe that in
17 looking closely at the first page he could see whether there was a title to that page
18 and whether it bore a reference number?

19 PRESIDING JUDGE STEINER: Maître Badibanga, sorry again to interrupt you. I
20 am informed that the witness is asking for a very short break and so the Chamber
21 grants the request and we will suspend for a few minutes. We can -- we can stay in
22 the courtroom in the meantime.

23 Mr Rojas, the witness is authorised to leave the room for the time necessary.

24 THE COURT OFFICER (DRC): (Interpretation) Very well, Madam President.

25 (Pause in proceedings)

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1 THE WITNESS: (Interpretation) Thank you very much, Madam President. I am
2 now ready.

3 PRESIDING JUDGE STEINER: Thank you, Mr Witness.

4 Maître Badibanga, you have the floor.

5 MR BADIBANGA: (Interpretation) Court officer, would you be very kind and
6 present the second page of the document to the witness, please? This document
7 bears the last four figures of 0635, 0635, and it is the second part of this document that
8 is of interest to me.

9 THE COURT OFFICER (DRC): (Interpretation) Page 0635 is currently being
10 shown to the witness.

11 MR BADIBANGA: (Interpretation)

12 Q. As I said to you previously, Mr Witness, I shall be reading to you the excerpts
13 upon which I would like to question you in order to save time. This document, or
14 this memo, presents the structure of the ALC, and at point 3 it talks about the General
15 Staff headquarters, after which it speaks of the composition and the role of this
16 General Staff headquarters. Now, it is the role that I would like to hone in on. At
17 point 1 it says that the -- that it applies the decisions taken by the High Command.

18 (Redacted)

19 (Redacted)

20 A. Yes, but -- well, firstly I would like to say that this is a document that I am not
21 familiar with. It might have been drafted for a certain purpose, but to my
22 knowledge I do not know whether the High Command took decisions and then told
23 the Chief of General Staff. The president or the commander-in-chief would give
24 instructions to the Chief of General Staff and it was these -- as to whether it was these
25 instructions of the High Command, well, that's where the question -- maybe he

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1 wanted to explain how things worked within a normal General Staff headquarters as
2 to how things work in the army.

3 Q. I shall come back to the issue of High Command at a later stage, but it is
4 important for us that you give us your opinion on this document.

5 Now, as to the second role, here we are told that the -- that it conducts operations in
6 the field and that it establishes a schedule for the manoeuvre of troops, together with
7 its General Staff. I understand that it's somewhat difficult to read this by virtue of
8 the way that it is drafted, but could you facilitate the reading of this; notably, that it is
9 the Chief of General Staff that conducts operations and that he then establishes a
10 schedule for the manoeuvre of troops, together with his staff headquarters? Does
11 this correspond to reality? (Redacted)

12 (Redacted)

13 (Redacted)

14 A. No, this is not true, and even within the scope of the normal organisation of
15 operations it was not the Chief of General Staff who was conducting or directing
16 operations. He can follow how operations unfold and he might comment on the
17 subject. He might make observations. He is the one who is to be present whilst
18 operations are being conducted. It is the commander-in-chief. He is the one who is
19 to be present whilst they are being conducted. I believe that I have answered your
20 question.

21 Q. Well, even though your answer is very clear, I would like to add a question to it
22 so it figures in the transcript of the hearing. (Redacted)

23 (Redacted)

24 (Redacted)

25 A. (Redacted).

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1 Q. (Redacted)

2 (Redacted)

3 A. (Redacted)

4 Q. I'm now going to read point 3 and point 4 on the role of the General Staff.

5 Registrar -- or court officer, this is on the next page, if you could be so kind as to show
6 it, 0636. I will therefore start by reading the end of 635 and then the next part can be
7 found on the following page.

8 The article is to be read as follows, so, "The General Staff ensures the good application
9 in accordance with the code of conduct, or the conduct of the troops in accordance
10 with the code of conduct to the army," and now we go on to the next page,
11 "Constitutes the disciplinary council for reprimanding infractions of a disciplinary
12 nature," and we put them together because this goes together with troop discipline.
13 You will note, Witness, that over five -- out of five, two of these points are referring to
14 the responsibility of the General Staff where it concerns troop discipline. (Redacted)
15 (Redacted)

16 A. It's not possible for a Chief of General Staff to be responsible, whether it's about
17 discipline, and what does the commander do of these soldiers? What's that person's
18 role then with regard to the discipline, with regards to the military rules? The Chief
19 of General Staff is not a commander to be responsible for soldiers within a given unit,
20 a brigade, a battalion, a company. That's not normal. You understand -- you will
21 immediately understand that it's a document. Once again, it's a document drafted
22 for a specific need.

23 Q. The fifth role of the General Staff in this memo can be found on page 636 and it
24 should be read as follows, "The General Staff manages the troops and the army on a
25 daily basis." My question is could you explain what the functioning was of the ALC

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1 in this regard? Was it the General Staff who managed the troops and army on a
2 daily basis?

3 A. How could the General Staff manage the troops on a daily basis? How could
4 the -- well, the General -- the Chief of General Staff, how could that person within the
5 framework of the ALC be in Bangui, and in Imese, in Makanza, in Bolumba, in
6 Basankusu, Lisala, Isiro, Mbuta, to be able to on a daily basis manage the soldiers or
7 the troops? You just have to understand quite simply.

8 MR BADIBANGA: (Interpretation) Court officer, I would ask you to go back a bit
9 and go back to the first page, 0634, and it's the second part which is of interest to us in
10 this case.

11 THE COURT OFFICER (DRC): (Interpretation) The page is shown to the witness,
12 second part.

13 MR BADIBANGA: (Interpretation)

14 Q. Witness, a few minutes ago we talked about the High Command. According
15 to this memo, the High Command is one of the organs of the ALC and it is composed
16 as follows: The commander-in-chief, the secretary-general of the MLC, the
17 co-founders of the movement and the Chief of General Staff. Does this correspond
18 to what you remember as regards the composition of the High Command?

19 A. Yes. Here you have the author of this document confusing the High
20 Command with the Politico-Military Council. If that's the case, yes, it was like that,
21 but here the Chief of General Staff could not be a sole component of this High
22 Command. (Redacted)
23 (Redacted).

24 Q. I understand, Witness, that you're trying to reconcile this High Command with
25 what you know as being the political -- Politico-Military Council, but where it

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1 concerns a memo on the ALC I would like us to look at the words which are used.

2 During the period that you were within the MLC did the High Command exist as an

3 organ and, (Redacted)

4 (Redacted)

5 A. Yes, I could say it like that. (Redacted).

6 Q. The role which is envisaged here for the High Command is the taking of major

7 decisions, for example on the declaration of war, and also the appointment of officers,

8 for example to high ranks. (Redacted)

9 (Redacted)

10 A. In the case of the MLC, as we were, it never functioned like that. That's totally

11 false. (Redacted)

12 (Redacted)

13 MR BADIBANGA: (Interpretation) If the court officer would like to go back to the

14 second page which finishes 635, 0635, and here at the top of the page I would like you

15 to look at what is said with regard to the commander-in-chief. The first role is that

16 he follows up the decisions taken by the High Commander by making a legal text

17 thereof. Does that correspond with the functioning that you saw during the period

18 of the rebellion during the rebellion with the MLC?

19 THE INTERPRETER: "Within the MLC," corrects the interpreter.

20 THE WITNESS: (Interpretation) No. What I do know with regard to major

21 decisions, the president, the commander-in-chief, if it was the case that he called -- if

22 we have to talk about the terms which are found in the document, to call the High

23 Command, then it's to say to the High Command that these decisions (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted). That wasn't something

2 that happened.

3 MR BADIBANGA: (Interpretation) Court officer, could you present to the witness
4 the fifth page which ends with 0638.

5 THE COURT OFFICER (DRC): (Interpretation) Page 0638 is being shown to the
6 witness.

7 MR BADIBANGA: (Interpretation)

8 Q. Witness, this is an organigram summarising the structure that was presented on
9 the previous page. I have saved you questions with regards to the sector. I don't
10 think that's particularly relevant for our discussions. At the top you can see
11 "Organigram HC" and that's the High Command. I can read that below it. Then "C
12 en C" is commander-in-chief, coming just under the High Command, and then below
13 that there is a Chief of General Staff and from the Chief of General Staff we have a
14 line which goes towards the G posts, so G1 to 5, described as technical services or
15 units of the General Staff, and we have another line which is above the sector level
16 and then we see the brigades.

17 Now, what I'd like you to state or clarify to us is whether there was, below the
18 commander-in-chief, there was an organ -- whether above the commander-in-chief
19 there was a High Command?

20 A. Yes, yes. Well, let's see. The author has put it into a diagram. Well, this is
21 basically a diagram representing what was in the document. This is an attempt to
22 do that in the form of an organigram, with different points which aren't even correct.
23 In his idea this is what it would be. If the High Command -- yes, if it existed, if you
24 have to follow the terminology of the document, then with regards to the ALC the
25 diagram would be like this, with mistakes, but that's no problem.

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1 Q. Witness, perhaps we don't understand each other well. You don't have to stay
2 within the framework of the terminology of this document. You have to speak
3 about the reality within the ALC. So what I'm trying to find out is in reality in the
4 ALC that you saw functioning was there an organ situated above the
5 commander-in-chief in the reality of the functioning of the ALC?

6 A. Yes. If you can remember, I think on the first day I even used the term
7 symbolically; that is to say that it did exist.

8 Q. Well, the Politico-Military Council, is it an ALC organ, or an MLC organ?

9 A. An MLC organ. MLC, but somewhere here in the document I think that the
10 organ speaking about the High Command -- well, we spoke about the general
11 secretariat in the High Command which could be an organ of the ALC. How could
12 the general secretariat, which was political, be in that organigram in this organisation?
13 You see that there's something not logical here.

14 Q. We're not going to spend more time on that. We understand that there's
15 something that's not logical therein, but from the start you have been questioning the
16 structure or -- and functioning as presented here. We're now going to go into the
17 second part of the memo, which starts on page 639, and I would remind you it's dated
18 25 June 2008. Now, there too I am not going to go into all the details of the text.
19 639 does put into words some of the explanations which were provided earlier in the
20 first part. If the court officer would be so kind, I'd like to show you page 640. 640.
21 THE COURT OFFICER (DRC): (Interpretation) The page is being presented to the
22 witness.

23 MR BADIBANGA: (Interpretation)

24 Q. Witness, there is one sentence of interest to me and this is the one which is just
25 above title 2. You see in bold there's a title number 2, "Intervention of the ALC in the

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1 Central African Republic," and there is a sentence beforehand, "In order to ensure
2 compliance with the code of conduct, political educators were deployed in all ALC
3 units at company level." What I would like to check with you is whether there was a
4 political educator in each unit; is that correct?

5 A. Yes, there was in each unit. That is true.

6 Q. What nationality were these political educators and how long did they stay
7 with the MLC?

8 A. These were Congolese and they remained in the units right until the end.

9 Q. What was their role, to your -- to the best of your knowledge?

10 A. Their role was moral training of the troops, the commanders, to ensure the
11 application of the code of conduct and to advise commanders, to guide them in
12 putting to the commanders certain issues such that they could talk to the troops about
13 those matters, giving them guidelines as it were.

14 Q. These political educators, did they have powers? If they noted that a rule was
15 broken, if they saw that one of the rules of the code of conduct was broken, did they
16 have powers to arrest somebody, or to punish somebody?

17 A. No, no, they would write a report to the commander and the commander
18 would decide directly to arrest the person, or to have judicial proceedings for that
19 soldier.

20 Q. A bit lower down on the page, I don't know if the court officer has shown all the
21 page, but a bit lower down on the same page, 0640, in mentioning the intervention of
22 the ALC in the Central African Republic the following is written: "The decision to
23 send or the commitment -- or to commit ALC forces or the application of all decisions
24 of this type were always subject to the approval of the High Command. This was
25 the case when it was a matter of sending ALC troops to Bangui in the Central African

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1 Republic and it is the Chief of General Staff who carried out the appointment of the
2 unit that was to cross the Ubangi River for the Central African Republic."

3 So let's go in two phases here if you'd allow me. First of all with regards to the
4 decision to commit troops to the Central African Republic, perhaps I should ask you
5 the question again. Was the decision taken by the High Command (Redacted)
6 (Redacted)

7 A. I said "No" and it's totally false. How would I put this? Starting with the idea
8 itself of having these troops go, or discussions that happened, well, I don't know how
9 that happened. I don't even know how it happened. I said that the
10 commander-in-chief had taken this decision. Even the contacts that he had had with
11 President Patassé, it was only he who knows the truth about them, the
12 commander-in-chief.

13 Q. I'm going to ask you a last question before we have to go into the break.
14 "Where it concerns the appointment of the unit that had to cross, the Chief of General
15 Staff was the one who decided on which unit should cross the Ubangi River for the
16 Central African Republic." That's what the text says. (Redacted)
17 (Redacted)

18 A. No, not at all. That's a shame, but the unit that crossed, that was done too
19 quickly. The commander-in-chief, as according to what I can imagine, had preferred
20 straightaway to take the unit which was ready, which wasn't far in terms of a
21 proximity to Bangui, and that is how Mustapha was chosen, I think, and quickly he
22 had to get the two battalions to cross, the two battalions that were there, in order to
23 afterwards reinforce them with the other ones I referred to earlier which came from
24 or which left from Basankusu and the choice of these units was as I have always said,
25 the movement, all of that that was up to the commander-in-chief.

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1 MR BADIBANGA: (Interpretation) Your Honour, I'm coming to the end of my
2 examination. I'll probably need another half-hour this afternoon, but I think we can
3 take a break at this time. Thank you very much.

4 PRESIDING JUDGE STEINER: Thank you, Maître Badibanga.

5 Mr Witness, we'll have now our lunch-break. You can take some time for yourself to
6 take some rest. It's 1 o'clock. We'll be back at 2.30.

7 This hearing is suspended and we'll resume at 2.30.

8 THE COURT USHER: All rise.

9 (Recess taken at 1.00 p.m.)

10 (Upon resuming in closed session at 2.36 p.m.) Reclassified as Open session

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

12 PRESIDING JUDGE STEINER: Good afternoon and welcome back. Good afternoon,
13 Mr Witness. Welcome back.

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

15 PRESIDING JUDGE STEINER: Are you feeling well and ready to continue with your
16 testimony?

17 THE WITNESS: (Interpretation) Yes, your Honour. Thank you, I'm ready.

18 PRESIDING JUDGE STEINER: Thank you, Mr Witness.

19 Maître Badibanga, you have the floor.

20 MR BADIBANGA: (Interpretation) Thank you, your Honour.

21 Q. Good afternoon, Witness.

22 A. Good afternoon.

23 MR BADIBANGA: (Interpretation) We are going to continue looking at the document
24 that we were looking at just before we suspended for the lunch-break, and if the
25 courtroom officer would be so kind as to show page CAR-DEF-0001-0641. If you could

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1 please display that.

2 THE COURT OFFICER (DRC): (Interpretation) The page is on the screen.

3 MR BADIBANGA: (Interpretation)

4 Q. Witness, at the top of this document we see that mention is made of the command of
5 the Central African forces, and the sentence that begins on the previous page says: "The
6 ALC troops sent to the Central African Republic," this is what you will see later, "were
7 placed under the direct command of the military authorities of the Central African
8 Republic armed forces." The acronym for that being FACA, F-A-C-A. "That is to say,
9 they were totally handled or taken care of by the FACA, be it from a logistics point of
10 view, all categories, and also from an operational point of view. The ALC troops who
11 were deployed in this manner were provided with weapons, ammunition, clothing and
12 other supplies and these supplies were provided by the Central African Republic army.
13 Thus, they troops ..."

14 THE INTERPRETER: "These troops," rather.

15 MR BADIBANGA: (Interpretation) "... were in the same category, so to speak, as their
16 CAR colleagues."

17 Witness, is this what you recall?

18 A. No, that's not what I recall, but all the same I could make a short comment. This is
19 a bit of an exaggeration. Well, really even a lie, an untruth, to say that the ALC troops
20 were totally handled or taken care of by FACA.

21 I said I would tell the truth and nothing but the truth, and the Presiding Judge reminded
22 me of that this morning. She reminded me of the oath that I took. No doubt, some
23 things were provided to the ALC troops. No doubt the Central African Republic
24 authorities did supply them with some things, for instance, for example, weapons, and
25 really they weren't even weapons from the Central African Republic army.

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1 I think what's being talked about here is heavy weaponry. The individual weapons, and
2 the light calibre weapons, our troops had crossed with those weapons and a few pieces of
3 heavy weaponry, but -- but the heavy weaponry for the most part was received over there.
4 As I told you, those were the weapons that the Libyans had sent.

5 I can specify in relation to the Class 1 supplies, that is to say food, that came from the
6 MLC headquarters in Gbadolite, and that was transported by boat, (Redacted)
7 (Redacted)
8 (Redacted)

9 At one particular time food supplies were sent, but there was an ambush somewhere
10 between Ngembe and Zongo. So, you see, there was an ambush, and all the food was
11 damaged, spoiled, burnt, set on fire, that sort of thing, (Redacted)
12 (Redacted) Central African authorities he had been given
13 some money in compensation so food could be purchased there.

14 As for clothing, that is true. That was just to camouflage the MLC troops so that they
15 could blend in with the CAR troops, but to say that the ALC troops were totally covered
16 or assisted by the FACA that is utterly false.

17 Q. Thank you. Now, on the second half of this page the person who wrote this memo
18 said the following: "It should be noted that to better co-ordinate operations in the field,
19 maintain discipline and ensure the safety of the ALC troops, a co-ordinator and an
20 operations commander, both of whom are currently alive, were designated." Do you
21 know who these two people are; namely, the co-ordinator and the commander of
22 operations?

23 A. Yes, we touched upon that yesterday, and I was saying that the co-ordinator was
24 Dekwando Akilo Aku (phon), unless I am mistaken or I have forgotten, and the
25 commander was the brigade commander, Commander Mustapha.

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1 Q. No, you are not -- you have not made a mistake. That is indeed what you said.
2 Now, in the following paragraph we find the following: "The role of the co-ordinator
3 was to give an account of the operations and how they unfolded to the head of -- to the
4 Chief of General Staff of the ALC for the High Command and take part in the drawing up
5 of operational plans as an observer alongside the military authorities of the FACA."

6 (Redacted)

7 (Redacted)

8 A. Yes, from time to time he would do that and, as I told you earlier and I reiterate, it is
9 not correct here. When in relationship to the org chart that they showed, it's not correct
10 to put the commander-in-chief under that High Command. That is not correct. If it is
11 said that he met with the Chief of Defence Staff that's not the administrative procedure,
12 but the latter it is to introduce him to the commander-in-chief, not to the High Command,
13 and if one follows a logical approach, if one -- really, it couldn't be that way.

14 Q. Witness, do you know what (Redacted) (sic) is currently doing; what his
15 job is?

16 A. He is the (Redacted) of the armed forces of the Congolese Armed Forces and
17 he is responsible for (Redacted), so he is an (Redacted).

18 Q. Do you know whether he ever travelled to the Central African Republic between
19 October 2002 and March 2003, during the operation?

20 A. I don't remember, but I don't think so since -- because he did not have any particular
21 task or role that would require him to be present in Bangui.

22 THE INTERPRETER: Interpretation correction: The general mentioned was (Redacted)
23 (Redacted).

24 MR BADIBANGA: (Interpretation)

25 Q. I think you've anticipated my next question. Now, do you remember what his

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1 duties were, or his position, between October 2002 and March 2003?

2 A. He had just come back from the eastern part of the country, the eastern part of the
3 country where he had been a sector commander in Ituri. And at one particular point in
4 time the MLC and with the RCD-K/ML, which later became enemies, were allies for a
5 certain amount of time, and so you see there was this marriage, so to speak, between the
6 MLC and the RCD-K/ML and that served as a platform for the FLC, Front de Libération
7 du Congo, Congo Liberation Front. That only lasted six months or so, and finally that
8 platform was dissolved since the two presidents were not able to agree on things such as
9 managing revenues, taxes. That was the reason.

10 And when the two groups merged we also merged the two armies, and I think you'll
11 realise that when this platform was dissolved and the two armies -- the two armies
12 separated. And that is when everything that came from the west, from Gemena,
13 Gbadolite and all that area in the territory formerly belonging to the MLC, had to go back,
14 and the soldiers that had previously been members of RCD-K/ML, who were in the west,
15 also had to go in the opposite direction to go back to the eastern part, Beni and Bunia.
16 And so (Redacted), at the time a (Redacted), went back to the military headquarters,
17 and to my knowledge he stayed in that position for quite a long time and it was only at
18 the end -- if I remember correctly, it was only then at the end that he moved into an
19 administrative capacity as (Redacted). That was the position that he had been offered at
20 the time of integration into the armed forces of the DRC.

21 Q. During this period when he joined the military headquarters in Gbadolite, was he
22 responsible for the operation in the Central African Republic?

23 A. No, not at all. From the time of the very beginning the MLC, he was an officer who
24 never even was at the front. He never led, he never was a commander, so there you have
25 it.

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1 MR BADIBANGA: (Interpretation) Your Honour, I no longer require this document on
2 the screen. I'd like to ask the courtroom officer if he could display the last document, the
3 last document on the OTP's list, document number 15, and the reference is
4 CAR-DEF-0002-0567. 0567.

5 THE COURT OFFICER (DRC): (Interpretation) This document is being shown to the
6 witness. It has two pages and it is number 15 on the list of documents submitted by the
7 OTP, as Mr Badibanga has made reference to.

8 MR BADIBANGA: (Interpretation)

9 Q. Witness, this is the last document that we'll be looking at together. It's only two
10 pages. It's shorter than the other ones, so I hope that will make short work of it, and also
11 to save some time I would suggest that we take the same approach as with the last
12 document. I will read out the various excerpts that I think are relevant; relevant in terms
13 of our questions, the questions from the Prosecution.
14 This document is a report - a two-page report - and as we see here the subject is as follows:
15 "Report on military operations conducted by ALC troops (MLC) from 29 October 2002 to
16 15 March 2003 in Bangui, Central African Republic." I think you'll see here at the top of
17 the first page to the right that the document bears the date 4 May 2003, and I think you
18 will always already -- also see that it is to "His Excellency, the National President of the
19 MLC."
20 Could you please have a look at this document, more specifically the signature, and that's
21 to be found on the second page, the signature of the person who wrote this.
22 CAR-DEF-0002-0568. 0568. And I think you'll see, Witness, that this document has
23 been signed by "Mustapha Mukiza Gaby, Colonel, Commander of the Echo Brigade."
24 Witness, have you seen this document before?

25 A. No, this is the first time I've ever seen it.

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1 Q. (Redacted)

2 (Redacted)

3 (Redacted)

4 A. (Redacted)

5 (Redacted)

6 (Redacted)

7 Q. Here, observing the first page you have before you, I would like you to tell us about
8 the form of this document. From the form of it, does it accord with the documents that
9 were made by the MLC (Redacted)? Is it consistent with them?

10 A. Yes, it's somewhat consistent with them, apart from -- let's say that the
11 administrative procedure has been breached in that the letter, as I said, is addressed
12 directly to the president, without going through the hierarchy but in terms of the
13 presentation itself, it's like that. The date on the right, the subject at the bottom. If there
14 isn't a reference, that wasn't put. Perhaps a second error is that this document didn't
15 have a number. It should have been numbered to be identified. That's it.

16 Q. Witness, did the MLC have a base which was established in Zongo?

17 A. In Zongo, for a very long time, it was firstly one battalion; and then later, when the
18 battalion had to go to (indiscernible) of course with the other battalions then there was
19 just one company left, but afterwards, at the time, if we speak about the time that the MLC
20 troops were in the Central African Republic, in Zongo, it was the transit point for supplies
21 if it wasn't done directly by plane from Gbadolite for Bangui.

22 If it was done by vehicle -- for example the food that was brought in Bangui went through
23 Zongo before being sent off. And in this regard, Zongo was a depositing area, a storage
24 facility, but when the troops went back it remained -- one battalion remained in Zongo.
25 And if my memory serves me well, it must be this -- it must be Yves' battalion, Yves Djega

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1 (phon), which stayed there.

2 Q. To your knowledge, after the operation in the Central African Republic, did Colonel
3 Mustapha find himself based in Zongo?

4 A. Yes, I think for a moment, particularly because it was necessary to organise how,
5 how the ALC troops could be gathered together who were going through or going across
6 in a disorderly fashion. So it was necessary to get them together, before and after Zongo,
7 to Libenge, so we stayed there for some time. In the meantime, they were going towards
8 the integration or joining up.

9 Q. Now, with regards to the content of the report, with regards to a military report or a
10 report issued by the military wing, should Mr Bemba have been called by his military title
11 or was it current practice within the MLC to write to Mr Bemba calling him "His
12 Excellence, Mr President, Mr National President of the MLC"?

13 A. Well, here, it depends on the understanding or the intention of the author of the
14 document, but I think that in the framework of the ALC, as we were, we used to -- even in
15 our daily language we would just call him "Chairman," or "Mr President." It was rare
16 that we would call him "Mr Commander-in-Chief."

17 Q. I mentioned a moment ago that it was a report on military operations from ALC
18 troops of 29 October 2002 to March 2003 in Bangui, CAR. Was it the usual practice
19 within the ALC to draft reports of this type after each military operation?

20 A. No, it was not the practice to draft such a report. After each operation, it's normal
21 to draw up a telegram - a message - by way of report from Brigade Commander Echo, for
22 example, and a report would be made. So in the case of a battle there would be a report
23 to report on the operations, as you saw in the report, on the partial report that had been
24 sent on the arrival in Bangui, and immediately at 1 o'clock the operations had started.
25 That was normal. You saw that report, but this type of report here, well, I haven't even

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1 seen that. It's not normal.

2 Q. You've anticipated my next question. We're going to go through the document and
3 you'll see that this report does not give figures with regards to the number of soldiers who
4 participated in the operation. There is just a mention on the very last line, which says:
5 "I had taken three battalions to the Central African Republic." We'll come back to that,
6 that's on the second page. "So I had taken three battalions to the Central African
7 Republic." This is the only indication that we have as regards troop numbers.

8 Now, the report has no information on the number of soldiers who left and who
9 participated, the number of losses in human terms, the matériels that were used, the
10 matériels that were possibly repatriated, the number of localities that were taken, et cetera.
11 This report has no information of this type. Is that normal for a report on a military
12 operation of such amplitude?

13 A. It's not abnormal. It's not normal.

14 Q. The third paragraph reads as follows: "We have to clarify that our troops were
15 placed entirely under the leadership, management and command of the Central African
16 military authorities. They themselves were responsible for the military logistics, fuel,
17 munitions, food, medicine, and others."

18 Now, just before we go any further, (Redacted)

19 (Redacted)

20 A. If he was able to draft French such as that, that is a question mark. And
21 furthermore here, to the national president of the MLC, is it important, in a report such as
22 that, he -- who knew how it worked or how to remind him that they were entirely under
23 the leadership, management and command, did he have to remind him of that in a report
24 like this? No.

25 Q. You have answered one of my previous questions. I am just going to put the end

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1 of what my question was then. Mr Jean-Pierre Bemba, should he not have known better
2 than anyone else under what conditions the troops were going to the CAR and so he knew
3 better than anyone else under what command or leadership these troops were placed?

4 A. He knew perfectly. Perfectly. He was the one who could give orders on new
5 things that we didn't know. He knew it perfectly.

6 Q. So paragraph 4 presents an organigram which states, "The Central African military
7 authorities presented the following organigram to Colonel Mustapha. Chief of General
8 Staff -- Central African Chief of General Staff: General Ernest Mbeti-Ti-Bangui," at the
9 top. Number 2, "Operations Commander: Brigadier-General Mazi," in brackets
10 "Central African." Then, "3. General Operations Co-ordinator: Brigadier-General
11 Mbumba Yake," and in brackets "Commander of the Central African Presidential Guard,"
12 and at the end at number 4, "Commander of Central African Troops: Major Tutu Kuese."
13 As I mentioned some names, I'll just ask you to wait a few seconds to ensure that the court
14 reporters have been able to follow and then I will be very pleased to continue with my
15 intervention. That's it. I think that we've now got everything in the transcript.
16 Witness, this structure does seem to contradict some of the information that you've given
17 to us. Could you give us some explanations as to how these functions, commander of
18 operations, co-ordinator, it says it's Brigadier-General Mazi and Brigadier-General
19 Mbumba Yake?

20 A. Sincerely, I don't know the structure. Among all these persons, I don't know
21 anyone. (Redacted) General Gambi, who was the Chief of General Staff of the
22 Central Africa army, the FACA. If there was a change thereafter, I did not know about
23 that organisation. The General Gambi in question, later he became Chief of General Staff
24 with the current -- when the current president came to power, Bozizé (Redacted)
25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted). He came as Chief of General

4 Staff of the FACA. This organisation, I didn't know. I don't remember. Perhaps there
5 was some kind of change, or at a particular time, I don't know.

6 Q. The document that I read, or that we went through before this one, the memo of
7 (Redacted), stated the following on page 641, "The co-ordinator had the role of
8 providing a report on the operations to the Chief of Staff of the MLC for the High
9 Command and participating in drawing up operational plans in a capacity of observer
10 with the military authorities of the FACA." This is something that we looked at together,
11 and here I'd just like to note the end of the sentence, "... in a capacity of an observer with
12 the FACA military authorities," which would let one understand from that that this
13 co-ordinator was not Central African, but that's where I wanted you to be precise. Did
14 you hear about General Bombayake as a co-ordinator of operations? Did you hear that
15 he was an operations co-ordinator?

16 A. Sincerely, I think there's - it's a confusion, a total contradiction. It's as if in wanting
17 to -- for a particular reason to try and draft something quickly it was forgotten that there
18 was a certain co-ordination, and so there's a contradiction. Bombayake, I heard that
19 name in terms of somebody who came under -- within the presidency. I never saw him.
20 I didn't know him, physically.

21 Q. So in the next paragraph, the last paragraph on the first page, Colonel Mustapha
22 states that he was appointed as deputy commander of operations by this team, composed
23 of Central Africans, and then he said, "With this status I was responsible for ensuring the
24 conduct of my troops, or watching over the conduct of my troops, and politically I
25 reported regularly to my hierarchy in Gbadolite."

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1 And my question is with regards to this report. Were you aware of this report in terms
2 of its political content and, if so, could you give us examples of the type of information
3 that this report contained?

4 A. I'm not aware of a document like that. I never saw it. I never saw that type of
5 report. Perhaps as Mustapha said here to his hierarchy in Gbadolite, because it says the
6 word "politically" perhaps he thought that that was the person who it had to be sent to,
7 but I don't know about these political aspects.

8 Q. We shall now go on to the second page, 568. This page mentions acts of violence
9 committed by Bozizé's troops. In the text sometimes it says "Mr Bozizé," sometimes
10 "Bozizi," B-O-Z-I-Z-I, or even B-U-Z-U, so apparently the person who is writing the letter
11 obviously had a lot of difficulties with spelling that name.

12 Now, what we are interested in here, Witness, is the information in paragraph 5. I'm
13 going to read it to you, "On 7 or 8 November 2002, while we were heading towards the
14 villages which were occupied by the rebel, a group of Central African soldiers, with seven
15 of our troops, carried out pillaging in the residences of certain persons who were
16 suspected of being close to Bozizé. Having learned of this news, I informed the
17 hierarchy in Gbadolite and the hierarchy sent Colonel Romain Mondonga to investigate.
18 Following the investigations, the suspects were sent to Gbadolite to be sentenced."
19 In your understanding, Witness, here is that the same investigation as the one you were
20 telling us about, carried out by Mr Mondonga and which ended up with the arrest of
21 seven or eight soldiers?

22 A. Of course it's that.

23 Q. My difficulty, Witness, is that the part that I've read to you starts by saying that it
24 was on the date of 7 to 8 November, while they were heading towards occupied villages,
25 that a group of soldiers carried out pillaging, and it's only after that that the investigation

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1 was carried out by Colonel Mondonga. So you will perhaps remember the dossier that I
2 presented to you today, which had a reference CAR-DEF-0002-0001 and which was the
3 document drafted by Mr Mondonga. The problem is that in that document --

4 PRESIDING JUDGE STEINER: Mr Haynes.

5 MR HAYNES: This is a perfectly good argument to go in a closing brief, but it's not a
6 question for this witness.

7 PRESIDING JUDGE STEINER: Let's go to the question, Maître Badibanga. Maybe then
8 we understand why you are quoting this two information -- two parts of the information
9 given by the witness.

10 MR BADIBANGA: (Interpretation) Thank you, your Honour. Indeed, before I ask my
11 question it's perhaps difficult to really understand what I'm trying to say.

12 Q. Witness, I was trying to say that the difficulty was that in the other document the
13 soldier Willy Bomengo was arrested on 30 October 2002, so, well before 7 November 2002,
14 and my question for you is: Are you aware if there were other arrests after the arrest of
15 Mr Bomengo? Were there two groups of seven soldiers who had been arrested?

16 A. I think that there were two waves of arrivals. Even the document which we have
17 gone through, which we sent through this afternoon, the Colonel Mondonga he said that
18 the Lieutenant Bomengo was accompanied by four high-ranking persons so that made me
19 think that the two others followed afterwards.

20 Q. But to your knowledge, there -- it's not a matter of two times seven who were
21 arrested, it's not two arrests of groups of seven, i.e., making a total of 14 persons?

22 A. No, no, not at all. There were only the seven of them.

23 Q. Could you confirm how many investigations were conducted by Colonel Mondonga,
24 to your knowledge?

25 A. I think it's the same committee or commission that did the investigations. There

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1 was only one.

2 MR BADIBANGA: (Interpretation) Your Honour -- oh, I beg your pardon, before I ask
3 for this document to be taken off the screen:

4 Q. Witness, we have reviewed this document, and with the various points that we've
5 raised here, do you feel that you're in a position to give an opinion regarding the
6 authenticity of this document?

7 A. I don't know. I don't know if I can give any opinion. I find that this document has
8 been drawn up, or is intended to provide some coverage - to cover - to provide a certain
9 defence, perhaps in the event that later on -- perhaps the author thought that later on
10 there would be a prosecution, or some investigations, checks. I think that this document
11 is really not very proper.

12 MR BADIBANGA: (Interpretation) Thank you. Your Honour, I no longer require this
13 document to be displayed on the screen.

14 PRESIDING JUDGE STEINER: Mr Haynes.

15 MR HAYNES: It might just save a bit of time if the witness was asked if he can identify
16 the signature.

17 PRESIDING JUDGE STEINER: Mr Witness, can you identify the signature in this
18 document?

19 THE WITNESS: (Interpretation) No, your Honour, I'm not familiar with the signature
20 of General Mustapha, but here I see that his name does appear at the bottom of the
21 document, as if he were the person who signed it. I don't know exactly whether it's his
22 signature or not. I'm not familiar with his signature.

23 PRESIDING JUDGE STEINER: Maître Badibanga.

24 MR BADIBANGA: (Interpretation)

25 Q. Perhaps one last point, Witness: Now, the position in Zongo, did that place have

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1 computers at that time, in May 2003? Do you know?

2 A. No ALC unit had a computer, unless they had found one in the home of a private
3 individual.

4 Q. I thank you. Witness, do you know -- regarding the operation, the MLC operation
5 in 2001, the media also spoke about incidents in that regard, as they did in 2002. What
6 can you tell us about that?

7 A. In particular, I don't remember what incidents. What I do know -- no, what I can
8 say is that within the various units -- you are speaking about 2001. There were various
9 units and there were no -- there was no shortage of cases of misconduct.

10 Q. Do you know whether any of the units that took part in the 2001 operation also took
11 part in the 2002 operation?

12 A. Yes. I think it was the company led by René Gobongo (sic), since that officer took
13 part in the first operation; and since he was still also in the second operation, I think he
14 had gone off with his unit.

15 Q. By any chance, do you remember the name of that particular unit?

16 A. No, I don't remember.

17 THE INTERPRETER: Interpreter correction: The name of that commander was René
18 Abongo. René Abongo.

19 MR BADIBANGA: (Interpretation) Your Honour, I've come to the end of my
20 examination of the witness. Now, on the list of documents from the OTP, we did not
21 make mention of the last two documents to be adduced into evidence but in light of the
22 examination of the witness we think it might be a good idea to do so, and we request that
23 these documents be registered and entered into evidence.

24 So documents 14 and 15, and I will give the full reference. Documents 14 and 15. 14 is
25 CAR-DEF-0001-0634 entitled "Memo regarding the organisation of the MLC." We also

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1 have document CAR-DEF-0002-0567 entitled "Report on the military operation in Bangui
2 from 29 October 2002 to 15 March 2003." I would like to ask that these documents be
3 adduced into evidence.

4 Witness, I have concluded my examination. I have come to the end of my questions for
5 you. In light of all the questions and answers that we have had, if there's anything that
6 I've omitted to mention, anything important to bring to the attention of the Bench, I think
7 this is the moment for you to make mention of such information.

8 THE WITNESS: (Interpretation) I have nothing further to add. Well, perhaps if at the
9 end, if I could be asked if I have anything to add at the very end, because I still will be
10 answering some other questions, so it might be a good idea to say something now.

11 MR BADIBANGA: (Interpretation) Indeed, the Chamber will give you a final
12 opportunity to speak, but I just wanted to make sure that we had not omitted anything.
13 Witness, thank you very much for sharing your information with us. Thank you for
14 being so patient. I have no further questions and I would now like to conclude, and I
15 thank the Honourable Bench.

16 PRESIDING JUDGE STEINER: Thank you, Maître Badibanga. Of course the parties
17 will have the opportunity in due time to reinforce by way of a written motion which
18 documents the parties intend to tender into evidence, and to respond to each other's
19 proposals, but just since the document was not appointed in the list of documents,
20 documents 13 and 14 as documents to be tendered into evidence, I would like to ask
21 whether Defence would like -- 14 and 15, I'm sorry, Defence intends to immediately make
22 any objection, or --

23 MR HAYNES: No, we have no objection.

24 PRESIDING JUDGE STEINER: Thank you, Mr Haynes.

25 Mr Witness, as you know, you must have been informed by VWU during your

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1 familiarisation process, the legal representatives of victims were authorised to put some
2 questions to you. Therefore, I'll give the floor, starting with Maître Zarambaud. Maître
3 Zarambaud, legal representatives of victims, will start questioning you.

4 Maître Zarambaud, you have the floor.

5 MR ZARAMBAUD: (Interpretation) Thank you, your Honour.

6 QUESTIONED BY MR ZARAMBAUD: (Interpretation)

7 Q. Good evening, Witness.

8 A. Good evening, Counsel.

9 Q. Witness, unfortunately, I did not have an opportunity to take part in the
10 familiarisation session, so I will introduce myself now. I am Maître Zarambaud
11 Assingambi, and I am a lawyer, and I work usually in the Courts of the Central African
12 Republic but as the Presiding Judge has just said I am one of the two legal representatives
13 of the victims in this case.
14 And I'm sure you were also informed, and I think indeed the Presiding Judge reminded
15 you of this, in this case we, the legal representatives of victims, can only ask you questions
16 that have been approved in advance by the Bench. I had several questions for you. I
17 won't be asking all of them. In actual fact, you've already answered several of my
18 questions during the course of the examination by the Office of the Prosecutor.
19 What's more, I had thought I would make several quotes to refresh your memory before
20 asking you questions, but the Bench has pointed out to me that these quotations were
21 rather long, and, well, these are questions that have been asked, that I have been asking
22 since 4 October, and it has not always been possible to reduce the extent of these questions,
23 but I will try to keep things brief. That's a good thing in general, but not necessarily for
24 the representatives of victims.

25 I'd like to begin, Witness, with the commander-in-chief. I think you did have the

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1 opportunity several times to tell us that Mr Bemba was both the commander-in-chief, both
2 militarily speaking and also from a civilian point of view. He was the head of the MLC
3 and the ALC. This comes as a surprise to us -- correction, this comes as no surprise to us
4 because in many democracies the head of the government is also the commander-in-chief.
5 Now, you've been asked some questions about the various titles that were accorded to
6 Mr Bemba, particularly military ones, and you answered, CAR-OTP-0009-0345, pages 371,
7 and I quote: "Now he, the commander -- the supreme commander, did he have military
8 training?", end of quote, and you answered by saying the following: "Military training?
9 That depends, no. All I know is that when we joined the MLC we found him there in the
10 hands of the Ugandans learning how to do ramping, how to shoot. So military training
11 like that, well, that's not really military training," end of quote.

12 In your opinion, someone who hadn't had military training, could such a person really be
13 the commander-in-chief, from a military point of view, and could such a person be an
14 effective commander-in-chief?

15 A. Yes, why not? First of all, as you've just said, automatically as president -- well, it
16 depends on the terminology, but automatically he was the supreme commander, the
17 commander-in-chief, supreme commander. That was automatic.

18 Perhaps the question should be put as follows, "Since he wasn't a trained military man,
19 was he in a position to conduct operations or lead operations?", but in turn as
20 commander-in-chief, although not a soldier, he could -- we could have this concept. You
21 really just have to take stock of the situation. From a political point of view, what was
22 the goal? What was necessary to go ahead? But he wasn't there to draw up operational
23 plans, or to conduct manoeuvres with troops. He was more at a strategy level.

24 Q. Thank you. You have reformulated the question in your own way, but I was
25 thinking much along the same lines and I think I will move on to my next question. The

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1 next question has to do with the decision to send troops into the Central African Republic,
2 and you stated - and I give the reference, CAR-OTP-0057 -- 0057-0002, at page 0015 - and I
3 quote, "First of all, we don't know contact he took with the Central African Army. As
4 soon as it was necessary to cross over, without having regard for the officers he decided to
5 cross. He never asked for anyone's advice. No one had any authority. The troops left
6 in accordance with the needs of the Central African Republic," end of quote.

7 So the question is was it normal for him to decide like this, all by himself, about troops
8 crossing over to the Central African Republic (Redacted)
9 (Redacted)

10 A. Yes, indeed. I said that here and it was really quite true. (Redacted)

11 (Redacted). He decided. Beginning with

12 the discussion -- I'm speaking about the Central African Republic military authorities, this
13 may seem a bit vague, but in light of his discussions with President Patassé, what
14 he -- what they said to one another, what was heard, no one knows. We just received his
15 instructions (Redacted) as was done normally.

16 Q. Thank you, Witness. Now, after that did you receive, or did you learn, that the
17 decision to send troops to the Central African Republic had been the subject of a written
18 agreement between the MLC and the authorities of the Central African Republic?

19 A. No, I have no idea about that. I really have no information in that regard.

20 Q. Thank you. Now, as for the conditions in which the troops were sent to the Central
21 African Republic, I provided a number of quotations. I won't give them all again, but
22 just one short one. At CAR-OTP-0002 -- 0002-0057, page 23, paragraph 10, you made the
23 following statement: "The friends and ourselves thought that Patassé had paid him, but
24 we had no proof of that." I would like to know what led you to think that Patassé had
25 paid him, even though you didn't have any proof of that?

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1 A. Well, I said that I thought. It was in my imagination. Anyone could have
2 thoughts like that. It was in the interest of protecting Patassé, protecting Patassé's regime,
3 and then as I said to ensure our rear positions, and so one might surmise that Patassé had
4 paid something. I stress I said I thought that. I think.

5 Q. Thank you, Witness. Now, there are several other questions that I'm not going to
6 ask and I'll move on directly to question number 12 on my list. These questions are
7 based on the following, CAR-OTP-0009-0345, at page 0369.

8 I think you've already answered some questions in this regard, but this is important and
9 so as the legal representative of victims I'd like to ask you this: Who was giving orders to
10 commanders in the field and if -- now, was there consultation in advance? And you
11 made several statements, and I focus on one thing and I quote, "The commander-in-chief
12 was the president. He was the one who gave the orders to open fire, to attack. He was
13 the commander-in-chief," end of quote. The other quotations were much in keeping with
14 this, and I'd just like to ask you if you could tell the Chamber, or explain to the Chamber,
15 what you meant by this?

16 A. Yes. Well, I'll specify this: No one could issue the order, such an important order,
17 as important as the one to move troops around. Such an order has to be given very
18 clearly by the president, by the commander-in-chief. That order, or that decision, rather,
19 the decision to open fire had to come, could only come from the commander-in-chief and
20 that's normal. Even in any organisation, the order to declare war is issued by the
21 commander-in-chief. It is one of his prerogatives. Not even a Chief of Defence Staff,
22 even in normal situations and in cases, well, when we were the MLC it was also the case,
23 it was also like that.

24 Q. Thank you, Witness. I believe I will move on to another question, question 13,
25 because you've already answered and we need to gain some time here because we have

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1 very little question -- little time right now, I'll just ask you one question and this is actually
2 point 14 in my application. Reference is CAR-OTP-00057-0002 (sic) at page 0017,
3 paragraphs 9 and 10. And the question was whether (Redacted) Mr Bemba in
4 Bangui. (Redacted)
5 (Redacted) Bangui and he spoke to his troops regarding operations and he told them to
6 push the enemy back and he asked them to behave properly but it meant nothing because,
7 in any event, during a lecture about morality, he was not going to tell the troops to
8 misbehave." So in this statement, what I see is that he had said two things: One thing
9 to push back the enemy, and secondly not to misbehave, and you said this -- this second
10 order not to misbehave was quite a natural thing to say. He wouldn't say the contrary.
11 So was it really -- did he just say to push back the enemy? That is my question to you.
12 A. No. Earlier, in relation to the words he spoke to the troops, and the words that he
13 addressed to the troops regarding the local population, well, you see, the two points
14 were -- you see, this was the summary. First of all push back the enemy as part of the
15 operations. He said "You have to continue to push the enemy back towards the north,"
16 and that was done. And as for behaving properly, I gave some details. In other words,
17 it's a normal thing for any commander, when any commander speaks to the troops, I said
18 yesterday here, that you talk about discipline. You ask your soldiers to be disciplined, to
19 behave properly with the local population, to respect the population. That is what I said.
20 I was quite specific in the morning about the other point, about the military operations for
21 which the ALC troops were in Bangui.
22 PRESIDING JUDGE STEINER: I think you'll have to continue tomorrow morning. We
23 need to adjourn.
24 MR ZARAMBAUD: (Interpretation) Quite so, your Honour.
25 PRESIDING JUDGE STEINER: Thank you very much, Maître. Mr Witness, it's

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1 4 o'clock. It's time for us to adjourn. It's time for you to take some rest. We will
2 continue tomorrow. As from 9.30 in the morning, legal representatives will continue
3 questioning you and it's likely that Defence will start as well with its questioning. We
4 hope you can have -- you have a very restful night. I thank very much Prosecution team,
5 legal representatives of victims, Defence team, Mr Jean-Pierre Bemba. I thank very much
6 our interpreters, court reporters, Mr Rojas, and thank you very much, Mr Witness. We
7 will adjourn and resume tomorrow morning at 9.30. The hearing is adjourned.

8 THE COURT USHER: All rise.

9 (The hearing ends in closed session at 4.02 p.m.) Reclassified as Open session

10 RECLASSIFICATION REPORT

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

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