

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 Syliva Steiner, Judge Joyce Aluoch and Judge Kuniko Ozaki

6 Judgment

7 Monday, 21 March 2016

8 (The judgment starts in open session at 2.05 p.m.)

9 THE COURT USHER: All rise.

10 The International Criminal Court is now in session.

11 Please be seated.

12 PRESIDING JUDGE STEINER: (Microphone not activated)

13 THE COURT OFFICER: (Interpretation) Good afternoon. Yes, your Honour, your

14 Honours. We are in the situation in the Central African Republic in the case of the

15 Prosecutor versus Jean-Pierre Bemba Gombo, ICC-01/05-01/08.

16 We are in open session, your Honour.

17 PRESIDING JUDGE STEINER: (Microphone not activated)

18 THE INTERPRETER: Microphone, please.

19 PRESIDING JUDGE STEINER: I'm really sorry for that. The Chamber would like also to

20 greet the representatives of the Democratic Republic of Congo, representatives of

21 non-governmental organisations, family members of Mr Bemba, members of the corps

22 diplomatic, judges, court staff, and other individuals in the public gallery.

23 The Chamber assumes that, as always, the public in the gallery will be respectful

24 towards the Chamber throughout the reading of the present judgment, and I would

25 just remind them to abstain from making any sort of manifestations during the

1 present hearing.

2 My most warm welcome to the court interpreters, the court reporters.

3 And to begin with I would like to ask the attendees of this hearing to introduce
4 themselves and their teams starting by the Prosecution team, and I recognize Ms
5 Fatou Bensouda, you have the floor.

6 MS BENSOU DA: Thank you, Madam President. Madam President, honourable Judges, the
7 Office of the Prosecutor is represented today by the Deputy Prosecutor James Stewart, senior
8 trial lawyer Jean-Jacques Badibanga, trial lawyers Massimo Scaliotti, Eric Iverson, Shkelzen
9 Zeneli, Thomas Bifwoli, Horejah Bala-Gaye, legal assistant Sanyu Ndagire, case manager
10 Sylvie Vidinha, and international cooperation adviser Abdoul Aziz Mbaye and myself, Fatou
11 Bensouda, Prosecutor.

12 PRESIDING JUDGE STEINER: Thank you very much, Madam Bensouda.

13 I now turn to the Defence team, Mr Haynes.

14 MR HAYNES: Good afternoon, your Honour. The defendant is represented this afternoon
15 by myself, Peter Haynes; my co-counsel Kate Gibson and Melinda Taylor; and our case
16 managers, Cécile Lecolle and Natacha Lebaindre.

17 PRESIDING JUDGE STEINER: Thank you very much, Mr Haynes.

18 I would ask the Legal Representative of Victims to introduce herself and her team.

19 MS DOUZIMA LAWSON: (Interpretation) Thank you very much, your Honour. I am
20 Marie Edith Douzima-Lawson, Legal Representative of Victims, assisted by Célestin Nzala,
21 legal assistant, and Evelyne Komerwa, case manager, as well as Melanie Vianneyliaud, who is
22 also case manager. Thank you very much.

23 PRESIDING JUDGE STEINER: Thank you very much, Maître Douzima.
24 Representative of the Registry.

25 MR DUBUISSON: Thank you, your Honour. Your Honours, on the Registry bench today

1 there is Vera Wang, who is the coordinating legal officer, and myself, Marc Dubuisson,
2 director of the Division of Judicial Services representing Herman von Hebel, the Registrar.

3 PRESIDING JUDGE STEINER: Thank you very much.

4 As a preliminary matter, and before we bring out the summary of today's Judgment,
5 the Chamber will issue a short oral decision on two pending Defence requests for
6 leave to appeal. The first pending request is the Defence request for leave to appeal
7 the decision on Defence Request for Stay of the Proceedings and Further Disclosure,
8 filed on 14 March 2016. It is filing 3338.

9 The second one is the Defence Request for Leave to Appeal the Decision on Defence
10 Request for Further Disclosure, filed on 15 March 2016, filing 3339.

11 The Prosecution responded to both requests submitting that they should be rejected,
12 filings 3341 and 3342. The Legal Representative did not respond to either request.

13 Having considered the submissions of the parties, the Chamber has found that the
14 relevant criteria under Article 81(1)(d) of the Rome Statute for leave to appeal to be
15 granted are not met for either request. Accordingly, the Chamber rejects both
16 requests. A written decision containing the reasoning underlying the Chamber's
17 decision will be issued in due course.

18 As you all are aware, we are here today to deliver the summary of the Chamber's
19 Judgment pursuant to Article 74 of the Rome Statute, which I will now proceed to
20 read.

21 I would like to remind everyone that today we'll have not only interpretation into French, but
22 also into Lingala and into Sango for the benefit of the people in the Democratic Republic of
23 Congo and Central African Republic. For that reason, I will read the summary of the
24 Judgment in a slower pace

25 And this is the summary of Trial Chamber III's Judgment of 21 March 2016 pursuant

1 to Article 74 of the Rome Statute in the case of the Prosecutor versus
2 Mr Jean-Pierre Bemba Gombo.

3 1, Trial Chamber III, the Chamber, of the International Criminal Court, the Court,
4 hereby provides the following summary of today's judgment pursuant to Article 74 of
5 the Rome Statute, the Statute. The Chamber notes that only the written judgment to
6 be issued after this hearing is authoritative.

7 A. The charges against the accused.

8 On 24 May 2008, Mr Jean-Pierre Bemba Gombo, Mr Bemba, was arrested by the
9 Belgian authorities, pursuant to a warrant of arrest issued by the Court, and was
10 surrendered to the Court on 3 June 2008. On 15 June 2009, Pre-Trial Chamber II
11 confirmed that there was sufficient evidence to establish substantial grounds to
12 believe that Mr Bemba is responsible within the meaning of Article 28(a) for the
13 following crimes alleged to have been committed by MLC soldiers on the territory of
14 the Central African Republic from on or about 26 October 2002 to 15 March 2003:
15 Murder as a crime against humanity under Article 7(1)(a) of the Statute;
16 Murder as a war crime under Article 8(2)(c)(i) of the Statute;
17 Rape as a crime against humanity under Article 7(1)(g) of the Statute;
18 Rape as a war crime under Article 8(2)(e)(vi) of the Statute; and
19 Pillaging as a war crime under Article 8(2)(e)(v) of the Statute.

20 Brief case history:

21 By way of brief case history, the Chamber will first mention key phases of the trial
22 proceedings and events that had a significant impact on its course.

23 On 22 November 2010, the trial commenced with the parties and participants making
24 their opening statements. The Accused pleaded not guilty to each of the five
25 charges.

1 The presentation of evidence commenced on 23 November 2010 and it initially
2 concluded on 7 April 2014 pursuant to Rule 141(1) of the Rules of Procedure and
3 Evidence. On 2 October 2014, upon the Defence's request, the Chamber reopened
4 the presentation of evidence for the limited purpose of recalling one witness for
5 further testimony. The further testimony concluded on 24 October 2014. The
6 Prosecution, the Defence, and the Legal Representative of Victims made their closing
7 oral statements on 12 and 13 November 2014.

8 On 21 September 2012, the Chamber issued its decision giving notice to the parties
9 and participants that the legal characterisation of the facts may be subject to change in
10 accordance with Regulation 55(2) of the Regulations of the Court. On 13
11 December 2012, the Chamber temporarily suspended the proceedings in order to
12 permit the Defence to prepare its case in light of the Regulation 55 notification. On 6
13 February 2013, at the request of the Defence, the Chamber vacated its decision on the
14 temporary suspension of the proceedings.

15 Throughout the proceedings, the Chamber issued 1,219 written decisions, orders,
16 notifications and cooperation requests as well as 277 oral decisions and orders. The
17 Chamber sat for 330 days and heard 77 witnesses, including 40 witnesses called by
18 the Prosecution, 34 witnesses called by the Defence, two witnesses called by the Legal
19 Representatives of Victims, and one witness called by the Chamber. Additionally,
20 the Chamber also permitted three victims to present their views and concerns. The
21 Chamber admitted a total of 733 items of evidence, including 5,724 pages of
22 documentary evidence.

23 The Chamber notes that it granted 5,229 persons the status of victims authorised to
24 participate in the proceedings. The Chamber has benefited greatly from the views
25 and concerns of the participating victims as expressed through their legal

1 representatives. The Chamber thanks all the victims for their involvement and
2 commends the Legal Representatives of Victims and their teams for their
3 contribution.

4 The burden and standard of proof.

5 Under Article 66(1) of the Statute, the Accused shall be presumed innocent until proved guilty.

6 Pursuant to Article 66(2), the onus is on the Prosecution -- Prosecutor to prove the Accused's
7 guilt. For a conviction, each element of the crimes, contextual elements, and the mode of the
8 liability charged must be established beyond reasonable doubt

9 The Chamber's main findings.

10 In today's overview of the Judgment, the Chamber will first discuss its findings concerning
11 the events in the Central African Republic from on or about 26 October 2002 and 15
12 March 2003 and its findings in relation to the crimes allegedly committed by MLC soldiers in
13 the Central African Republic during the period of the charges. The Chamber will then turn
14 to its findings as to Mr Bemba's alleged individual criminal responsibility as a military
15 commander, or a person effectively acting as such, under Article 28 of the Statute
16 The events in the Central African Republic from on or about 26 October 2002 to 15
17 March 2003.

18 The Chamber has concluded that the forces loyal to General François Bozizé, the
19 former chief of staff of the Forces armées centrafricaines, FACA, were composed of
20 various former FACA soldiers and some Chadian nationals. The Chamber refers to
21 the forces supporting General Bozizé as "General Bozizé's rebels."

22 General Bozizé's rebels advanced from Chad through the Central African Republic in
23 October 2002. They engaged FACA troops and captured various towns before
24 entering Bangui on 25 October 2002. The FACA soldiers and other forces supporting
25 President Patassé, including the Unité de sécurité présidentielle, USP, some Libyan

1 troops and other militias responded with armed force.

2 In order to defend his government, President Patassé requested the assistance of the
3 Mouvement de Libération du Congo, MLC, and its military branch, the Armée de
4 Libération du Congo, ALC, from Mr Bemba. The MLC was a movement based in
5 Gbadolite, the capital of the Équateur Province in the northwest of the Democratic
6 Republic of the Congo, DRC. It was established by Mr Bemba in 1998 with the goal
7 of overthrowing the government in Kinshasa. Mr Bemba was the MLC president,
8 commander-in-chief of the ALC, the MLC's figurehead, and the source of its main
9 funding, goals, and aims. In response to President Patassé's request, Mr Bemba
10 deployed ALC troops from the DRC to the Central African Republic to intervene in
11 support of President Patassé.

12 The MLC contingent Mr Bemba deployed to the Central African Republic was
13 comprised of three battalions totalling around 1,500 men. Initially two battalions
14 crossed to the Central African Republic at the start of the conflict while the third was
15 deployed around the end of January 2003.

16 The Chamber found that, over the course of approximately five months, beginning on
17 26 October 2002, the MLC troops, with a limited number of FACA forces
18 accompanying them, advanced through various localities in Central African Republic,
19 namely through Bangui, to PK12 and PK22, and along the Damara-Sibut and the
20 Bossembélé-Bossangoa axes. They attacked Mongoumba, and, on or about 15
21 March 2003, they withdrew back to the DRC through Bangui and other crossing
22 points along the Oubangui River. The Chamber refers to this period as the 2002-2003
23 Operation.

24 After the MLC's arrival on 26 October 2002, hostilities and regular use of armed force
25 continued between the forces supporting President Patassé and General Bozizé's

1 rebels. In Bangui at the end of October 2002, along the road to PK22 in the first half
2 of November 2002, around Damara in early December 2002, along the
3 Bossembélé-Bozoum axis between mid-December and February 2003, on the road to
4 and around Sibut in late February 2003, and along the Bossembélé-Bossangoa axis in
5 late February or early March 2003. On or about 6 March 2003, the MLC troops began
6 to retreat towards Bangui, engaging General Bozizé's rebels along the way until the
7 MLC's complete withdrawal from the Central African Republic on 15 March 2003.
8 Although, there were breaks in hostilities, they were not the result of a peaceful
9 settlement and were merely temporary lulls in the active engagements between the
10 parties to the conflict. At all times relevant to the charges, there was a resort to
11 armed force and protracted violence between the forces supporting President Patassé
12 and General Bozizé's rebels.

13 The conflict was confined to the territory of the Central African Republic, the foreign
14 participants were not acting in the overall control of any foreign government, and the
15 evidence demonstrated that it could not be viewed as one in which two or more states
16 opposed each other.

17 In light of the evidence above, the Chamber concluded that the conflict in the Central
18 African Republic from on or about 26 October 2002 to 15 March 2003 was an armed
19 conflict between the Central African governmental authorities, supported by other
20 forces, including MLC, on the one hand, and, on the other, the organised armed
21 group of General Bozizé's rebels. The armed conflict was not of an international
22 character, was protracted within the meaning of Article 8(2)(f), and reached a
23 sufficient level of intensity for the purposes of Articles 8(2)(d) and 8(2)(f). In
24 addition, the Chamber concluded that the MLC forces committed an attack against
25 the civilian population within the meaning of Article 7(2)(a).

1 The evidence demonstrated that in the course of the 2002-2003 Operation MLC troops
2 committed many acts of pillaging, rape, and murder against civilians over a large
3 geographical area, including in and around Bangui, PK12, PK22, Bozoum, Damara,
4 Sibut, Bossangoa, Bossembélé, Dékoa, Kaga-Bandoro, Bossemptele, Boali, Yaloke and
5 Mongoumba.

6 The multiple acts of rape and murder committed by MLC soldiers constituted a
7 course of conduct, and were not merely isolated or random acts. The victims were
8 not taking part in hostilities at the relevant time. MLC soldiers targeted civilians,
9 without regard for age, gender, or social status in civilian neighbourhoods and
10 residences, on temporary MLC bases, or in isolated locations, such as the bush.
11 Entire families were victimised; victims included the elderly, men, women, and
12 children. The acts of murder and rape were regularly committed together with, or
13 during the course of, the commission of acts of pillaging against the civilian
14 population. The Chamber concluded that the civilian population was the primary,
15 as opposed to incidental, target of the attack, and in turn, that the attack was directed
16 against the civilian population in the Central African Republic.

17 The Chamber found that, although a policy to attack the civilian population in the
18 Central African Republic was not formalised, the existence of such a policy was the
19 only reasonable conclusion from a cumulative consideration of several relevant
20 factors. The Chamber was satisfied that the failure on the part of the MLC to take
21 action was deliberately aimed at encouraging the attack. The Chamber, in fact,
22 found that the MLC, in particular through the action of its commanders on the
23 ground, actively encouraged, encouraged the attack. The Chamber concluded that
24 the evidence demonstrated the existence of a widespread attack by MLC soldiers
25 directed against the Central African civilian population throughout the period of the

1 charges.

2 The crimes committed by MLC soldiers during the conflict.

3 Of the underlying acts of murder, rape, and pillaging, the Chamber found to fall
4 within the scope of the charges and of which the Defence had adequate notice, the
5 Chamber found beyond reasonable doubt that:

6 MLC troops knowingly and intentionally killed the following persons:

7 P-87's brother in Bangui at the end of October 2002. A MLC soldier shot the victim
8 during the MLC's pillaging of the victim's home.

9 P-69's sister in PK12, the day after the MLC's arrival in PK12. A MLC soldier shot
10 the victim in the head when she resisted the pillaging of her money; and

11 An unidentified Muslim man on 5 March 2003 in Mongoumba. MLC soldiers shot
12 and mutilated the victim when he refused to give them his sheep.

13 MLC soldiers by force, knowingly and intentionally invaded the bodies of the
14 following victims by penetrating the victims' anuses and/or vaginas and or bodily
15 openings with their penises:

16 P-68 and P-68's sister-in-law in Bangui at the end of October 2002. After the victims
17 fled their homes to escape the MLC, they were attacked by MLC soldiers, and two of
18 these soldiers raped P-68, while another three raped her sister-in-law.

19 Two unidentified girls aged 12 and 13 years in Bangui on or around 30 October 2002.

20 The two girls were each raped by two MLC soldiers.

21 P-87 on and around 30 October 2002, after the pillaging of her home, an MLC soldier
22 forced the victim behind the house, threw her to the ground and raped her. He then
23 called to one of his companions who did the same, and then a third soldier raped her
24 as well.

25 Eight unidentified women at the Port Beach naval base in Bangui at the end of

1 October or beginning of November 2002. A group of MLC soldiers brought the
2 victims onto the deck of a ferry and took turns raping them.

3 P-23, P-80, P-81, P-82, and two of P-23's other daughters in PK12 in early
4 November 2002. A group of MLC soldiers entered the victims' compound, three
5 armed soldiers raped P-23 in the presence of his family members and neighbour.

6 While holding P-23 at gunpoint, three soldiers raped P-80, P-23's wife. Four soldiers
7 raped P-81, who is P-23's daughter, assaulting her until she bled. A soldier beat P-82,
8 P-23 granddaughter, and then at least two soldiers took turns raping her. Another
9 two of P-23's daughters were also raped by MLC soldiers that same day.

10 P-69 and his wife in PK12 at the end of November 2002. At least four MLC soldiers
11 raped P-69's wife, when P-69 protested her assault, two soldiers holding him at
12 gunpoint proceeded to rape him.

13 P-22 in PK12 on or around 6 or 7 November 2002. While pillaging her uncle's house,
14 MLC soldiers found the victim and three of them took turns raping her.

15 P-79 and her daughter in PK12 several days after the MLC arrived in PK12. While
16 one soldier held P-79 at gunpoint, two others raped her. During the same attack,
17 another soldier raped P-79's daughter in the presence of other children.

18 P-42's daughter in PK12 around the end of November 2002. While pillaging P-42's
19 house, MLC soldiers took his 10-year-old daughter to a small shelter behind the house,
20 where he could hear her shouting. Two soldiers raped her;

21 A woman in the bush outside PK22 in November 2002. Three MLC soldiers attacked
22 the woman. When she resisted, the men ripped off her clothes, pulled her legs apart,
23 and all three men raped her.

24 P-29 in Mongoumba on 5 March 2003. While she was preparing to flee from the
25 MLC, three MLC soldiers forced the victim back into her house and proceeded to rape

1 her; and

2 V1 in Mongoumba on 5 March 2003. After forcing her to serve as their interpreter,

3 MLC soldiers raped the victim in two separate incidents. In the first, two soldiers

4 knocked her to the ground and raped her. In the second incident, the victim was

5 raped by twelve soldiers.

6 MLC soldiers knowingly and intentionally appropriated items of property from the

7 following victims for private or personal use, without the victims' consent:

8 P-68 and her sister-in-law in Bangui at the end of October 2002;

9 P-119 in Bangui after 30 October 2002;

10 P-87 and her family in Bangui on or around 30 October 2002;

11 P-23, P-80, P-81 and P-82 in Bangui in early November 2002; P-69's sister in PK12 the

12 day after the MLC arrived;

13 P-69 in PK12 in November 2002;

14 P-108 in PK12 during the MLC's presence in the area;

15 P-110 in PK12 the day after the MLC arrived;

16 P-112 in PK12 in November 2002;

17 P-22 and her uncle in PK12 on or around 6 or 7 November 2002;

18 P-79 and her brother at PK12 several days after the MLC's arrival;

19 P-73 in PK12 at the end of November 2002;

20 P-42 and his family in PK12 at the end of November 2002;

21 P-75 in the bush outside PK22 in November 2002;

22 V2 in Sibut in the days after the MLC's arrival in that area;

23 And V1, a church, nuns, priests, an unidentified Muslim man and his neighbour, the

24 gendarmerie and the mayor's house in Mongoumba on 5 March 2003.

25 The MLC soldiers took numerous items from the victims, including administrative

1 documents, clothing, furniture, tools, radios, televisions, items of personal value,
2 money, livestock, food, mattresses, vehicles and fuel. In P-42's words, they took
3 "everything" and some victims were left with nothing. The consequences for victims
4 were far-reaching, impacting various aspects of their personal and professional lives.
5 The Chamber concluded that MLC soldiers were the perpetrators of the specific
6 underlying acts discussed above. This was based on a cumulative consideration of
7 relevant identification criteria. These include the repeated interactions between the
8 victims and witnesses and MLC soldiers, the clothing worn by the perpetrators, the
9 language they spoke, the manner in which the perpetrators identified themselves to
10 the victims, and/or troop movements and the presence of the MLC in the relevant
11 locations at the time of the crimes.

12 The Chamber was satisfied that the specific underlying acts addressed above are only
13 a portion of the total number of crimes committed in the territory of the Central
14 African Republic by the MLC forces in the course of the 2002-2003 Operation.
15 MLC soldiers committed the acts of murder, rape, and pillaging against Central
16 African civilians after the soldiers' arrival in a given area in the context of the armed
17 conflict between forces loyal to President Patassé and General Bozizé's rebels.

18 The acts of murder, rape, and pillaging were committed consistent with evidence of a
19 modus operandi employed by the MLC soldiers in the Central African Republic
20 throughout the 2002-2003 conflict. After General Bozizé's rebels had departed an
21 area, MLC soldiers searched house-to-house for remaining rebels, raping civilians,
22 pillaging their belongings and, on some occasions, killing those who resisted. Often,
23 multiple, multiple perpetrators were involved in the same incidents of murder, rape,
24 or pillaging. This modus operandi was apparent from the earliest days of the
25 2002-2003 Operation and continued consistently throughout it.

1 The evidence showed that MLC perpetrators targeted the civilians, the victims in
2 order to self-compensate for inadequate payment and rations from the MLC, and/or
3 to destabilise, humiliate or punish suspected rebels, rebel sympathisers, or those who
4 resisted pillaging and rape. Specifically in relation to the crimes committed during
5 the attack on Mongoumba, the Chamber concluded that the attack was carried out as
6 a punishment and retribution for the seizure of allegedly pillaged goods the MLC
7 soldiers were taking by boat back to the DRC.

8 The Chamber found that the armed conflict played a major part in the MLC soldiers'
9 decision to commit the crimes, their ability to do so, and the manner in which the
10 crimes were committed.

11 Further, the Chamber concluded that the perpetrators were aware of the factual
12 circumstances that established the existence of an armed conflict, namely the resort to
13 armed force by and protracted violence, violence between the forces supporting
14 President Patassé and General Bozizé's rebels.

15 The Chamber also concluded that the underlying acts of murder and rape were
16 committed by the MLC soldiers as part of an attack against the civilian population in
17 the Central African Republic in the context of the 2002-2003 Operation. Further, the
18 Chamber found that the perpetrators had knowledge of the attack, and knew that
19 their conduct was, or intended their conduct to be, part of the widespread attack
20 directed against the civilian population.

21 The Chamber thus found beyond reasonable doubt that the MLC soldiers committed
22 the war crimes of murder, rape, and pillaging within the meaning of Articles 8(2)(c)(i),
23 8(2)(e)(vi), and 8(2)(e)(v) of the Rome Statute and the crimes against humanity of
24 murder and rape within the meaning of Article 7(1)(a) and 7(1)(g) of the Statute.

25 Now we turn to Mr Bemba's responsibility within the meaning of Article 28 of the

1 Statute.

2 A) Mr Bemba effectively acted as a military commander and had effective authority
3 and control over the MLC forces that committed the crimes.

4 Mr Bemba was the president of the MLC and commander-in-chief of the ALC from its
5 creation and throughout the period of the charges. The members of the MLC's
6 Political and Military Council discussed certain issues with Mr Bemba, but the
7 evidence showed that he was the primary authority covering both the political and
8 military spheres and took, in general, the most important decisions.

9 Mr Bemba held broad formal powers, ultimate decision-making authority, and
10 powers of appointment, promotion, and dismissal within the MLC and its military
11 branch. Mr Bemba additionally controlled the MLC's funding. He had direct lines
12 of communication to commanders in the field, and a well-established reporting
13 system. He received operational and technical advice from the MLC General Staff.
14 Mr Bemba both could, and did, issue operational orders. He had disciplinary
15 powers of MLC members, including the power to initiate inquiries and establish
16 courts-martial, and had the ability to send troops or to withdraw them from the
17 Central African Republic.

18 The MLC forces, including the contingent in the Central African Republic
19 communicated and cooperated with the Central African authorities throughout the
20 2002-2003 Operation. However, the Chamber found that the MLC troops were not
21 "resubordinated" to the Central African military hierarchy, insofar as this would
22 imply that Mr Bemba's authority over the MLC contingent in the CAR was displaced.
23 The entirety of the evidentiary record showed that Mr Bemba exercised effective
24 control over the MLC contingent in the Central African Republic at all relevant times.
25 Mr Bemba ordered the initial deployment of the MLC troops to the Central African

1 Republic, including, in consultation with the MLC General Staff, selecting the units
2 and commanders to be deployed. Following deployment, Mr Bemba maintained
3 regular contact directly with senior commanders in the field on the state of operations,
4 and additionally received numerous detailed operations and intelligence reports.
5 Further, the MLC hierarchy in the DRC controlled by Mr Bemba, continued to
6 provide logistical support and equipment to the MLC troops in the Central African
7 Republic. The Chamber found that Mr Bemba issued direct operational orders.
8 These orders were relayed and implemented by Colonel Moustapha Mukiza, the
9 highest-ranking MLC officer in the Central African Republic during the 2002-2003
10 Operation and the senior officer at the brigade level.
11 Further, significantly, the Chamber found that Mr Bemba retained primary
12 disciplinary authority over the MLC troops in the Central African Republic, including
13 through the establishment of commissions of inquiry, powers of arrest, and the
14 convening of courts-martial. The ALC Code of Conduct also applied to the MLC
15 contingent in the Central African Republic throughout the 2002-2003 Operation.
16 Mr Bemba also retained the power and authority to order the withdrawal of the MLC
17 troops in the Central African Republic. Once Mr Bemba actually ordered the
18 withdrawal of the troops, the decision was complied with.
19 In light of the evidence as a whole, the Chamber concluded that Mr Bemba was both a
20 person effectively acting as a military commander and had effective authority and
21 control over the contingent of MLC troops in the Central African Republic throughout
22 the 2002-2003 Operation.
23 B) Mr Bemba knew that the MLC forces were committing or about to commit the
24 crimes.
25 Throughout the 2002-2003 Operation, Mr Bemba was predominantly based in DRC,

1 where the MLC was also headquartered, and was therefore remote from the
2 operations on the ground. However, radios, satellite phones, Thurayas, mobile
3 telephones, and other communications equipment enabled MLC commanders in the
4 Central African Republic to communicate directly with Mr Bemba, the MLC Chief of
5 General Staff, and the MLC headquarters in Gbadolite.

6 Through such channels of communication and throughout the 2002-2003 Operation,
7 there was regular and direct communication between Mr Bemba and Colonel
8 Moustapha, with Colonel Moustapha reporting the status of operations and the
9 situation on the ground. Other MLC officials in the Central African Republic were
10 also in direct contact with Mr Bemba by radio or Thuraya. In addition to direct
11 communication with Mr Bemba, Colonel Moustapha and other commanders in the
12 Central African Republic were in direct contact with the MLC Chief of General Staff,
13 who reported information he received to Mr Bemba. Likewise, messages sent by the
14 MLC commanders in the Central African Republic through the MLC transmissions
15 centre in Gbadolite were recorded in logbooks, which were taken, then taken to
16 Mr Bemba.

17 Military and civilian intelligence services also provided Mr Bemba - either directly or
18 through the General Staff - with information on the combat situation, troop positions,
19 politics, and allegations of crimes. Significantly, such intelligence reports referred to
20 various acts perpetrated by Banyamulengués or MLC troops, including theft,
21 pillaging, rape, the killing of civilians, harassment of persons, and the transportation
22 of looted goods, including trucks for Colonel Moustapha, back to the DRC through
23 Zongo and Libengue.

24 From the early days of 2002-2003 Operation, Mr Bemba followed and discussed
25 international media reports with senior MLC soldiers. These reports also often

1 included his personal reactions to allegations of crimes committed by MLC soldiers.

2 Over the course of the 2002-2003 Operation, local and international media and other

3 sources reported allegations of many acts of rape, pillaging, and murder by MLC

4 soldiers in the Central African Republic, including in and around Bangui, PK12, PK22,

5 Bozoum, Damara, Sibut, Bossangoa, Bossembélé, Dékoa, Kaga-Bandoro, Bossemptélé,

6 Boali, Yaloke and Mongoumba.

7 Mr Bemba also visited the Central African Republic on a number of occasions. As

8 early as November 2002, after hearing reports of crimes committed by MLC soldiers,

9 Mr Bemba travelled to the Central African Republic. There, he met with the UN

10 representative in the Central African Republic, General Cissé, and President Patassé,

11 and later addressed MLC troops and Central African Republic civilians at PK12.

12 During his speech at PK12, Mr Bemba referred to the MLC troops' "misbehaviour,"

13 "stealing," and "brutalising" of Central African Republic civilian population.

14 Several steps taken by Mr Bemba in relation to allegations of crimes by MLC soldiers

15 also demonstrate his knowledge of the allegations. The Mondonga Inquiry was

16 established to investigate allegations of crimes. It uncovered information on acts of

17 pillaging and rape attributed to MLC soldiers in the initial days of the 2002-2003

18 Operation. During the subsequent publicly broadcast Gbadolite court-martial of the

19 soldiers investigated, Mr Bemba continued to receive information of further

20 allegations of pillaging by MLC soldiers.

21 Similarly, the investigative Zongo Commission was sent to Zongo, in the DRC, to

22 collect information related to the allegations that pillaged goods from the Central

23 African Republic were entering the DRC through Zongo. The Zongo Commission's

24 report included information indicating that pillaging had been committed by MLC

25 soldiers during the 2002-2003 Operations and that pillaged items had been

1 transported from the Central African Republic to the DRC.

2 In January 2003, in correspondence with the General Cissé, Mr Bemba noted some

3 allegations concerning crimes committed by MLC soldiers in the Central African

4 Republic. Further, a report by the Fédération internationale des ligues des droits de

5 l'Homme, FIDH report, was released on 13 February 2003 and concerned an

6 investigative mission in Bangui. The FIDH Report included detailed accounts of

7 alleged acts of murder, rape, and pillaging by MLC soldiers against Central African

8 civilians in, inter alia, Bangui, PK12 and PK22. In a letter to the FIDH President,

9 dated 20 February 2003, Mr Bemba noted the FIDH Report, which contained

10 allegations of human rights violations by MLC soldiers.

11 The Sibut mission was sent to Sibut at the end of February 2003, in relation to media

12 reports of MLC abuses against the civilian population in Sibut and Bozoum. Some

13 of the people interviewed by reporters on the mission claimed that MLC soldiers

14 committed abuses against civilian population in Sibut, in particular, pillaging.

15 Finally, in March 2003, Mr Bemba knew of and did not take any preventative or

16 remedial action, remedial action in relation to the punitive attack on Mongoumba,

17 where only civilians were present at the time. He was in constant contact with

18 Colonel Moustapha the day before and the day of the attack.

19 In light of the evidence as a whole, the Chamber concluded that, throughout the

20 2002-2003 Operation, Mr Bemba knew that MLC forces and his effective authority and

21 control were committing or about to commit the crimes against humanity of murder

22 and rape, and the war crimes of murder, rape, and pillaging.

23 Having so found, the Chamber did not consider that the re-characterisation of the

24 charges pursuant to Regulation 55 of the regulations of the Court to include the

25 "should have known" mental element was warranted.

1 C) Mr Bemba failed to take all necessary and reasonable measures to prevent or
2 repress the commission of the crimes or to submit the matter to competent authorities
3 for investigation and prosecution.

4 The Chamber concluded that despite consistent information - as reported internally
5 within the MLC and externally in the media - the acts of murder, rape, and pillaging
6 attributed to MLC soldiers throughout the 2002-2003 Operation, Mr Bemba's reactions
7 were limited to: (i), general, public warnings to his troops not to mistreat the civilian
8 population; (ii) the creation of the two above-mentioned investigative commissions;
9 (iii) the Gbadolite court-martial of seven low-ranking soldiers on charges of pillaging
10 of goods of limited value, and (iv) the Sibut Mission, which was not even an
11 investigation. The mandates of the two investigative commissions were limited to
12 the following allegations: pillaging committed in the initial days of the 2002-2003
13 Operation in Bangui and pillaged goods being transported via Zongo.

14 Further to noting that the measures set out above were not properly and sincerely
15 executed, the Chamber found that the measures Mr Bemba took were a grossly
16 inadequate response to the consistent information of widespread crimes committed
17 by the MLC soldiers in the Central African Republic of which Mr Bemba had
18 knowledge. There is no evidence that Mr Bemba took any measures in response to
19 information transmitted internally within the MLC of crimes by MLC soldiers from,
20 for example, the MLC intelligence service or the leads uncovered during the
21 Mondonga Inquiry, Zongo Commission, or Sibut Mission.

22 In addition to or instead of the insufficient measures Mr Bemba did take, and in light
23 of his extensive material ability to prevent and repress the crimes, Mr Bemba could
24 have, inter alia, ensured that the MLC troops in Central African Republic were
25 properly trained in the rules of international humanitarian law, and adequately

1 supervised during the 2002-2003 Operation; initiated genuine and full investigations
2 into the commission of crimes; and properly tried and punished any soldiers and
3 commanders alleged of having committed crimes; issued further and clear orders to
4 commanders of the troops in the Central African Republic to prevent the commission
5 of crimes; altered the deployment of the troops, for example, to minimise contact with
6 the civilian population; removed, replaced, or dismissed officers and soldiers found
7 to have committed or condoned any crimes in Central African Republic; shared
8 relevant information with the Central African Republic authorities or others and
9 supported them in any efforts to investigate criminal allegations and/or withdrawn
10 MLC troops from the Central African Republic prior to the actual withdrawal in
11 March 2003.

12 In light of the wide range of available measures at his disposal, the Chamber found
13 that the measures Mr Bemba did take fell patently short of "all necessary and
14 reasonable measures" to prevent and repress the commission of crimes within his
15 material ability.

16 Finally, the Chamber noted that, as he had ultimate disciplinary authority over the
17 MLC contingent in the Central African Republic, Mr Bemba was the competent
18 authority to investigate and Prosecute the crimes. In such circumstances, where he
19 failed to empower other MLC officials to fully and adequately investigate and
20 prosecute allegations of crimes, he cannot be said to have submitted the matter to the
21 competent authorities for investigation and prosecution. He also made no effort to
22 refer the matter to the Central African Republic authorities, or to meaningfully
23 cooperate with international efforts to investigate the crimes, despite assertions that
24 he would do so, in particular, in his correspondence with General Cissé and with the
25 FIDH President.

1 Accordingly, in light of the above considerations and the evidence as a whole, the
2 Chamber found that Mr Bemba failed to take all necessary and reasonable measures
3 to prevent or repress the commission of crimes by his subordinates during the
4 2002-2003 Operation, or to submit the matter to the competent authorities.

5 D) As a result of Mr Bemba's failure to "exercise control properly" over the MLC
6 troops.

7 Despite Mr Bemba's effective authority and control over the ALC, including authority
8 over disciplinary matters, he failed to take any measures to remedy deficiencies in
9 training, either prior to the deployment of the troops or in response to the consistent
10 reports of crimes occurring from the earliest days of 2002-2003 Operation.

11 Additionally, Mr Bemba's failure to take all necessary and reasonable measures to
12 prevent and repress the commission of the crimes, or to submit the matter to the
13 competent authorities demonstrated that Mr Bemba failed to exercise control properly
14 over the forces deployed to the Central African Republic.

15 The Chamber concluded that, as demonstrated by the measures Mr Bemba did take in
16 response to allegations of crimes, including on Central African territory in the midst
17 of the 2002-2003 Operation and despite his remote location, Mr Bemba had the
18 authority and ability to take measures to prevent and repress the commission of
19 crimes.

20 Taking these measures would have deterred the commission of crimes and generally
21 diminished, if not eliminated, the climate of acquiescence - which is inherent where
22 troops have inadequate training, receive unclear orders, and/or observe their
23 commanders committing or collaborating in crimes - surrounding and facilitating the
24 crimes committed during the 2002-2003 Operation. Mr Bemba's failures in this
25 regard directly contributed to the continuation and further commission of crimes.

1 The Chamber concluded that the crimes against humanity of murder and rape, and
2 the war crimes of murder, rape, and pillaging committed by the MLC forces in the
3 course of the 2002-2003 Operation were a result of Mr Bemba's failure to exercise
4 control properly over his troops.

5 In light of the evidence analysed as a whole, the Chamber found beyond reasonable
6 doubt that Mr Bemba is criminally responsible under Article 28(a) for the crimes
7 against humanity of murder and rape, and the war crimes of murder, rape, and
8 pillaging committed in the territory of the Central African Republic by the MLC
9 forces in the course of 2002-2003 Operations.

10 Although Judges Steiner and Ozaki have written separate opinions on discrete legal
11 issues, the Chamber has reached its decision unanimously.

12 For the reasons provided in the Judgment rendered today, and relying, pursuant to
13 Article 74(2) of the Statute, on the evidence submitted and discussed at trial and on
14 the entire proceedings, the Chamber finds Mr Jean-Pierre Bemba Gombo guilty under
15 Article 28(a) of the Statute, as a person effectively acting as a military commander for
16 the following crimes:

17 Murder as a war crime under Article 7(1)(a) of the Statute;

18 Murder as -- sorry.

19 Murder as a crime against humanity under Article 7(1)(a) of the Statute;

20 Murder as a war crime under Article 8(2)(c)(i) of the Statute;

21 Rape as a crime against humanity under Article 7(1)(g) of the Statute;

22 Rape as a war crime under Article 8(2)(e)(vi) of the Statute; and

23 Pillaging as a war crime under Article 8(2)(e)(v) of the Statute.

24 Consequently, the Chamber decides that Mr Jean-Pierre Bemba Gombo shall remain
25 in detention until such time as a sentence is passed; and orders the Victims and

1 Witnesses Unit to take all necessary measures to ensure the protection of victims and
2 witnesses pursuant to Article 68 of the Statute.

3 The full Judgment will be notified shortly after this oral summary concludes. An
4 order on the sentencing submissions timeline will also be issued later today.

5 Issues related to the reparations procedure will be addressed in due course.

6 With that, the Chamber concludes the reading of the summary of the Judgment
7 pursuant to Article 74 of the Statute.

8 The Chamber thanks everyone present for your kind attention.

9 The Chamber would also like to thank the entire staff of the Registry, including court
10 officers, the interpreters, the court reporters, and all dedicated members of the
11 Registry staff who assisted us in this hearing and made it possible for us to conduct
12 the entire trial.

13 The Chamber would also like to thank everyone in the Chamber who assisted the
14 Judges throughout the proceedings, our legal advisers, the legal adviser, our legal
15 officers, our assistant legal officers here present, our research assistant, and our
16 interns and visiting professionals, whose contribution to the Chamber's work
17 throughout this trial has been essential.

18 This hearing is concluded.

19 THE COURT USHER: All rise.

20 (The judgment ends in open session at 3.18 p.m.)