

Trial Hearing
Witness: CAR-OTP-PPPP-0151

(Open Session)

ICC-01/05-01/08

1 International Criminal Court
2 Trial Chamber III - Courtroom 2
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08
5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and Judge Kuniko Ozaki
6 Trial Hearing
7 Tuesday, 18 October 2011
8 (The hearing starts in open session at 9.34 a.m.)
9 THE COURT USHER: All rise. The International Criminal Court is now in session.
10 Please be seated.
11 THE COURT OFFICER: Good morning, your Honours, Madam President. We are
12 in open session.
13 PRESIDING JUDGE STEINER: Good morning. Could, please, court officer call the
14 case.
15 THE COURT OFFICER: Situation in the Central African Republic, in the case of The
16 Prosecutor versus Jean-Pierre Bemba Gombo, case reference ICC-01/05-01/08.
17 PRESIDING JUDGE STEINER: Thank you and good morning Prosecution team,
18 legal representatives of victims, the Defence team, Mr Jean-Pierre Bemba Gombo.
19 Good morning to our interpreters, court reporters.
20 We will continue today with the testimony of Witness 151 and I ask, please, court
21 usher to bring the witness in.
22 (The witness enters the courtroom)
23 WITNESS: CAR-OTP-PPPP-0151 (On former oath)
24 (The witness speaks Sango)
25 PRESIDING JUDGE STEINER: Good morning, Mr Witness.

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- 1 THE WITNESS: (Interpretation) Good morning, Madam President.
- 2 PRESIDING JUDGE STEINER: Did you have a restful night?
- 3 THE WITNESS: (Interpretation) Yes, thank you, I had a restful night, except that I
- 4 have some problems with my right eye and I've been having these problems since I
- 5 boarded -- since I took the plane.
- 6 PRESIDING JUDGE STEINER: Have you informed VWU about this problem you're
- 7 feeling in your eyes?
- 8 THE WITNESS: (Interpretation) I began to feel pain overnight and I did report this
- 9 this morning.
- 10 PRESIDING JUDGE STEINER: I will instruct VWU to see you again during the
- 11 break and to take any necessary measures in order to help you and avoid that you
- 12 feel any kind of pain. Are you feeling well and ready to continue with your
- 13 testimony?
- 14 THE WITNESS: (Interpretation) I am prepared to continue. I am ready to
- 15 continue, except that I do have problems with my eye.
- 16 PRESIDING JUDGE STEINER: If at any time you feel you need a break, you just let
- 17 us know.
- 18 We will start with the Prosecution, but before that, Mr Witness, I need to remind you
- 19 that you are still under oath. Do you understand that?
- 20 THE WITNESS: (Interpretation) Yes, I do understand that.
- 21 PRESIDING JUDGE STEINER: So the Prosecution will continue with your
- 22 questioning, but please, if you don't feel like continuing because of your pain, you
- 23 just let us know.
- 24 Mr Iverson, you have the floor.
- 25 MR IVERSON: Thank you very much, Madam President.

1 QUESTIONED BY MR IVERSON: (Continuing)

2 Q. Good morning, sir. How are you this morning?

3 A. I am well this morning.

4 Q. This morning I would like to continue with a few questions about the
5 relationship between the Banyamulengue and the Central African military forces.
6 Yesterday you told us about an incident where the Banyamulengue had disarmed the
7 Central African forces, and I wanted to ask if to your knowledge there were other
8 similar incidents that occurred while the Banyamulengue were in your country?

9 A. As far as I know, as I was used to going to places, I didn't have the opportunity
10 to witness such incidents. The -- what I referred to already were the only incidents I
11 actually witnessed. I was not an eyewitness to many such incidents. I only
12 witnessed one or two such incidents, which I have already told you about.

13 Q. Did you hear about other incidents from anyone else?

14 A. No, nobody spoke to me about such incidents.

15 Q. Now, after the incidents which you talked about yesterday, after those incidents
16 occurred, what was the level of trust between the Banyamulengue and the Central
17 African military forces?

18 A. In order to try and answer your question fully, I would say that I can't actually
19 tell you anything. I did not experience such things.

20 Q. Well, you did work on the staff within the PCO, so you can certainly comment
21 on what was the level of trust of the Banyamulengue within the staff of the PCO?

22 A. I did not say that I was a member of the military High Command, that was a
23 different structure from the PCO. They were two quite separate things. I had
24 limited competence, and I told you about what I personally experienced with the
25 Banyamulengue. But as regards the trust between our forces and the

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1 Banyamulengue, I am not informed about that. There were two groups who
2 operated independently of each other, and I can tell you nothing about that.

3 Q. Okay. I think that there was an interpretation issue. I wasn't asking about
4 the military High Command. I think it's clear that you were not a member of the
5 military High Command. I'm asking you in your workplace, you as a liaison officer
6 working in the PCO and around other Central African officers, I'm asking about your
7 personal experience within the PCO. I'm not asking you to comment on something
8 which you know nothing about. I'm asking what was the level of trust or confidence
9 in the Banyamulengue after these incidents within your section?

10 A. For me, the Central African forces operated carefully and did not get up too
11 close to the Banyamulengue. The Central African officers were distrustful, from
12 what I saw.

13 Q. After you had communicated with the deputy of Mustapha and requested that
14 the Banyamulengue return the arms to the Central African soldiers, did that level of
15 distrust change? In other words, did the Banyamulengue then do what the Central
16 African forces wanted them to do or did the level of distrust stay the same?

17 PRESIDING JUDGE STEINER: Just one moment. Mr Haynes.

18 MR HAYNES: Your Honour, the witness has at no time used the word "distrust."
19 The question is misleading.

20 PRESIDING JUDGE STEINER: When they say that "Central African officers who
21 were distrustful from what I saw," maybe we have a translation problem, Mr Iverson?

22 MR IVERSON: I don't know. I'm assuming that the interpretation was faithful and
23 that's why I asked the question that I asked. It says "distrustful" here on my
24 transcript, so I used the witness's word.

25 PRESIDING JUDGE STEINER: It is what I can see on page 5, line 4, Mr Haynes.

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1 You can proceed, Mr Iverson. If you please ask the question again in order to allow
2 the witness to start again giving his answer.

3 MR IVERSON:

4 Q. Maybe I can ask it in a simpler way. After you spoke with Mustapha's deputy
5 about the incident with the taking of the weapons, did anything change with regard
6 to the level of trust between the Banyamulengue and the Central African forces?

7 A. When I went to the Banyamulengue to complain about the weapons which had
8 been confiscated, those weapons were returned to me and I brought them back to the
9 PCO. As far as I know, there were no disagreements or misunderstandings between
10 the Central African forces and the Banyamulengue, but in any case, I did not
11 experience that. I had to intervene once or twice and then I went back to my office.
12 I wasn't out -- I wasn't out there on the ground experiencing what was going on.

13 Q. When the Banyamulengue first arrived to Central African soil, where
14 did -- where did they go? What was the first location that they went to, to your
15 knowledge?

16 A. When they crossed the river, I was not informed of that. I don't know at what
17 date they crossed the river and I don't know where their base was. The only thing I
18 learned about them was when I was working at the PCO, and I was asked to
19 intervene to go and see them to sort out some misunderstandings. It was at that
20 time that I was informed about what was happening.

21 They had troops in an advanced position on the road to Damara, that's what I know
22 because I went to their base, but as to their other theatres of operations I was not
23 well-informed about those. I heard rumours here and there from the -- from the
24 local population, but the information I got was from at their base at PK12 and at their
25 advanced post on the route -- the road to Damara but I was not an eyewitness to

1 anything else.

2 Q. What information did you hear from the local population that you refer to?

3 A. What I've just said here relates to their positions as the question -- to answer the
4 question you put to me about their positions, and I've answered your question. I
5 spoke in particular about their different positions. I would say that I don't know all
6 their positions. I heard people say that they had a -- they had a position in Damara
7 and another one in PK22, but those were just rumours which were going around the
8 town, and I was informed of those, but I didn't see those various positions with my
9 own eyes. I just heard talk about them.

10 Q. So you are saying that you got information about the locations of the
11 Banyamulengue through rumours from the local population?

12 A. The question put to me was where the Banyamulengue were in Bangui, and I
13 answered by telling you I didn't see them arrive. But the information that I have just
14 given you is information that I received when I was instructed to go to see their
15 commanding officers to handle the incidents. I've already spoken to you about that.
16 That was the only position I saw with my own eyes, but I heard the population talk
17 about these other positions they had but I didn't see them.

18 Q. By working in the PCO shouldn't you have gotten that information from the
19 PCO where the Banyamulengue were located?

20 A. No, in fact I never got any information pertaining to that at the CPO.

21 Q. Sir, do you have any information with regard to the Banyamulengue's
22 behaviour toward the civilian population in your country?

23 A. On that particular subject you probably know that when a crisis like this takes
24 place in a country the population is generally informed of the incidents that occur,
25 when these incidents occur somewhere else, and in fact personally what I

1 experienced, and what my family also experienced, is not germane to this matter
2 because neither my family nor myself were ever victims of that situation.

3 Q. Well, sir, if you know information now is the time to tell the Court, because I'm
4 not asking about you or your family specifically. I'm asking about any information
5 you have about the Banyamulengue's behaviour toward the civilian population, so if
6 you have information it is germane to this matter.

7 A. What I can tell you is that acts of violence were committed upon the population.
8 This -- it was the first time for me that I ever experienced such a situation in my own
9 country. Women were abused. There can be no doubt on that point. I've received
10 information about all the acts of violence and abuse perpetrated upon women by the
11 Banyamulengue and, in any case, it was the first time for us ever to experience such
12 an event in the whole history of my country.

13 Q. Are you able to provide more specific information?

14 A. Some women were taken by force. Even in the presence of their own
15 husbands they were taken by force in order to lay with them; in fact, even to rape
16 them. There was a huge number of atrocities of which the population was the
17 victim. Many people, especially the victims, complained about that situation.
18 Children were taken by force and raped.
19 Houses were requisitioned by force and at times they even destroyed those very
20 houses. Houses belonging to people were taken by force - were requisitioned - so as
21 to turn them into their own bases. The daughters of families, children, in fact the
22 whole of the population fell victim to these atrocities, and I must repeat that this is the
23 most tragic event ever to have occurred in the history of the people of my country.

24 Q. It can be difficult to talk about such things, but I want to ask you how is it that
25 you know these things? It's important for this Court to understand how you know

1 these things. Did you hear them from other people? Did you see them yourself?
2 Could you please tell the Honourable Judges how you know what you just said?
3 A. I wasn't a victim. I wasn't an eyewitness to any of this -- of these events.
4 However, I did hear people talk about them a great deal. You must know that in my
5 country, when a problem takes place or occurs in a family, it's all the neighbourhood
6 that immediately knows about it. The whole village immediately is informed.
7 I repeat I didn't have personally the opportunity to be an eyewitness to these events,
8 but I did hear the population talk about them at length because the whole of the
9 population was complaining about the situation. You know, if somebody is not
10 really personally a victim of a particular situation, he won't go around saying that he
11 was just for the sake of it.
12 Q. Sir, in the beginning of your testimony yesterday you explained that there were
13 a few corrections that you would like to make to your statement. I would like to
14 give you the opportunity now if you want to tell the Court, if you know off the top of
15 your head, what in your statement you view as incorrect, or in error, and tell the
16 Chamber the changes that you would like to state about your statement. I don't
17 believe that this is the last opportunity that you'll have, but I just wanted to give you
18 that opportunity before I finish questioning you.
19 JUDGE ALUOCH: Mr Iverson, before you reach that stage, I would just like to seek
20 a clarification, especially since the witness says he was not an eyewitness to any of the
21 abuses or destruction of property, but he gives an example in his statement. This is
22 CAR-OTP-0040-0476 at page 13, where he says, and I quote: "Everybody knows it
23 from news and rumours. When they were passing by in their cars, people were
24 shouting at them. In addition to that, as an example concerning their behaviour,
25 when they came they were given a building for accommodation next to the BSS, but

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1 they destroyed everything in that building. That is known to everybody, every
2 official in CAR army. That is why I said they are strange people. A true army must
3 take care of things they might find in a town, but it was not the case with them."
4 I just want to know whether he had personal knowledge of this, this destruction, or
5 whether again he heard it from people. Yes, thank you.

6 MR IVERSON: Thank you, your Honour. I will -- I'll ask the question to him,
7 based on what you've said.

8 Q. So, sir, as you heard the Honourable Judge talking about your statement and
9 the destruction of this building and people shouting at the Banyamulengue, could
10 you talk about that a bit? What do you know about that event?

11 A. Thank you. Before I was assigned to the PCO the Banyamulengue had already
12 taken over the BSS. Those premises were being used in order to house the
13 instruments of the military band. It was the BSS that was used for the musicians, the
14 military musicians' instruments and the Banyamulengue, in fact, took over that
15 property, that building, and they destroyed it. This is what I saw. I saw the
16 officers of the BSS because they were right across from the Camp Béal. They
17 destroyed all of the musical instruments including the premises.

18 This act of destruction was witnessed by one and all, and when they would pass by
19 on the main road in their trucks, the population saw them passing by and this
20 population would shout at them because they were not behaving correctly vis-à-vis
21 the population, and so they were booed and shouted at, and what I saw with my own
22 eyes was the destruction of the instruments, the musical instruments, and of the
23 premises where these musical instruments had been housed. This is the more
24 specific information that I can give you.

25 Q. Thank you. I think that fully addresses the question. If I may, I would like to

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1 go back to your statement and just ask again if there's anything that you'd like to
2 correct from your statement at this time?

3 A. I cannot remember the corrections that I would want to give. It actually
4 depends on the questions that you will be putting to me because, you see, when you
5 ask a question of me - and I will give you an example - when you asked me a
6 question on the property destroyed by the Banyamulengue, then I remembered and
7 I was able to give you the details, and so I can only provide you with corrections in
8 the context of questions that you will be putting to me.

9 MR IVERSON: Thank you very much, sir. I have no further questions. I'm sure
10 that the other parties and the participants do. Thank you for your time and your
11 patience.

12 PRESIDING JUDGE STEINER: Thank you, Mr Iverson. Mr Witness, the legal
13 representatives of victims, Maître Zarambaud and Ms Douzima-Lawson, were
14 authorised to put some questions to you. Ms Douzima requested or filed a
15 corrigendum in which she added groups of questions and the parties were given
16 authorisation to make comments on the additional questions, and to now no
17 comments have been received by the Chamber.

18 Having said that, the Chamber issues the following oral decision on the applications
19 to question Witness 151: On 12 October 2011 the Chamber received an application
20 from Maître Zarambaud on behalf of the victims that he represents to question
21 Witness 151 (Filing 1839-Conf). The application contains a list of 11 sets of questions.
22 Similarly, on the same date, the Chamber received an application from
23 Maître Douzima on behalf of the victims that she represents (Filing 1840-Conf). The
24 application contains a list of nine sets of questions.

25 On 17 October 2011 the Chamber received a corrigendum of Ms Douzima in relation

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1 to questions 4, 5 and 8 of her original application (Filing 1840-Conf-Corr).
2 Having considered the reasons given by both Maître Douzima and Maître
3 Zarambaud, as to why the personal interests of the victims they represent are affected,
4 the Chamber allows the respective applications to question Witness 151.
5 Turning to the proposed questions, Maître Douzima is allowed to put all of her
6 proposed questions to the witness as set out in her aforementioned filing. The
7 Chamber calls the attention of Maître Douzima that in her corrigendum almost all
8 references given are incorrect, so when putting her questions to the witness, the
9 Chamber requests Maître Douzima to make, for the sake of the record, the correct
10 references of pages and paragraphs related.
11 In relation to the questions of Maître Zarambaud, the majority, with Judge Ozaki
12 dissenting, allows him to put his questions as set out in his aforementioned filing.
13 Judge Ozaki dissents with respect to Maître Zarambaud's question number 5 for the
14 reasons explained in her partly dissenting opinion on the order on the procedure
15 relating to submission of evidence (Filing 1471, paragraph 13) and questions 8.1 and
16 8.6 for being irrelevant to the present case.
17 Having said that, the Chamber now gives the floor to Maître Zarambaud for Maître
18 Zarambaud to put his questions to the witness. Maître Zarambaud, you have the
19 floor.
20 MR ZARAMBAUD: (Interpretation) I thank you very much, your Honour,
21 Honourable Judges.
22 QUESTIONED BY MR ZARAMBAUD: (Interpretation)
23 Q. Mr Witness, good morning.
24 A. Good morning, Maître.
25 Q. Mr Witness, my name is Zarambaud. I'm a lawyer in Central Africa, in the

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1 Central African Republic, and here I'm the representative, legal representative of
2 victims. I am sorry I was not able to attend the familiarisation session with you,
3 since I was on a mission in the Central African Republic, and therefore I do have
4 certain questions that I would like to put to you. To refresh your memory I will read
5 only some short extracts of your own statements and, having read these short extracts
6 of your statements, I will then proceed to the questions.

7 My first question pertains to your statement which appears in document
8 CAR-OTP-0052-0577, page 0529. Don't worry about these references, I'm just saying
9 this for the Bench and for the parties and participants. As far as you're concerned,
10 sir, what you're only interested in is going to be really my own reading of your own
11 statement.

12 Now, under that particular reference you said, and I quote: "The PCO co-ordinated
13 the activities of the loyalist forces against the rebel troops which were located in the
14 north."

15 And my question to you is very simple: What was this co-ordination of the loyalist
16 troops all about?

17 A. Thank you very much indeed. Co-ordination occurred in the following
18 manner: When the radio operators out on the ground sent messages executing
19 instructions they had received from their officers in the field, messages sent to the
20 PCO informing of operations in the field, so the secondary station on the ground
21 would send messages to the directing station at the PCO in order to provide the
22 commanding officers with the necessary information for them to take the appropriate
23 decisions.

24 Q. Thank you very much, Mr Witness. My second series of questions will be
25 based on the reference CAR-OTP-0052-0577, page 0532, the penultimate and final

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1 paragraph, and also on page 0033, first paragraph. Under that particular reference,
2 Mr Witness, you said this, and I quote: "The GP and the Congolese forces had been
3 called to defend the country. The CPO received information from the friendly
4 troops in the field and informed thereon the High Command and the High Command
5 would take decisions and pass them on to the command of the PCO which would
6 then send on the decisions to the troops in the field."

7 In part, you have already answered in your own statement. However, I would like
8 to ask you to spell out precisely what you mean by the expression, "Those that were
9 the most called upon to defend the country"?

10 A. During these events, the Central African armed forces were in fact divided.
11 Part of the troops went to the bush and another part of the troops stayed behind in
12 order to continue defending the country, but before that division a detachment of
13 loyalist forces had been deployed to the field and so, when the conflict arose within
14 the ranks of the Central African Republic army, the Central African soldiers did not
15 have the necessary resources so as to enter into combat. They didn't have as many
16 weapons as the rebels, as the military who had taken to the bush, and this is why the
17 soldiers of the Presidential Guard had to be deployed in order to give assistance to
18 the loyalist troops.

19 However, the FACA soldiers, who had been deployed to the field before the events,
20 were not as well-equipped as the forces on the other side, the enemy forces, which
21 were trying at the time to take Bangui, so the loyalist forces were not as
22 well-equipped. This is what I meant. They didn't really have the necessary combat
23 logistical means, and it was the other side that had more weapons, that had heavy
24 weaponry, and therefore they were able to deal with the situation better.

25 Q. Thank you, Witness. Now, I read that you had said earlier that the High

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1 Command took the decisions and passed those decisions to the PCO and then the
2 PCO forwarded those instructions to the troops in the field. My question is as
3 follows: These decisions that were taken by the High Command, were these
4 decisions relating to armed combat?

5 A. Well, when I talk about the High Command, it's in relation to the messages - the
6 radio messages - that the CCOP would receive, and after, you see, there was a
7 particular cell that was responsible for planning; planning the various missions in the
8 field. That's how things worked, in particular in relation to the positions of soldiers
9 in the field. We would give the instructions about the position of the enemy in the
10 field and, in relation to that, the PCO would assess the situation so as to give
11 instructions to soldiers in the field so that they could effectively counter the enemy.

12 Q. Thank you, Witness. My third series of questions will be based on two
13 references. First of all, CAR-OTP-0052-0536, page 0542, and also page 0543,
14 paragraphs 1 and 2.

15 Now, in response to a question relating to the Congolese troops and whether they
16 were considered to be friendly troops and whether they reported to the PCO, you
17 answered saying: "No, the Congolese troops were independent of the loyalist
18 forces. There was no merger between the two groups.

19 The Congolese had a different mission and I know nothing about that, and when they
20 would receive instructions they would go to the field alone, without consulting us at
21 all, but I believe that sometimes they would receive instructions from the Presidential
22 Guard, or from their headquarters based at PK12."

23 Now, in the second reference you said the following, and I quote: "With regard to
24 their mission, I don't know where the decisions came from. That's something that
25 was decided upon by the High Command."

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1 My first question has to do with the High Command. In the statements that you
2 gave earlier we learned what the High Command was all about, so I won't ask that
3 question. I'll move on to my next question. My next question is as follows: Isn't
4 there some kind of contradiction here when you said that you didn't know where the
5 decisions were coming from about the mission of the MRC, saying at the same time
6 that for those missions, and I quote, "It was something that was decided by the High
7 Command"? So you said that you didn't know, but then at the same time you said
8 that the decisions would be taken by the High Command. Isn't there a contradiction
9 here between these two statements?

10 A. Thank you. It is true you might think that there is an apparent contradiction
11 here, but let me tell you this. To better understand the activities of the other side
12 you have to be together with them, but once you aren't together to talk about the
13 various tasks to be carried out, you aren't really working together, you aren't together.
14 How can you have all the information?

15 Myself, personally, I didn't approach them regarding this point to understand what
16 was going on. Did they get instructions directly from their headquarters, or from
17 our High Command? I don't know. It is true that the High Command did have
18 some regard for them, but they were operating separately and us too. We were
19 conducting our activities independently. So all I can tell you is that they had their
20 mission that they were carrying out separately. We were not working together.

21 Q. Thank you, Witness. You have dispelled my doubts and your position is
22 entirely clear to me now. I would now like to move on to the other series of
23 questions, the fourth one, and they will be based on three of your statements, three
24 references. The first one is CAR-OTP-0052-0536, page 0554, and in relation to the
25 question whether the FACA and the Congolese troops were co-ordinating their

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1 activities you said, "No, that they were not co-ordinating their activities."
2 Second reference, CAR-OTP-0052-0536, page 0556. Now, you were asked whether
3 the Presidential Guard co-ordinated the activities of the Congolese troops and once
4 again you said, "No."
5 Third reference, CAR-OTP-0052-0536, page 0557 I believe. You stated that the goal
6 of Mustapha's deputy's visit to the PCO was, and I quote, "... to obtain messages and
7 instructions." And you added, and I quote, "When he came to the PCO, we did not
8 work together with him. There was no co-operation. He would just come to get
9 information and then he would go off again."
10 So I have two questions in this regard. The first one is as follows: Didn't the
11 Congolese troops have their own sources of information regarding the situation in the
12 field that they could use, rather than going to the PCO to get information?
13 A. Thank you, Counsel. As I observed, and what's more I wasn't the only one
14 who saw this, everyone, all of us who were working at the PCO saw that. There was
15 an office that they would go to. When they came, when they came their intent was
16 not to ask questions of us, but when they came, sometimes they would just speak
17 amongst themselves and a few moments later they would leave again. I didn't really
18 observe them coming to gather information from our office.
19 There was an office beside ours and they would go there, and when they would go
20 there they would spend some time in there and then they would leave but myself, I
21 didn't go there to that office. So they would come, they would enter that office and a
22 few moments later they would leave again, but I do know that they had a specific
23 location where they would go and they would spend some time there and then they
24 would leave, but we would not go in there. We had our own premises that were
25 separate. That's what I can tell you.

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1 MR ZARAMBAUD: (Interpretation) Thank you, Witness. Your Honour, I believe
2 that the last reference that I gave, the page number was not transcribed. It's 0554,
3 that's the particular page number.

4 Q. Now, that being said, Witness, I thought I was going to ask you a second
5 question but what you've just said keeps me from asking that question because,
6 indeed, my question was whether there was a contradiction, because you had said
7 that the Presidential Guard co-ordinated things, and you also said that Mustapha's
8 deputy would come to get instructions from the director-general of the part of the
9 Presidential Guard, and what I gather from your statement is that he would come, he
10 would enter a separate office and you don't really know what was said within that
11 office or why they had gone to that office or what they were looking for.

12 So I will now move on to the fifth series of questions, and the reference is
13 CAR-OTP-0052-0536, page 0557, and you stated that the role of the PCO was not to
14 give instructions but rather to give an opinion of the situation, and you said that the
15 PCO did not give advice so as to define a strategy for the Congolese troop, and it was
16 Mustapha who provided the strategy for the Congolese troops. And reference
17 CAR-OTP-0052-0564, 0568, you stated that the Congolese soldiers were free to move
18 about and that they could go wherever they wanted to and within our forces no one
19 could approach them. There was an atmosphere of distrust between them and the
20 FACA. So I'd like to ask you whether that statement is indeed your statement?
21 Can you confirm this statement or do you wish to deny it?

22 A. What I said, that's what I saw in relation to the situation of our brothers in arms.
23 Let me tell you this: The Central African Republic soldiers and the Congolese
24 soldiers did not mix, did not come together. Since the Congolese soldiers behaved
25 in a certain way, our soldiers did not mix with them. I would say that they did not

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1 co-operate. I gave you an example.
2 When our loyalist soldiers had to deal with a difficult situation in the field, since they
3 were poorly armed and they wanted to come back to Bangui, when they got to the
4 post controlled by the Congolese soldiers, they considered our soldiers who were
5 coming back from the front to be enemies. They took them to be enemies. They
6 would disarm them and let the soldiers go back home to Bangui without any
7 weapons and this certainly testifies to the poor relationship between our soldiers and
8 the Banyamulengue. Our soldiers were somewhat distrustful of those soldiers, and
9 even our officers did not operate together with the Banyamulengue. That is what I
10 saw.

11 The officers were distrustful because of the somewhat strange behaviour of these
12 Congolese men. So these are some of the examples that I can give you, examples
13 that I was able to gather going to my two interventions with their headquarters. If
14 you have other questions, please ask them and I will be pleased to reply.

15 Q. Thank you, Witness. I don't have many more questions. What you've just
16 said is entirely clear. You've told us about this separation between the two forces, so
17 moving on to my next series of questions, also based on some brief quotations, you
18 stated, and I quote: "The Congolese troops were deployed here, but they also
19 reported to the Presidential Guard. Patassé had them come. The director of
20 presidential security would receive his instructions from the president who would
21 pass on the orders to the Congolese troops. The Presidential Guard had to give
22 money to the Congolese troops for their daily expenditures, for their general per diem,
23 so to speak and so there was ongoing contact between the Congolese and the
24 commander of the Presidential Guard."

25 Now, the second reference is as follows: CAR-OTP-0052-0536, page 0547, last

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1 paragraph, and then the following page as well, 0548. In relation to the question
2 whether Mustapha had a chief, you stated, and I quote: "If he had had a chief, it
3 would have been his chief -- it would have been Bemba there, perhaps the director of
4 presidential security who gave him instructions, but to my knowledge it was the
5 number 1 of the Congolese troops in -- he was the number 1 of the Congolese troops
6 in Bangui. Perhaps sometimes he would have to report to the High Command, but I
7 have no -- but I really know nothing about this." In actual fact, you use a lot
8 of -- you use the word "perhaps" quite a bit, so this is not a very firm statement. I'd
9 like to ask you: Now, would Mustapha receive instructions from both President
10 Patassé through the director of presidential security and from Mr Bemba? Did he
11 receive instructions from both?

12 PRESIDING JUDGE STEINER: Mr Kilolo.

13 MR KILOLO: (Interpretation) Your Honour, it seems to me that the question as it
14 has been put is entirely leading insofar as -- well, when you read the initial question
15 that had been put to the witness, namely, who was the superior of Mustapha, the
16 question was do you mean here in the Central African Republic or in the Congo?
17 And in the final analysis, when Mr Zarambaud asks the question of the witness and
18 putting words into the witness's mouth, namely, that Mustapha reported to both
19 President Patassé and Mr Jean-Pierre Bemba, that really is not an accurate reflection
20 of the actual words that were used by the witness in the passage that was just read
21 back.

22 So I think Mr Zarambaud should rephrase his question and ask the witness what he
23 meant exactly by what he said.

24 MR ZARAMBAUD: (Interpretation) Thank you, your Honour. Now the first
25 thing that I should say is that this question was provided to all parties and

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1 participants, including the Defence, who should have made a filing to challenge it.

2 This was not done, and the Chamber has accepted this question.

3 Secondly, unlike what the Defence is saying, I am not putting words in the witness's

4 mouth. I'm not talking about receiving instructions; I'm talking about reporting

5 to -- I said something about reporting instructions. Now, if I said that, it was on the

6 basis of the witness's statement. I believe he was -- the reference was "number 1 of

7 the troops."

8 So, really, it wasn't about accountability, it was about receiving instructions in light of

9 what was said in the witness's statement. He talked about instructions.

10 PRESIDING JUDGE STEINER: Maybe, Maître Zarambaud, to be fair with the

11 witness, you could read again the paragraph you mentioned and ask the witness to

12 explain what the witness meant.

13 MR ZARAMBAUD: (Interpretation) Entirely so, your Honour.

14 Q. The passage was as follows: In relation to the question whether Mustapha had

15 a leader, you stated - and this is your statement - "If he had a higher-ranking officer, it

16 would have been his leader Bemba there, and here in Bangui, perhaps the director of

17 presidential security who would give him instructions. To my knowledge, he was

18 the number 1 amongst the Congolese troops in Bangui. Perhaps sometimes he was

19 supposed to report to the High Command, but I know nothing about this."

20 So could you provide us with clarifications on this statement? Could you clarify this

21 matter for the Chamber?

22 A. Thank you, Counsel. Now, to answer your question, I said that in Bangui

23 Mustapha's chief was the one who was commanding here in Bangui. He didn't have

24 a chief in Bangui, that's what I said. However, in his country he did have a superior.

25 In Bangui Mustapha was the main leader, the number 1 guy. He had his deputy

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1 with him, he had Ema. I said that Mustapha was in the habit of going to *Camp de
2 Roux, perhaps to meet the director general of the Presidential Guard. Perhaps he
3 needed something for his troops. Perhaps that's why from time to time he would go
4 to *Camp de Roux.

5 However -- but in Bangui, to make it perfectly clear, other than the meetings that he
6 had with the head of presidential security, he did not have a leader there or a chief.
7 Here in Bangui the chief, the supreme chief, was President Patassé because he was the
8 one who had asked them to come and intervene in the country. But when foreign
9 forces intervene in a country, the country in question has to take care of these foreign
10 troops in terms of feeding them, handling logistics. Perhaps that is why he *had
11 privileged access to Camp de Roux; but in Bangui Mustapha was the number 1, the
12 head honcho, so to speak, of the Congolese forces.

13 MR ZARAMBAUD: (Interpretation) Thank you, Witness. Your Honour, I believe
14 it is 11 o'clock now. I still have three or four questions that I will be asking, once
15 we're back in the courtroom.

16 PRESIDING JUDGE STEINER: Thank you, Maître Zarambaud. Mr Witness, we'll
17 have half-an-hour break. You can take some rest. It's 11 o'clock. We'll be back at
18 11.30. I ask, please, court usher to take the witness outside the courtroom. We will
19 suspend and resume at 11.30.

20 (The witness stands down)

21 THE COURT OFFICER: All rise.

22 (Recess taken at 11.02 a.m.)

23 (Upon resuming in open session at 11.35 a.m.)

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

25 PRESIDING JUDGE STEINER: Welcome back. I ask, please, court usher to bring

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1 the witness in.
2 (The witness enters the courtroom)
3 PRESIDING JUDGE STEINER: Mr Witness, welcome back.
4 THE WITNESS: (Interpretation) Good morning again.
5 PRESIDING JUDGE STEINER: Are you ready to continue with your testimony?
6 THE WITNESS: (Interpretation) Yes, I am ready.
7 PRESIDING JUDGE STEINER: Thank you very much.
8 Maître Zarambaud, you have the floor.
9 MR ZARAMBAUD: (Interpretation) Thank you, Madam President.
10 Q. Witness, I'm going to continue with my questions. I had a seventh series of
11 questions to put to you, but I think these questions have now become redundant
12 because they relate to co-ordination between the loyalist troops and the Congolese
13 troops and you have already given us your point of view at great length on that
14 subject, so I will move on now to my eighth series of questions.
15 The eighth series of questions, you said in relation to the behaviour of the MLC
16 troops that when they arrived they were housed in the Bataillon de Soutien et de
17 Services part, and I quote you "They broke everything in the building," reference
18 CAR-OTP-0052-0563, page 0568, not 63 as is stated in the document. It should be
19 page 0568.
20 You stated that certain MLC soldiers were occupying the houses neighbouring the
21 Begoua stadium at PK12. So on the subject of houses, reference CAR-OTP-0052-0563,
22 page 0569, you spoke of Mustapha's headquarters and you said "They lived in a
23 private house just next door to the stadium." And on the subject still of houses and
24 buildings at reference CAR-OTP-0052-0563, page 0573, you stated that "... at PK22 in
25 the direction of Damara there was a centre with many buildings where the MLC

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- 1 troops had established one of their bases and that they had damaged all the houses."
2 So I have two questions to put to you on this. Firstly, were the houses and buildings
3 which had been occupied -- were they occupied with the consent of their owners?
4 A. Thank you for that question. As I've already said, the houses which they
5 occupied in Begoua did not belong to them. From what we noted, those houses
6 belonged to the inhabitants, but none of the owners of these houses had consented to
7 their occupation. Everybody knew that. If those houses had been -- had been
8 given with the permission of the owners we would have known, but those houses
9 were not theirs. They did not buy those houses. Those houses belonged to private
10 individuals and they were occupied forcefully.
11 As to PK22, we know that there were -- there was local population, there were houses
12 there. I know what happened at the régiment de soutien. They occupied the
13 premises and they trashed them. Everywhere they went, they caused damage.
14 They damaged the property.
15 We heard complaints from the population, and it is clear that those houses were
16 never granted with the consent of their owners. Those houses were taken over
17 forcefully. That's what happened and people knew that in Bangui. The owners of
18 those houses complained. That's a fact. That's what I could tell you.
19 If they saw that it was a nice looking house, they occupied it forcefully and the owner
20 couldn't challenge that illegal occupation. So that's what information I can give the
21 Chamber and indeed everyone here present today.
22 Q. Thank you, Mr Witness. So the houses were not occupied with the consent of
23 their owners, so the following question is the following: Did they provide
24 compensation subsequently to the owners of these houses?
25 A. To answer your question, I would say that I have no information on that matter.

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1 The owners complained. However, I am not in a position to confirm to you whether
2 any compensation was paid.

3 Q. Thank you, Witness. I did have a question number 10 to put to you, but I will
4 spare you that question. It was about radios and I don't think that is necessary, so
5 without further ado I will move on to question number 11 which is like a follow up to
6 the one I have just put. Do you know whether those who ill-treated, who performed
7 acts of violence against the civilian population, were tried in Congo?

8 A. On that, I have no information on that point. I do not know. The only person
9 who could answer that question is the leader, the person who was the commander of
10 the soldiers, because if a soldier commits a crime it is for his commanding officer to
11 take steps to punish such actions, but I don't know whether the people responsible for
12 the acts of violence carried out in the Central African Republic were trialled. I'm not
13 in a position to tell you. I don't know.

14 MR ZARAMBAUD: (Interpretation) Thank you, Witness, for having answered my
15 questions.

16 Madam President, your Honours, I have no further questions to put. Thank you.

17 PRESIDING JUDGE STEINER: Thank you very much, Maître Zarambaud. I take
18 the opportunity to just make a correction that, when authorising Maître Zarambaud
19 to put his questions to the witness, in the oral decision issued in the first part of this
20 today's session, I referred to two questions to which Judge Ozaki rejected for being
21 irrelevant and it relates to questions 8.1 and 8.2, not 8.6 as said before.

22 Now, I'm giving the floor to Maître Douzima. Mr Witness, Maître Douzima was
23 authorised as well to put some questions to you.

24 Maître Douzima, you have the floor.

25 MS DOUZIMA-LAWSON: (Interpretation) Thank you, Madam President.

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1 QUESTIONED BY MS DOUZIMA-LAWSON: (Interpretation)

2 Q. Good morning, Mr Witness.

3 A. Good morning, madam.

4 Q. Mr Witness, my name is Marie Douzima-Lawson. I am a lawyer in the Central
5 African Republic, like Mr Zarambaud who has just put questions to you. I am here
6 as legal representative of a certain number of victims of the atrocities carried out by
7 the Banyamulengue which you referred to here, so I am a lawyer representing a
8 certain number of victims in this case.

9 The personal interests of these victims are affected by what you have declared in your
10 statement, both as regards the statement you made to the Office of the Prosecutor and
11 the statements that you have been making here in the hearing since yesterday and
12 that's why I have asked permission to put some questions to you to enable -- to
13 enlighten the Chamber so that the Chamber can understand the case we're dealing
14 with -- the events we are dealing with. You will see, Mr Witness, that some of the
15 questions I am going to put will be similar to the questions put by the Office of the
16 Prosecutor, or by Mr Zarambaud, but the interests are slightly different.

17 Mr Witness, my first question relates to one of your statements in the investigation.
18 The reference to parties is CAR-OTP-0052-0536, page 542. You stated, sir, that the
19 Congolese troops were separate from the loyalist troops, that there was no merger
20 between the troops and that the Congolese had a different mission, so can you tell us
21 what was the mission of those Congolese troops?

22 A. Thank you for that question, Counsel. In the army, as provided for under
23 regulations, the aim of the army is to ensure the security of the population and the
24 institutions and to ensure national defence. I'm saying this because in all armies the
25 aims are the same and, as I have said, I don't know what were the objectives of the

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1 friendly troops.

2 I would also say that only the person who invited those friendly troops in could
3 speak of the goals that he had set those troops. I could only give a satisfactory reply
4 if there'd been co-ordination or co-operation between the two forces. When
5 you -- when you -- when you have such an intervention, it is because there is a crisis
6 which needs to be solved. A friend is asking for assistance to put an end to the crisis,
7 but if the mission is not carried out properly of course there will be consequences and
8 that is why I spoke of their mission objective, because if one works in collaboration,
9 each -- each party has a task to perform, but they came with a different objective from
10 ours because the mission of the army was to ensure security.

11 THE INTERPRETER: The Sango interpreters would ask the witness please to repeat
12 that section of his answer.

13 MS DOUZIMA-LAWSON: (Interpretation)

14 Q. Witness, the last part of your answer has not been clearly understood by the
15 interpreters, so could you please repeat it so that the interpreters can interpret it
16 correctly?

17 A. Thank you. So, once again, I would say the following: The aim of the
18 mission of the troops who had come from the Congo, if their objectives had been
19 clearly defined everything would have happened normally because the mission of
20 military forces, the mission of the army, is to protect, not to destroy. It was clear that
21 their mission was different from the objectives. Given their behaviour, given the
22 obligations assigned to each soldier, there was no compatibility between those
23 objectives and the behaviour of the soldiers.

24 Q. Thank you, Mr Witness. If I put that question, it is trying -- it is to try and
25 understand more clearly, because later on in answering the investigators, reference

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1 CAR-OTP-0052-0536, page 0552, you said, Witness, that there were no officers, there
2 was no general in charge of organising the troops at the front to drive out the rebels,
3 but that it was done by the different corps of the national army based on the spot
4 with the assistance of the Congolese. So if the missions were different, could you
5 explain how this occurred?

6 A. Thank you. The Central African forces were sent to the north to ensure
7 security, and on the other hand I would like to say that the army was divided. Some
8 took to the bush and fell back towards the north and were trying to reach the capital,
9 and the loyalist forces were occupying localities like Bossembélé, Bouar and others, so
10 our Congolese brothers in arms who arrived, when they came it was to provide us
11 with assistance so as to protect the country, or the government.

12 So when they were deployed on the ground it was to join the Central African forces,
13 but that was not the case. They were to go ahead to block the road to the rebel forces
14 who were trying to advance towards Bangui. The Central African forces occupied
15 different positions and blocked the road to the rebel soldiers, but they did not have
16 the necessary capabilities or resources to block the road of the rebels.

17 We had the CEMAC forces as well in the country. They weren't doing their job,
18 because they all fell back to Bangui and the road was left free. Thus, the
19 commanders appealed to the Congolese forces to try -- to have them help the
20 Congolese forces in protecting the regime. The idea was to go ahead of the Central
21 African forces and to wait for the rebel forces who were coming in from outside to
22 attack the city. That is how I would answer your question. If my answer is not
23 clear, I am prepared to answer further questions.

24 Q. Thank you, Mr Witness. Well, in point of fact, you also stated that the troops
25 were organised in such a way that they could protect the strategic points on the road

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1 to the north, particularly Bozoum, Bossangoa, Bossembélé, et cetera. The reference
2 here is CAR-OTP-0052-0536, page 553. Now, what are the troops that protected the
3 strategic points on the road to the north?

4 A. Thank you, Counsel. The strategic points were protected by the Central
5 African military. The Central African soldiers were in the habit of occupying these
6 positions and remaining there in order to provide security to the population and the
7 towns. Those positions were not to be occupied by the Congolese soldiers, but by
8 the Central African military in order to give protection to the population.

9 Q. But do you know whether the troops of the MLC actually went to those towns
10 as well; that is to say the cities in the north, Bozoum, Bossangoa, Bossembélé,
11 et cetera?

12 A. Well, it is true that the Banyamulengue were deployed in those areas. They
13 went to Bossangoa and there they faced down the soldiers that were on the road to
14 Bangui. They actually had a clash at that particular locality.

15 Q. Thank you very much, Mr Witness. I should like to move on to another
16 subject. The reference is CAR-OTP-0052-0536, page 0543 and not 542. You stated
17 that at times the Congolese troops received instructions from the Presidential Guard,
18 or from their General Staff based at the PK12, but according to Commander
19 Mustapha his troops were entirely placed under the authority, the structure and the
20 command of the Central African military authorities. I'm referring here to the report
21 on military operations carried out by the MLC troops, 29 October 2002 to
22 15 March 2003, reference CAR-DEF-0002, page 0567.

23 How do you react to this, Mr Witness?

24 A. Thank you, Counsel, for this question. The MLC soldiers, I must say regarding
25 the MLC soldiers that I never saw a Central African officer giving them instructions.

1 At no time did I see that. Within the PCO, I never heard mention of the fact that a
2 Central African officer would be commanding the Congolese troops. What
3 language, in fact, would those Central African officers have used in order to
4 communicate with the Congolese soldiers?
5 I should like to point out that the command of the MLC troops was in the hands of
6 Mustapha. It was he who commanded. No one else could act in lieu of him to
7 command the Congolese troops in the Central African Republic, but I never heard
8 that the Congolese troops would ever have received instructions from Central African
9 authorities. At no time at all, Counsel.

10 Q. Thank you very much, Mr Witness. However, when you say that the
11 Congolese troops could receive instructions from the Presidential Guard, what type
12 of instruction is that?

13 A. Thank you, Counsel. You know, what you have just read out is not actually
14 correct, because my words only concerned the chief of the Congolese troops, more
15 specifically Mustapha. I have already said it here.

16 Whenever we went to the Camp de Roux, it was Mustapha who would go to the
17 Camp de Roux to meet with the leader of the Presidential Guard. Perhaps
18 Mustapha was seeking the necessary means to give to his troops, such as food
19 supplies, et cetera. Perhaps also he came to Camp de Roux in order to ask for the
20 assistance of the Director-General of the Presidential Guard.

21 In any case, whenever he went to Camp de Roux, Mustapha met with the
22 Director-General of the Presidential Guard in order to seek assistance, because his
23 troops were in the country and therefore it was up to the Central African authorities
24 to look after those troops. This is how I can explain what happened.

25 Q. Thank you, Mr Witness. That was clear. You also asserted that, when

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1 Mustapha's deputy would come to the PCO, you never co-operated with him because
2 there was no trust. The reference is CAR-OTP-0052-0536, page 544. And you even
3 said under reference CAR-OTP-0052-0563, at page 568, and I quote, "In our troops, no
4 one could approach them. There was a climate of mistrust between them and us."
5 Earlier, in a reply you gave to Counsel Zarambaud, you gave the reasons for this lack
6 of trust between the Congolese troops and the Central African soldiers. You have
7 already clearly expressed this, so the problem is that -- and I'd like to refer again to
8 the report of Commander Mustapha that I mentioned earlier.

9 He mentioned cases of looting, which would have been perpetrated by Central
10 African soldiers with seven Congolese soldiers in the houses of some people who
11 were suspected of being close to Bozizé and he even indicated that the Central
12 African soldiers had been tried by General Mosenge and that the goods that had been
13 looted were handed into General Mosenge and to Lieutenant Damango.

14 So, Mr Witness, what do you say about this?

15 A. I should like to thank you, Counsel, for this question. I don't actually have
16 anything to say on this point, because I didn't experience this personally.

17 THE INTERPRETER: "I did not experience this personally," repeats the witness.

18 THE WITNESS: (Interpretation) He said whatever occurred to him in order to
19 make people believe that he was telling the truth, but the whole population of Bangui
20 knew how they loaded the big trucks and how those big trucks crossed over to the
21 other side of the river. But concerning specifically the statement that you have just
22 read out, the purpose is simply to make people believe, "Well, he's telling the truth,"
23 but I don't really know because I'm not really in a good position to provide any -- to
24 shed any light on this particular statement.

25 Q. Thank you, Mr Witness. The following reference is CAR-OTP-0052-0536, page

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1 546. Mr Witness, you mentioned misunderstanding, a misunderstanding or
2 misunderstandings, between the Congolese troops and the loyalist troops,
3 particularly the fact that the Congolese troops would arrest the loyalist troops and
4 take their weapons away from them.

5 My question is simply: What was the period during which these misunderstandings
6 occurred?

7 A. On this specific point I no longer remember the period, because this goes back a
8 long time. Concerning the misunderstandings in question, these were just incidents.
9 As I have already stated, when the Central African soldiers were in Bossembélé, or
10 Bozoum, at their specific locations, the Congolese would get there to try and find
11 supplies.

12 When they were short of ammunition, they were in the habit of sending someone in
13 order to try and get some ammunition and there was a position that was occupied by
14 the Congolese soldiers way before PK12, and for the Congolese soldiers anything that
15 came from the north was considered as being an enemy, so this is why the Central
16 African soldiers were very worried because they were taken for enemies and the first
17 thing that the Congolese would do would be to disarm the Congolese -- the Central
18 African soldiers, take their weapons from them.

19 This is why the Central African soldiers did not trust the Congolese troops, and this is
20 where I used the expression "misunderstandings," because a soldier whose weapon
21 would be taken away from him would go to the office in order to complain - to the
22 bureau to complain - and it was on the basis of these complaints that I was asked to
23 go and meet the Congolese soldiers in question in order to give them explanations to
24 ask them to stop considering those soldiers who were coming back from the front as
25 enemies, but as loyalist soldiers who were going back to their base in order to get

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1 supplies. This is what I meant.

2 Q. Well, precisely, Mr Witness. You also indicated that when you went to the
3 base of the Congolese troops in order to meet with Mustapha, in order to complain
4 about the incidents that had occurred between the Congolese and the loyalist troops,
5 you had pointed out that he respected the officers that would come to the PCO, but
6 not the other officers, and you think that this is because there was a sort of
7 co-operation between the PCO and him; that is to say Mustapha. So can you explain
8 what co-operation there was between the PCO officers and Mustapha? I will give
9 you the reference. It is CAR-OTP-0092-0936 on page 547, 0547.

10 A. Well, you know, that statement was made in French. Collaboration in my
11 understanding is actually an understanding between two people. Two people get
12 together and they pursue the same objective. That is my definition of collaboration,
13 but we have never had an opportunity to collaborate because they pursued their
14 objectives and we pursued ours and it was only along those lines that I make that
15 statement. It was important to draw a distinction between collaboration per se and
16 what actually took place. This is what I meant.

17 Q. Does that mean, therefore, that that understanding made it possible to sort out
18 those incidents?

19 A. That is exactly right, because under those circumstances, you know, when
20 weapons are involved there are always problems. This is why we would go and talk
21 things over with our brothers in arms and try and recover the weapons that had been
22 confiscated.

23 Q. Thank you very much, Mr Witness. I will proceed to something else now.
24 The reference is CAR-OTP-0052-0536, page 554. Mr Witness, you stated that if you
25 say "Banyamulengue" to a Central African, that would immediately conjure up abuse

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1 for him. What do you mean by "abuse"?

2 A. That was an answer I gave to a question that was put to me. It's something
3 similar to an experience that you may have lived through, and when somebody
4 mentions that experience then you remember everything, and it was in connection
5 with the question that was put to me that I gave that answer, because there are certain
6 facts that take place and when people refer to those facts then everything rushes back
7 to your memory. Everything you went through, all the suffering you endured,
8 everything you experienced comes back to you, and that term refers to a very tragic
9 experience and this is why in my testimony I mentioned it.

10 Q. Could you, Mr Witness, describe those tragic circumstances? In other words,
11 what were these abuses?

12 A. Those acts of abuse consisted in rape, abusing women by force in the presence
13 of their spouses and their family. These were acts perpetrated upon the population.
14 There were cases of theft, of looting, of destruction of property, that we all were
15 acquainted with in the country, so "abuse" refers to all these acts of aggression such as
16 rape and all the atrocities that we had experienced in the country, that is what I mean
17 when I use the term "abuse."

18 Q. Thank you very much, Mr Witness. Yesterday - and I am referring to
19 transcription in real-time, page 25, line 18 - you stated, Mr Witness, that "During
20 those events the Libyan forces were in our country." Did these Libyan troops also
21 commit acts of abuse like the Congolese troops?

22 A. At the time the Libyan forces were in our country at the behest of the president
23 of the republic, we co-existed with them, and I have no knowledge of any abuse
24 committed by the Libyan troops. At time I was with the Presidential Guard and
25 personally, I never heard of any act, nor did I ever see any form of abuse that would

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1 have been committed by the Libyan forces, to tell the truth.

2 Q. Thank you, Mr Witness. Sir, I should like to go back over part of the report of
3 Mr Mustapha which will enable me to put a further question to you on the acts
4 committed by Bozizé's rebels this time. In his report, he says that Mr Bozizé with his
5 allies from Chad took hostage some priests and nuns, several boys and girls whom
6 they tortured and raped. At Bossangoa, they also raped, tortured and even looted
7 the population en masse.

8 At Bozoum they committed the same type of damage. So I asked you about the
9 Congolese troops and you gave an answer, I asked you about the Libyan troops and
10 you gave an answer, but now, in the light of Mustapha's report concerning
11 Mr Bozizé's troops, do you know whether the population of the cities that I have just
12 mentioned complained about such acts of abuse that would have been committed by
13 Mr Bozizé with his Chadian allies?

14 A. Thank you for this question. As far as I know, I never heard any such
15 complaint voiced by our relatives in the back country. At no time.

16 Q. In order to conclude, I have a very short question to ask of you, and the
17 reference is CAR-OTP-0052-0563, page 574. You said that you never heard the local
18 radio talk about the crimes committed by the Congolese forces, but how about the
19 written press? Did the written press mention that?

20 A. From my point of view, no.

21 MS DOUZIMA-LAWSON: (Interpretation) Thank you, Witness, for answering all
22 my questions.

23 Your Honour, I have concluded.

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

25 I now turn to the Defence. Maître Kilolo, are you ready?

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1 MR KILOLO: (No interpretation)

2 PRESIDING JUDGE STEINER: Mr Witness, now the Defence will start questioning
3 you and then I give the floor to Maître Kilolo.

4 MR KILOLO: (Interpretation) Thank you, your Honour, for giving me this
5 opportunity to address the Court.

6 QUESTIONED BY MR KILOLO: (Interpretation)

7 Q. Witness, good afternoon.

8 A. Good afternoon.

9 Q. I will introduce myself now. I am Aimé Kilolo and I am one of the lawyers
10 representing Mr Jean-Pierre Bemba, and I am the one who will be conducting the
11 cross-examination; that is asking you some questions with a view to shedding light
12 on these matters for the Chamber. Do you understand what I'm telling you?

13 A. Yes, I certainly understand.

14 Q. Witness, I would like to remind you of a statement that you made to the Office
15 of the Prosecutor, and I am speaking of the third document on the Defence list, page
16 CAR-OTP-0052-0573.

17 Now, this is the question that was put to you: "With regard to the crimes committed
18 by the Congolese forces, as you described them in terms of the destruction of
19 property, could you tell us whether these incidents occurred in the daytime, or at
20 night?" And your answer was: "I wasn't there, so I couldn't tell you." And the
21 next question was: "Do you know whether houses were destroyed in an organised
22 fashion?" And your answer was: "I don't know."

23 Now, Witness, is this an accurate reflection of your own words, the words that you
24 spoke when you were interviewed by the Office of the Prosecutor?

25 A. That indeed reflects the answer that I gave when I was asked that question.

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1 Q. I would like to make reference to another statement that you gave to the Office
2 of the Prosecutor, and this is the third document on the Defence list, page
3 CAR-OTP-0052-0574.

4 Now, this is the question: "Have you ever heard about cases of sexual violence or
5 other forms of abuse committed by Congolese forces, acts of violence or rape
6 committed upon the CAR population?" And the answer was: "Yes, I did hear
7 rumours about such crimes, but neither my family nor I were victims of such crimes
8 so I really can't tell you anything about such things."

9 Witness, is this an accurate reflection of the words that you uttered when you gave
10 your statement to the Office of the Prosecutor?

11 A. Yes, I acknowledge having said that.

12 Q. I would like to move on to another statement that you gave to the Office of the
13 Prosecutor, and this is to be found within the third document on the Defence's list,
14 page CAR-OTP-0052-0574, page 0574.

15 Now, this is the question from the OTP: "I understand that neither you nor your
16 family were victims of such crimes, but we would like to know what you heard about
17 this abuse of other people. For example, do you know whether the Congolese forces
18 targeted civilians and, if that is the case, could you tell us where the abuse occurred?"
19 And your answer was: "As I said, I can't give you details because I wasn't there, so I
20 can't answer your question. I can't answer if I didn't experience such a situation
21 personally."

22 Witness, is this also an accurate reflection of what you told the Office of the
23 Prosecutor?

24 A. I acknowledge that that was my statement.

25 Q. Witness, is it correct to say that during the events between October 2002 and

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1 March 2003 you never heard any news about crimes committed by the Congolese
2 forces, and I make reference to your statement and it is to be found in the third
3 document on the Defence's list, page CAR-OTP-0052-0568?

4 A. Counsel, could you please read that out to me, that part?

5 Q. Very well. Yes, I think it would be simpler to actually read out that part. It's
6 the third document on the Defence's list of documents, page
7 CAR-OTP-0052-0568 -- correction, 0574.

8 Now, the question was: "Have you heard the media talk about any of these crimes
9 committed by Congolese forces?" And your answer: "No, not at all. I haven't
10 heard anything on the local radio about that. It was later, later on Radio France
11 Internationale, RFI, that is when I heard about the case before the International
12 Criminal Court."

13 Sir, is this an accurate reflection of your words, what you said to the Office of the
14 Prosecutor?

15 A. I can confirm that those are my words.

16 Q. Witness, I will remind you of another statement that you made when you were
17 speaking to the Office of the Prosecutor. Once again, the third document on the
18 Defence's list, page CAR-OTP-0052-0574, and here's the question that was put to you:
19 "Colonel, have you heard or did you -- heard about or did you see any murders
20 committed by Congolese forces during the events that occurred in the Central African
21 Republic, the events that we are investigating?" And your answer was: "I did not
22 see any such things."

23 Now, Witness, is this an accurate reflection of the words that you used when you
24 spoke to people from the Office of the Prosecutor?

25 A. Yes, I can confirm that.

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1 Q. Witness, would it be correct to say that it was on the basis of news from radio
2 operators in the field that the High Command was able to be kept abreast of what
3 was going on in the theatre of operations and possibly if there were any cases of
4 non-discipline or cases of crimes committed?

5 A. In the field, or during a mission, there was supposed to be a chief, a chief of
6 mission, and if there was an attack, or if there was fighting, a report would be drawn
7 up and one would take stock of what had happened and the High Command would
8 be informed about the general situation in the field. The person responsible for the
9 mission is supposed to draw up a report of the situation and report the number of
10 people wounded, the number of deaths and sometimes in radio messages so that the
11 High Command would be informed. So that is what is usually done.

12 Q. Witness, I would like to read out another statement that you made to the OTP.
13 Now, this is to be found in the third document on the Defence's list, page
14 CAR-OTP-0052, page 0565 -- correction, perhaps 0575. Question: "Do you know
15 whether the High Command was informed by the PCO, that is to say the operational
16 command post, of crimes that were committed by the Congolese forces?" And your
17 answer was: "No."

18 Witness, is this an accurate reflection of your own words, your answer to questions
19 from the OTP?

20 THE INTERPRETER: Interpreter correction: Reference number was 0052-0575.
21 0575.

22 THE WITNESS: (Interpretation) Yes, those are my own words.

23 MR KILOLO: (Interpretation)

24 Q. Harking back to another statement that you made to the Office of the
25 Prosecutor, once again to be found in the third list -- third document on the Defence's

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1 list, page CAR-OTP-0052-0566 -- 76, correction. 76. Here's the question: "Once
2 again regarding the incidents involving the Congolese forces and the civilian
3 population, do you know whether President Patassé was aware of what was going
4 on?" And your answer was: "I don't know. I can't say so. Only people who are
5 in a high position would be able to tell us that."

6 Now, Witness, is this an accurate reflection of your reply to the Office of the
7 Prosecutor?

8 A. Yes, that is true.

9 Q. Witness, I would like to make reference to another statement that you made
10 when questioned by the OTP. Once again, in the third document on the Defence's
11 list, page CAR-OTP-0052-0576, and I'll ask you simply whether you confirm this
12 statement: "Personally, yourself as a military officer, you saw no cases of complaints
13 from the civilian population regarding the Congolese forces at the time of the events."
14 Can you confirm this statement?

15 JUDGE ALUOCH: Mr Kilolo, excuse me, are we getting the correct quotation,
16 because the English transcript reads "Personally, yourself as a military officer, you
17 saw no cases of complaints from the civilians?" Is that an exact quotation from the
18 text, or are those your words?

19 MR KILOLO: (Interpretation) This is a question that I am putting with his own
20 words making reference to his actual statement.

21 THE WITNESS: (Interpretation) I haven't understood what you just read out a few
22 moments ago. Could you please read it out again slowly so that I can understand?
23 Given the speed that you read it out at, I wasn't able to understand, so, Counsel,
24 could you be so kind as to read it out again?

25 MR KILOLO: (Interpretation)

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1 Q. You made the following statement and I will read out one particular passage to
2 determine whether this reflects your actual words: "Normally, the victims of abuse,
3 really, it is in their interest to complain to the authorities. However, I don't know
4 whether they did so. Personally, as a soldier, I know of no such cases," and I will
5 stop at this particular point, Witness, and now I am asking you my question; namely,
6 can you confirm that as far as you are concerned you were not aware of any cases of
7 complaints from civilians, complaints regarding alleged crimes committed by
8 Congolese soldiers during the events?

9 A. With regard to this particular point, there is a difference between hearing about
10 something and seeing something. I heard the complaints from the population
11 regarding the violence and the abuse, but I didn't see the written complaint, but I
12 heard the complaints from the population. Everyone was aware of what had
13 happened. Perhaps the hierarchy might receive the written complaint but myself, I
14 did not see any such complaints but I heard these complaints.

15 Q. Well, Witness, on this particular matter, if we turn once again to the third
16 document from the Defence's list of documents, page CAR-OTP-0052-0574, you
17 defined what you had exactly heard about crime -- about the crimes and you said this:
18 "Yes, I heard rumours about this kind of crime, but neither myself nor my family
19 neither, we were not victims of such crimes so I can't tell you anything about them."
20 And then you were asked about sexual violence and other abuse committed by
21 Congolese forces.

22 Are you in a position to confirm that you heard rumours about crimes but that you
23 are not able to talk about them because you don't know anything about them?

24 A. That's right.

25 Q. Witness, now in 2001, when the Congolese forces arrived in Bangui at the

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1 request of President Patassé, is it true that the troops remained posted along the river
2 and that was just to ensure the safety along the riverbank; is that correct?

3 A. Well, to answer that question, I told you earlier that there were some mistakes
4 in my previous statements and I specified that. In 2001, the Congolese troops had
5 already come at the request of the country's authorities to fight the mutineers, and
6 then other troops came but they didn't stay. They weren't posted along the river.
7 There's a difference here, a nuance, so let me specify.

8 Let me say that President Patassé had asked for the assistance of Congolese troops in
9 2001. There had been similar cases and the president asked for assistance from
10 Libyan troops. That's different as well. There's a difference there. And the troops
11 that we complained about, whose behaviour we complained about, are the troops
12 that came the second time.

13 Q. Witness, I'd like to refer to another statement that you made to the Office of the
14 Prosecutor in the third document on the Defence's list of documents, page
15 CAR-OTP-0052-0578. I'd just like to read out a brief passage from your statement,
16 and I quote: "I can't tell you whether there was abuse when Bemba's troops
17 intervened in the Central African Republic in 2001."

18 Witness, can you confirm this item of information to us today? Can you confirm this
19 statement?

20 A. Well, on this specific point there are two things to distinguish between: In
21 2001, I was specific - and please don't confuse these two things - the Congolese
22 soldiers did not act that way in 2001, because during that time the president had
23 asked for the assistance of Congolese troops to fight the mutineers, and everything
24 went well. So there you have it.

25 Now, once again, please don't confuse these two interventions. The period of 2001

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1 only had to do with the arrival of the Congolese troops who had come to fight the
2 mutineers, but now we're talking about the second intervention and I don't think
3 you've understood me so far. If you haven't understood me, I'm quite willing to
4 answer your questions.

5 Q. This will be my last question before the break, and I would like to hark back to
6 your statement. Once again, I quote from the third document on the Defence's list,
7 page CAR-OTP-0052-0571.

8 Now, this is the question that was put to you: "Colonel, do you know whether
9 Bemba had come to Bangui -- did come to Bangui during the events?" And your
10 answer was: "I have no answer for you, because I didn't see him." The following
11 question was: "Do you know anything about Bemba's visit to the country?" And
12 your answer: "Negative."

13 Witness, is this an accurate reflection of the words that you used when you spoke to
14 the Office of the Prosecutor?

15 A. I can confirm that. Those are my own words. Regarding his visit to our
16 country, well, I know that I said that.

17 MR KILOLO: (Interpretation) I see that it is 1 o'clock, your Honour. Perhaps it is
18 time for us to take our break.

19 PRESIDING JUDGE STEINER: Thank you, Maître Kilolo.

20 Mr Witness, we will suspend now for the lunch break for you to have the opportunity
21 to have lunch and to take some rest before we continue in the afternoon session. It's
22 1 o'clock. We'll be back at 2.30.

23 I ask, please, court usher to take the witness outside the courtroom, and we will
24 suspend to resume at 2.30.

25 (The witness stands down)

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1 THE COURT OFFICER: All rise.

2 (Recess taken at 1.02 p.m.)

3 (Upon resuming in open session at 2.35 p.m.)

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

5 PRESIDING JUDGE STEINER: Good afternoon and welcome back. The Chamber was
6 informed that the Prosecution would like to address an issue related to the tendering of
7 documents as evidence. Ms Kneuer.

8 MS KNEUER: Good afternoon, Madam President, your Honours. This is indeed
9 correct and I am most grateful to be given this opportunity.

10 It is a matter which concerns the Prosecution, and I had initially planned to address this
11 topic already during the context of the testimony of witness -- the last witness. However,
12 we were running out of time, but today it became apparent that this issue is still valid.

13 Basically, the Prosecution is seeking your Honours' guidance on how the Prosecution can
14 effectively execute its right to object to moving material into evidence. I am specifically
15 referring to decision 1470, paragraph 7 (a) and (b), and with your leave for the
16 convenience of the parties and participants I will read these two paragraphs:

17 "When submitting the respective lists of documents intended to be used during the
18 questioning of each witness, in accordance with the time-line set in the decision on
19 directions for the conduct of the proceedings, the parties shall identify the specific
20 material intended to be submitted as evidence during the questioning of a witness."

21 That was paragraph (a). I am now quoting paragraph 7 (b):

22 "Any objections as regards the relevance or admissibility of the material that the parties
23 identify as intended to be submitted as evidence shall be provided with detailed reasons
24 for preparation purposes by way of an email sent to the opposing party and participants
25 and copied to the Chamber as soon as practicable and before the hearing at which the

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1 document is to be submitted as evidence. The objection shall then be formally raised in
2 court at the time the material is submitted to the Chamber. The opposing party will be
3 given an opportunity to respond to the objection orally. The fact that notice of any
4 objection is to be provided by email in advance of the hearing for preparation purposes
5 will not preclude a party from raising any issue related to the relevance or admissibility of
6 the material at the time the evidence is submitted to the Chamber in accordance with the
7 Rules."

8 In order to fully explain the concern of the Prosecution, I would like to go back to two
9 situations that we faced. The first one occurred with Witness 33, and I'm referring
10 specifically to transcript 161, confidential English version, page 1, line 23, until page 2, line
11 11, and in open session the Presiding Judge stated the following:

12 "But before we start, before we bring the witness into the courtroom, Mr Haynes, I just
13 wanted to make an observation that may save us some time. A large part of your
14 examination of the witness yesterday was taken up with the witness reading documents
15 into the record. If this continues, we may all have to be here for a long time since the
16 Defence list of documents is something around 90 documents.

17 If the Defence's intention is to read the documents into the record so that they are in
18 evidence, there is a more expeditious way of doing it. The Defence can move for the
19 admission of the documents into evidence, rather than having the witness read them into
20 the record.

21 The Chamber will have to consider in any case the admissibility of the document in its
22 merits; in other words, the reading of the documents into the record does not permit the
23 Defence, or any other party, to side-step the admissibility question. The Chamber will
24 still need to rule on the issue of admissibility, whether or not the information has been
25 read into the record."

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1 With regards to Witness 33, while the witness was still on the stand the Defence did not
2 move any evidence -- any material into evidence, rather two or three days after the
3 witness was released the Defence made an attempt to tender documents via email.
4 Well, this procedure, according to the Prosecution's observation, is not within the ICC
5 legal regime, but also is not captured by your Honours' ruling in decision 1470, or any
6 other ruling with regard to setting guidelines on the procedure.
7 The Prosecution at that time responded via email, outlining the difficulties to respond in a
8 proper framework, but basically the problem is how can the Prosecution object effectively
9 and in line with your Honours' guidance and the law?
10 With regard to Witness 65, the Prosecution made similar observations. For example, the
11 so-called Mustapha report was read into the record and it was afterwards not tendered
12 into evidence. So the Prosecution again didn't have an opportunity to object, at least not
13 in the framework that was provided to the parties in the decided decision.
14 The Prosecution understands from your Honour's remarks, which I had quoted in
15 transcript 161, that the Chamber will not allow the parties to side-step any admissibility
16 issues. However, it is still difficult for the Prosecution to raise objections if there is no
17 framework.
18 Sorry. The reason why I am raising this issue today is because Defence counsel started
19 today his questioning by reading portions of the witness statements to the witness,
20 without having asked basically any other questions, or having verified any information,
21 or having asked any questions which the witness could have responded to in a non-said
22 freely manner.
23 The Prosecution had already objected to this method, which we call reading exercise, at
24 the very beginning of these trial proceedings. At that time, however, the situation may
25 have been slightly different. At that time your Honours had admitted prima facie all

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1 statements into evidence. Well, this situation changed with the decision of your Honours
2 number 1470.

3 So what the Prosecution is observing is that either documents in their entirety or portions
4 of statements are read into the record which are not yet admitted into evidence, and the
5 Prosecution would greatly appreciate some guidance in which framework the Prosecution
6 could object to the admissibility of this evidence.

7 It is our observation that if we go back at one point through all transcripts to identify
8 portions of statements that were read into the record, and maybe even at an appeals
9 proceeding, it will be very difficult to identify to what we objected or not, or what is
10 admitted or not.

11 Basically, our position is if a statement or portions of a statement which the parties,
12 according to the list that we exchanged before we hear the witnesses, are not planned to
13 be tendered into evidence, if a party wants to read portions of a statement or entire
14 documents it is our position that there needs to be a justification.

15 The use of statements is not unlimited. The use of a statement is from our perspective
16 limited to either test the credibility of the witness or to refresh the memory of the witness
17 or, in general, to impeach the witness; but for that there needs to be a reason, meaning it
18 needs to be relevant, that specifically that portion at that time of the question is being read
19 to the witness and that a probative value needs to be explained.

20 It is our submission that a number of the questions that the Defence is trying to elicit from
21 the witness could be done without reading all these portions, and it's again creating a
22 difficulty for the Prosecution to effectively object and to have these objections in the
23 record.

24 Also, if I may, the reading or the usage of portions of statements cannot be seen as a
25 supplement in the sense that the Defence will have an opportunity to present their case

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1 and their evidence when they present their case in chief. So we are concerned, and we
2 would be very grateful to seek guidance how the Prosecution can object in line with your
3 Honours' rulings and how we can assist to have a clear record of what is ultimately
4 admitted into evidence and what not.
5 I'm fully aware of course that your Honours' overall decision about the admission into of
6 all pieces of evidence is still outstanding. However, the Prosecution would like to assist
7 to facilitate your Honour's ruling. And of course the Prosecution would like to
8 contribute, avoiding side-stepping any admissibility issues by reading portions of
9 statements into the record.
10 Thank you, Madam President, your Honours.
11 PRESIDING JUDGE STEINER: Would the Defence like to address this issue
12 or -- Mr Haynes.
13 MR HAYNES: Only very briefly, your Honour. This is a very substantial procedural
14 submission of which we were given no notice.
15 You will note of course that Maître Nkwebe is not here, and before making any significant
16 and substantial response to what has just been said, which we would probably do in
17 writing in any event, I would appreciate the opportunity of consulting with him and my
18 client.
19 And so I won't make a substantial observation today, only to say that we do have some
20 sympathy and we do to a large extent agree that we need to address the question of what
21 procedure would best enable us all to know which documents had gone into evidence and
22 which had not. And it may well be we make some proposals in that regard, but other
23 than that I don't wish to say anything at the moment.
24 PRESIDING JUDGE STEINER: Thank you, Mr Haynes. I agree with Mr Haynes that
25 this is a quite substantive procedural issue that should be better addressed by way of

1 maybe a filing, a written consultation, with the Chamber in which we could give Defence
2 the opportunity to of course to elaborate on its observations.
3 I just -- as a very very preliminary matter, I think that the Prosecution submissions refer to
4 two completely different issues, because one issue is the issue that is regulated in decision
5 1470, it's related to the modes of submission of evidence, but at no point in the decision it
6 established how the Chamber will decide on the admissibility of that evidence that is
7 being submitted by the parties.
8 I think we're talking about two different stages, and apparently, maybe I'm completely
9 wrong, the Prosecution appears to understand that at the same point in which the
10 evidence is submitted and therefore used during the question of witnesses that means that
11 that evidence is admitted, and this is not what the Chamber bears in mind in any way.
12 And the second point, in relation to evidence that is used by the parties during the
13 questioning of a witness - although neither party has asked for that document to be
14 admitted into evidence - in accordance with paragraph 8 of the same decision the
15 procedure set out in paragraph 7 above does not preclude the parties from requesting the
16 submission as evidence of any item listed or not either in the course of the questioning of
17 a witness or at a later stage during the proceedings through a motion, which means that
18 none of the parties has -- let's say the obligation, although it would be more convenient in
19 order to give notice for the other party, but none of the parties is under the obligation,
20 under the risk of preclude its right to submit evidence or to request the admission of a
21 document as evidence at a later stage.
22 But I agree with Ms Kneuer that maybe this issue of putting the other party on notice in
23 the form of submitting evidence -- because even the Prosecution has not formally
24 submitted any documents into evidence, or most of the time, apart from the reference
25 made on its list of evidence that the document should be tendered.

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1 The Chamber's been very flexible, Ms Kneuer, on this respect exactly because we have
2 outstanding decisions to be issued in order to make this procedure clear to the parties and
3 providing the parties with more security in how to proceed.

4 But, in any case, I would suggest that in order to facilitate the parties - the work of the
5 parties - that Prosecution could, if -- unless the Prosecutor intends its oral submission to
6 be definitive, then I could give immediately the Defence the right to file written
7 observations in accordance with the transcript, unless Prosecution prefers to make a
8 formal filing on this respect.

9 MS KNEUER: Madam President, I agree that it is a substantive procedural issue and,
10 therefore, the Prosecution would accept the offer to submit a written filing.

11 With regard -- very briefly, with regard to your two observations, the Prosecution is well
12 aware that there is a distinction between moving material into evidence and the
13 Chamber's decision on admitting the evidence.

14 The reason why I raised this issue is the in-between step, and that is the step where either
15 party has the opportunity to object, but sometimes it appears that a party is precluded to
16 object during the proceedings if certain issues are not raised.

17 And specifically with regard to this witness, basically we are objecting to that method and
18 I wanted to raise this issue before we bring in the witness to have an opportunity to
19 provide context to our objection and we will put it in record once we are continuing with
20 the witness.

21 And of course the Prosecution is well aware of paragraph 8, and it is our understanding
22 that your Honours are referring to a so-called Bar table motion rather than a free-style
23 email exchange. Thank you, Madam President.

24 PRESIDING JUDGE STEINER: Personally, I do not very much appreciate the notion of
25 Bar table motions, but in any case by way of filings or submissions -- not necessarily Bar

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1 table motions, but you're right, not by way of email exchange. In that point I think the
2 Prosecution is correct.

3 We will continue with this witness. And I'm not going to prevent Defence in relation to
4 the current witness to continue with its line of questioning, although I agree it's not the
5 more adequate, but even taking into account the personal difficulties in expressing
6 himself, in relation to this witness, Defence will not be prevented from asking questions
7 based on the written statement in the present case. In subsequent cases the Chamber will
8 analyse the Prosecution's objections in relation to this procedure.

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

10 (The witness enters the courtroom)

11 PRESIDING JUDGE STEINER: Mr Witness, welcome back.

12 THE WITNESS: (Interpretation) Good afternoon again, Madam President.

13 PRESIDING JUDGE STEINER: Did you manage to take some rest during the lunch
14 break?

15 THE WITNESS: (Interpretation) I did. I had the opportunity of getting some rest.

16 PRESIDING JUDGE STEINER: Are you ready to continue giving your testimony, sir?

17 THE WITNESS: (Interpretation) I am ready.

18 PRESIDING JUDGE STEINER: Then I'll give back the floor to Maître Kilolo. Maître
19 Kilolo, you can proceed.

20 MR KILOLO: (Interpretation) Thank you very much indeed, your Honour, for giving
21 me yet another opportunity to address this Chamber.

22 Q. Good afternoon, Mr Witness.

23 A. Thank you, Counsel.

24 Q. Mr Witness, I should like again to revert to a statement that you made to the Office
25 of the Prosecution to enable you to recollect your statement more easily and in keeping

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1 with a request that you have made repeatedly, i.e. that we should re-read to you the
2 extracts of your own statements, and I'm referring here to the second document of the list
3 of Defence documents, page CAR-OTP-0052-0549. This is what you stated, Mr Witness.
4 Referring to the Congolese forces in the Central African Republic in the period going from
5 October 2002 to March 2003, you said this: "When they came over they were given a
6 building in order to house them close to the BSS, or Bataillon de Soutien et Services,
7 Battalion of Support and Services." Do you remember that statement, sir?

8 A. That is exactly right.

9 MR IVERSON: Madam President, the Prosecution objects to this question because we
10 believe that this question -- that the next line of questions could be posed without
11 reference to the statement itself. If he intends to ask questions about this building, the
12 BSS, he could simply ask questions without reference to the statement. And I think that
13 is the crux of Ms Kneuer's point that she was -- at least in part that she was making, that
14 there is no need to revert to the statement, if the witness doesn't express any type of
15 problem remembering, so there's no point in refreshing recollection unless the witness
16 himself says, "I don't remember." At that point it would be prudent to refresh his
17 recollection, but at this point the question should simply be posed to see what the witness
18 says and, if it is necessary to -- for a reason of impeachment or refreshing recollection to
19 refer to the statement then afterwards we wouldn't oppose that, but I think at this point
20 it's premature and just not necessary and also inefficient to refer to the statement.

21 PRESIDING JUDGE STEINER: Mr Iverson, the Chamber will consider your objection.
22 You don't need to repeat it every time the Defence quotes any parts of the statement when
23 putting questions to the witness. As I said before, the Chamber is allowing the Defence
24 to use this let's say methodology in relation to this witness and this has been already
25 decided, but in any case your objection will be considered as repeated any time the

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1 Defence quotes a part of the statement.

2 The Defence can continue.

3 MR KILOLO: (Interpretation)

4 Q. Mr Witness, to make things easier I shall re-read that extract, very short, where you
5 said in reference to the Congolese forces -- in the second document of the list of

6 documents submitted by the Defence, on page CAR-OTP-0052-0549 you said this:

7 "When they came over they were given a building in order to house them close to the BSS,

8 or Battalion of Support and Services, Bataillon de Support et de Service." Do you

9 remember having made that statement?

10 A. Yes. Yes, that is my statement in connection with that subject. To give a building

11 to house someone is one thing, but to use the house is something different. As I said,

12 they were housed in a building where the music instruments were stored, but when they

13 occupied the house, after they left it we realised that the house had been wrecked. We

14 noticed that during their stay - their stay in the house - they almost destroyed it entirely,

15 and I repeat that house was used to store the musical instruments before the troops

16 occupied it. This is the clarification I wanted to give you in that connection.

17 Q. To your knowledge, Witness, who made available those premises to the Congolese

18 forces during their stay in the Central African Republic?

19 A. I thank you. As far as I know, I must say the identity of the person who provided

20 such housing is unknown to me. When I worked at Camp Béal, we simply - all of the

21 people who worked there simply - took notice, took note of the fact that the house had

22 been occupied by the Congolese troops, but I have no idea who was the person who

23 authorised them to set themselves up within that house. Before I wasn't there, but when

24 I started working for the PCO I realised that the building had been trashed and everybody

25 saw the damage, but I do not know who the person is that made the building available.

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1 Q. If you have indeed heard anything about this, without actually giving the name of
2 the individual who provided that housing, would you know whether it was the Central
3 African authorities - the military authorities of the Central African Republic - that made
4 these premises available to the Congolese troops, or would you say that according to your
5 knowledge it was the civilian authorities of the Central African Republic that provided
6 such housing?

7 A. Thank you. All the buildings under the supervision of the Ministry of Defence are
8 managed by the Ministry of Defence itself. No civilian person is entitled to authorise the
9 use of any of the buildings belonging to the ministry, and I told you that that building was
10 used to house - to store - the musical instruments of the army. The building was not
11 empty. It was a storeroom for all the musical instruments of the military band, and
12 during ceremonies obviously those instruments were used. They were played by the
13 military musicians, but for the building to be authorised for use to one particular person
14 or entity that would be very difficult, and I could add that no civilian person would be
15 entitled to make any such authorisation to any individual or entity for any purpose
16 whatsoever. This is what I can add.

17 Q. Am I to understand, or are we to understand, Mr Witness, that this actually fell
18 within the remit of the Ministry of Defence, i.e. the authorisation to use such premises?

19 A. No, that is not the case. When it is a matter of making housing available to soldiers,
20 or to the military forces, it is the army command that deals with it and it is not the
21 Ministry of Defence. It is the army command that decides on which houses will be used
22 for billeting troops. Accommodation that is provided to some specific services comes
23 under an entirely different authority and I do not know how this happened.
24 I don't know whether the Congolese troops simply took those premises over by force or
25 whether there were some men who actually made it available to them, I do not know, but

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1 the only thing I can tell you is that assigning that building to someone would have been
2 done by the army command and not by the Ministry of Defence.

3 Q. Would you know who was the commander, the person of the army command who
4 would have been entitled to providing such authorisation?

5 A. At the time -- I cannot really remember because things changed very often. The
6 people occupying that particular function or assigned to that particular duty, these people
7 would be changed very often and I cannot really remember who it was.

8 Q. Do you know whether General Bombayake would have been in a position to give
9 any instructions to the person authorising the use of such buildings?

10 A. No. Bombayake was the Director-General of the Presidential Guard. This was a
11 special unit which had absolutely no authority. He had no authority to give any
12 instructions whatsoever to the army command within the structure of the Central African
13 Republic's army. He had no such power.

14 Q. How about General André Mazi, would he have had such authorisation or power?

15 A. In conformity with the description of his post, I think it would have been very
16 difficult for the general to do any such thing. The powers of that particular function are
17 very well defined. That function consisted in assigning the various buildings available to
18 different entities according to the possibilities.

19 However, that building had already been assigned to a very specific purpose. It was a
20 building that had already been occupied, its purpose was to house musical instruments,
21 and I couldn't for instance decide just by myself that I could go into that building and
22 remove the musical instruments.

23 The general, the only thing he could have done would be to go to the appropriate
24 authority and ask for some space available in order to house this or that entity, but then
25 they (sic) would be up to the specified authority to assess that request and either grant it

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1 or not. That is the answer I can give you, Counsel.

2 Q. I should like to revert to another statement that you made to the Office of the
3 Prosecution, in the first document of the list of the documents of the Defence, page
4 CAR-OTP-0052-0529, and this is what you stated, and I quote: "When that threat
5 materialised in the country officers had to take turns at the CCOP, the operational
6 command post. First there was a captain from the Presidential Guard, and other army
7 officers, but there always had to be at least one officer from the Presidential Guard at the
8 operational command centre.
9 The operational command centre co-ordinated the operations executed in the field, in the
10 countryside. After one or two months I took over from that captain belonging to the
11 Presidential Guard at the operational command centre."

12 Mr Witness, is this an accurate reflection of the words you used in your statement to the
13 Office of the Prosecution?

14 A. It is exactly my statement, but I should like to give you further detail over and
15 beyond what I said in answer to the question put to me.

16 In fact, the answer I gave was that the PCO is an important post within the Defence
17 ministry and, in light of the events, it had become necessary to reinforce the centre. This
18 is why we officers were assigned thereto in order to make sure that there would be
19 someone always in charge at any time in that post, and this is why you would be able to
20 see some Presidential Guard officers like me, or officers from the air forces or from the
21 various army corps.

22 In any case, this was an entity that was staffed by officers who took turns to make sure
23 that there was always somebody present during that time of crisis in order to protect the
24 post. So this is why, as a member of the Presidential Guard, I was designated to replace
25 a captain who had been occupying that function there before me and who was called back

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1 to his previous duty. This was just an organisational matter.

2 During the crisis, the objective of this organisation was to ensure that there would always
3 be an officer in charge permanently because of the events taking place in the country.

4 These are the additional details that I can give you.

5 Q. Mr Witness, would you know why it was always necessary for somebody from the
6 Presidential Guard -- why was it necessary for someone from the Presidential Guard to be
7 present at the operational command centre?

8 A. Counsel, you're asking me why, what was the intention behind the assignment of a
9 member of the Presidential Guard to that particular entity? Well, that is a decision that
10 was taken by the authorities of the country in order to deploy officers as it became
11 necessary to that particular structure during the crisis. This was an organisation that was
12 put together during that period but I had no idea why I, for instance, was chosen in order
13 to represent the Presidential Guard at the centre. I simply obeyed the instructions that
14 were given to me.

15 Q. Mr Witness, I should like to recall the statement that you made in that connection to
16 the Office of the Prosecution in the first document of the list of documents submitted by
17 the Defence on page CAR-OTP-0052-0529. You said this: "The rebel forces had been
18 driven back by the loyalists. The rebels had taken a position in the north. They
19 occupied several villages. The operational command post co-ordinated the actions of the
20 loyalist forces against the rebellious troops that had -- that were placed or that were
21 located in the north. Now, there had to be a representative of the Presidential Guard at
22 that operation centre in order to know exactly what was happening."

23 Mr Witness, can you corroborate this?

24 A. I do corroborate that this is the answer that I gave to the question. I repeat: This
25 was a matter of internal organisation of each unit, and there I'm referring to the way we in

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1 the Presidential Guard went about organising ourselves. Within the PCO there were
2 representatives, there were officers from various army units.

3 I repeat that this was a special set-up, put together in order to be able to keep a close
4 watch on the development of events. I repeat that there were officers from other army
5 corps represented within that structure and their particular duty was to keep a watch on
6 the development of operations and this for the sake of the interests of the nation.

7 THE INTERPRETER: The Sango interpreters would like the witness to speak perhaps a
8 little more slowly and articulating better.

9 THE WITNESS: (Interpretation) You spoke about the loyalist forces, during the first
10 attempt the rebellious forces made in order to enter the capital city Bangui. The loyalist
11 forces drove them back. They repelled the forces that had tried to take over the city.
12 The rebels were therefore driven back by the loyalists. These are the Central African
13 rebels who had come from the Chad, who finally regrouped in Sito in order to try again to
14 enter the city which they finally succeeded in doing in March 2003. That is the context
15 within which I answered that question. This is just to give you some background to the
16 answer that I had already provided.

17 MR KILOLO: (Interpretation)

18 Q. Witness, are we to understand that the reason for the Presidential Guard being
19 represented within the operational command centre was specifically to -- for reasons of
20 military intelligence; namely, to know what the situation was like in the field on a
21 day-to-day basis?

22 A. No, that wasn't it. That wasn't the mission entrusted to that particular officer.
23 You mustn't confuse the chief of the PCO with the other officers. The head of the PCO
24 did have authority over the other officers. I was only an intermediary. I was the
25 go-between between the Presidential Guard and this particular entity. He was only an

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1 intermediary.

2 I could mention the case of the incident that occurred between our forces and the
3 Congolese soldiers, when the Congolese disarmed the Central African Republic soldiers.
4 That was when that officer intervened. So the liaison officer of the Presidential Guard
5 was not in charge of co-ordinating the activities that were underway in the field. His
6 area was much more restricted.

7 PRESIDING JUDGE STEINER: Maître Kilolo, if you allow me?

8 Mr Witness, the Sango interpreter is asking you, please, to try to slow down a little bit.

9 He is having difficulty in translating from Sango into French. Thank you.

10 Maître Kilolo.

11 THE INTERPRETER: Many thanks from the interpreters.

12 MR KILOLO: (Interpretation)

13 Q. Witness, I would like to hark back to another statement that you made to the Office
14 of the Prosecutor, and this is in the second document of the Defence, page
15 CAR-OTP-0052-0548, and this is what you said: "When the Congolese troops came here,
16 a certain structure had been established. There was the president and there were other
17 people who were under his command, so it's normal for Mustapha to go through that
18 hierarchy and ask for everything that he needed for his troops."

19 Witness, is this a faithful reflection of your actual words; the words you used when you
20 gave that statement to the OTP?

21 A. Thank you, Counsel. I can confirm that indeed that's what I said and I can give you
22 more detail. As I said, Mustapha didn't come on his own initiative. He didn't come into
23 our own country on his own initiative. Within the country there was a supreme leader,
24 the Head of State, and there were the authorities of the Defence Ministry, so there was an
25 organisation throughout the entire country.

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1 I said that the Head of State of the entire country was the supreme chief, or leader, and
2 when he saw that a crisis had broken out within the country, he asked for assistance and
3 so Mustapha intervened in the country. Thus, Mustapha had access to Camp de Roux
4 because he had come to the country at the request of the Head of State. He was able to
5 go into that particular camp, Camp de Roux, but I don't know what his business was; why
6 he was going there. Perhaps he went there to ask for some logistical arrangements for
7 his operations, I don't know, but this is what I said and this is what I'm repeating here
8 before the Court.

9 So there you have it. That is the context within which I answered the question. I said
10 that he would come and if he had particular needs he would go there for that aim. If he
11 had a complaint, a complaint about him or about the soldiers under his command, or
12 about the materiel for his work, perhaps that's where he might go to express those
13 concerns. So that was the backdrop against which I answered the questions that were
14 put to me.

15 Q. Witness, I would like to go back to a statement that you made yesterday, on
16 17 October 2011, before this Chamber when giving testimony, and this is the French
17 real-time transcript, page 57, lines 15 to 24. You said the following: "To my recollection
18 we worked together with Colonel Lengbe at the operational command post, and at one
19 particular point he was no longer with us at the operational command point. He had
20 gone to Cameroon, and at that time when we would meet that was when we saw that he
21 was not there and shortly thereafter we learned that he had gone to Cameroon. We had
22 to work together within the operational command post, and it was only after the
23 withdrawal of General Bozizé that we saw that he was not there. He wasn't at the
24 operational command post. After his departure, Commander Bemondombi took over."
25 Witness, do you remember giving that testimony?

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1 A. Yes, I certainly recall that. I have nothing to add and nothing to take away from
2 what I said. Everything that you just said was correct.

3 Q. Witness, so you saw that Colonel Lengbe was not there. After the withdrawal of
4 General Bozizé, when did General Bozizé withdraw? What time? Was it before, or
5 after, the arrival of the MLC in the Central African Republic?

6 A. The question that you just asked seemed very long to me. Could you try to put the
7 questions to me gradually? I find that this question is too long and I can't make sense of
8 it and give you an appropriate reply. I would like you to ask your questions in a brief
9 manner, and please proceed one step at a time and that way I will be able to give you an
10 answer also one step at a time. So, if possible, could you please ask me brief questions
11 that allow me to give an appropriate reply?

12 Q. Witness, when you saw that Colonel Lengbe from the PCO wasn't there, was that
13 before or just after the arrival of the MLC in the Central African Republic?

14 A. Thank you. The Banyamulengue arrived and we were still working together with
15 Lengbe, so we were working together with Lengbe once the Banyamulengue were already
16 there, but one day in the morning we saw that he was not there and, since he was the
17 leader of the PCO and that he wasn't present that morning, we realised that he was no
18 longer there. So he was there when the Banyamulengue arrived and a few days later we
19 saw that he was no longer there.

20 Q. How many days after the arrival of the Congolese soldiers did you see this absence
21 of Colonel Lengbe?

22 A. As to the number of days, I don't know what to tell you because I really don't know
23 the number of days. I can't give you little details. I can give you important information.
24 I'm just giving you the essential points, but the little details, like the number of days, well,
25 I really can't remember and so I can't give you a proper answer.

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1 Q. Witness, well, if you could make an additional effort, do you think it might have
2 been one week/two weeks after the arrival of the Congolese soldiers? Was that when
3 Lengbe left the PCO?

4 A. Let me repeat: I can't think of a date or a number of days to tell you. I am telling
5 you that I can't remember all the little details and then tell them to you; I only remember
6 the major events, and this is what I'm telling you. I can't take my time to note down or
7 jot down all the little details to tell you them today. I only can remember the important
8 information, the essential points that everyone knows about, but the little details I can't
9 give them to you.

10 Q. And who replaced Colonel Lengbe after he left?

11 A. Thank you. But a few moments ago you gave that person's name, it was Colonel
12 Bemondombi. He was the one who took over after Lengbe left.

13 THE INTERPRETER: "It was Commander Bemondombi," correction from the Sango
14 interpreter.

15 MR KILOLO: (Interpretation)

16 Q. Well, without talking about days or weeks particularly, do you know whether
17 Commander Bemondombi took over leadership of the PCO just after the departure of
18 Lengbe or did it take a while?

19 A. Colonel Lengbe left, he was no longer there, and immediately thereafter he took
20 over. So it wasn't many days later. And he took on those duties until the day that
21 Bozizé's men entered Bangui.

22 Q. After the departure of Colonel Lengbe, when did you see him again in the Central
23 African Republic?

24 A. I don't remember exactly when he came back. I don't remember the date. I'm
25 telling you that if the events had been filmed or recorded I would be in a position to

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1 remember, but I couldn't take time to jot down all the various details about the time that
2 someone left or someone came back. I wasn't the only one, there were many other
3 officers with us, and everyone just saw that he had come back but I can't tell you the exact
4 date of his return. Other than what I've just told you, I really have no more information
5 to give you about his return.

6 PRESIDING JUDGE STEINER: If you could, please, wait a little bit before you ask a new
7 question to give the interpreters and court reporters time to translate into English and to
8 complete the English transcript. Thank you.

9 MR KILOLO: (Interpretation) Thank you, your Honour, for that important reminder.

10 Q. Witness, now, the return of Colonel Lengbe, do you know whether that was after 15
11 March when President Bozizé took power?

12 A. Well, it's somewhat difficult to answer that question; difficult because I can't
13 remember exactly.

14 Q. Witness, how do you know that he went to Cameroon when he left the PCO?

15 A. I learned that from the officers of the PCO. Amongst those officers, some knew his
16 relatives, the members of his family, and they were saying that he had some family
17 members in Cameroon and that he had asked to go there. That is the information that I
18 received from a number of officers. It was some of his family members who had talked
19 about that to the officers and they repeated that information within the PCO.

20 Q. Witness, did you see Colonel Lengbe at Camp Béal after you were informed that he
21 had gone to Cameroon?

22 A. After his return he went to the office and we saw him at Camp Béal, more
23 specifically at the centre. And I would like to add one item of information: It was he
24 himself who gave us that information. He told us that he had been called by his mother,
25 who was in Cameroon. Those are the very words he used. That's what he said.

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1 Q. And when you saw him again at Camp Béal, once he was back, who was the
2 president of the Central African Republic at that time?

3 A. On 15 March, no. At that time -- well, in actual fact, there was no president at that
4 time since, indeed, Patassé was outside. He was no longer in Bangui. Rather, he was in
5 Niger. At that time President Patassé was travelling to Niger, and Bozizé and his men
6 entered the city of Bangui when he was away. So that's what I can tell you.

7 Q. Witness, so it was after the arrival of President Bozizé that you saw Colonel Lengbe,
8 you saw him reappear; is that correct?

9 A. That's right, but I wasn't the only person to see him at the office. Even the other
10 officers who were there saw that he had come back.

11 Q. Witness, could we consider Colonel Lengbe to be a deserter during the events
12 between October 2002 and March 2003?

13 A. The word "deserter," in principle -- well, to define it properly you have to define it
14 within a certain context. It's not your job, or my job, to apply that term to a senior officer,
15 someone of that rank.

16 Q. One last question for the day. Do you know whether Colonel Lengbe rejoined
17 Bozizé's rebellion against the loyalist forces in favour of Patassé and of course against the
18 Congolese forces, the MLC?

19 A. Well, it's simple to answer that question, Counsel. To my knowledge, no. He did
20 not rally behind Bozizé, because everyone who had withdrawn from the national army
21 had rejoined Bozizé in his rebellion and when he entered the town of Bangui they came
22 together, so I can conclude that he did not rally with Bozizé's rebellion.

23 PRESIDING JUDGE STEINER: Thank you, Maître Kilolo.

24 Mr Witness, I think it's enough for today. You deserve to take some rest. It's already

25 4 o'clock. We will adjourn and resume tomorrow morning at 9.30 in the morning. I will

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1 ask someone from VWU to come and see you and ask you about the problem you're
2 facing in your eyes, to see whether any measures are necessary. We hope you have a
3 restful night.
4 I thank very much the Prosecution team, legal representatives of victims. I thank very
5 much the Defence team, Mr Jean-Pierre Bemba Gombo. I thank very much our
6 interpreters and court reporters.
7 I will ask, please, court usher to take the witness outside the courtroom, and we will
8 adjourn to resume tomorrow morning at 9.30.
9 (The witness stands down)
10 THE COURT OFFICER: All rise.
11 (The hearing ends in open session at 4.01 p.m.)
12 CORRECTIONS REPORT:
13 The Court Interpretation and Translation Section has made the following corrections
14 in the transcript:
15 *Page 21 line 1
16 "...in the habit of going to Kandro..." Is corrected by "...in the habit of going to
17 Camp de Roux;..."
18 *Page 21 line 4
19 "...he would go to Kandro." Is corrected by "...he would go to Camp de Roux."
20 *Page 21 lines 10-11
21 "...why he could go to Kandro..." Is corrected by "...why he had privileged access to
22 Camp de Roux..."