

Trial Hearing
Witness: CAR-OTP-PPPP-0032

(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 Monday, 26 September 2011
8 (The hearing starts in open session at 9.33 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: Could, please, court officer call the case.
14 THE COURT OFFICER: Situation in the Central African Republic, in the case of The
15 Prosecutor versus Jean-Pierre Bemba Gombo, case reference ICC-01/05-01/08.
16 PRESIDING JUDGE STEINER: Thank you very much. Good morning and
17 welcome the Prosecution team, legal representatives of victims, Defence team,
18 Mr Jean-Pierre Bemba Gombo. Good morning to our interpreters, court reporters.
19 We will continue today with the testimony of Witness 32, and for that purpose I ask,
20 please, court officer to turn into closed session for the witness to be brought into the
21 courtroom.
22 (Closed session at 9.35 a.m.)
23 (Expunged)
24 (Expunged)
25 (Expunged)

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- 1 (Expunged)
- 2 (Expunged)
- 3 (Open session at 9.36 a.m.)
- 4 THE COURT OFFICER: We are in open session, Madam President.
- 5 PRESIDING JUDGE STEINER: Thank you.
- 6 Good morning, Mr Witness.
- 7 THE WITNESS: (Interpretation) Good morning, madam.
- 8 PRESIDING JUDGE STEINER: Did you have the opportunity to rest during the
- 9 weekend? We had wonderful weather.
- 10 THE WITNESS: (Interpretation) Yes, thank you.
- 11 PRESIDING JUDGE STEINER: Are you ready to continue giving your testimony,
- 12 sir?
- 13 THE WITNESS: (Interpretation) Yes, Madam President.
- 14 PRESIDING JUDGE STEINER: Mr Witness, I need to remind you that you are still
- 15 under oath. Do you understand that?
- 16 THE WITNESS: (Interpretation) Yes, I understand that.
- 17 PRESIDING JUDGE STEINER: I also want to remind you that you are under
- 18 protective measures, that your voice and image broadcast outside the courtroom are
- 19 being distorted, but in order to keep that protection you need to refrain from giving in
- 20 public session any information that could lead to your identification. If need be, you
- 21 let us know and we go into private session. In private session you can feel free to
- 22 speak, because nobody can listen to what you're saying. Do you understand that,
- 23 sir?
- 24 THE WITNESS: (Interpretation) Yes, I do, madam.
- 25 PRESIDING JUDGE STEINER: And of course my last reminder that you try, please,

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1 to speak slower than normal and to give the five seconds before giving your answer
2 in order to facilitate the work of our interpreters and court reporters. I am sure we
3 can count on you for that.

4 THE WITNESS: (Interpretation) Thank you.

5 PRESIDING JUDGE STEINER: So I give the floor to Maître Kilolo.

6 MR KILOLO: (Interpretation) Thank you, Madam President, for giving me the
7 floor.

8 QUESTIONED BY MR KILOLO: (Interpretation) (Continuing)

9 Q. Good morning, Witness.

10 A. Good morning, Counsel.

11 MR KILOLO: (Interpretation) Madam President, can we go into private session,
12 please?

13 PRESIDING JUDGE STEINER: Court officer, please.

14 (Private session at 9.40 a.m.)

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16 (Expunged)

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- 22 (Closed session at 11.01 a.m.)
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- 1 (Recess taken at 11.01 a.m.)
- 2 (Upon resuming in closed session at 11.50 a.m.)
- 3 (Expunged)
- 4 (Expunged)
- 5 (Expunged)
- 6 (Expunged)
- 7 (Expunged)
- 8 (Open session at 11.52 a.m.)
- 9 THE COURT OFFICER: We are in open session, Madam President.
- 10 PRESIDING JUDGE STEINER: Mr Witness, welcome back.
- 11 THE WITNESS: (Interpretation) Good morning.
- 12 PRESIDING JUDGE STEINER: Can we continue with your testimony?
- 13 THE WITNESS: (Interpretation) Yes, thank you.
- 14 PRESIDING JUDGE STEINER: Maître Kilolo, should we turn into private again?
- 15 MR KILOLO: (Interpretation) I'm sorry, Madam President.
- 16 PRESIDING JUDGE STEINER: Court officer, please turn into private session.
- 17 (Private session at 11.53 a.m.)
- 18 (Expunged)
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- 1 (Closed session at 1.03 p.m.)
- 2 (Expunged)
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- 5 (Recess taken at 1.03 p.m.)
- 6 (Upon resuming in closed session at 2.34 p.m.)
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- 8 (Open session at 2.38 p.m.)
- 9 THE COURT OFFICER: We are in open session, Madam President.
- 10 PRESIDING JUDGE STEINER: Good afternoon, Mr Witness, and welcome back.
- 11 THE WITNESS: (Interpretation) Thank you.
- 12 PRESIDING JUDGE STEINER: We hope you're feeling better, that you took some time
- 13 to rest and that you are ready and willing to continue giving your testimony?
- 14 THE WITNESS: (Interpretation) Thank you, your Honour. I am ready. I would
- 15 like to apologise, because I -- it was just a matter of an emotion I got.
- 16 PRESIDING JUDGE STEINER: Let's turn into private session first.
- 17 (Private session at 2.40 p.m.)
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23 (Open session at 2.44 p.m.)

24 THE COURT OFFICER: We are in open session, Madam President.

25 MR KILOLO: (Interpretation)

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1 Q. Mr Witness, do you remember that -- when answering a question from the OTP
2 about the existence of a code of conduct within the MLC, do you remember having stated
3 that each movement, or any movement, had a code of conduct? Do you remember that?

4 A. I am not sure that I have understood what you're talking about. What code?
5 Code of conduct, what does that mean? Can you explain that to me? Help me to
6 understand you, Counsel.

7 Q. When the Office of the Prosecutor asked you whether the MLC had a military code
8 of conduct, or military rules and regulations, your answer was that all movements have
9 codes of conduct. Do you remember that? It is your statement found in the second
10 document of the Defence list of documents, page CAR-OTP-0011-0332.

11 A. Yes, Counsel, in all movements there is a statute. Even a small business or a small
12 company has a constitution, or a statute, so all movements are supposed to have some
13 kind of constitution or code of conduct.

14 MR KILOLO: (Interpretation) I would like the court officer to display document
15 number 38 of the Defence list of documents. That will be document CAR-DEF-0001-0161.

16 THE COURT OFFICER: The document as referenced by Counsel is available on your
17 screens and it's a public document.

18 MR KILOLO: (Interpretation) I would like the court officer to highlight paragraph 1,
19 "Purpose of the code."

20 Q. Witness, you have the document before you and I want to remind you that we are in
21 open session, but we have no problem with this document because it is a public document.
22 However, I urge you to be careful when answering and avoid mentioning anything
23 relating to your profession, or to your personal activities.

24 My question for you is to simply ask you to read the first paragraph of that document
25 beginning with "Code" and ending in "... at all levels of the Liberation Army of the

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1 Congo," so the entire paragraph dealing with the purpose or goals of the code, please.

2 Can you read for the benefit of the Court? Read aloud?

3 A. Counsel, do I really have to read this?

4 Q. Please do.

5 A. "Objectives of the code: To improve military activities within the ALC with a view
6 to meeting the expectations of the people, guide, strengthen and improve the army's
7 actions in order to improve or increase its power and capacity, protect the morale of
8 soldiers during war and uphold discipline. This code of conduct must be respected and
9 applied at all levels of the Army for the Liberation of the Congo."

10 MR KILOLO: (Interpretation) I would like the court officer to move to the next page,
11 CAR-DEF-0011-0361, highlighting particularly Article 4.2 and 4.4 dealing with mutinies
12 and desertions.

13 Q. Now, Witness, can you -- if we were to go back to disciplinary faults and offences.

14 Witness, can you read the content of Article 4.2: "Mutiny. All disciplinary misconduct
15 relating to the ALC army," under 4.2.

16 A. Do you want me to read?

17 Q. Yes, please.

18 A. "Mutiny. A: To plot a mutiny, incite or participate in a mutiny. Fail to stop a
19 mutiny. Non-payment for and obtaining through false pretexts property belonging to
20 civilians. Any civilian helping or encouraging an ALC member to commit any of the
21 offences above will be punished for the same offence."

22 Q. Mr Witness, I would like to ask you to make one last effort to read out for the Court
23 Article 4.4 on "Desertion."

24 A. "Desertion: Abandoning an operation carried out by the army with or without
25 weapons. Refusal to take over or lateness for an operation. Desertion by changing a

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1 camp to which one belongs (the enemy)."

2 Q. Witness, as far as you know, these disciplinary acts of misconduct, as outlined in the
3 MLC code of conduct, do they tally or correspond with those Bravo Charlie was blamed
4 for?

5 A. Regarding desertion it is written, "Abandoning an operation of the army with or
6 without weapons." However, at the time (Expunged) -- when Bravo Charlie was
7 being tracked, he was bearing an official document. He was on an official assignment,
8 and that is why I told you that had it not been for the betrayal by the embassy people
9 would not have known that there was to be another mission on the heels of the one which
10 he had accomplished, that he had another intention.

11 You see, he was on MLC territory bearing a mission order and it is written there, so when
12 you come and you start shooting at someone who has an official document, assigning him
13 to a mission, you cannot say that such a person had deserted. Desertion would have
14 been effective if he had made a written statement that he was ready to go to Bangui and
15 leave.

16 So the point is that, at the time of his arrest, there was no desertion. It is only when he
17 confessed, when he confessed to his executioners that, yes, he was getting ready to follow
18 his family to Bangui and to take off. At the time he was arrested, one could not have
19 talked of desertion. He was on mission, he was on MLC controlled territory, so there was
20 no possibility of talking about a desertion.

21 MR KILOLO: (Interpretation) I no longer need this document to be displayed on the
22 screen.

23 Q. Mr Witness, as far as you know, was Bravo Charlie also suspected of treason, spying
24 in collaboration with enemies of the MLC?

25 PRESIDING JUDGE STEINER: Maître Kilolo, please, before the witness answers I would

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1 like myself a clarification. I'm just waiting for the translation. When you talk about
2 "treason against the state," what state are you talking about? The Democratic Republic of
3 Congo? And "spying with enemies, suspected of treason," treason against whom?
4 Because it appears that we are talking about one government, and treason against other
5 government, and I don't understand the question. I'm sorry. And "collaboration with
6 enemies, enemies of the MLC." Who are the enemies of the MLC; the government? The
7 national armed forces? I think we need some clarification here, please.

8 MR KILOLO: (Interpretation) Madam President, your question is very much in order,
9 but let me provide two possible answers: One, the question simply reflects what the
10 witness himself has stated in his document, and I'm referring here to the sixth document
11 on the Defence list of documents, page CAR-D04-0002-1998. That is the first component
12 of my answer, to clarify my question.

13 PRESIDING JUDGE STEINER: Just a moment, because we need to wait for the transcript
14 to come in order to check the number of the document. The transcript in English takes
15 some time.

16 Thank you, Maître Kilolo. I've found it.

17 MR KILOLO: (Interpretation) And so the clarifications - this was my second point - are
18 the clarifications that are to be provided to us by the witness himself, so if you have no
19 objections perhaps I will rephrase my question for the witness.

20 Q. Mr Witness, in your document you specify that Bravo Charlie was -- or gave a
21 statement on the basis of a written statement, and that it was written in the document that
22 he was accused of high treason, espionage in collusion with the enemy and a threat to the
23 security of the State. Do you remember this?

24 A. I remember that very well. I think that I went further (Expunged)
25 (Expunged) --

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- 1 PRESIDING JUDGE STEINER: Let's turn into private session, please.
- 2 (Private session at 3.02 p.m.)
- 3 (Expunged)
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8 (Open session at 3.14 p.m.)

9 THE COURT OFFICER: We are in open session, Madam President.

10 MR KILOLO: (Interpretation)

11 Q. Mr Witness, to your knowledge, was Mr Jean-Pierre Bemba informed that Mr Bravo
12 Charlie was complicit or colluding with President Joseph Kabila?

13 A. No.

14 Q. Could I recall your declaration to the Prosecutor in the first document on the
15 Defence list, at page CAR-OTP-0011-0309. You are asked the question: "What was
16 Bravo Charlie being accused of?" Your answer: "Of conniving with Kabila, who was
17 the enemy of the MLC at the time." Do you remember that?

18 A. Yes, Counsel, I remember that well, and that is taken from the conclusion which the
19 public official had mentioned, the police officer had mentioned, concerning the
20 accusations against Bravo Charlie in the written statement.

21 Q. Mr Witness, please be very careful in your answer so as not to identify anybody at
22 all. This is my question: Is it correct to say that you were an agent of the Kabila regime,
23 infiltrated into the MLC, to prepare a military operation against the MLC in complicity
24 with Bravo Charlie?

25 A. Yes, that is the accusation that had been made against me. That was reported to me

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1 in Bangui by the people who came to visit me in the embassy, who came from Gbadolite
2 or from the territory which at the time was controlled by the MLC.

3 Q. Is it true that your presence in Gbadolite had, as its only objective, to spy upon the
4 MLC troops as well as their Ugandan allies for Bravo Charlie?

5 A. That is what people came to report to me. In this way they even said to me that
6 (Expunged) that Bravo Charlie had given to me, (Expunged) the
7 Defence secrets of the movement, which I was supposedly according to them to take to his
8 friend Kabila II.

9 Q. I would like to refer to your statement to the Office of the Prosecutor in the first
10 document on the Defence list, on page CAR-OTP-0011-0307. This is the question asked
11 you: "What were you doing with Bravo Charlie?" Your answer: "Private secretary."
12 Next question: "What were your tasks?" Answer: "It was just to check on those who
13 were watching him. I was giving him advice." Question: "How long did you play
14 that role?" Answer: "Five months." Question: "Who was watching over him?"
15 Answer: "The Ugandans and the MLC, who were former Mobutu troops." Mr Witness,
16 does that reflect your words to the Prosecutor?

17 A. Yes, I confirm that.

18 Q. If you so wish, Mr Witness, we can go into private session. The question is what
19 was your personal background with Mr Jean-Pierre Bemba ,and I would ask you to be
20 very careful in formulating your answer?

21 PRESIDING JUDGE STEINER: I prefer that we go into private session. Court officer,
22 please.

23 (Private session at 3.21 p.m.)

24 (Expunged)

25 (Expunged)

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- 1 (Open session at 4.00 p.m.)
- 2 THE COURT OFFICER: We are in open session, Madam President.
- 3 PRESIDING JUDGE STEINER: Thank you very much. Mr Witness, we will adjourn for
- 4 today. It has been a long day, you must be tired. We will resume tomorrow morning at
- 5 9.30 in the morning, when Defence will continue questioning you.
- 6 I would like to thank very much the Prosecution team, legal representatives of victims, the
- 7 Defence team, Mr Jean-Pierre Bemba Gombo. I would like to thank very much our
- 8 interpreters, and court reporters. We will turn into closed session for the witness to be
- 9 taken outside the courtroom. In the meantime, we will adjourn to resume tomorrow
- 10 morning at 9.30. Court officer, please turn into closed session.
- 11 (Closed session at 4.02 p.m.)
- 12 (Expunged)
- 13 (Expunged)
- 14 (Expunged)
- 15 (The hearing ends in closed session at 4.02 p.m.)