

Trial Hearing
Witness: CAR-OTP-PPPP-0033

(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, 12 September 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 in
12 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 very much. Good morning. Welcome the
18 Prosecution team, legal representatives of victims, the Defence team, Mr Jean-Pierre
19 Bemba Gombo. Good morning to our interpreters, court reporters.
20 We will continue today with the questioning of Witness 33 by the Prosecution and for that
21 purpose I ask, please, court officer to turn briefly into closed session in order for the
22 witness to be brought into the courtroom.
23 *(Closed session at 9.36 a.m.) Reclassified as Open session
24 THE COURT OFFICER: We are in closed session, Madam President.
25 (The witness enters the courtroom)

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- 1 WITNESS: CAR-OTP-PPPP-0033 (On former oath)
- 2 (The witness speaks French)
- 3 PRESIDING JUDGE STEINER: We can turn into open session, please.
- 4 (Open session at 9.37 a.m.)
- 5 THE COURT OFFICER: We are in open session, Madam President.
- 6 PRESIDING JUDGE STEINER: Thank you very much. Good morning, Mr Witness.
- 7 THE WITNESS: (Interpretation) Good morning, Madam.
- 8 PRESIDING JUDGE STEINER: Did you have the opportunity to enjoy your weekend, to
- 9 take some rest, to take some time for yourself?
- 10 THE WITNESS: (Interpretation) Yes, indeed, madam. Everything went very well.
- 11 PRESIDING JUDGE STEINER: Mr Witness, we will continue today with your
- 12 questioning by the Prosecution, but before I give the floor to the Prosecution, I need to
- 13 remind you that you are still under oath; you understand that, sir?
- 14 THE WITNESS: (Interpretation) Yes, I do.
- 15 PRESIDING JUDGE STEINER: I also wanted to remind you that you are under
- 16 protective measures; that your voice and image broadcast outside the courtroom are being
- 17 distorted, so that the public outside this courtroom cannot identify you but, in order to
- 18 keep that protection, please avoid giving information in open session that could lead to
- 19 your identification.
- 20 If need be, we go into private session. For instance, avoid saying that person A or B told
- 21 you something. If need be, you just say, "A person told me," and then we go into private
- 22 session and the parties will ask you "Who told you that?" but don't say the name of the
- 23 person that told you something, or, if you were in a meeting with one or two people that
- 24 could identify you, so don't tell the names of these persons in public session. We turn
- 25 into private session and the question about names will be asked from you; is that fine with

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1 you, sir?

2 THE WITNESS: (Interpretation) That is fine with me, Madam. Thank you.

3 PRESIDING JUDGE STEINER: Mr Badibanga, you have the floor.

4 MR BADIBANGA: (Interpretation) Thank you, Madam President. Good morning,
5 your Honours.

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

7 Q. Good morning, Witness. I hope that you indeed were able to get some rest. We
8 shall continue from where we left off on Friday and, all going well, we should be done by
9 today; that is, as far as questioning by the Prosecution goes.

10 On Friday, when we broke off, we were talking about the judicial system, and you stated
11 that within the MLC there was a judicial system, but that regarding the appointment or
12 selection of members to that judicial system, a number of criteria, in your own words, of
13 loyalty were applied. Can you explain to the Court what you meant by that?

14 A. In fact, when the movement arrived in Gbadolite, there was already a judicial set-up
15 in place, or a judicial order in place. What we simply did then was to carry forward with
16 that judicial order, or set-up, and within that system and given that we had control over
17 some territory, namely, a province, the Équateur province and province Orientale, it was
18 then possible for us to have high courts or Tribunal de Grand Instance in districts and
19 Tribunaux du Paix, Peace Courts, in the rest of the territory. That was the judicial system
20 in place, which was simply endorsed by the movement.

21 We did not have an appeals court because, ordinarily, the appeals court has its seat at the
22 headquarters of the province, but you may want to know that the MLC did not have
23 control over the capital of the province, which is Bandaka, and Bandaka was still under
24 government control. It is for that reason that our judicial system did not have an appeals
25 court, so we had the Tribunal of Grand Instance, or High Court, and Peace Courts or

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1 Tribunaux du Paix.

2 Regarding the appointment of magistrates, as I said previously, magistrates were

3 appointed following proposals from the national secretary in charge of justice.

4 You see, quite naturally, the body that ordinarily would have played that role, as per the

5 constitution, would have been the national council of the magistracy, but because we did

6 not have such a national council the appointments were proposed therefore by the

7 national secretary for justice, who would then propose nominations to the position of

8 magistrate, and such proposals would be forwarded to the national president who would

9 then appoint the magistrates.

10 Now, if memory does not fail me, this is my recollection of how things unfolded.

11 Furthermore, I mentioned what you have referred to as the criterion, or criteria, but allow

12 me to say that it was not in this case an official criterion. In any event, those who were

13 expected to hold positions within that judicial system were expected to be pro-MLC; that

14 is, people who support the cause of the MLC.

15 That was an order, I believe, because those were times of war, and at that time one could

16 not afford to, you see, have persons with the system who were opposed to the ideology of

17 the movement, in one way or another.

18 For example, the prosecutor of the Gbadolite Tribunal de Grand Instance had to pay the

19 price for it, to the extent that the said Mr Nyakonia (phon) did not hold his position for a

20 very long time because he was suspected of not being loyal to the movement. He was

21 seen not to be having the requisite conduct and, for that reason, he was simply set aside or

22 dismissed.

23 That is an example in point, to underscore the fact that those who did not support the

24 movement in all areas were simply set aside, not only in the legal area or the judicial

25 system but in all other areas. That would be my answer.

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1 Q. At the beginning of your answer to this question you said that the movement did
2 not have control over Ndaka, the headquarters of the province, and that Ndaka was still
3 under the control of the government. Which government were you referring to?

4 A. The government of the Democratic Republic of the Congo.

5 Q. I want to be certain that I have fully understood you: Are you telling this Court
6 that the choice of persons who were loyal to the movement, as you have referred to it, was
7 a criterion applicable to all the aspects of the movement across all the territories under the
8 control of the MLC?

9 A. Yes, absolutely.

10 Q. In what courts were soldiers tried?

11 A. Within the army, we did not have courts *stricto sensu*, as would be understood to
12 obtain within the structure of an army which ordinarily would have a military court, a
13 police court, a specialised military court or a garrison court or the military High Court.
14 We didn't have such a structure of military justice in place; rather, we had what was
15 referred to as a *tribunal d'exception*, an extraordinary court, which would deal with
16 such-and-such a matter as need be depending on the nature of the crimes and the gravity
17 of the offences to military rules and regulations.

18 However, in each unit I believe that there was a disciplinary council in place; a
19 disciplinary council which, as need be, would not really try but which would reprimand
20 any actions and activities that breached military rules and regulations. So this is my
21 answer. In a very strict sense, we did not have official military courts as such within the
22 army.

23 Q. Who appointed the members to that extraordinary court you referred to?

24 A. I have no idea but I think that appointments must have been made following
25 consultations between the Commander-in-Chief and the chief of general staff. That is

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1 only my opinion. I am not sure of its veracity.

2 Q. To refresh our memory, when you say "Commander-in-Chief" who are you referring
3 to?

4 A. I am referring to His Excellency, President Jean-Pierre Bemba.

5 Q. During the period under review, namely 2002 and 2003, are you aware of any times
6 when the extraordinary court you referred to may have had to sit?

7 A. Yes, yes, I do. I do recall that in the matter of trying a junior officer who had
8 committed a murder, that court sat to try him and he was tried and convicted and
9 sentenced to death. He was executed in a football stadium in Gbadolite.

10 I also think that there was a case in Izala (phon) as well, and at that time I was in training
11 and I heard, I simply heard that a soldier had been tried and convicted and sentenced to
12 the death penalty but that at the end of it all, members of the public who were present at
13 the time of the scheduled execution, called for the soldier to be simply released or
14 acquitted, and that is indeed what finally happened.

15 Now, as regards the crimes of looting and what have you in Bangui and Mambassa, a
16 special tribunal was also set up to try soldiers who were suspected of having been
17 involved in those crimes; rape, looting and what have you.

18 Q. You have given us two examples, one relating to an officer who was executed in a
19 stadium and the second relating to a soldier who was saved thanks to the public who
20 stopped his execution. Are we to understand then from your testimony and those two
21 examples that all these sentence -- or that the sentences were actually executed?

22 A. I think we need to clearly distinguish between the fact that for purposes of popular
23 support, popular support during our progress, the movement -- I think that the
24 movement did not really actually seek to do justice but, rather, to get local support,
25 popular support because in those two cases the -- there was an uprising, there were

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1 demonstrations in the area, and so we had no choice, and that is why for the sake of the
2 image of the movement, for those reasons, it was necessary for proper relations to be
3 maintained with the public. And it is for those reasons that those two soldiers were
4 convicted and sentenced to death.

5 But as for the other crimes or offences that may have taken place at the battle-front
6 involving, for example, execution of prisoners of war, let me say that those things actually
7 happened and those who were involved in such acts were well-known and yet they were
8 not tried. So there were cases of misconduct by a number of soldiers and yet they would
9 have not been punished.

10 In general terms, the movement was generally supported by the population in the
11 Équateur province and so what I could say is that the misdeeds or the slippages of the
12 regular army committed alongside their allies gave our movement the benefit of being
13 perceived by the population as being the savior. And it is members of the population
14 themselves who gave us the information and gave us guidelines and pointed us towards
15 the enemy, they provided us with information about the enemy.

16 So, in rather general terms, what I could say is that in the Équateur province in particular
17 there were not too many problems or too many slippages or misdeeds committed by our
18 own troops.

19 Q. You talked about conviction and sentencing to death, to the death penalty; one
20 executed and the other was not. And in your response you said that the purpose of that,
21 those actions, was simply to polish or buff or improve the image of your movement, and I
22 would like to ask you whether this was a matter that lay with the judges who conducted
23 those trials? Have you understood my question?

24 A. Yes, yes. A choice by the judges? I don't -- I don't know. I don't believe that the
25 judges were entirely independent. They were not autonomous. It was well-known that

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1 judges were there simply to implement or execute orders, but that these orders had to be
2 dressed in a military or judicial-looking system so that they do not appear to be arbitrary,
3 whether it be within the context of military justice or not, but the truth of the matter is that
4 these were simply orders that the judges were bound to implement and to execute.

5 Q. Who did these orders come from?

6 A. Well, naturally, from the Commander-in-Chief.

7 Q. When you provided this explanation about the orders, when I spoke about the two
8 convictions, the two sentences to the death penalty, you -- well, I would like to know
9 whether these same orders were applicable to the cases when you said that -- were the
10 same orders applicable to the soldiers when they weren't punished? You said that in
11 other cases you knew that there were soldiers who had executed prisoners and they
12 weren't punished, so was this also part of an order, in fact, that had been issued?

13 A. No, I would say that that wasn't part of an order. How would I -- how should I put
14 this? People would just look the other way. One would look the other way. It had
15 nothing to do with an order. It was said, "Well, soldiers, these are soldiers who have
16 fought against the enemy, driven the enemy away. There's no need to punish them," and
17 one would look the other way. The battle had been won. We had won a battle, we had
18 won a war at a certain front-line, so that was the situation. One would look the other
19 way and that would be it.

20 Q. In the first case the order came from Mr Jean-Pierre Bemba, you say. So if he gave
21 the order, can one assume that he was aware that there was a procedure and that there
22 were crimes that had been committed by his soldiers?

23 A. Well, naturally, he was aware of the fact because when the population rises up, the
24 first person to be informed of the fact is naturally the Commander-in-Chief.

25 Q. And in the second case, I'm referring to the second hypothesis, when one lets people

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1 do what they do - I'm using your words - in that case, was Mr Jean-Pierre Bemba also
2 aware of the blunders, of these acts of abuse and violence? These are the terms you used.
3 Was he aware of the blunders committed by his soldiers?

4 A. Well, look, all the units, whether they were at the front or in stretches of territory
5 outside of the field of operations, all these units had to send daily reports to the general
6 staff. The general staff coordinated troop activities, so the general staff reports directly to
7 the Commander-in-Chief, therefore. This information would reach the general staff and
8 the general staff would then convey this information or, rather, report to the
9 Commander-in-Chief. So, naturally, he was aware of what was going on. The
10 Commander-in-Chief was aware of the situation.

11 Q. You mentioned a trial for crimes committed in Bangui and Mambassa; that's what
12 you said. Could you tell us a little bit more about this?

13 A. Well, look, personally, I wasn't -- or I didn't follow very closely these trials but all I
14 know is that the trial started a little later. A little later, it was already something that
15 people knew about. There were reports that had been filed about the blunders
16 committed by our troops in the CAR, so this trial commenced at a somewhat later date. I
17 would say that it was in order to polish the image of the movement as a whole, and of the
18 ALC in particular. This is what I was saying a while ago.

19 Q. Do you know where this trial was held?

20 A. Yes, yes. This trial was held in Gbadolite.

21 Q. Although since last week you have been telling us that sometimes you had
22 difficulties with dates, I nevertheless have to put this question to you: Do you know
23 during which period of time this trial took place?

24 A. I can't remember any more.

25 PRESIDING JUDGE STEINER: Mr Haynes.

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1 MR HAYNES: Which trial are we talking about? The sequence of questions began by
2 introducing both Mambassa and Bangui, so which trial are we talking about?

3 PRESIDING JUDGE STEINER: Maître Badibanga, could you please try to obtain the
4 clarification from the witness.

5 MR BADIBANGA: (Interpretation) Your Honour, I'm pursuing my line of questioning,
6 and I think that at the end of my questions the Defence will see quite clearly what we are
7 referring to. They will have no problems. I first asked the witness whether he was
8 aware of the fact that, or rather, the witness referred to a trial, and then I asked him about
9 the trial he spoke about that covered Mambassa and Bangui. I wanted to know about the
10 place, the date, and now we are dealing with the contents of the trial itself, so I don't see
11 why there should be any difficulties with regard to my line of questioning.

12 Q. Witness, I was trying to determine the date when you referred to a trial that,
13 according to you, concerned crimes committed in Bangui and in Mambassa. Do you
14 know when this trial took place?

15 A. To be quite frank, I don't remember that any more, but if I'm not mistaken, this was
16 some time after the withdrawal of ALC troops in Bangui.

17 Q. You said, with regard to the crimes committed in Bangui and Mambassa, that there
18 was a trial. Was there just one trial or were there several trials, to the best of your
19 knowledge?

20 A. Well, as I have just said, I personally did not follow these trials very closely, but it
21 seems to me that there was this one trial that dealt with the crimes committed in
22 Mambassa and in Bangui, but I am not certain of this.

23 Q. I'd be grateful if you could just confine yourself to what you know and just tell us
24 what you have knowledge of. You told us that in this trial there were soldiers who had
25 committed crimes in Bangui and they were prosecuted. You mentioned acts of looting,

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1 and you also referred to Mambassa. Do you know how many soldiers were prosecuted
2 or accused in this trial, indicted in this trial?

3 A. I don't have an idea, but what I do know is that there were lower-ranking officers
4 who were put on trial, and if I'm not mistaken, there were some soldiers, some troops.

5 Q. My question was of a general nature: I was asking you whether you knew how
6 many soldiers were prosecuted. Although you have answered the question, I'll be a little
7 more precise. Do you know how many soldiers who were involved in the Bangui
8 operation were prosecuted?

9 A. No, no, I know nothing about that.

10 Q. Do you know what kind of sentences were handed down in this trial?

11 A. There were, in fact, some soldiers who were convicted, but I can't go into details. I
12 can't provide you with more precise information on the nature of the sentences that were
13 handed down. But there were soldiers who were, in fact, convicted.

14 Q. Since we have now broached this chapter, I must speak a little more slowly. Now
15 that I have -- now that we have broached this chapter, well, you referred to two cases
16 when two soldiers, in which two soldiers were given the death penalty. It had to do with
17 the crimes they committed in the territory of the Congo. In the course of this trial, to the
18 best of your knowledge, were there any sentences to the death penalty?

19 A. If anyone was sentenced to the death penalty, well, naturally if that had been the
20 case I would have been aware of the fact that the sentence had been executed because
21 when you execute a sentence to the death penalty, well, people usually would be executed
22 in public, in such cases. As far as I know, there were no executions in that manner after
23 the trial that I have been referring to.

24 Q. Given what you were able to observe during that period of time, 2002-2003 and
25 perhaps prior to that period, the period of the rebellion, let's say, could you tell us for

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1 what sort of crimes people would be sentenced to death? I'm not asking you to be very
2 precise, as a judge might, but I would like you to give us an idea of the kind of sentence
3 that would be meted out when the death sentence would be handed down for a certain
4 crime?

5 A. Well, first, I will go back to the two cases I have already mentioned. These two
6 soldiers had committed murder, and if I'm to refer to those two convictions, well, murder
7 was punished, assassination or murder was punishable by the death penalty.
8 That's my conclusion but, according to the military rules, if I'm not mistaken, if a soldier,
9 if an ALC soldier was found guilty of treason, perhaps of having been in contact with the
10 enemy, I think that according to the military rules the sentence for such a crime is the
11 death penalty. I don't have an exact idea. I'm trying to remember.

12 Q. The two cases that you are familiar with for which there was the death sentence, you
13 said that it was assassination that was concerned. Was it the murder of the members of
14 the military or of civilians?

15 A. It had to do with the assassination, with the murder of civilians.

16 Q. Do you know whether during the MLC campaign in the CAR civilians were also
17 assassinated, murdered?

18 A. Well, as far as that question is concerned, well, let me tell you (Redacted)

19 (Redacted)

20 (Redacted) in Bangui, in the CAR in general and in the
21 Republic of Congo, Congo-Brazzaville.

22 Q. I apologise, perhaps I wasn't very clear when I put that question to you. And I
23 would like to go step-by-step, if possible. I just want you to tell us whether, as far as you
24 know, any civilians were assassinated during the campaign in the CAR. So could you
25 provide us with a general answer for the moment and then we could go into further

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1 details, since we're now at this stage?

2 A. Could we move into private session, please?

3 MR BADIBANGA: (Interpretation) Your Honour, could we move into private session.

4 PRESIDING JUDGE STEINER: Court officer, please.

5 *(Private session at 10.20 a.m.) Reclassified as Open session

6 THE COURT OFFICER: We are in private session, Madam President.

7 MR BADIBANGA: (Interpretation) Your Honour, with your leave, I would just like to

8 inform the witness about the manner in which the Court functions, because I see that he

9 has certain concerns.

10 Q. Witness?

11 A. Yes.

12 Q. Certain measures have been put into place for your protection, and this is why we

13 move in and out of closed session or private session. However, what has just happened

14 to you has already happened in other trials, in other cases, and can happen again and, for

15 this reason, there are additional mechanisms that have been put into place.

16 Naturally, it is for the Chamber to take the relevant decisions, but when certain words are

17 used, like the ones that you used, words that could identify you, in such cases the

18 Chamber can decide to have the transcript redacted. So the transcript is redacted and

19 those who read the transcript can't see that information. There is part of the information

20 that is redacted.

21 But the second measure, which I think will reassure you, is that whatever is said in the

22 courtroom isn't broadcast in real-time to the outside world. There's a 30-minute delay

23 between what is said in the courtroom and what is broadcast to the outside. So the

24 technicians, who work within the technical service, can't wipe out but they can cover up

25 part of what you said so that it won't be heard by the outside world.

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1 So it's only a half-an-hour that the outside world can hear what you have said, there is this
2 half-hour delay, and in that period of time the sound recording can be amended so that
3 what you said won't be heard outside the courtroom.

4 I can see that you are concerned. I wanted to reassure you. We will make the necessary
5 recommendation to the Chamber. The Chamber will naturally decide on the matter.

6 The Judges are aware of the fact that witnesses may have certain concerns, so I hope that
7 you are reassured. Is that all right?

8 A. Yes, that does reassure me because, to be quite frank, I was very worried. I got
9 carried away. So there you have it.

10 Q. I'd also like to apologise, it's also my fault - I think you are now quite familiar with
11 this exercise - but when I asked the question, I thought you would just answer in general
12 terms. Since we are now in private session, let's take advantage of the fact and let's go
13 back to your answer. You were saying that, as someone who was (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 Q. You said that the (Redacted) troops in the CAR.

23 Could you be a little bit more explicit? What do you mean when you say blunders
24 committed by the troops in the CAR?

25 A. (Redacted) even if I can no longer remember all the details, because a lot

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1 of time has passed since the time of the events that I would never have imagined that one
2 day (Redacted) So,
3 in general terms, (Redacted) to acts of looting, rape, and also it would mention
4 individuals who had been killed, or assassinated, in Bangui, civilians who had been killed,
5 or assassinated, in Bangui, in the course of the looting, because there were civilians who
6 would resist when their property was being looted and they were allegedly killed on that
7 occasion, on such occasion. (Redacted) with those
8 details which concerned looting.
9 (Redacted) referred to people crossing over the
10 border between Bangui and Zongo or, rather, it would refer to large lorries crossing over,
11 not people, and this was for General Mustapha. There were large lorries that were
12 crossing over for General Mustapha. It also referred to other vehicles crossing over, cars,
13 I would say, so there you have it. (Redacted)
14 (Redacted) that some of these vehicles, because these vehicles
15 were transported to Gbadolite, (Redacted)
16 subsequently.

17 Q. We shall return to this in open session, Witness, but I would like to ask you now to
18 tell us once again, if you already have, whether (Redacted)
19 (Redacted) covering the violent acts that were committed in Bangui. You talked about
20 violent acts as substance to (Redacted)
21 (Redacted)

22 A. I do not know (Redacted)
23 (Redacted)
24 (Redacted)
25 (Redacted)

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1 (Redacted)

2 Q. (Redacted)

3 (Redacted)

4 A. (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. We are 12 September today. Let us imagine a situation where a civilian has just
14 been murdered in Bangui, today, 12 September, by a soldier, an MLC soldier. In what
15 time scale (Redacted)

16 (Redacted)

17 (Redacted)

18 A. Well, let us give a time scale of 24 to 48 hours, I believe.

19 Q. Mr Witness, I do not have any further questions to put to you in closed session.

20 We shall move into open session now. I would request that you remain attentive to this
21 fact.

22 MR BADIBANGA: (Interpretation) Madam President, might we move back into open
23 session, please?

24 PRESIDING JUDGE STEINER: Court officer, please turn into open session.

25 (Open session at 10.36 a.m.)

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

2 MR BADIBANGA: (Interpretation)

3 Q. Mr Witness, we were just talking about the judicial system, and we were talking
4 about convictions. We broached the subject of trial, during which you said soldiers who
5 were in operation in the Central African Republic were tried. I asked you whether, to
6 your knowledge, there had been any murders of civilians in the Central African Republic
7 by soldiers of the MLC.

8 A. To my knowledge there had been indeed, yes.

9 Q. And you might already have answered this question, so I do apologise if I've
10 already put it to you, but in view of the fact that you are saying that the murder of
11 civilians was punishable by the death sentence and that its perpetrator, or the perpetrator
12 of this deed, might then be sentenced to death, to your knowledge, were there any
13 soldiers who were in operation in the Central African Republic who were sentenced to
14 death for having committed murder on civilians?

15 A. I shall provide you with a formal answer in this regard, a decisive answer. There
16 were no convictions. Nobody was convicted to the death sentence, because people were
17 executed in public and, as a result, I was not aware of any such executions in public
18 subsequent to any trial that might have been held in Gbadolite to do with acts perpetrated
19 in Bangui.

20 Q. To your knowledge, Witness, were there any officers who were in charge of
21 operations in the CAR, who were either dismissed or who were sentenced to prison for
22 any acts committed in the CAR during this period?

23 A. I gained, or gleaned, information in this regard on a superficial basis to the effect
24 that high-ranking officers were not targeted as such, and that there were some junior
25 officers and non-commissioned officers who had been tried in this regard.

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1 Q. In view of the fact that you explained to us that the MLC, of which Jean-Pierre
2 Bemba was both the President and the Commander-in-Chief of the military branch, you
3 said that it had a judicial system. You explained to us that this judicial system would
4 follow specific orders. Now, in knowledge of the fact that this tool was available and
5 that it followed the orders of Mr Jean-Pierre Bemba, which measures were taken, to your
6 knowledge, at a judicial level, for -- might I finish my question, Madam President?
7 Which measures were taken by Mr Jean-Pierre Bemba, within this judicial system, in order
8 to punish those crimes that had been committed in the CAR?

9 THE INTERPRETER: Overlapping microphones.

10 MR LIRISS: (Interpretation) Could the Prosecution provide us with references, please,
11 according to which the witness stated that the magistrates would hand down their
12 decisions on instructions, or following the instructions provided by Mr Jean-Pierre
13 Bemba?

14 MR BADIBANGA: (Interpretation) Madam President, I would like to provide or say to
15 my learned friend that I did not say that the magistrate or judges handed down their
16 sentence on the basis of instructions given by Mr Jean-Pierre Bemba. I was asking
17 him -- you said that the judicial system followed orders. I would like to go back in the
18 transcript. It would seem to me that throughout the morning, when we were talking
19 about the functioning or operation of the judicial system, the witness said to us, and I'm
20 saying this from memory whilst I'm looking for the reference, the witness said to us that,
21 in reality, the judicial system was indeed in place, but that the magistrates or judges had
22 to follow the orders from the Commander-in-Chief himself, and that is why I'm asking for
23 further clarification, but I would not mind to go back into the text and find the specific
24 reference.

25 THE INTERPRETER: Message from the English booth: Could Counsel please be

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1 requested to slow down. Thank you.

2 MR BADIBANGA: (Interpretation) Unless I am mistaken -- I shall read at the same
3 time, but it would seem to me that at page 10, from line 24, and this continues over into
4 page 11, I'm following the transcript in the French language from today, answer: "Yes,
5 the choice of the judges, well, I would say that this wasn't -- well, I would say that the
6 judges were not entirely independent. It was a known fact ahead of time that they were
7 quite simply supposed to execute orders. These were orders, but that the orders had to
8 be disguised within the system itself. I mean a judicial military sense. This should not
9 be understood as arbitrary, but this was part of the normal judicial system. This was or
10 these were, in fact, orders that the judges quite simply had to submit themselves to and
11 that they had to quite simply execute."

12 And this is a last line, that is the last line is line 7 on page 11 of the French transcript. As
13 to the English transcript it is page 9, line 24, until page 10, line 8, "And it would seem to
14 me -" in repeating the witness's words "- that these were orders that the judges quite
15 simply had to execute, or follow." So that does not leave us with much leeway. And
16 with your leave, Madam President, I will continue with my examination of the witness.

17 Q. Witness, I shall now revisit my question. To your knowledge, which measures
18 were taken by Mr Jean-Pierre Bemba via this judicial system in order to punish crimes in
19 the CAR?

20 A. Could you please rephrase your question or be somewhat more explicit because I do
21 not really understand the question itself?

22 Q. Yes, of course. We've somewhat lost our concentration here, so we shall go about it
23 in another manner. You said that to your knowledge there had been no convictions to
24 the death sentence during that trial; is that correct?

25 A. Yes, indeed.

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1 Q. Yes, because of course we wouldn't be able to write down "uh-huh" in a transcript.
2 You need to answer with "yes" or "no." You said that to your knowledge there had not
3 been any officers who had been punished for crimes committed in the CAR; is that
4 correct?

5 A. I said high-ranking officers.

6 Q. Do you know what nature of convictions we are talking about with regard to this
7 trial, because we know that no death sentence was passed down, or handed down, but are
8 you aware of what type of sentence or the nature of the sentences that were handed down
9 in terms of duration, for example, during this trial?

10 A. I believe, if I am not mistaken, that there were a number of convictions during this
11 trial to prison without any recommendation, and for a certain duration I believe that there
12 were convictions of this ilk.

13 Q. We briefly broached the subject of the police. On Friday we have also talked about
14 the judicial system. I would like to briefly broach another subject matter with you now,
15 that of finance, quite briefly. Who was it who took the decisions with regard to finance
16 and budget of military operations within the MLC?

17 A. I believe that operational needs were established by the general staff, and it was on
18 the basis of these requirements or needs that the general staff would make sure that the
19 Commander-in-Chief took decisions as to the budget to be allocated to such operations.

20 Q. The Chief of Staff would voice a requirement, if I've understood you correctly. He
21 then drafted requirements?

22 A. Yes, if you like, but I was talking about the staff headquarters itself.

23 Q. Yes, you did talk about the staff headquarters itself, I'm sorry. So you said the staff
24 headquarters would draft the requirements. I'm talking about requirements here. Now,
25 in terms of decision-making, who was it who made decisions with regard to the funds

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1 that were to be earmarked within the MLC?

2 A. Of course it was the Commander-in-Chief himself, because he alone was the one
3 who could be in charge of financial incomings to the movement itself. He was the one
4 who was in charge of all financial income.

5 Q. Mr Witness, you have been answering questions for a number of hours now as to
6 these events, and I realise that we have not yet asked you whether to your knowledge this
7 operation took place, why it took place as such? Was there a strategic reason for the
8 MLC to be involved in activities in the CAR?

9 A. Personally, I was not involved from near or from afar to the taking of any such
10 decision to intervene in Bangui. What I do know is that in the statute of the movement,
11 or in the constitution of the movement, the president as an organ has the responsibility of
12 entering discussions with external partners in order to reach defence agreements. The
13 constitution makes provision for this. He is the only individual, and this is why he sent
14 troops to Bangui.

15 But if we look at this from a general standpoint, at a certain moment in time Bangui
16 represented for us a rear base that was sure or secure in logistical terms. We would get
17 our fuel supplies from Bangui, for example, and Bangui was also useful as a point of
18 transit for us to travel to Europe, for example, for some senior members of the party or
19 managerial staff within the party. So Bangui was an extremely useful point for us.
20 President Patassé and his entire government had become serious partners of our
21 movement. And when security concerns arose for him and when there was a movement,
22 an insurrection movement, it was quite normal for him to request of Jean-Pierre Bemba or
23 of the MLC that they intervene, that they help him.

24 What is more, the MLC had benefited greatly from the partnership in the past, before the
25 insurrection itself, but whether to have been any other clauses within this agreement that

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1 enabled troops to intervene in Bangui or not, well, I do not know. I am not aware if there
2 were any other such clauses within this agreement.

3 Q. Unless I am mistaken, you told us on Friday that to your knowledge the decision to
4 engage troops in the CAR had been taken by Mr Jean-Pierre Bemba alone; am I right in
5 this regard?

6 A. To my knowledge, yes.

7 Q. Do you know whether he discussed this decision with persons outside of the MLC,
8 outside of the government of the CAR? Did he discuss this with any other individuals
9 from the outside, notably the decision to engage troops in the CAR?

10 A. I was not an eyewitness to, or I did not personally witness any discussions that he
11 might have had with persons from outside the MLC, but based on real facts that I was
12 party to, that is to say weapons that were sent from Tripoli to Gbadolite, if I am not
13 mistaken, those very weapons were used during times of war in Bangui and I came to the
14 conclusion that His Excellency, Mr Jean-Pierre Bemba, had discussed this with President
15 Qadhafi.

16 Q. Do you know when those weapons were transported from Tripoli to Gbadolite?

17 A. I cannot be specific as to the date, but the fact is that those weapons did get to
18 Gbadolite, indeed, in two shipments, which took place shortly after a trip made by a
19 delegation (Redacted) which was headed by His Excellency, President
20 Jean-Pierre Bemba, to Bangui -- or, rather, I'm sorry, not Bangui, to Tripoli.
21 (Redacted) those two shipments of Libyan crafts, cargo planes were
22 used to ship the weapons to Gbadolite. It is true that those weapons may have been
23 used during our operations on the Congolese territory, but I am convinced that they were
24 also used during the operations in Bangui.

25 Q. We have one minute to go before the break. Now, if it is your testimony that,

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1 according to you, those weapons were used in the operations in Bangui, then they must
2 have been shipped to Gbadolite before the operations took place in Bangui; is that correct?

3 A. Well, I may need to jog my memory a little on that aspect, in order to avoid
4 providing any false information to the Court.

5 MR BADIBANGA: (Interpretation) Maybe, Madam President, with your leave, we can
6 take the break now, and this might help the witness as well because I will continue my
7 examination after the break. Thank you.

8 PRESIDING JUDGE STEINER: Thank you, Maître Badibanga. Mr Witness, we'll have
9 now half-an-hour break. You can take a coffee, or some tea, and take some rest. It's
10 11 o'clock. We'll be back at 11.30. I ask, please, the court officer to turn into closed
11 session for the witness to be taken outside the courtroom. In the meantime, we are going
12 to suspend and resume at 11.30.

13 *(Closed session at 11.01 a.m.) Reclassified as Open session

14 THE COURT OFFICER: We are in closed session, Madam President.

15 (The witness stands down)

16 THE COURT OFFICER: All rise.

17 (Recess taken at 11.02 a.m.)

18 *(Upon resuming in closed session at 11.35 a.m.) Reclassified as Open session

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

20 PRESIDING JUDGE STEINER: Welcome back. Before the witness is brought into the
21 courtroom, I'm informed that Defence, Maître Liriss, has something -- would like to
22 address the Chamber. Can we go into open session?

23 Court officer, please.

24 (Open session at 11.37 a.m.)

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

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1 PRESIDING JUDGE STEINER: Maître Liriss, please.

2 MR LIRISS: (Interpretation) Madam President, I thank you. I really do not have
3 much to say, but I would like to point out that following the witness's testimony today on
4 the appointment of judges and magistrates, and the sentences that were meted out, with
5 your leave, it might be necessary for the Defence to add two documents to its list: One,
6 the code of military justice -

7 THE INTERPRETER: And another code which the interpreters did not get.

8 MR LIRISS: (Interpretation) - subject to their ultimate use by my learned colleague, Peter
9 Haynes, in the cross-examination.

10 PRESIDING JUDGE STEINER: We received a filing of an updated Defence list of
11 evidence in which some items were added. This updated list was filed, if I'm -- I think
12 was sent by email today. What you are asking for is for a third addition, a second
13 amendment to your list?

14 MR LIRISS: (Interpretation) Yes, your Honour. Yes, because the material that relates
15 to the documents I have mentioned were raised in today's hearings, today's session,
16 today's morning session.

17 PRESIDING JUDGE STEINER: And could we have, by the way, any justification from
18 the Defence for the second or -- second updated list of evidence sent by email today, are
19 also related to the testimony?

20 MR LIRISS: (Interpretation) Your Honour, I was not fully in control of the submission
21 of the first list. Maybe Peter will be able to clarify that point but, as far as I am concerned,
22 I am seeking additions of documents in relation to today's testimony. As for any other
23 additions, I would like my learned colleague Peter to provide the explanations, your
24 Honour.

25 PRESIDING JUDGE STEINER: Do you have any, Mr Haynes?

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- 1 MR HAYNES: Just as we came in - I spent the break with Mr Bemba - but just as we
2 came in, Mr Mangenda, the case manager, was explaining to me why there was a need to
3 amend the first list. I can tell you later.
- 4 PRESIDING JUDGE STEINER: The Chamber would very much appreciate, since this
5 updating list of evidence, unless in circumstances as the one mentioned by Maître Liriss,
6 which is related to a part of the testimony, usually Defence would be requested to file its
7 list of evidence no later than three working days before the questioning of the witness, in
8 order to allow Prosecution, if the case, to prepare objections or to be aware. But in any
9 case, I will wait for the explanations, Mr Haynes. Maître Liriss, do you have by chance
10 the ERN number of these documents that you want to add to a list of evidence? Do these
11 documents have an ERN number already?
- 12 MR LIRISS: (Interpretation) Yes, your Honour, but I don't remember them, but they
13 have, they do have an ERN number.
- 14 PRESIDING JUDGE STEINER: So I would like you also, maybe in the afternoon session,
15 to provide the court officer with the ERN numbers.
- 16 MR LIRISS: (Interpretation) Yes, your Honour.
- 17 PRESIDING JUDGE STEINER: Court officer, please turn into closed session, in order for
18 the witness to be brought into the courtroom.
- 19 *(Closed session at 11.44 a.m.) Reclassified as Open session
- 20 THE COURT OFFICER: We are in closed session, Madam President.
- 21 (The witness enters the courtroom)
- 22 PRESIDING JUDGE STEINER: We can turn into open session, please.
- 23 (Open session at 11.45 a.m.)
- 24 THE COURT OFFICER: We are in open session, Madam President.
- 25 PRESIDING JUDGE STEINER: Thank you. Mr Witness, welcome back.

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1 THE WITNESS: (Interpretation) Good afternoon, Madam.

2 PRESIDING JUDGE STEINER: Are you ready to continue with your testimony?

3 THE WITNESS: (Interpretation) Yes, I am ready, Madam.

4 PRESIDING JUDGE STEINER: Maître Badibanga.

5 MR BADIBANGA: (Interpretation) Thank you, Madam President.

6 Q. Witness, we are in open session and we shall continue our questioning. Just before
7 the break you were testifying that you were not sure as to the time at which the weapons
8 from Tripoli were delivered in Gbadolite. My question to you then is to find out whether,
9 as far as you recall, such delivery took place prior to the operations in the Central African
10 Republic.

11 A. I believe that the delivery was made before, that is before our troops intervened in
12 Bangui; I think so.

13 Q. Your testimony has been that the interest of the operation was to protect the rear
14 base of your operations, that is the Central African Republic; is that correct?

15 A. Yes, that is absolutely correct.

16 Q. I have been reminded that we need to observe the five-second rule, and that is why I
17 spend -- I'm taking a little break after each question and I please urge you to respect the
18 five-second rule.

19 Now, would you know whether, besides this strategic advantage, namely, protecting the
20 rear base in the Central African Republic, would you know whether the MLC made any
21 other profits or benefited in any other way from that operation?

22 A. Going by what the soldiers who intervened in Bangui themselves said, going by
23 what they said, there was a promise of payment made that they would be paid for their
24 services, and that was the motivation behind their intervention, behind their participation
25 in the operations in Bangui. I got this information from secondary or other sources, but

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1 I cannot confirm the information here by myself. In any event, it was the position of the
2 soldiers, and they said so clearly, that a promise to pay had been made to them.

3 Q. Am I to understand that you are referring to payments being made to the soldiers
4 themselves, some sort of salary being paid out to the soldiers themselves; is that what
5 you're talking about?

6 A. Yes, that is what I mean, some remuneration to the soldiers themselves. Now, as
7 for the top brass, what I can say is that the agreement between His Excellency Jean-Pierre
8 Bemba and the late President Jean-Pierre -- President Patassé, rather, is something that
9 I am not aware of.

10 In any event, there was a strategic interest for the situation in which, upon the collapse of
11 the Patassé government, if any other government were to take over the guarantees in
12 place would not be the same as those which obtained under the Patassé government, and
13 the Kinshasa government could also have availed itself of that opportunity to destabilise
14 our territory. For that reason, it was in the MLC's interest to ensure that the government
15 in Bangui did not fall.

16 That is my reading of the situation, although I did not discuss this position with anybody.
17 It is my personal analysis that I am offering to the Court.

18 Q. Could you expatiate your analysis? When you talk about the same guarantees that
19 you had with the late President Patassé, what guarantees are you referring to?

20 A. Guarantees that we will not be destabilised from the Central African territory.

21 Q. What do you mean by to be destabilised?

22 A. If memory does not fail me, at some point during the fighting involving our troops
23 and the regular army along the Libenge and Imese (phon) axis the regular army used the
24 territory of the Central African Republic to attack us and disband, or dislodge, our troops,
25 if I recall properly.

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1 So what needs to be said is that the partnership between the MLC and the Central African
2 government at that time was not perfectly fine-tuned at that time and it was not
3 effectively in place. But as soon as it was put in place, the late -- or should I say the
4 government of the Central African Republic was no longer going to allow the regular
5 army to use its territory to attack us. That is what I mean by "destabilise us." That is
6 what I mean by "destabilise us."

7 Q. When you talked about delivery of weapons from Tripoli, you talked about a two
8 shipment -- you talked about shipments or rotation. What do you mean by that?

9 A. When I talked about those shipments, I meant that there were two -- two flights; the
10 first flight brought in the first consignment and then there was a second flight. And
11 that's why I referred to two flights, two rotations or two shipments.

12 Q. What crafts, or aircrafts, were used for those shipments.

13 A. I do not master aircrafts, but these were cargo planes.

14 Q. Who did those planes belong to?

15 A. Obviously, those planes belonged to the Libyan government, in general terms, and
16 to be more specific they belonged to President Qadhafi.

17 Q. The two shipments you referred to done by planes belonging to President Qadhafi,
18 were they the only two shipments you were aware of during that period from 2002 to
19 2003?

20 A. No. I believe that at some point, and that was towards the end of the operations, a
21 smaller craft was used from Bangui to Gbadolite. That small craft stayed there for quite
22 some time, and if I'm not mistaken that small craft carried -- well, I need to remember this
23 properly, but all I can say is that there was small craft that flew from Bangui to Gbadolite
24 using Central African or with Central African pilots. It was a small carrier.

25 Q. You have talked about the shipments between Tripoli and Gbadolite. You have

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1 also just referred to a last movement, or rotation, and in that last segment you talked
2 about movement between Bangui and Gbadolite; is that correct? Was that your
3 testimony?

4 A. Yes, yes, I said Bangui to Gbadolite.

5 Q. That shipment or that movement between Bangui and Gbadolite that you
6 mentioned, was that the only movement of craft between Bangui and Gbadolite that
7 you're aware of?

8 A. No, I do not think so. I believe that during that period there were a number of
9 other deliveries or movements by Antonov aircraft and I think that it took some weapons
10 to Bangui; I think so.

11 Q. I am not sure that I quite understood you. Did you say there was a movement of
12 our aircraft, our Antonov aircraft, or of another aircraft known as an Antonov?

13 A. I was referring to the Antonov aircraft which was owned by the movement and
14 which flew from Gbadolite to Bangui. I don't know if I've been clear?

15 Q. Absolutely, you are clear. I just wanted to be sure whether you had said "our,"
16 "notre," or whether you had said "un autre," a different plane. I wanted to clarify this for
17 the sake of the transcript.

18 A. If I said "our" plane, "notre," our plane, it's because I was also part of the MLC and
19 the plane belonged to the MLC.

20 Q. The MLC as a movement, did it have a fleet of planes, or was that the only plane
21 that belonged to the MLC as a movement?

22 A. No, no. We had two Antonovs, the MLC had two Antonovs, one of which had
23 been bought, whereas the second one had been taken in Basankusu. There was a pilot
24 error that had been made; the pilots had made an error. They were piloting the plane
25 that was going to the Congolese government. This plane was to go from Kubandaka

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1 (phon) to Imese, if I'm not mistaken. They mistook their destination. The pilots made a
2 mistake and they landed in Basankusu as a result of this mistake, so we took advantage of
3 this mistake to seize the plane for the movement and it remained the property of the
4 movement up until the end. So I am now speaking about these two Antonovs.

5 In addition, we had a small carrier, a Pilatus was the name of the plane, and it was for
6 His Excellency, Jean-Pierre Bemba, and also it was used by other high-ranking officials
7 when they had to travel to various parts of the territory, so this plane served that purpose,
8 and there was also a helicopter that had been bought by the President himself, and this
9 helicopter was used by him to go to areas where there were no landing strips, to go to
10 villages where there were no landing strips. That is the fleet we had or, rather, the four
11 planes that the MLC had at its disposal.

12 Q. I need to clarify something at this point: You have just said that there was a
13 helicopter that had been bought by the President himself. With regard to the other
14 planes, you said that one Antonov was taken from the governmental forces?

15 A. Yes.

16 Q. I would now like you to be clear about the other two, the second Antonov and the
17 small plane. Who was the owner, the MLC? Who was the owner? Who bought, for
18 example, the first Antonov? You said that the Antonov had been bought; by whom?

19 A. Well, look, I'll be precise. All the planes, apart from the one that we took from the
20 government, all the planes -- I mean, the Antonov, the Pilatus and the helicopter, they
21 were all bought personally by His Excellency, Mr Jean-Pierre Bemba. Now, I can't say
22 whether it was the property of the movement or whether it was the property of His
23 Excellency, Jean-Pierre Bemba himself. I can't make that distinction. He is in the best
24 position to tell you about that.

25 Q. And among these planes, the one that went to Bangui, as far as you know, is the

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1 Pilatus; is that correct?

2 A. Well, in fact, a long time prior to the operations in Bangui, the Pilatus made a lot of
3 flights between Gbadolite and Bangui, even the Antonovs, because the Antonovs went to
4 get fuel there a long time in advance, and during the period 2002/2003, when Commander
5 Bokolombe was sent to Bangui, I think - although I'm not certain - I think that he took the
6 Pilatus or the Antonov, either the one or the other, but I believe that he used those means
7 to reach Bangui.

8 Now, as far as the delivery of weapons is concerned, if I remember this correctly, the
9 Antonov, or rather, one of the two Antonovs, also flew to Bangui to deliver weapons, or
10 for other reasons that I'm not aware of, but in any event, the Antonov made these flights.

11 Q. Do you know what means of transport the MLC troops used to go to the Central
12 African Republic?

13 A. Usually, when the troops had to move, they would do so on foot, unless long
14 distances were in question. I mean, if it was necessary to go from Gbadolite to
15 Basankusu where the troops were to get a -- the troops would have to get an Antonov
16 plane to go to Basankusu, and then from Basankusu to reach the front, they would
17 sometimes have to take these boats, so they would use the river to reach the territory that
18 they were being sent to. So, as far as the troops that crossed over to Bangui, well, these
19 troops went there on foot.

20 Q. You said that they made that trip on foot. From where to where?

21 A. If my memory doesn't fail me, it was the brigade that was based near Libenge that
22 covered that entire area up to Mawiya (phon) Imese, and so on and so forth. I think it is
23 that brigade that intervened in Bangui. So if it's that brigade that intervened in Bangui,
24 well, this territory is very far from -- well, rather, is not very far from the border. If we're
25 talking about Libenge, it's not very far from the border with Bangui, so I assume that the

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1 same means were used to get there. They went there on foot, in other words.

2 Q. How did these troops cross the border, the Ubangi River?

3 A. Between Zongo and Bangui, a long time before the operation of our troops there,
4 well, there was a ferry there that would make the crossings in that area, so they must have
5 used the same means of transport; in other words, the ferry.

6 Q. You said that it was the brigade that was based in the vicinity of Libenge that
7 intervened in Bangui. Would you by chance know the name of that brigade? Did it
8 have a name of any kind?

9 A. Well, look, I don't have precise knowledge of the subdivision of troops at the time so
10 I don't know the names of the brigades and so on and so forth. I don't have any precise
11 knowledge about that, but all I know is that it was a brigade whose commander was
12 Mustapha.

13 Q. Had Mustapha received training of any kind within the ALC?

14 A. No, no. Commander Mustapha, he's a member of the military, or one of those
15 soldiers who learnt how to do things in the field. He didn't have -- he hadn't received
16 military training in a military academy, not in the strict sense of the term. He hadn't
17 attended a training centre, such as was often the case within the MLC. He was a soldier
18 who had learnt how to do things in the field, on the ground.

19 Q. Do you know the name of any other officers surrounding Mustapha in the CAR,
20 Mustapha's entourage in the CAR?

21 A. Well, in his general staff he was surrounded by his brothers, some of his brothers
22 from the Banyamulengue ethnic group. I no longer remember exactly what their names
23 were. If I'm not mistaken, one of them may have been called Commander Éric, if I
24 remember this correctly, and I can't remember the others. There was also René,
25 Commander René, who was killed in the operations in Bangui.

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1 Q. What do you mean when you say that he was surrounded by his brothers from the
2 Banyamulengue ethnic group?

3 A. Well, in fact, to be more explicit, when Commander Mustapha joined the MLC he
4 had soldiers behind him. He had a unit behind him. I don't know what the strength of
5 the unit was, but when he joined the MLC he joined that movement with his entire unit,
6 with all the troops who were with him. And within that unit the majority of them were
7 of the Banyamulengue ethnic group. And when I say "his brothers," I'm referring to
8 them.

9 So the group that was closest to him in the brigade in the general staff was the group that
10 was composed of those Banyamulengue soldiers whom I have referred to as his brothers.

11 Q. The Banyamulengue ethnic group, is that an ethnic group that comes from the DRC?

12 A. The Banyamulengue ethnic group has its roots or, rather, origins in Rwanda. But
13 this ethnic group migrated, it left Rwanda a long time ago, and settled down on the
14 Mulengue plateau, which is in the eastern part of the Democratic Republic of Congo.
15 And if I am not mistaken, the late President Mobutu had granted them the privilege of
16 having Congolese nationality. So at the current time this ethnic group is a Congolese
17 ethnic group, they are Congolese but their origins are in Rwanda.

18 Q. You said that the troops travelled on foot and then used a ferry. Was that an
19 operation just on one occasion, or did this deployment of troops evolve, gradually
20 develop throughout a period of time? What do you know about that? You said that
21 they went there on foot in the Congolese territory.

22 A. I think that this was done step-by-step, in a sort of gradual manner.

23 Q. If we say gradual, could you give us an idea about the sequence of events, how this
24 progressed?

25 A. As far as I know, the very first unit that crossed over in Bangui was a company and

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1 so, as things continued, troops were reinforced; but how frequent this was, how intense, I
2 don't really know.

3 Q. When you say a company, how many soldiers are there in such a company, roughly
4 speaking?

5 A. The strength of a company, well, a company consists of three platoons and one
6 platoon consists of 36 -- wait a minute, please. One platoon has 36 troops, times three.
7 Well, about a hundred soldiers.

8 Q. The first time there was this crossing over there were about a hundred soldiers who
9 crossed over, if I've understood you correctly, and then there were reinforcements. At its
10 peak, do you know how many troops the MLC had in the territory of the Central African
11 Republic?

12 A. Well, if I'm to draw a conclusion, if I'm to deduce the number, well, when I saw the
13 brigade commander himself taking command of the troops in Bangui I drew the
14 conclusion that the entire brigade had crossed over. There you have it.

15 Q. My following question, naturally, is how many soldiers are there in a brigade?

16 A. Could we get back to that later, and I'll make a few calculations in the meantime to
17 determine the number?

18 Q. That's not a problem. We'll go back to that a little later. When you spoke about
19 the MLC general staff, you mentioned a member of that staff who was responsible for
20 logistics.

21 A. Yes.

22 Q. That's the G3, if I'm not mistaken; is that correct, Witness?

23 A. No, it's the G4.

24 Q. It's the G4. Very well. Do you know whether the G4 had to intervene for logistics
25 or did he have to take charge of logistics in the course of the operations in the Central

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1 African Republic as part of those operations?

2 A. Well, logistics is a very wide field, a very broad area. So with regard to military
3 rations or military uniforms, I do not believe that the G4 intervened with regard to
4 supplying those items; but when it comes to weapons, I believe that when the weapons
5 had been shipped to Bangui it would usually be the G4 who would organise such a
6 shipment. That would have been one of his duties.

7 Q. With regard to the MLC and the way it functioned, if the G4 was responsible for
8 logistics and was responsible for supplying weapons, would he report to Jean-Pierre
9 Bemba at that point in time? Would Jean-Pierre Bemba, Mr Jean-Pierre Bemba, be aware
10 of the actions being carried out by the G4?

11 A. The Commander-in-Chief would define the general policies that had to be pursued
12 in the course of the operations. That was one of his prerogatives. The general
13 staff -- the chief of the general staff who would coordinate the activities of his general staff
14 would receive from his deputies as a matter of course all the information that concerned
15 tactical and strategic issues.

16 He would be informed of all the means that he could use for a given operation, and then
17 he would provide all this information for the Commanders-in-Chief approbation and that
18 is how things functioned in the general staff and with the Commander-in-Chief. It was
19 the Commander-in-Chief who had the last word.

20 Q. I would now like to go back to the issue of salaries, how the troops were paid. This
21 morning you were saying that the soldiers hadn't been paid; is that correct?

22 A. Yes, yes, the soldiers hadn't been paid. Everyone was aware of that fact, the
23 soldiers hadn't been paid, and they said so. At the end of the operations that's what they
24 would say, and given that that was the case I think that those who had led the troops
25 to -- those in charge of the troops had made them behave badly because, when they

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1 returned, there were troops who had brought back televisions with them, household
2 appliances, and therefore there were these looted goods that one could see that were
3 visible.

4 So the troops were unhappy because they realised that they were going to leave Bangui
5 and return to their territory empty-handed, whereas a promise had been made to them.

6 By whom I don't know, but I imagine that if a promise had been made that must have
7 been a promise made by the commander himself, the commander in charge of the
8 operations that were being conducted in Bangui. And he, the commander, where did he
9 obtain this information from? From whom did he receive the order to make this promise
10 to the troops? I'm not certain, but my conclusion is that it must have been from the
11 Commander-in-Chief.

12 Q. Witness, we are in open session. I don't want you to provide any information that
13 might help to identify you but, in general terms, did you yourself hear soldiers saying that
14 this promise had been made to them?

15 A. All the information I'm providing you with, well, could we in fact move
16 into -- thank you.

17 MR BADIBANGA: (Interpretation) Your Honour, with your permission, as the witness
18 has made this request, could we move into private session?

19 PRESIDING JUDGE STEINER: Court officer, please turn into private session.

20 *(Private session at 12.30 p.m.) Reclassified as Open session

21 THE COURT OFFICER: We are in private session, Madam President.

22 MR BADIBANGA: (Interpretation)

23 Q. There we are, Mr Witness. You can continue.

24 A. Thank you. As I was saying, all the information that I am providing you with, as
25 we speak, with regard to this aspect, this is information that (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. (Redacted)

10 (Redacted)

11 A. I do not believe that (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 Q. Even though your answer does seem clear to me, I would like us to be even more

22 crystal clear for the purposes of the transcript. Now, this (Redacted)

23 (Redacted)

24 (Redacted)

25 A. I am certain that (Redacted)

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1 (Redacted)

2 Q. (Redacted)

3 (Redacted)

4 (Redacted)

5 A. When a trial was held in order to try those soldiers who committed those acts, I
6 thought that this might be a response to the situation but, unfortunately, this came about
7 at rather a belated date.

8 Q. (Redacted)

9 (Redacted)

10 A. Well, I am sure that no salaries were ever paid to the soldiers of the MLC. I'm
11 absolutely certain of that.

12 Q. And to wrap up this point, how did the soldiers live, in view of the fact that they did
13 not receive any salary throughout the duration of the operation?

14 A. Which operation are you referring to? Are you referring to the Bangui operation or
15 are you talking about all the soldiers?

16 Q. No, I'm talking about -- I'd like you to limit yourself to the Bangui operation.
17 That's the one I'm interested in.

18 A. As far as I know, military rations were granted by the Central African Republic
19 government.

20 Q. Do you have any other points that you would like to raise in closed session with
21 regard to this very specific point? We can come back to private session at a later stage.

22 A. No, that's fine.

23 MR BADIBANGA: (Interpretation) Madam President, we might move back into open
24 session please, Madam President.

25 MR HAYNES: Just before we do, perhaps to save a little time later, I wonder whether

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1 the witness can give us the name of the (Redacted)

2 PRESIDING JUDGE STEINER: Have you understood the question, Mr Witness?

3 THE WITNESS: (Interpretation) Yes, indeed, I have understood the question. It is all
4 too clear. (Redacted)

5 PRESIDING JUDGE STEINER: Is that fine, Mr Haynes?

6 MR HAYNES: Thank you, your Honour. It just will save a little time later.

7 PRESIDING JUDGE STEINER: Court officer, please turn into open session.

8 (Open session at 12.38 p.m.)

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

10 MR BADIBANGA: (Interpretation)

11 Q. Mr Witness, by virtue of the fact that we have moved from private session and into
12 open session, it might be that I'm not quite sure whether the information has been given
13 or granted in open or private session, so if you don't mind, I would like us to develop this
14 question in open session. Now, could you tell us, without mentioning the source - this is
15 not necessary - could you just tell us precisely which violent acts you came to know as
16 having been committed by the soldiers in the CAR? By the MLC soldiers in the CAR.

17 A. (Redacted) often revisited the issue of looting and also the issue of rape and, to a
18 lesser degree, the issue of the murder of civilians, (Redacted)
19 (Redacted).

20 Q. You said that with regard to the murder of civilians that you were aware of, you did
21 not yourself note that they had -- the perpetrators had been punished in any way. I
22 would put the same question to you with regard to the crimes of rape: Were you aware
23 of any punishment having been meted out to soldiers having committed acts of rape in
24 the CAR?

25 A. As I said to you previously, I did not personally follow the trial very closely, so I

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1 would not be able to provide you with any specific information in this regard. As to the
2 possible convictions handed down, I know that there were convictions. Notably, there
3 were prison sentences handed down; there were soldiers who received lengthy prison
4 sentences, but I do not have any specific information in this regard.

5 Q. I do understand that this is a subject that you do not have much information on, but
6 for things to be clear, I do have to put the question to you. However, I do believe that
7 you have additional information, or further information, on the subject of looting; is that
8 correct?

9 A. Yes, indeed, because the looted effects were all too clear for all to see.

10 Q. In view of the fact that we are in open session, we are not going to talk about your
11 sources, the manner in which you obtained the information; we're just going to talk about
12 how events unfolded. We shall return to the issue of verifying your source's information.
13 Now, could you please tell us how it was that the looted goods left the CAR in order to
14 enter the DRC?

15 A. The looted goods were to travel via the ferry. They would reach Congolese
16 territory by this means of transport.

17 Q. And when taking the ferry, what was the port of entry in the DRC when arriving
18 upon the territory of the DRC, using the ferry?

19 A. Zongo territory was the port of entry.

20 Q. I note that you are quite precise in the terms you are using. You do not say "the
21 town of Zongo," you say, "the territory of Zongo." Is this on purpose that you are using
22 this term, and talking about the territory rather than the town itself?

23 A. I might be mistaken but it is indeed the town of Zongo.

24 Q. When you talk about looted goods or effects, what do you mean by this? Could
25 you please provide us with a number or some certain looted goods that you are aware of?

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1 A. I was aware of some vehicles having been looted, of large lorries, or trucks, that
2 were traversing from Bangui to Zongo for Commander Mustapha and also looted goods
3 in the form of televisions, electrical or household appliances, radios. There we have it.

4 Q. The town of Zongo was the port of entry in the DRC. What happened to those
5 products once they entered that town?

6 A. The products, the looted products or goods that these soldiers - the low-ranking
7 soldiers - brought across, well, I don't quite know what happened to them. I think they
8 kept them for themselves.

9 Now, with regard to the larger vehicles, they were not transported to Gbadolite. I heard
10 subsequently that these large vehicles were used for transportation, transportation of
11 individuals. These individuals would rent these large vehicles, and it was for General
12 Mustapha in particular. As for cars and pick-ups, these had been transported to
13 Gbadolite itself.

14 Q. What happened to the looted goods that arrived in Gbadolite?

15 A. Upon their arrival in Gbadolite, they were initially put in a warehouse. This
16 warehouse was the logistics warehouse of the ALC, which was located within the former
17 Coca-Cola factory compound in Gbadolite. Subsequently, these vehicles were
18 distributed to certain managerial staff to required them for their duties. There we have
19 it.

20 Q. Do you know who was responsible for this distribution?

21 A. Of course. The list came from the Commander-in-Chief himself, who then
22 transmitted it to the Chief of Staff for the distribution to be carried out.

23 Q. Do you know whether, when this list was being drafted, the Commander-in-Chief
24 was aware of the fact that these were in fact looted goods?

25 A. Yes, of course he knew. I am certain about that. He knew.

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1 Q. If I ask you how it is that you are certain about this or categoric about this, do we
2 need to go into closed session, or not?

3 A. No, we do not need to go into private session. In fact, when these vehicles were
4 transported to Gbadolite, a report was transmitted in normal fashion, in regular fashion,
5 as to the arrival of certain vehicles, all the vehicles, and their state. (Redacted)
6 (Redacted)

7 Q. Do you know approximately how many vehicles were distributed to the managerial
8 staff for the conduct of their duties?

9 A. I shall provide you with this information piecemeal, one-by-one, if you will allow.

10 Q. Yes, indeed. I'd just like to remind you that we are in open session, so you need to
11 be aware whilst providing your response.

12 A. There was a Nissan pick-up, white in colour. There was a Toyota pick-up, either
13 white or grey in colour, if my memory serves me correctly, and bearing red stripes as well
14 on the side of the vehicle. There was a Toyota Corolla car; it was blue. There was a
15 Galloper jeep which was blue. There was a Suzuki jeep which was white. And there
16 was another Toyota pick-up, blue in colour.

17 I would like to furnish you with some clarification with regard to the last two vehicles
18 which were brought back by two managerial staff who were present in Bangui and, as a
19 result, they were not part of the batch, or group, of four vehicles that was to be found in
20 the logistics warehouse.

21 Q. Mr Witness, do you know whether any looted goods were returned to their rightful
22 owner?

23 A. I am not aware of that.

24 Q. Generally speaking, who were the owners of all these looted goods, whether it be
25 vehicles, radios, televisions and other objects that you mentioned, including household

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1 appliances?

2 A. I cannot believe that these looted goods belonged to the insurrection group that was
3 fighting, or to the rebels who were fighting the Patassé -- late Patassé's soldiers because I
4 do not see or imagine any soldiers fighting at the front with household appliances by their
5 side, or televisions or such things, nor can I imagine there being any soldiers fighting and
6 using a Toyota Corolla car, which is a very low chassis car. And as we know the roads in
7 Africa, we know what they're like, the roads in those villages. So these were goods that
8 were looted from civilians.

9 Q. Mr Witness, do you know whether these Central African Republic civilians received
10 any compensation or reparation for the effects or goods that they lost?

11 A. To my knowledge, no civilian received any form of compensation, to my knowledge.
12 Whatever the case may be, I am unaware of this. No victims were ever compensated, to
13 my mind.

14 Q. My question might be understood within the context of the acts of looting. I'd like
15 to extend it somewhat. Did you hear about any form of compensation by the MLC paid
16 to the victims of rape or murder in the Central African Republic?

17 A. I never heard anything about this, and if this was done then it was done without my
18 knowledge. I never heard anything of the sort.

19 MR BADIBANGA: (Interpretation) Madam President, at this juncture I am going to
20 move on to other points and I would suggest that we take the break now, with your leave.

21 PRESIDING JUDGE STEINER: Thank you, Maître Badibanga.

22 Mr Witness, we are going to our lunch break. You have time not only to have lunch, but
23 to take some rest. It's almost 1 o'clock. We will resume at 2.30.

24 I ask, please, the court officer to turn into closed session for the witness to be taken outside
25 the courtroom. In the meantime, we will suspend and resume at 2.30.

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1 *(Closed session at 12.59 p.m.) Reclassified as Open session

2 THE COURT OFFICER: We are in closed session, Madam President.

3 (The witness stands down)

4 THE COURT OFFICER: All rise.

5 (Recess taken at 13.00 p.m.)

6 *(Upon resuming in closed session at 2.32 p.m.) Reclassified as Open session

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

8 PRESIDING JUDGE STEINER: Good afternoon and welcome back. Before the
9 witness is brought into the courtroom, I first would like to clarify that in the last part
10 of our morning's session, when I mentioned the Defence list of evidence, of course
11 I was talking about the Defence list of documents, not list of evidence. And now I
12 turn back to Mr Haynes. Do you have information about documents 93 and 94?

13 MR HAYNES: Yes. And I hope it's obvious from the titles on the list of documents
14 what they are. They were documents that were not sourced but retrieved from
15 Ringtail over the weekend in direct response to something which the witness said on
16 Friday about the exclusive role of Mr Bemba in the selection and appointment of
17 military officers, and these are documents which show that all appointments are
18 upon advice and subject to the approval of the conseil politico-militaire.

19 So in simple terms, the explanation for those documents not being on a list served
20 three days before the commencement of cross-examination is that they arose from an
21 answer given during the course of the examination which we did not anticipate.

22 PRESIDING JUDGE STEINER: And I see that the Defence intends to submit these
23 two documents, so I'm asking Maître Badibanga whether there is any objection, at
24 least for the time being -- Mr Haynes?

25 MR HAYNES: For my part, if Mr Badibanga wants some time to think about his

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1 response to that, I would have no objection, in the circumstances.

2 MR BADIBANGA: (Interpretation) I thank you, Madam President, and I will take
3 the offer from my learned colleague opposite and confer with my team on this matter.
4 However, let me avail myself of this opportunity to state for the record that we would
5 appreciate disclosure of lists that Defence intends to use, we would appreciate that
6 such disclosure take place within the prescribed time-frames, namely, three days
7 before the testimony. That will give us enough time to prepare our examination, as
8 well.

9 Sometimes we have received this disclosure in circumstances where it is made three
10 days before Defence starts its own examination, and that does not necessarily always
11 give us the time, and this can be prejudicial in matters relating to our redirect. But,
12 in any event, I simply want to confer with my team and then revert to the Court
13 sometime this afternoon.

14 PRESIDING JUDGE STEINER: And enjoy the opportunity Maître Liriss, can you
15 provide Prosecution with the ERN numbers of the two other documents that you
16 intend to submit?

17 MR LIRISS: (Interpretation) Yes, your Honour. The materials bear the following
18 reference: CAR-DEF-0002-0389. That will be the law of military -- or the law on the
19 military court of justice. And then CAR-DEF-0002-0667, which is the summons from
20 the Secretary-General to Witness (Redacted) of the broad-based military committee, the
21 executive committee, and then there is CAR-DEF-0001-0634, memo on the
22 organisation of the Congolese Liberation Army. All these documents, your Honour,
23 and their references have been forwarded to the court officer.

24 PRESIDING JUDGE STEINER: Maître Badibanga, you are therefore invited to give
25 observations on all these documents, the two documents that were added to the list of

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- 1 evidence by mail and the two further ones mentioned now by Maître Liriss.
- 2 I ask, please, court usher to bring the witness in.
- 3 (The witness enters the courtroom)
- 4 PRESIDING JUDGE STEINER: We can turn into open session, please.
- 5 (Open session at 2.41 p.m.)
- 6 THE COURT OFFICER: We are in open session, Madam President.
- 7 PRESIDING JUDGE STEINER: Thank you. Good afternoon and welcome back,
- 8 Mr Witness.
- 9 THE WITNESS: (Interpretation) Thank you, Madam.
- 10 PRESIDING JUDGE STEINER: Are you ready to continue giving your testimony?
- 11 THE WITNESS: (Interpretation) Yes, I am.
- 12 PRESIDING JUDGE STEINER: Thank you very much. I'll give back the floor to
- 13 Maître Badibanga.
- 14 MR BADIBANGA: (Interpretation)
- 15 Q. Good afternoon, Mr Witness.
- 16 A. Good afternoon.
- 17 MR BADIBANGA: (Interpretation) We shall now continue on the same issue we
- 18 were broaching before we broke off this morning, and I would like us to go into
- 19 private session. Madam President, could we do that?
- 20 *(Private session at 2.42 p.m.) Reclassified as Open session
- 21 THE COURT OFFICER: We are in private session, Madam President.
- 22 MR BADIBANGA: (Interpretation)
- 23 Q. Witness, we are in private session and please feel free now to provide any
- 24 information that will help us to understand your role or your relationship with some
- 25 of the actors.

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1 This morning you provided a list of about six vehicles which were looted or
2 plundered in Bangui, according to your testimony, and you went on to say that they
3 were distributed to some senior staff. Do you know which vehicles were given to
4 which senior staff?

5 A. (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted) That is it.

13 Q. What was (Redacted) position or what role did he play at that time?

14 A. At that time, (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. The vehicle that was given (Redacted), did it have a number plate?

18 A. I got to learn from other sources that the number plates were taken off before
19 those vehicles were brought into the Congo. Those number plates were taken off.

20 Q. When you say, "I heard from other sources, or secondary sources," what do you
21 mean by that?

22 A. When I referred to other sources, or secondary sources, what I'm saying is that
23 this information did not come to me through official channels or through
24 eyewitnesses or persons who may have been present when the number plates were
25 being taken off. (Redacted)

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1 (Redacted) it was
2 information gleaned through what was being said or what was being talked about
3 within military circles.

4 Q. You said that some of the vehicles were brought back by individuals themselves,
5 for example, Bokolombe and Simene, whom you have just talked about, but earlier on
6 this morning you talked about lorries having been brought back by Mustapha. Now,
7 do you know whether Jean-Pierre Bemba was aware of these things and was he
8 aware that these MLC personalities had brought back vehicles into the country?

9 A. Obviously, he must have been. His Excellency, President Jean-Pierre Bemba,
10 was aware of these things because he himself went on to distribute the four vehicles
11 that arrived in Gbadolite. Furthermore, as for the large lorry that was brought in on
12 behalf of General Mustapha, I think in my testimony I said (Redacted)
13 (Redacted)

14 Q. We have a number of issues that we need to deal with in private session and so
15 we might shift gear a little bit in order to deal with these issues in private session so
16 that we can continue subsequently with the rest of our questioning later on.

17 Witness, do you know whether Jean-Pierre Bemba had any direct contact with the
18 troops of the MLC that were in the Central African Republic between 2002 and 2003?

19 A. Yes, clearly I'm aware of that. Are we in -- are we in --

20 Q. Yes, we are in private session.

21 A. I became aware of this (Redacted) I
22 also learnt of it from the communications control centre, to the extent that (Redacted)
23 (Redacted)
24 (Redacted)
25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 So I was not surprised that this was happening, and that is it.

19 Q. Let us talk a little bit about what (Redacted). Going by that

20 example, (Redacted)

21 (Redacted)

22 A. No, he didn't provide any details. All he said was that (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 Q. As far as you know, who did Mustapha receive orders from when he was
2 leading the operations in the Central African Republic?

3 A. I am not in a position to tell you how orders were given to him at all times.

4 However, (Redacted), there was a commission in place

5 in Bangui made up of Central African authorities and officers, military officers, of the
6 ALC on the ground.

7 Now, I am not in a position to say that orders were issued by that commission. I am
8 not sure that such was the case. Why do I say so? I say so because -- simply
9 because, going by previous experience relating to the manner in which operations
10 were conducted on our own territory, and mindful of the manner in which the
11 Commander-in-Chief monitored what was transpiring on the ground, and given the
12 fact that he could directly contact commanders on the ground on our own territory I,
13 therefore, do not see how he could have subjected his troops to a command system
14 which had shown its shortcomings even before our troops crossed over to Bangui.
15 That is -- that would have been meaningless.

16 The general staff of the Central African Republic was unable to ward off the enemy
17 and it was expected that, by some magic wand, the ALC commander would hand
18 over his troops to that command over there, a failing command authority? How
19 would the MLC commander hand his troops over to that type of authority? I think
20 it doesn't add up.

21 Q. You have talked about Jean-Pierre Bemba being in contact with Mustapha and
22 that (Redacted)

23 (Redacted) My question to

24 you is: Did this contact take place by radio transmission or by another channel?

25 A. I have no details to provide to the Court, and I think that if he were to appear

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1 before this Court, he might be in a better position to provide those details to the
2 Court.

3 Q. When you talked to the Court about channels of communication, you said that
4 the telephone facilities were available to commanders and that that is why (Redacted)
5 (Redacted) My question is: Do you know whether Commander Mustapha got a
6 telephone as well?

7 A. General Mustapha was in command over troops along a very significant axis
8 which saw a lot of fighting with the regular army of the government of the
9 Democratic Republic of the Congo. Clearly, therefore, he could not have not been
10 one of those who received the satellite telephone.

11 Q. A minute ago it was by means of deduction, I think that you said, that you
12 didn't think that Jean-Pierre Bemba could give his troops over to a command that was
13 faulty. Did you have the opportunity to find out, (Redacted), whether any
14 orders were given for military operations to MLC troops by someone on the outside,
15 someone apart from Jean-Pierre Bemba, or someone on the outside of the MLC, not
16 part of the MLC, in other words?

17 A. In any event, I had no knowledge of that.

18 Q. I'm now going to move on to another subject, but let's take advantage of the fact
19 that we are in private session to deal with a certain number of questions. I'm going
20 back to the issue of the political and military council. You said that this political and
21 military council was replaced at one point in time, or ceased to exist in a certain
22 fashion, by a founding group; is that correct?

23 A. No, that's not what I said. I never said that the political and military council
24 was replaced by a group of founders. What I wanted to say was that when the
25 statutes were being modified, when we ceased to be a rebel movement, and were

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1 transformed into a political party, on the list of the bodies that appeared in the statute,
2 that appeared in the statute and that was to transform (Redacted) into a political body, there
3 was no longer reference to the political and military council, and as that political and
4 military council only consisted of the founding members, I said to myself that the
5 group of founders that now appeared as a term in the second statute should perhaps
6 be considered as the equivalent of the political and military council.

7 In the second statute, the statute as a result of which we became a political party, in
8 that statute the first body naturally is this group of founders. That is the very first
9 body, and if I'm not mistaken it was followed by the council of representatives.

10 The third body, if I am not mistaken, must have been the political bureau. The
11 fourth one, and the last body, was the executive committee. So that is the list of the
12 bodies or organs that have appeared in the statute after the rebel movement had been
13 transformed into a political party.

14 And the former statute, the first body was in fact the president, as an organ, as a body,
15 and the second body was the political and military council. And, finally, the third
16 body - what I called the executive - the national executive, but in fact it was the
17 national secretariat. So those are the two lists, such as they appeared in these two
18 statutes.

19 MR BADIBANGA: (Interpretation) As we are in private session, your Honour,
20 I would like to have a document shown on the screen, a document which is included
21 in the list of the Prosecution's documents. The reference of the document is
22 CAR-OTP-0009-0141.

23 THE COURT OFFICER: Document CAR-OTP-0009-0141 is available on your screens
24 and it's a confidential document.

25 MR BADIBANGA: (Interpretation)

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1 Q. Witness, do you recognise this document?

2 A. Yes, yes, of course I do.

3 Q. Could you read out the title, please?

4 A. The heading?

5 Q. I apologise. The title of the document, Witness.

6 A. It says "Decree number 032/Pres/MLC/2002 of 11 November 2002, restructuring
7 the political and military council of liberation."

8 Q. Perhaps you went a little fast; I heard something else.

9 A. I said the political and military council of liberation. I do apologise.

10 Q. Do you know on what occasion this decree was published? Why does the title
11 mention "restructuring"?

12 A. Well, this restructuring took place on the date mentioned in the title. I don't
13 know the reason for this restructuring. Restructuring means that prior to this
14 appointment there was already a political/military council in existence which was
15 restructured. But as for the reasons for this restructuring, I know nothing about
16 them.

17 Q. Could you tell us where this document emanates from? Where was it drafted?

18 A. It comes from Gbadolite.

19 Q. Do you recognise the signature at the bottom of the document?

20 A. I don't have the entire document before me, so perhaps we could scroll down.

21 PRESIDING JUDGE STEINER: Court usher?

22 THE WITNESS: (Interpretation) Yes, yes.

23 PRESIDING JUDGE STEINER: You already have the document, the complete
24 document in front of you?

25 THE WITNESS: (Interpretation) Yes, yes, of course. This is the signature of the

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1 President, Jean-Pierre Bemba.

2 MR BADIBANGA: (Interpretation)

3 Q. And the part that is now visible on the screen, there's a list of individuals and
4 then it says "Article 2." And you will see this list now. As far as you can remember,
5 are these the individuals who composed the political and military council that you
6 have been speaking about in the course of your testimony?

7 A. Yes, of course, this is the political and military council that I have been referring
8 to throughout the course of my testimony, but it was restructured on this date; you
9 should bear that in mind. So prior to that date the political and military council did
10 exist, in fact.

11 Q. (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 Q. Since you say that this document says that there was a restructuring, who
20 decided about the restructuring of the political and military council?

21 A. Well, look, amongst some of the president's prerogatives there was one
22 particular prerogative, it says in the statute, that he has the prerogative to define the
23 general policies of the movement and, therefore, he could also convene a political and
24 military council for restructuring, if necessary, but I said a while ago that I was not at
25 all aware of the reasons for this.

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1 Q. We have spoken about the decision to restructure the political and military
2 council. I would now like to know who took the decision to appoint these members.
3 Who had the authority to appoint these individuals who composed the political and
4 military council?

5 A. The appointment was one of the prerogatives of the president himself,
6 Jean-Pierre Bemba.

7 Q. If the court officer could aid us and show the top of the document. Could you
8 scroll up so that we could see the top of the document? That's perfect.

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 A. Well, first of all, I wasn't involved in the drafting of this document, or these two
13 documents, this one here and the other one that you have referred to, so I would not
14 like to go into that issue. I'd rather not comment on the matter.

15 Q. Very well. Could you tell us what the heading of the document is? Could
16 you read it out aloud, please?

17 A. "Movement for the Liberation of the Congo."

18 Q. Could you also read what is said right under the logo? It's not very visible, but
19 there is something written there just under the logo.

20 A. "The President."

21 Q. (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 Q. Before you gave it to the ICC investigators, did this document remain in your
2 possession?

3 A. Yes, yes, naturally, in my archives.

4 MR BADIBANGA: (Interpretation) Your Honour, we no longer need the
5 document on the screen, we no longer need it, and could it be admitted into evidence
6 for the Prosecution and could an ERN number be allocated to the document, too?
7 Thank you.

8 Q. One more series of questions. I'm going back to your positions now. (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted) I believe that's

12 what you said, up until the end of (Redacted); is that correct?

13 A. No, no, I said up until the end of the rebellion.

14 Q. Could you tell us under what circumstances (Redacted)

15 A. Well, (Redacted)

16 (Redacted) -- with this rebel movement fell by the wayside. They
17 were no longer relevant.

18 Q. (Redacted)

19 A. (Redacted), to be
20 precise.

21 Q. Could you tell us about the reasons for which (Redacted)?

22 A. (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

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8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 Q. Witness, we have half-an-hour left, and I said that I would finish my

23 questioning today and I would like to do that together. We shall go back into open

24 session and I shall ask you, as we did on the first days and as we've done today, to be

25 as accurate as possible in your answers on the points asked and then we should be

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1 easily be able to complete this today.

2 MR BADIBANGA: (Interpretation) With your permission, your Honour, could
3 we return to open session.

4 PRESIDING JUDGE STEINER: Court officer, please.

5 (Open session at 3.32 p.m.)

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

7 MR BADIBANGA: (Interpretation)

8 Q. Witness, do you know if the MLC and ALC soldiers were trained? Did they
9 have military training?

10 A. Yes, of course they did. There were different training sessions throughout the
11 different periods with the troops.

12 Q. When you say "throughout the different periods with the troops," what do you
13 mean by that?

14 A. I mean from the time the movement was set up, all the way to the end of the
15 transition period.

16 Q. Were those training programmes for all MLC soldiers?

17 A. No, sorry, not the end of the transition, the end of the rebellion. That's what I
18 meant. Could you please repeat the question?

19 Q. Yes, I could. I asked whether the training was for all MLC soldiers, regardless
20 of their rank, for all members of the military forces?

21 A. No. There were military officers from the former Zairean armed forces that
22 had joined us and they didn't need to have training because at the time of the Zairean
23 armed forces they had gone through the appropriate academies and they were highly
24 reputable academies?

25 Q. Did the MLC or, rather, the ALC have a code of ethics for the forces?

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1 A. Yes, indeed. There was a code of conduct.

2 Q. Please wait five seconds before answering the question. Who drew up the
3 code of conduct?

4 A. I think the code of conduct was drawn up by the higher officers of the ALC.

5 Q. Was the code of conduct effectively enforced?

6 A. You know, there's one thing: The code of conduct certainly existed, but for the
7 code to be enforced all the members of the forces have to be acquainted with it;
8 otherwise, it's meaningless. You can't punish a member of the forces if he's not
9 aware of the code. What am I trying to say here? I'm saying that the code
10 definitely existed but had it been distributed were the troops aware of it? I don't
11 think so. I'm not sure about that at all, because at the time you could find yourself
12 with a member of the armed forces who didn't even know what the term "code of
13 conduct" meant; he didn't know the term. So there was a problem with the
14 dissemination of the code of conduct. Who was responsible for distributing the code
15 of conduct? It's the general staff that has to answer that.

16 Q. Following on from what you've said, what language was the code of conduct
17 drawn up in?

18 A. The code of conduct was in French, and French was not the language which
19 most of the lower-class members of the military forces understood. Most of the
20 soldiers, most of the soldiers recruited in the course of work, were mainly illiterate.
21 Some of them didn't even know how to write or read.

22 Q. You talked about a soldier who was sentenced to death for killing civilians,
23 unless I'm mistaken. Was that a case covered by the code of conduct?

24 A. Well, yes. When a problem of this type arises, the code of conduct was in the
25 bottom of a drawer and people would get it out and brandish it. They'd say: This

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1 rule has been infringed and therefore there must be punishment.

2 Q. To conclude on this point, you said that the soldiers were trained. Was the
3 code of conduct explained to the soldiers as part of their training?

4 A. Could we go into private session? Your Honour, could we briefly go into
5 private session?

6 *(Private session at 3.41 p.m.) Reclassified as Open session

7 THE COURT OFFICER: We are in private session, Madam President.

8 THE WITNESS: (Interpretation) Well, on this question I am a witness of this
9 because I went through the training programmes. (Redacted)

10 (Redacted)

11 (Redacted) In none of those three training programmes

12 was there any presentation of the code of conduct. It was never presented. We
13 never had any session as part of a class presented by an officer or at a weekend where
14 people showed us the code of conduct, where we were told this, this. The Army for
15 the Liberation of the Congo Code of Conduct which says this, that and the other.

16 Never. I can't say that it was the same in all other training sessions --

17 PRESIDING JUDGE STEINER: Maître, can we turn back into open? Not yet?

18 MR BADIBANGA: (Interpretation) No, your Honour, I would like to now
19 introduce the subject in private session. Then we'll go into open session.

20 Q. Witness, I would like to talk about any trips that Jean-Pierre Bemba may have
21 made outside his country and, now in private session, I would like to talk about
22 whether (Redacted) Jean-Pierre Bemba

23 to Tripoli. Do you know if Jean-Pierre Bemba also went to Bangui during this time?

24 A. To my knowledge, he did not.

25 Q. So (Redacted) Jean-Pierre Bemba to Bangui at that period of time?

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1 A. (Redacted) and I didn't have any knowledge of him making any
2 trip to Bangui at that time. I have no knowledge of that.

3 MR BADIBANGA: (Interpretation) Your Honour, we can return to open session.

4 PRESIDING JUDGE STEINER: Court officer, please turn into open session.

5 (Open session at 3.44 p.m.)

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

7 MR BADIBANGA: (Interpretation)

8 Q. Witness, we are in open session. Now, if any point could identify you I would
9 ask you to do as you did a couple of moments ago. Did you have an opportunity to
10 find out whether Jean-Pierre Bemba was in contact with President Ange-Félix
11 Patassé?

12 A. Yes, yes, absolutely. They were in communication; they spoke by telephone.

13 Q. Do you know how often they spoke by telephone?

14 A. No, I can't give you any information on that. I have no idea at all.

15 Q. Do you know what name Jean-Pierre Bemba used when he spoke to President
16 Ange-Félix Patassé?

17 A. His Excellency the President, Jean-Pierre Bemba, and the late President Patassé,
18 had a relationship where President Patassé called Bemba "son" and Jean-Pierre Bemba
19 called the president "papa."

20 Q. Without identifying your sources, if there are any, did you have any knowledge
21 of the content of the conversations between Jean-Pierre Bemba and President Patassé?
22 You say they were often in contact by telephone.

23 A. No, I had no way of knowing what the content of the conversations was. (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 So it would be difficult to tell you about any content about the discussion they had.

3 Q. Witness, we have ten minutes left. I would like to move ahead very quickly,
4 but I shall speak slowly for the transcript. I would like to go quickly through the
5 transcript of 9 September, so that is at the hearing of last Friday. You gave us some
6 information, and I would just like to make sure that I have understood exactly what
7 you meant. These are quite short questions, and I trust that you will be able to give
8 us brief, accurate answers.

9 Each time, your Honour, this is the transcript of Friday, 9 September, 158, and each
10 time I shall give you the page reference in French and also in English. I shall start on
11 page 10, lines 11 to 12. That's for the French version. In the English version, it's
12 page 10, lines 16 to 17.

13 Witness, in answer to a question, you said, "I think that His Excellency Jean-Pierre
14 Bemba was above the crowd. He was between the military branch and the political
15 branch," and the question was to know whether in this structure, the political-military
16 council, Jean-Pierre Bemba was more a politician or a military person. You said he
17 was halfway between them. And so my question is: Are there other members of
18 the MLC or of the ALC which were in that sort of position, halfway between the
19 military branch and the political branch?

20 A. No. To my knowledge, when you look at the list of members of the
21 political-military council, they were either members who were entirely military and
22 others who were entirely political. There was just the president who was both
23 President of the MLC and Commander-in-Chief of the army, so he had the two roles
24 to play.

25 Q. You told the Court about your beliefs last Friday and you talked about a

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1 mission which you thought was a divine mission which Jean-Pierre Bemba had, and
2 then you said that the situation got worse. From the time there was a change of
3 direction, the fact that there was -- went to Bangui changed the mission, and I'm
4 quoting you. You said, "From that time on, we had lots of problems within the
5 movement. There were lots of people who left. There were lots of people who
6 defected and (Redacted)
7 (Redacted)"

8 The reference in French, your Honour, is page 31, lines 14 to 17, and in the other one
9 is 32, 16 to 19.

10 And what I would like to know, Witness, is when you say there was frustration, what
11 was the response, or the reaction, (Redacted) about the
12 frustration within the ranks of the MLC?

13 A. Here I must recognise that he was very responsive to these (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted). He was very interested in this.

17 Q. We're in private session. I would like to get to the end --

18 PRESIDING JUDGE STEINER: You are in open session.

19 MR BADIBANGA: (Interpretation) Excuse me, your Honour. We are in open
20 session. We are in open session and I don't want to go into details. Sorry, it was a
21 slip of the tongue. Yes, we are in open session.

22 Q. Witness, a few lines later, and I shall quote you again, you say, "And so I saw
23 that as my huge mistake, or the big mistake, the big mistake made by the president to
24 take action in a foreign country, with the result being that there's no such war as a
25 clean war because you should know from the outset that, when you take action, there

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1 can always be collateral damage."

2 Is this your analysis, or are you saying that Jean-Pierre knew or must have known
3 that you couldn't avoid collateral damage? What did you mean by this?

4 A. In all sincerity, if I had been involved in the assessment about intervening in
5 Bangui, I would have persuaded my leader at the time not to do that. What do I
6 mean? Well, it's very clear. You can never say that there's a clean war, and when
7 you embark on a war, you have to expect all sorts of things to go wrong, everything
8 possible can go wrong. That was my personal view. I'm just committing myself to
9 that, that's my personal analysis. I'm only committing myself to that. Now,
10 perhaps he doesn't know it; perhaps he didn't know it at the time.

11 We used to have prayers and fasts for the movement, and there were people who
12 weren't even with the movement, and we used to fast because we believed, we
13 honestly believed that he did have this mission to free the people of the Congo.

14 Q. The last two questions on the transcript, very briefly, still at transcript 158 from
15 Friday, the 9th, page 40, lines 6 to 7 in French, and in English, page 41, lines 23 to 24.
16 Now, I just want to make sure that I've understood you. You've said -- "Did all the
17 units have radios, or did only some of them? That was the question. And at lines 8
18 and after, you say that "The communication networks were very well organised, that
19 there was a communications centre in the ANC -- ALC."

20 Now, my question is this: Were the MLC troops in the Central African Republic
21 equipped with radios?

22 A. Yes, indeed. When there were troop movements, the troops always moved
23 with their communication centres, always.

24 Q. Was the radio coverage sufficient to go from Gbadolite to Bangui?

25 A. Yes, indeed. You could go from Gbadolite to Zongo, and Zongo, as I said, was

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1 on the border, across the border from Bangui in the Congo, and there was no radio
2 communication problem. Bangui was just on the other side, so there'd be no
3 problem there. Why would there be?

4 Q. Witness, this is my last question. According to your observations, and we are
5 in open session - I'm trying to find a general conclusion from you here. From your
6 observations, what sort of control did Jean-Pierre Bemba have over the MLC and the
7 ALC, in your opinion?

8 A. I shall be brief on this question. For the political branch, I admit that his
9 influence was somewhat flexible because he could get different directors taking
10 action in different situations. But for the military branch, he was very attached to
11 the military branch because it's the military branch that was the real structure of the
12 movement. Without the military branch, we would never have existed.
13 It was the military branch that was the backbone and he had very strong links and
14 relationships with those military people, so he had much greater influence on the
15 military branch than he did on the political branch.

16 MR BADIBANGA: (Interpretation) Witness, I have no further questions for you.
17 Your Honour, I have concluded. I thank you.

18 PRESIDING JUDGE STEINER: Thank you very much, Maître Badibanga.

19 Mr Witness, Prosecution concluded your questioning and it is, as well, time for us to
20 adjourn for today. Our interpreters, court reporters and yourself need to take some
21 rest. Tomorrow we will resume at 9.30 in the morning. You will be first
22 questioned by the legal representatives of victims, Maître Zarambaud and
23 Maître Douzima, and soon after Defence will start questioning you. So we hope you
24 have a very, very restful night.

25 I thank very much the Prosecution team, legal representatives of victims, the

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1 Defence team, Mr Jean-Pierre Bemba Gombo. I thank very much our interpreters
2 and court reporters.

3 We are turning now into closed session for the witness to be taken outside the
4 courtroom and, in the meantime, we will adjourn and resume tomorrow morning at
5 9.30.

6 *(Closed session at 4.00 p.m.) Reclassified as Open session

7 THE COURT OFFICER: We are in closed session, Madam President.

8 (The witness stands down)

9 THE COURT OFFICER: All rise.

10 (The hearing ends in closed session at 4.01 p.m.)

11 RECLASSIFICATION REPORT

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

13 ICC-01/05-01/08-3038 and the instructions in the email dated 24 September 2013, the

14 version of the transcript with its redactions becomes Public