

Trial Hearing
Witness: CAR-OTP-PPPP-0009

(Open Session)

ICC-01/05-01/08

1 International Criminal Court
2 Trial Chamber III - Courtroom 1
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08
5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and Judge Kuniko Ozaki
6 Trial Hearing
7 Wednesday, 4 May 2011
8 (The hearing starts in open session at 9.34 a.m.)
9 THE COURT USHER: All rise. The International Criminal Court is now in session.
10 Please be seated.
11 THE COURT OFFICER: Good morning, your Honours, Madam President. We are
12 in open session.
13 PRESIDING JUDGE STEINER: Good morning. Could, please, the court officer call
14 the case.
15 THE COURT OFFICER: Yes, Madam President. Situation in the Central African
16 Republic, in the case of The Prosecutor versus Jean-Pierre Bemba Gombo, case
17 reference ICC-01/05-01/08.
18 PRESIDING JUDGE STEINER: Thank you very much. I welcome the Prosecution
19 team. Maître Zarambaud, good morning. I notice that Maître Douzima was not
20 able to be present at today's hearing.
21 MR ZARAMBAUD: (Interpretation) Your Honour, unfortunately I cannot confirm
22 whether he (sic) will be present or absent.
23 PRESIDING JUDGE STEINER: Good morning and welcome the Defence team,
24 Mr Jean-Pierre Bemba Gombo. Good morning to our interpreters, court reporters.
25 We will continue today with the questioning of Witness 9, and for that purpose I ask

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1 please the court usher to bring the witness in.

2 (The witness enters the courtroom)

3 WITNESS: CAR-OTP-PPPP-0009 (On former oath)

4 (The witness speaks French)

5 PRESIDING JUDGE STEINER: Good morning, sir. I'm not sure your microphones
6 are working properly. Are you listening?

7 THE WITNESS: (Interpretation) I can hear you perfectly well.

8 PRESIDING JUDGE STEINER: Good morning and welcome back. I hope you had
9 the opportunity to rest and that you are ready to continue giving your testimony.

10 THE WITNESS: (Interpretation) Yes, madam.

11 PRESIDING JUDGE STEINER: I have to remind you, sir, that you are still under
12 oath. Do you understand that?

13 THE WITNESS: (Interpretation) Yes, indeed, I do.

14 PRESIDING JUDGE STEINER: I need as well to remind you about the need of
15 speaking slowly and giving the five-seconds' space between the question that is put
16 to you and your answer in order to allow our interpreters to work properly. I thank
17 you very much for your cooperation, sir.

18 THE WITNESS: (Interpretation) Thank you, madam.

19 PRESIDING JUDGE STEINER: Ms Kneuer.

20 MS KNEUER: Thank you, Madam President.

21 QUESTIONED BY MS KNEUER: (Continuing)

22 Q. Good morning, Mr Witness. Welcome back to this courtroom.

23 A. Thank you very much, madam.

24 Q. I'm glad to hear that you rested well and I will start my questioning this
25 morning with two clarification questions, please. Yesterday you were talking about

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1 potential limitations that you faced and I will quote from the unedited transcript,
2 English version, page 20, lines 3 to 20, and then I will ask you a follow-up question.
3 "What was the geographical scope of your investigations?" And you responded, "In
4 fact, the investigation was to cover the whole of the Central African Republic
5 theoretically. I was supposed to gather information from all over the country, but
6 I was not able to do so, so I confined myself simply to the city of Bangui. For
7 reasons of security we were not able to go into the provinces but, in fact, the referral
8 was for an investigation covering the whole of the territory." Question from my side,
9 "At that time, were you able to travel outside of Bangui?" And your response was,
10 "From the investigation, madam, no. I was saying that for reasons of safety there
11 was such lack of safety at the time that, out of precaution, we confined ourselves
12 exclusively to Bangui. Now, that doesn't mean that some people from the provinces
13 didn't come to Bangui to be a witness and to give their testimony; they would come
14 from the provinces to Bangui, but I personally was not able to conduct any
15 investigations out of Bangui," end of quotation.
16 Sir, I understand from this evidence that you were not able to travel outside of Bangui
17 and to conduct any investigations outside of Bangui. Were you in a position to
18 conduct on-site inspections in Bangui and its area?
19 A. No, madam. No, I remained within my chambers and it was in my chambers
20 that I interviewed people. I was not able to go out into the quartier, into the
21 neighbourhoods, because in fact it was not necessary.
22 Q. Also yesterday you provided us information about medical certificates that the
23 victims provided to you and which you kept, and I'm referring to page 26, lines 1 to 8,
24 of the unedited English transcript, and I will quote two sentences out of that. You
25 responded, "When they had a medical certificate they were retained. We kept them.

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1 Of course, all these reports with medical certificates were among the main ones we
2 decided to maintain." Were you able to collect any other evidentiary documents in
3 the course of your investigations?

4 A. Medical certificates were appended to the reports sent to us by the Ministry of
5 Social Affairs. The reports coming from that particular unit were included into a
6 case file for us to peruse. Any other evidentiary documents, I told you that the
7 investigation wasn't confined only to rape but also financial crime, and on the point
8 of financial crime we also received evidentiary documentation that we included in the
9 case file, but only concerning financial crimes.

10 Q. Thank you, sir. Apart from the MLC troops, did your investigation uncover
11 the commission of rapes by any other group?

12 A. Indeed, the referral did not only mention the MLC. I believe that our
13 investigation also concerned Miskine's men. They also perpetrated crimes, and
14 some other militias active at the time which were more or less in the service of the
15 regime that was overturned. So it was not confined only to MLC people.

16 Q. Miskine's men and some other militia groups that you just mentioned, which
17 type of crimes did they perpetrate?

18 A. Miskine's men, in light of the investigation that I was able to lead, were really
19 more guilty of crimes such as murder, many Muslims, at least four of them, who were
20 killed, and they also looted property and robbed certain people in provincial towns.
21 Apart from Miskine's men, there were other militia groups, yes, but they only
22 committed isolated crimes, not really very important.

23 Q. Do you recall in which locations - areas or districts or towns - these crimes that
24 you just described were committed by Miskine's men or the other groups?

25 A. I think that at PK12 there was some cases of murder of Muslims and in the

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1 towns in the north of the country. Their victims were preferably Muslims and also
2 tradesmen but, to my knowledge, such cases were not numerous, not really on a very
3 large scale as was the case with the MLC crimes. Paul Barril's men also committed
4 some crimes in the provinces. Two or three people, I think, may have been killed by
5 them, to my knowledge.

6 Q. The conflict in which the MLC troops were involved and which resulted in
7 numerous large-scale crimes, was this conflict driven by ethnic reasons?

8 A. It is very difficult for me, madam, to give you an answer. Perhaps you should
9 be asking the MLC troops themselves. I do not know the reason why they
10 perpetrated such crimes.

11 MS KNEUER: Madam President, I would like to show to the witness the
12 ordonnance. I will not use the document as such, but I would like to identify it to
13 him. With your permission, I would hand over a hard copy, please.

14 PRESIDING JUDGE STEINER: Court usher, please.

15 MS KNEUER: For the record, it's CAR-OTP-0019-0137.

16 PRESIDING JUDGE STEINER: The Defence wants the document to be displayed,
17 this document number 8 -- number 7 of the Prosecution list of evidence. Could,
18 please, court usher -- court officer, put the document on the screens. Defence asks
19 now the document to be displayed. This document is still classified as confidential;
20 therefore, I ask, please, the court officer to determine that the blinds should be
21 lowered.

22 THE COURT OFFICER: Madam President, document CAR-OTP-0019-0137 is
23 available on your screens by pushing the button "PC1," and it's classified as
24 confidential.

25 PRESIDING JUDGE STEINER: I suppose the document already has an EVD-T

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1 number? Or not? Is the Prosecution tendering this document into evidence?

2 MS KNEUER: Yes, Madam President, the Prosecution is planning to tender this
3 document into evidence.

4 PRESIDING JUDGE STEINER: You can proceed, Ms Kneuer.

5 MS KNEUER: Thank you very much, Madam President.

6 Q. Mr Witness, you have in front of you a document. Can you please tell us what
7 this document is?

8 A. Yes. This is the final ordinance on the case file, the final ordinance.

9 Q. Who generated this ordinance?

10 A. It is I, as investigating judge.

11 Q. When did you generate that document?

12 A. I believe that you will find the date on the last page. It was drafted on
13 16 September 2004.

14 Q. Can you find your signature in that document?

15 A. Yes, of course. I'm quite familiar with the document. Yes, there it is.

16 MS KNEUER: Thank you, Mr. Witness. I don't need this document any more,
17 Madam President, your Honours. I will ask simply some questions to the witness,
18 but I don't need the document. In light of the decision of the Appeal Chamber of
19 yesterday, I would like to tender the document into evidence.

20 PRESIDING JUDGE STEINER: Could, please, court officer assign an EVD-T number
21 to the document.

22 THE COURT OFFICER: Yes, Madam President. Document CAR-OTP-0019-0137
23 will be attributed reference EVD-T-OTP-00608 and will be classified as confidential.

24 PRESIDING JUDGE STEINER: Thank you very much. The blinds can be lifted.

25 MS KNEUER:

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1 Q. Mr Witness, from your investigations can you please tell the Court which type
2 of crimes were committed in the Central African Republic from October 2002 until
3 March 2003?

4 A. The referral concerned rape, murder, looting, misuse of public funds and crimes
5 committed against the safety or security of the State, murder, kidnapping, deliberate
6 and intentional bodily harm to people, property damage, so on and so forth.

7 Q. The victims that you interviewed during the course of your investigations, who
8 did they report to be the perpetrators of the rapes, murders and killings -- sorry,
9 lootings they suffered from?

10 A. The cases of rape, looting, were essentially attributed to MLC troops. There
11 were also some isolated cases of murder that were attributed to Miskine's men, but it
12 was mostly MLC troops that were being accused. My role was to collect the
13 necessary data and evidence and I did what I had to do at the time. Most people
14 who came forward voluntarily came to see me and told me that they had been victims
15 of MLC troops.

16 Q. Do you recall the circumstances in which the MLC soldiers raped the victims?

17 A. I believe I have already said that at the time of the events I was not living in
18 Bangui, so I was not an eyewitness to these events and so it would be very difficult
19 for me to describe the circumstances under which these crimes were accused -- were
20 committed. However, if you look at the minutes, the records, the procès-verbaux,
21 I'm sure you will find there the necessary description you're looking for.

22 Q. Thank you, Mr Witness. Sir, do you have any recollection what the victims
23 reported to you with regard to the method or pattern of the perpetrators?

24 A. Well, generally speaking they would go into people's homes, or even in the
25 fields they would commit rape, and after the rape there may have been looting and at

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1 times deliberate and intentional wounding of people. There wasn't any ideal
2 specific place for the commission of these murders. They could take place anywhere:
3 In people's homes, out in the fields, on the roads.

4 Q. Do you recall from your investigations the circumstances in which the MLC
5 troops committed looting?

6 A. No, these are things that happened out in the battleground and I don't actually
7 have the necessary information on that. Personally, I know little about that.

8 Q. Sir, I understand that you were not an eyewitness. However, from the
9 investigation that you conducted and the victims that you heard, do you know or
10 recall what items were looted and any other information with regards to the lootings
11 by the MLC troops?

12 A. Items? Well, there were items of different nature. They took anything that
13 they were interested in that was within their reach, things that they were interested in
14 that they would loot, and then they would take little by little over on to the other side
15 of the river. They would steal from private individuals, but also from shops. So
16 the answer to your question is items of a variety of types, and how did they transport
17 them? On their vehicles. At times themselves they would just take these items that
18 were within their reach and would take them to a place where they would sell them
19 so as to try and get rid of them as quickly as possible. They would usually sell them
20 very close to the camps where they were based. They could take for instance a
21 lady's wrap, a wrap-skirt, that would cost about 5,000 francs, and they would sell it
22 for 1,000 francs so as to get rid of it as quickly as possible.

23 Q. From your investigations, sir, can you share with us any information you may
24 recall with regard to the circumstances in which the MLC troops committed murder?

25 A. It is very difficult for me to say so. The referral came to me some six months

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1 after the facts. Some people came with medical certificates. Others didn't have
2 medical certificates and simply came to describe the facts, and the circumstances, as I
3 said earlier, were of many different types. It's very difficult really to tell you exactly
4 under which circumstances all of this happened.

5 Q. From your investigations can you please tell the Court what, if any, were the
6 worst areas attacked by the MLC troops?

7 A. The neighbourhoods or quartier in the north of the city were plundered by the
8 MLC troops, and then PK12, also PK16, PK22 on the road to Damara and on the road
9 to Boali. These were the quartier - the neighbourhoods - that were the hardest hit.
10 Also, Mbongo, Boy-Rabé. So all the areas in the north of the city were the hardest hit
11 and most plundered by these people.

12 Q. From your investigations, how would you describe the attitude and behaviour
13 of the MLC troops against the CAR civilians?

14 A. Well, you know, the very first obstacle we encountered with the MLC people
15 was the language barrier. Communication was not easy with them because they
16 speak Lingala, whereas our population speaks Sango, which means already
17 linguistically there was a problem. And, you know, these are foreign troops who
18 did not hold the Central Africans dear. They didn't particularly care for Central
19 Africans. There were problems of co-existence with them, and Central Africans I
20 must say didn't particularly care for them either because they were somewhat brutal
21 and violent towards the local population. There were also road accidents that they
22 caused because they would take their vehicles and start speeding through the streets
23 of the city, and in other neighbourhoods some people threw up barricades so as to
24 stop them from speeding. This was a way of giving vent to their pent-up wrath. It
25 was the neighbourhood local inhabitants themselves who would throw up those

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1 barricades.

2 Q. From your investigations, Judge, could you tell the Court your conclusions on
3 why the MLC troops committed rapes, looting and killings?

4 A. Well, it wasn't only them, you see. There were also other troops out on the
5 ground. But the question I ask myself is, "Why? Why did they do that?", and
6 I think particularly of rape, and I'm afraid I cannot give you an answer. Why did
7 they do so? Maybe because they were in the habit of doing so. Maybe they have
8 other reasons, I do not know. Personally, I do not really know why they behaved
9 like that.

10 Q. Did you learn about any reasons during the course of your investigation
11 provided by victims and witnesses?

12 A. No, madam.

13 Q. From your investigations, are you able to tell the Court if MLC commanders in
14 the Central African Republic were aware that the soldiers were committing crimes
15 against CAR civilians?

16 A. MLC troops, while they stayed at the Central African Republic, were totally
17 autonomous. At the time of investigation, I asked some officers about that and I got
18 no answer. Perhaps the only commander of the MLC whose name was mentioned
19 was Mr Mustapha, and it is difficult for me to know whether Mr Mustapha actually
20 knew what his men were doing.

21 Q. Sir, when you are saying that the MLC troops were totally autonomous, what
22 do you mean by that?

23 A. I collected that information from the interviews of some of the CAR officers.
24 The MLC troops had their own command structure, different from the command
25 structure of the armed forces of the Central African Republic. I said yesterday that

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1 every commanding officer had his own men and from the investigation I realised that
2 they reported to the Head of State, who was -- whose regime was overthrown
3 afterwards, but as to what their actual structure was within the MLC I do not know.
4 Perhaps you would have to ask the actual commanding officers who led operations in
5 the field?

6 Q. When you are saying that every commanding officer reported to the Head of
7 State, to which officers of which group are you referring specifically?

8 A. The person who gave me that information was an officer from the Central
9 African Republic. I think it was the Chief of Staff at the time and I communicated
10 the name of that person to your investigators. I was told that there was no
11 coordination, there was no coordination at all among the various groups; FACA, the
12 presidential security detail, the MLC troops who were working, who were fighting
13 for the Head of State. They each had their own command structures and each of
14 them responded and answered directly to the Head of State. The presidential
15 people, the MLC, the FACA, so you would have to ask the generals and the
16 commanding officers of all these various groups, both the regular troops and the
17 other troops. This is what I was told and the evidence I was able to gather in the
18 course of my investigation.

19 Q. I will ask you for the name of that officer in a private session at the end of the
20 questioning, sir.

21 A. Thank you, madam.

22 Q. Do you know from your investigations if the MLC troops were punished for the
23 rapes, killings and lootings they committed in the Central African Republic?

24 A. I don't know, madam. I don't have any information about that point, about
25 that question.

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1 Q. Do you know if any MLC soldier was placed on remand?

2 A. Do you mean taken -- do you mean taken back to the DRC or in the CAR? In
3 the CAR nobody, I don't think, was called to account and then on 15 March they left
4 very quickly. In any event, in the CAR none of the soldiers were called to account
5 for their actions. What happened in the DRC is different and I can't provide you
6 with any information on that.

7 Q. Do you know from your investigations whether Mr Bemba took steps to stop
8 the abuses of his troops against the CAR civilians?

9 A. According to the investigation, I don't believe so. I don't actually know but I
10 don't think so. The only measures that were taken were not taken by the
11 government at the time. I believe they wanted to forbid soldiers from moving back
12 over the river with some of the property, but that was not a measure taken by the
13 MLC and was not a measure taken by Mr Bemba either. And that was when the
14 MLC men were still in the country and were when Mr Patassé was still in office.

15 Q. What is the basis of your knowledge to the extent that you are saying that
16 Mr Bemba didn't take measures?

17 A. I don't -- I'm not saying he didn't take measures. I'm saying that I don't know
18 about any measures he may have taken in that area.

19 Q. You stated that measures were only taken by the government at that time. Can
20 you elaborate further on that, which government exactly and what measures were
21 taken?

22 A. The booty was systematically taken to the other side of the river. It was
23 immediately taken over to Zongo, into Zaire, and I think that the government at the
24 time, they gave instructions to forbid the carrying across the river of these goods.
25 We took a certain number of -- there were a certain number of soldiers that we saw on

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1 the banks of the river and then we told them that they were not allowed to carry
2 anything across the river, anything that might have been considered as being any
3 kind of booty, and I got that information from my investigation.

4 I was not there, I did not personally see that, but this is information that came to me
5 through my investigation. So it was Mr Patassé's government and at the time
6 Mr Ziguele was the Prime Minister.

7 Q. Sir, during your investigation, did you gain information about Mr Bemba
8 conducting an internal investigation into abuses committed by his troops?

9 A. I don't have that information, madam.

10 Q. Were you able to collect any information during your investigation with
11 regards to MLC troops establishing structures within the CAR for the prevention or
12 punishment of crimes committed by the troops of the MLC?

13 A. The MLC, as such, was not established in the Central African Republic, in the
14 Central African Republic. The MLC, I don't know if it's a political party, but they
15 didn't have a base in the Central African Republic. There were no structures, as far
16 as I know, that were established in the Central African Republic to punish those who
17 had been accused of the abuse that you mention, and the MLC men left very quickly;
18 they decamped very quickly. And I think that that's why, that they didn't have
19 enough time to identify the perpetrators of these acts and they did not have the time
20 to punish them as either. But in any event, they had no structure that was
21 constructed to punish the alleged perpetrators of any kind of crime.

22 Q. Do you know if the MLC authorities requested the support of the CAR judicial,
23 military or police authorities to investigate crimes allegedly committed by their
24 soldiers?

25 A. Not that I know of. Not the judicial branch. I would have known if that had

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1 happened at the time.

2 Q. From your investigation, sir, did Mr Bemba ever visit Bangui during the events?

3 A. I believe I already answered that question when your investigators interviewed
4 me. All of Bangui knew that during the events Mr Bemba came to Bangui at least
5 one time. He came at least one time to Bangui and he was received by Mr Patassé
6 who was the President of the country at the time.

7 Q. You just stated that, I quote, "all of Bangui knew that Mr Bemba visited Bangui
8 during the conflict." How did all of Bangui know about the visit; can you explain
9 that, please?

10 A. It was covered by the media. His visit was covered by the media, very widely
11 covered, and I believe -- and everybody was able to -- if they didn't see the media,
12 they were able to get information from other people. I -- people talked a great deal
13 about his visit in the Central African Republic. It was on everybody's lips.

14 Q. Do you know from your investigations how Mr Bemba travelled to the CAR?

15 A. No, I don't. I was not in Bangui at the time and I don't know how he came.
16 I think he came in an aeroplane, but I don't know exactly how he arrived at the city.
17 I gave you a name earlier, and I gave a name to your investigators, and I suggest that
18 you ask those people. They were very close to the deposed Head of State.

19 Q. Did your investigations reveal what the purpose of the visit of Mr Bemba was?

20 A. No, madam. I suggest that you ask the people who were working with the
21 Head of State.

22 Q. During the course of your investigations, did you learn if Mr Bemba met his
23 troops during his visit?

24 A. I think that that's part of a -- you know, common sense. His troops were in the
25 CAR. Obviously, he was the one who sent them there. I don't think that he could

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1 come to Bangui and not meet them, not speak to them. That's my personal opinion.

2 But I think that he must have, you know, spoken to his troops, at least the ones who

3 were in Bangui, or at least he must have spoken with his officers who were there.

4 But, once again, that is my personal opinion. It's my personal opinion, and I may be

5 proven wrong. We didn't have any kind of investigation to determine whether he

6 actually had, you know, contact with his troops.

7 PRESIDING JUDGE STEINER: Maître Liriss?

8 MR LIRISS: (Interpretation) He's saying that it's his personal opinion. We can't ask

9 a witness what he doesn't know. We can't ask him to speculate. And the question

10 which was put to him was a speculative question. We asked him for his personal

11 opinion.

12 PRESIDING JUDGE STEINER: Maître Liriss, I'm not sure whether the English

13 transcript reflects exactly what was said, but according to the English transcript, the

14 question was: "During the course of your investigations, did you learn if Mr Bemba

15 met his troops during his visit?" So I don't think this is speculative; it's whether

16 during the investigation the witness learned if Mr Bemba met his troops. Maybe

17 there is a problem with the transcript.

18 Judge Aluoch, please.

19 JUDGE ALUOCH: Sorry, in the same English transcript, I think it is when the

20 witness gave the answer that he said, "But, once again, that is my personal opinion.

21 It's my personal opinion and I may be wrong." That came in the answer and not in

22 the question, yes.

23 PRESIDING JUDGE STEINER: Ms Kneuer.

24 MS KNEUER:

25 Q. Sir, yesterday you told the Court that the MLC troops were under the command

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1 of Mr Bemba. From your investigations, do you know if Mr Bemba was aware of the
2 crimes being perpetrated by his troops?

3 MR LIRISS: (Interpretation) I would like the Prosecution to find in the -- give us the
4 references to the answers provided by the president saying that the MLC troops were
5 commanded by Mr Bemba.

6 PRESIDING JUDGE STEINER: Ms Kneuer, could you please give the reference as
7 requested by Defence?

8 MS KNEUER: If I may ask for a moment, Madam President.

9 Madam President, your Honours, I apologise for delaying the proceedings. I found
10 the relevant part in the transcript. I'm referring to the unedited English version, it's
11 page 53, line 10 onwards, and I quote, "Do you know from your investigations who
12 the overall leader of the MLC was at that time?" The response of the witness was,
13 "Of course, it was Mr Jean-Pierre Bemba. He was known in the country as being the
14 leader of the MLC."

15 PRESIDING JUDGE STEINER: Maître Liriss.

16 MR LIRISS: (Interpretation) Your Honour, I think we have to read what comes
17 afterwards in English. We have to see what comes after that question: "Do you
18 know who commanded the MLC troops on the ground in the Central African
19 Republic?" And the witness said "no" to that question. In English, page 41, line 15
20 to 17. So I don't think that we can stop at the -- just at the first question. I think
21 that we need to go a bit further than that.

22 PRESIDING JUDGE STEINER: Ms Kneuer, the objection made by the Defence is
23 sustained. The Prosecution itself many times asked Defence to read the whole part
24 of the transcript, not only pick and choose an excerpt of the transcript. You can
25 proceed.

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1 MS KNEUER: I will rephrase my question, Madam President.

2 Q. Mr Witness, yesterday you informed the Chamber that the overall leader of the
3 MLC is Mr Jean-Pierre Bemba. You also informed the Chamber that you do not
4 have knowledge who commanded the MLC troops on the ground in the Central
5 African Republic. From your investigations, was Mr Bemba aware of the crimes
6 being perpetrated by his troops?

7 A. That wasn't provided to me. I don't know whether Mr Bemba was aware of
8 what was going on or not, so I can't answer your question. During the investigation
9 we had a certain number of obstacles to overcome in order to really go into detail in
10 our investigation. So I would just like to repeat again that the MLC men operated in
11 an independent, autonomous manner, and our officers were not able to know what
12 was going on within those units, and we also were not able to speak to any of the
13 MLC soldiers. So I can't really answer your question; I cannot provide an
14 affirmative answer to your question.

15 Q. Mr Witness, you stated that victims have provided information to you that
16 MLC troops committed rapes, killings and lootings against them, and you also stated
17 that from your investigation the overall leader of the MLC was Mr Jean-Pierre Bemba.
18 Apart from the MLC's troops, whose overall leader Mr Bemba was, was there
19 anybody else or any other group responsible for the operations and actions of the
20 MLC in the Central African Republic?

21 A. I think that up until now Mr Bemba does not contest that he is the leader of the
22 MLC. We say that he was the leader, the president, the head of the MLC. And
23 throughout our investigation he was the only person who was indicated as being the
24 charismatic leader of the MLC. I also heard the name Mr Mustapha, but I don't
25 know any other people and I don't have knowledge of what Mr Mustapha's rank was.

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1 I don't know if he was the commander of overall field operations, was he in charge of
2 a smaller unit; I don't know. I can't answer your question.

3 Now, with regards to what was going on the field, who commanded them, I don't
4 know. Was it Mr Bemba directly? Was it somebody else? I don't know. I can't
5 answer your question.

6 MR LIRISS: (Interpretation) I am objecting to the insidious nature that the
7 Prosecution is pushing the witness into giving an answer that the Prosecution seeks.
8 They seem to be almost pushing him into a certain direction. The witness said that
9 in terms of the operations, that the MLC troops reported to Mr Patassé.

10 I'm having a difficult time with my computer, unfortunately. It's hard for me to
11 scroll down.

12 The question was, "Yesterday you said that the leader of the MLC was ... " -- I'm
13 recalling this from memory because I can't get the information on the screen, "... was
14 Mr Bemba."

15 Page 21, beginning on line 16, 16 to 23, the question such as it is posed is as though
16 the witness had said that Mr Bemba was commanding the troops of the MLC in the
17 Central African Republic. You can read that question again for yourself and you
18 will see that this is not at all what the witness stated.

19 PRESIDING JUDGE STEINER: I'm not so sure if I agree with you. Ms Kneuer.

20 MS KNEUER: Madam President, do you want me to respond, or to proceed?

21 PRESIDING JUDGE STEINER: I want you to respond, please.

22 MS KNEUER: Well, I think that learned Defence counsel is interpreting my question
23 in a way which does not reflect what I said. I cannot read in my question what
24 learned Defence counsel is stating that I may have said. The information I put to the
25 witness is information that is in the record and actually is a very open question

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1 because I'm asking him, "Who was responsible?" He could have given any potential
2 possible answer.

3 PRESIDING JUDGE STEINER: Maître Liriss, the interpretation to be given to the
4 wording here "overall leader Mr Bemba," the Chamber will pay attention to the
5 proper interpretation of that. As a matter of fact the question is whether there was
6 anybody else or any other group responsible for operations, so there is no problem at
7 all with the question. In relation to the first part, on what the witness could have
8 said, the Chamber will be aware of the interpretation to be given. The witness can
9 answer the question.

10 THE WITNESS: (Interpretation) Thank you. Well, I think it would be more
11 appropriate to ask the officers who were on the ground this question. They might be
12 able to give you the details. From what was said to me during the investigation
13 and -- well, the only leader whose name was given to me was Mr Mustapha. That
14 was what was said to me. I cannot say to you whether there was Mustapha, or any
15 other people, because from our offices we cannot know what is going on, and the
16 work that I have to do here is to simply repeat to you what was said to me during the
17 investigation. It is not up to me to add or take away anything. I have already
18 given you some names, and I think those military officers when they shall come here,
19 well, they can easily answer those questions.

20 MS KNEUER:

21 Q. Sir, did you have the opportunity to make a recommendation on the
22 accountability of Mr Bemba for the crimes committed?

23 A. Thank you. Well, we carried out our investigation during rather a troubled
24 period, and indeed in the initial submission there was the question of whether Bemba
25 should be prosecuted for what his troops had done. The investigation began in 2003.

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1 It ended in 2004, I think towards the end, i.e. November 2004. In the meantime,
2 things had changed. Initially Mr Bemba was still in the rebellion, and naturally he
3 was concerned, involved, in this investigation. By the end of the investigation, he
4 was a member of the Congolese government. I think he was Vice-President. And
5 of course this -- the Democratic Republic is a friend of the Central African Republic,
6 so maintaining Mr Bemba in the list of persons charged could create problems with
7 this neighbouring country. The responsibility of Mr Bemba, well, when you read
8 my final report we set him aside. He was already a member of the government and
9 we -- it wasn't a good idea to continue investigating on this side.

10 The second difficulty we came up against was that we -- in our country, we didn't
11 really have people who were able to give us enough information about Mr Bemba.
12 The people in a better position for that were the leaders of the former regime, who
13 had all fled, and Mr Bemba's men also withdrew. So we didn't have enough
14 information. That's so much for what I can say about his responsibility, his
15 accountability.

16 Q. You stated that, and I quote, "We set him aside," quotation end, and this refers
17 to the final report that you submitted. Who do you refer to by "we"?

18 A. Well, I'm thinking of the whole package and myself as the investigating judge.
19 The investigation began and then there were changes toward the end. We were
20 given the last - the final - Prosecutor's application, or submission, and this issue was
21 raised, and in the Prosecutor's submission we were told that Mr Bemba was no longer
22 a rebel. He was now a member of government, an established authority of the
23 Democratic Republic of the Congo and that there was no need to maintain him as a
24 person charged and refer him for trial. The reasons provided by the Prosecutor,
25 we -- well, we deemed them to be appropriate and so we went along with that

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1 recommendation, but I would like to point out that the order, the same day it was
2 notified to the Prosecutor, well, there was an appeal. The file was immediately
3 given to the Chamber of Accusation, which took up the file. Were there any
4 amendments made as regards Mr Bemba? I cannot say, but these are the reasons
5 that led us to set aside Mr Bemba; i.e., purely political reasons. As for the Chamber
6 of Accusation, what they decided, it seems to me that the Court of Cassation was
7 also -- well, that file was also referred to it. Was anything changed at that stage? I
8 cannot tell.

9 Q. What was your recommendation with regards to other suspects that were listed
10 by the Prosecutor in his referral to you?

11 A. Well, on the last page of the order you see naturally this concern covered a lot of
12 people. Those for which the charges were not established were not charged,
13 whereas when charges were sufficient they were referred for trial. Are you thinking
14 in terms of specific names? Well, as you can tell, some people were not charged,
15 whereas others were.

16 Q. What was your recommendation with regards to Mr Patassé?

17 A. Mr Patassé was -- well, he was referred for trial. He was one of those who
18 were charged and sent to trial before the criminal court. There was also Mr Miskine
19 and a few others. Patassé was one of the ones who was referred for trial.

20 Q. What charges were brought against Mr Patassé?

21 A. Thank you. Well, you have the order. It's very easy for you to read it. There
22 are a number of charges: Murder; for instance, he was considered to be an
23 accomplice in massive scale rapes; also an accomplice of cases of murder and others;
24 and embezzlement of public funds. You have the order and you can easily refer to it
25 and find out why he was committed for trial.

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1 MS KNEUER: Madam President, I'm about to move to the next topic and perhaps
2 it's helpful to continue after the break?

3 PRESIDING JUDGE STEINER: Thank you, Ms Kneuer. Mr Witness, we will have
4 now 30 minutes' break in order for you and for our interpreters and court reporters to
5 take some rest. We will resume at 11.30. I ask, please, the court usher to
6 accompany the witness outside the courtroom.

7 (The witness stands down)

8 PRESIDING JUDGE STEINER: The hearing is suspended.

9 THE COURT OFFICER: All rise.

10 (Recess taken at 10.57 a.m.)

11 (Upon resuming in open session at 11.33 a.m.)

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

13 PRESIDING JUDGE STEINER: Welcome back. We'll continue with the questioning of
14 Witness 09 by the Prosecution. Could, please, the court usher bring the witness in.

15 (The witness enters the courtroom)

16 PRESIDING JUDGE STEINER: Welcome back, Mr Witness. Are you listening to what I
17 say?

18 THE WITNESS: (Interpretation) Yes, I can hear you, madam.

19 PRESIDING JUDGE STEINER: Ms Kneuer, you have the floor.

20 MS KNEUER: Thank you, Madam President. Welcome back, Mr Witness. I have a
21 few more questions for you, but I think we can finish the Prosecution's questioning before
22 noon.

23 Madam President, I would like to show the witness a portion of his statement; it's
24 CAR-OTP-0010-0120 at page 0143. It's a confidential document and I kindly ask your
25 Honours to grant the lowering of the blinds.

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1 PRESIDING JUDGE STEINER: Court officer, please.

2 THE COURT OFFICER: Madam President, document CAR-OTP-0010-0120 is available
3 on your screens. It's a confidential document and it has been attributed the EVD
4 reference which is EVD-T-OTP-00046.

5 MS KNEUER: I kindly ask the court officer to scroll down a few lines, please.

6 Q. Mr Witness, this is one of the statements you gave to the investigators of the OTP
7 and I kindly ask you to read for us out-loud a portion. It starts from the 7th line off the
8 top with the words "Est-ce que vous avez acquis Mustapha c'est rapporté," and please
9 read --

10 A. "Do you know who Mustapha reported to, to whom he reported?" Yes, yes, yes,
11 that is why I asked you to spell that out. According to the file, he reported to his leader
12 Jean-Pierre Bemba and to Patassé, according to the officers, some of the officers that I
13 heard. "Do you know how he reported?" No, I did not know. I don't know, but what
14 is certain is that he reported about his operations to Patassé who, naturally, is the overall
15 commander of the armies here. And his chief, his leader, Jean-Pierre Bemba sent him
16 here. "Do you know from who and how he received his orders?" I don't know. I
17 cannot know that. "Do you know what means of communication he used to oversee
18 what was going on on the ground or to communicate with his leader?"

19 THE INTERPRETER: "With their leader," interpreter's correction.

20 MS KNEUER:

21 Q. Thank you very much, Mr Witness. Do you recall having stated this during the
22 interview to the investigators of the Office of the Prosecutor.

23 A. Yes, absolutely, madam.

24 Q. Do you stand by this statement today?

25 A. Yes, that's what I said last time, except that -- well, you know, this goes back a long

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1 way, this file, and it's very difficult for me to remember all of its contents. I said that, and
2 if I did that it's because a witness told me so. I think it's enough to look at the
3 procès-verbaux of these statements by the witnesses in the file to confirm this information.
4 I would advise you, I think I've given the names to your investigators - and I can give
5 them to you once again - and you can, no doubt, contact some of these officers who can
6 either confirm or challenge what I said.

7 MS KNEUER: Thank you very much, sir. Madam President, I don't need this document
8 any further.

9 PRESIDING JUDGE STEINER: Ms Kneuer, if you allow me, just -- since we are already
10 with the blinds down, I would like to have on the screen the document

11 CAR-OTP-0010-0187 which is the French version of a statement that starts with the 0170.

12 THE COURT OFFICER: Madam President, the document is available on your screens at
13 page CAR-OTP-0010-0187.

14 PRESIDING JUDGE STEINER: So I would ask, please, Mr Witness, to read. It's in the
15 middle of the page, when it starts with "Maintenant, je vais vous demander par rapport à
16 la conclusion." If you could, please, read this, from this point onwards.

17 THE WITNESS: (Interpretation) Thank you. "Now, I shall ask you in relation to the
18 conclusions reached by the investigation. What was the conclusion reached by the
19 investigation as regards the criminal liability of Jean-Pierre Bemba? I am going to say
20 this once again. The question concerning the responsibility of Jean-Pierre Bemba, as I
21 already said, was set aside. We set aside anything that could incriminate Mr Jean-Pierre
22 Bemba, who at the time was a member of the government of the Republic of Congo. So,
23 in other words, we did not implicate his liability. I think that when you will be aware of
24 the -- of Mr Findiro's prosecutor's list of charges, and my own final report, you will see
25 that there was no question of implicating Mr Jean-Pierre Bemba. Why was that?

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1 Because, as I just said, Mr Bemba at the time was a member of the Congolese government
2 and I believe it was just to avoid any possible diplomatic incidents with our country."

3 PRESIDING JUDGE STEINER: May I ask you whether you, as judge, or the prosecutor,
4 to your knowledge, received any pressure or any request in order not to proceed with the
5 investigation in relation to Mr Bemba?

6 THE WITNESS: (Interpretation) At least personally I was not put under any pressure,
7 and I think that should be said clearly. Throughout the investigation we never got -- we
8 were never subjected to any pressure, particularly not from the authorities of the country.
9 I think it was the content of the prosecutor's list of charges that this occurred. I wasn't
10 compelled to follow his advice, actually, but I did so in this particular case because the
11 reasons that he gave me were, in my view, justified. But there was no pressure put on us
12 so as to force us into setting aside Mr Bemba.

13 The concern, as I already said, was not to undermine the member of a government of a
14 friendly country, because this could have created some unease in our relations with that
15 country and that, I think, is what led myself and the prosecutor to take those decisions. I
16 should point out that there was an appeal made against the order. I don't know whether
17 the Chamber of Accusation reached the -- gave the same ruling.

18 PRESIDING JUDGE STEINER: Could you please clarify who had filed an appeal against
19 this decision, since the Prosecutor apparently was in agreement with this solution?

20 THE WITNESS: (Interpretation) Thank you. Well, the file didn't relate solely to
21 Mr Bemba. There were also other people involved. I think there were more than 15
22 people involved in this file, and the order dealt with the various cases. Was the appeal in
23 relation to the case of Bemba? I don't think so. Or perhaps it was -- it involved other
24 people because the prosecutor did include some people in the list of persons charged that
25 I did not include myself, and so I don't know which -- why the prosecutor appealed

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1 against that but it was the prosecutor who appealed.

2 PRESIDING JUDGE STEINER: The prosecutor had appealed against your decision.

3 Not the prosecutor, Mr Bemba.

4 THE WITNESS: (Interpretation) Well, I don't know, actually. I think that in his act he
5 asked the Chamber of Appeals to review the order. I don't know exactly on what point.

6 I am not part of the Chamber of Accusation, so I don't know what the prosecutor's
7 arguments were.

8 PRESIDING JUDGE STEINER: Just for my personal clarification, in accordance with the
9 criminal procedure in Central African Republic, is that possible for the Prosecutor, when
10 we have a case, a crime committed in co-perpetration, to select which suspects will be
11 prosecuted and which ones will not? Is there this possibility under the law?

12 THE WITNESS: (Interpretation) Well, the Prosecutor's the one who prosecutes, so at
13 the end in his final list of persons charged, he makes applications. He expresses his
14 wishes as regards to the various people involved on the basis of the charges and the
15 evidence collected during the investigation, and it is on that basis that a person -- well, the
16 charges are dropped or the person is committed to trial. And in the final submission, the
17 Prosecutor did give names of people that he wishes to see committed for trial and names
18 of people who could benefit from a non-lieu. The investigating judge, of course, is not
19 compelled to follow the prosecutor's recommendations. He can go beyond them, and
20 that happens sometimes, and it did happen in this particular file in relation to certain
21 people, and naturally, the Prosecutor is entitled to appeal against the decision if he
22 believes that his recommendations have not been followed. That's what happened. But
23 I do not know - I could not know - why, which particular persons were involved in the
24 decision to appeal by the prosecutor.

25 PRESIDING JUDGE STEINER: So, summarising, the Prosecutor then has discretionary

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1 power under the law of your country to choose the persons to be prosecuted, or not? It's
2 not mandatory?

3 THE WITNESS: (Interpretation) Well, the prosecutor submits an application to the
4 investigating judge, saying such-and-such a person should be committed for trial at a
5 given jurisdiction. This is an element which is submitted to the appreciation of an
6 investigating judge, who is free to make his ultimate decision freely. He can also object,
7 the investigating judge. He could make sure, for instance, that the case be brought to a
8 higher level, a higher echelon, if he wanted to. The prosecutor cannot impose his view
9 upon the judge, nor is the judge in any way forced to comply with the recommendation of
10 the prosecutor.

11 PRESIDING JUDGE STEINER: I am sorry if I am asking these questions, it's just to
12 understand part of your statement given to the Prosecution. In the following page, 0188,
13 it appears that you said that the prosecutor, and I will read in French. (Interpretation)
14 "Did not ask for Mr Bemba to be committed for trial and I received this instruction and I
15 had to comply with that."

16 THE WITNESS: (Interpretation) Well, not exactly like that. You see, the point is I am
17 not forced to comply with the request of the prosecutor. It just so happened that I agreed
18 with the prosecutor, but I was not forced to agree. I could not ignore what he said,
19 dismiss what he said.

20 PRESIDING JUDGE STEINER: Sorry, Ms Kneuer, to interrupt you, but I wanted -- I
21 needed some clarity on how the procedures are in the Central African Republic in order to
22 understand what happened with the dossier. Thank you very much.

23 MS KNEUER: Madam President, I don't need the document any more, so we could also
24 lower the blinds for the public, if you agree.

25 PRESIDING JUDGE STEINER: Court officer, please.

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1 MS KNEUER:

2 Q. Mr Witness, I have a few questions about the impact of the crimes on the victims.

3 From your investigations, do you know how the rapes have affected the victims; the
4 women, the girls, the men and the boys?

5 A. I think that you should be asking the unit who took care of the victims at the time.

6 I started dealing with this in my capacity as the investigating judge a full six months after
7 the event, but I think I told you yesterday that some of the people I interviewed were still
8 in a state of shock. There were some women who had been abandoned by their partners
9 because they had been raped. But it was not just cases of rape that I looked into but also
10 murder. People came to tell me that some of their relatives had been killed in cold blood,
11 some people also who were wounded and maimed, and I interviewed these people six
12 months after the events but some people were still in a state of shock.

13 Q. From your investigations, were these rape victims compensated by the MLC troops?

14 A. No compensation of any sort, not even from the government. There was no
15 compensation, apart from whatever they may have received from the support unit that
16 was set up to look after them.

17 Q. From your investigations, what have been the effect, if any, of the pillaging of CAR
18 civilians by the MLC troops?

19 A. Plunder, looting, I cannot really tell you exactly when it started, but this looting took
20 place in practically every town where MLC troops were to be found, but I must confine
21 myself to Bangui because my investigation only dealt with Bangui. There were some
22 quarters, some neighbourhoods, where the MLC soldiers just went through every single
23 house and took whatever they wanted from those houses, and the residents as soon as
24 they saw them approach obviously would flee for their lives and -- because if you were
25 found within your own home, you were either intimidated, cowered into submission,

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1 perhaps even wounded, and in any case they took whatever they wanted from these
2 houses, particularly in PK12 and some of the surrounding areas in Mbongo also. This is
3 how it happened. They just took anything they wanted.

4 Q. Were the pillaged items returned to the owners by the MLC troops?

5 A. Unfortunately not, and I believe even the measure that was taken so as to prevent
6 the looted goods from being taken across to the other side of the river was not effective.
7 Some of the looted goods were placed on barges and taken to the other side of the river, so
8 there was no restitution to the rightful owners.

9 Q. Were the victims compensated by the Banyamulengue?

10 A. No, madam. No, not so far. Not to date.

11 Q. What, if any, has been the effect of the killings of the CAR civilians by the MLC
12 troops?

13 A. Would you be so kind as to rephrase the question, please? I'm afraid I didn't
14 understand it.

15 Q. From your investigation, are you in a position to provide information to the Court if
16 there was an effect on the CAR population by the killings committed by the MLC troops?
17 Was there any impact?

18 A. There were some cases of murder, as I have already said. If you want me to say
19 precisely how many people were murdered I cannot say so today, but there were murders
20 committed by MLC troops. The impact? Well, I do not even know how many people
21 were actually killed, but in the records of the interviews you will see that there were some
22 parents/relatives of the victims who were murdered, but there were also some cases of
23 murders that were never actually revealed to us.

24 Q. Did victims provide information to you how they felt about family members being
25 killed?

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1 A. Naturally when you lose someone who's close to you you're sad, so there's no point
2 in even asking the question. There were some cases -- and I still remember vividly the
3 case of a gentleman who came to see me to tell me that his son had been assassinated,
4 because he was asked to sleep with his own mother and the boy said, "No." The young
5 man said, "No," he refused and he was immediately shot to death and that was obviously
6 very sad. As to what is the state of mind of victims, when you lose a dear one, when you
7 lose a relative, you cannot but feel very sad.

8 Q. Do you have any observations what the effect or impact of the crimes committed
9 against the population of the Central African Republic has been on the CAR society as a
10 whole?

11 A. My personal opinion, the name of Mr Jean-Pierre Bemba elicits very sad memories
12 in people -- in people who are still in a state of shock. In all neighbourhoods, in all the
13 districts and areas where these events occurred, people are marked for life. They are still
14 in shock. Mr Jean-Pierre Bemba to my knowledge does not have a Central African
15 counsel, because a lawyer from Central Africa who would act as his counsel I think would
16 have to face the consequences. So it was hard for people. Even though time has
17 elapsed, it's true time has elapsed, but time doesn't heal everything. There are people
18 who still have a very vivid memory of what they went through with the Banyamulengue.

19 MS KNEUER: Madam President, can we move briefly into private session to elicit the
20 name of this one officer, please?

21 PRESIDING JUDGE STEINER: Court officer, please.

22 *(Private session at 12.06 p.m.) Reclassified as Open session

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

24 MS KNEUER:

25 Q. Mr Witness, yesterday, as well as today, you referred to an officer without

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1 mentioning his name. Yesterday's transcript was unedited version, English, page 54, line
2 6 onwards. Would you be in a position to share now with the Chamber the name? And
3 we are in a private session, so you are safe to mention the name.

4 A. I was referring to the Chief of State at the time -- the Chief of Staff, I beg your
5 pardon. Chief of Staff, Mr Bombayake. There was Mr Bombayake and General Mazi.
6 General Bombayake, General Mazi, Colonel Lomembe (phon). These were people who
7 were very close associates of the Head of State and who were on the ground. I am giving
8 you this information thanks to the people I interviewed. There was also General
9 Amungo (phon) - I don't know whether I already mentioned that name - who could
10 obviously give you much more ample information as to what actually took place on the
11 battlefield. Moholo - also Moholo - was one of the very close associates of the
12 overthrown Head of State. Mr Moholo, I am quite sure, could answer some of your
13 queries.

14 MS KNEUER: Thank you, Mr Witness. Madam President, we can move back in public
15 session, please.

16 PRESIDING JUDGE STEINER: Court officer, please turn back into open session.
17 (Open session at 12.09 p.m.)

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

19 MS KNEUER:

20 Q. Mr Witness, with regards to the statements that you obtained from the victims that
21 you questioned, do you recall signing them in your capacity as the senior investigating
22 judge?

23 A. Yes, madam.

24 Q. Did all persons attending the questioning sign the statements as well?

25 A. Well, some couldn't sign because they didn't know how to write, so they used their

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1 thumb and left their own mark, but there is at least a mark on the statement.

2 Q. Have these documents been in your custody before transferring them to the
3 International Criminal Court?

4 A. Yes, of course.

5 MS KNEUER: Madam President, the Prosecution moves to tender these documents on
6 the basis of the witness's authorship and custody, and I'm referring specifically to the
7 documents starting as of number 9 of the list of documents which was submitted to the
8 Chamber. It starts at CAR-OTP-0001-0159 and it ends at the very last page with
9 CAR-OTP-0002-0137.

10 PRESIDING JUDGE STEINER: As I can see, these documents have already been
11 attributed an EVD-T-OTP number and these numbers are therefore confirmed.

12 MS KNEUER: Thank you very much, Madam President, your Honours. Mr Witness, I
13 have to thank you for your time and your patience and your cooperation with the
14 questioning of the Office of the Prosecutor. I have finished my questioning and I will
15 hand over to your Honours. Thank you very much, Madam President.

16 THE WITNESS: (Interpretation) Thank you, madam.

17 PRESIDING JUDGE STEINER: Thank you, Ms Kneuer. Maître Liriss?

18 MR LIRISS: (Interpretation) No, that's fine, madam. I'm satisfied.

19 PRESIDING JUDGE STEINER: Thank you, Maître. Mr Witness, now we are going to
20 give the floor to the legal representatives of victims that were authorised to put some
21 questions to you. We will start by Maître Zarambaud. Maître Zarambaud, you have
22 the floor.

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

24 QUESTIONED BY MR ZARAMBAUD: (Interpretation)

25 Q. Good morning, Mr Witness.

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1 A. Good morning, sir.

2 Q. My name is Zarambaud, I am the legal representative of the victims, with my
3 colleague Maître Douzima, and the Bench has authorised me to put some questions to you,
4 sir. I will not ask all the questions I would have wanted to, because in fact some of these
5 questions have already been put to you by the Prosecutor and so I will be asking only a
6 few questions.

7 My first question would be the following one. You led an investigation on the events
8 that we are considering here. In the course of this investigation, in what capacity did you
9 consider Mr Bemba to have acted? As a civilian, as a military person and, if he was a
10 military person, what was his rank? That is my first question.

11 A. I'm afraid I'm not in a position to give you a fully satisfactory answer. At the time,
12 Mr Bemba was a civilian, was a politician. I believe I told the lady Prosecutor that we
13 were not in a position to substantiate any charges against Mr Bemba because at one point
14 we were told we had to leave him alone; but at the time he was a civilian, a politician, this
15 is how he was known. I did not know whether, apart from that, he had a military rank.

16 Q. Thank you very much. As you said yourself, you conducted an investigation on a
17 number of people?

18 A. Including Mr Bemba?

19 Q. Yes, including Mr Bemba, but then he became a member of the Congolese
20 government and this is why you dropped him from the list of the persons to be charged.
21 And the question I would like to put to you is: Did your investigation enable you to
22 know whether there were any documents, conventions, treaties by virtue of which
23 Mr Bemba had sent troops into Central Africa?

24 A. I will simply ask you to ask the question to (Redacted) would be in a
25 position to answer. I, personally, do not know of any conventions or any treaties on the

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1 basis of which Mr Bemba would have sent troops into the Central African Republic.

2 Q. Thank you very much, Mr Witness.

3 PRESIDING JUDGE STEINER: Maître Zarambaud, sorry to interrupt you. I would like
4 to remind the witness, if possible, to avoid mentioning any names in open session. If
5 need be, we can go into private session if names need to be mentioned. Thank you.

6 Maître Zarambaud.

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

8 Q. Witness, you declared in document 0010-0017, paragraph 63, and I quote, "During
9 the first days, before the arrival of the Banyamulengue, it was the CEN-SAD troops, the
10 loyalists who were fighting against the rebels," and I wanted to know whether you were
11 actually able to tell which were the countries of the CEN-SAD who had sent troops into
12 the Central African Republic?

13 A. Well, there was Libya. Were there any other States involved? I think that mostly
14 the forces in the CEN-SAD troops were Libyan forces, but I do not know of any other
15 countries that would have sent troops under the heading of CEN-SAD.

16 Q. Thank you very much, Mr Witness. You know that in the course of these events
17 mention has been made of some Central Africans who could have joined Mr Bemba's
18 troops. Mention has also been made of some Congolese already residing in Central
19 Africa who could have joined those troops.

20 And I will quote from something you stated, when asked about whether there were
21 Central Africans who joined Mr Jean-Pierre Bemba's troops, and you said in document
22 CAR-OTP-0010-00141, and I quote, "No, not Central Africans, because it seemed to me
23 that the relations with the Central Africans remained tense until the very end."
24 When that question was put to you concerning the Congolese who were already residing
25 in Central Africa and who could have or may have joined Bemba's troops, that question

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1 was put to you in those terms, and you answered and I quote - it's still the same reference
2 I gave before - you answered that you supposed so. You supposed that there may have
3 been some Congolese who were already living in Central Africa before the
4 Banyamulengue came who may have joined them. The question was put to you, "Was
5 this a fact or a supposition?" And I (sic) said, "Well, I suppose that happened."
6 Do you confirm this declaration?

7 A. I confirm this.

8 MR LIRISS: (Interpretation) Your Honour, once again, I would ask my learned
9 colleague to please read out the full of the para -- the full extent of the paragraph where
10 that question was taken from.

11 PRESIDING JUDGE STEINER: Maître Zarambaud, do you have the whole statement at
12 hand, in order to read for the Defence the whole paragraph; otherwise, I can do it.

13 MR ZARAMBAUD: (Interpretation) Your Honour, that would really suit me, if you
14 could do it. Thank you.

15 PRESIDING JUDGE STEINER: So I am going to -- so in order to grant the Defence
16 request, I am going to read -- it is in French, it starts on page 1441: (Interpretation) "Are
17 there people who were living in the Central African Republic who joined Mr Bemba's
18 troops; meaning, Central African nationals?"

19 "Question: 'Yes.'" "The witness: 'I'm not from Central Africa, because I thought that
20 the relations between Central Africans and the others were conflictual up until the end.
21 Some people joined their forces, but they were probably Congolese who lived in the
22 Central African Republic who joined them. There were probably shoe polishers who
23 joined the ranks.'"

24 "Is that knowledge or is that a supposition on your part?" "Answer: 'I can verify that
25 there were no Central African nationals that joined the Congolese forces other than the

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1 Congolese nationals who were already in the country. With regards to those who were
2 already in the country, the Congolese nationals, it is possible that they joined them."
3 "Is it something which you suspect or something which you know?" "Witness: I
4 suppose that that's the case. They had weapons and they had the possibility of gaining
5 material wealth, and that would have attracted them. There were a certain number of
6 Congolese who were employed as shoe polishers and I think that some of those people
7 probably joined Mr Bemba's troops, that's possible."

8 That's enough?

9 MR LIRISS: (Interpretation) Yes, that's sufficient, madam. Thank you.

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

11 PRESIDING JUDGE STEINER: Next time I'll give you the copy. It's better if you read
12 it.

13 MR ZARAMBAUD: (Interpretation) Thank you, your Honour. We appreciate your
14 mastery of the French language.

15 Q. Next question. I will, perhaps, not ask you this question because it has to do with
16 the booty which was looted and which was transferred to the other side of the river by the
17 soldiers. In that sense, that question has already been put to you and you already
18 answered that question, as well.

19 I have another question to ask you. I identified a number of paragraphs that I thought
20 were relevant to the proceedings. I'll give the references. If the Defence would like to
21 read the entire page, then they are certainly free to do so - I am only dealing with the
22 passages which I think are relevant - and the passage that I'm referring to comes from
23 CAR-OTP-0010-0177, paragraph 5.

24 The question which was asked had to do with the acts of abuse and violence which were
25 committed. And an answer to paragraph 5 of the document which I've cited, Mr Witness

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1 said "No, they came to fight."

2 "Would a serious warlord be able to ask his men to stop fighting the enemy and to begin
3 conducting themselves as they did? Did Mr Bemba and Mr. Patassé -- could Mr Bemba
4 and Mr Patassé ask the Banyamulengue who had come to repel the rebels, or the rebels
5 under Mr Bozizé, to order them to leave, let the rebels advance and to take care of
6 women?" The witness said, "This is my personal opinion, but I think that these were acts
7 of abuse and violence which were committed by the men, but not just under Mr Bemba
8 and Patassé because it was not in the interests of Mr Bemba or in the interests of
9 Mr Patassé, to have them continue to rape women and to allow the rebels to advance."

10 And when we asked if that was your personal opinion or whether it was fact, you
11 answered in this paragraph, and I quote, "This is my personal opinion. This is entirely
12 my personal opinion. For the investigation, you have my ordinance."
13 My question then is the following: You said, "Would a serious war -- or a serious
14 commander allow his men to do what they did?" And the question was, "In light of the
15 investigation, could Mr Bemba be seen as being a civilian commander, a military
16 commander?"

17 MR LIRISS: (Interpretation) This was a request to the witness to speculate.

18 PRESIDING JUDGE STEINER: Since the answer given by the witness in the statement
19 relates to his personal views, I don't see why he cannot repeat his personal views in the
20 present hearing. I think if the witness feels comfortable, he can answer the question.

21 THE WITNESS: (Interpretation) Thank you. I think that I will confirm what Maître
22 Zarambaud just said. My answer was given during my statement. The question that
23 was asked was to know whether mister -- or had anything to do with Mr Bemba, and I
24 don't know exactly how he behaved. I don't know what his behaviour was like. It
25 would be difficult for me to know whether or not he was a serious commander, or not.

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1 MR ZARAMBAUD: (Interpretation)

2 Q. Thank you, Mr Witness. I'm not going to ask you to speculate. I just wanted to be
3 sure that we understood the terminology that you were using.

4 Next question, I don't think will be speculative. It will not be considered as being
5 speculative. Because you looked at this question as a legal expert. Sometimes we spoke
6 about Mr Bemba's troops, the rebels, and according to -- I would like to know, according
7 to your investigation, what were the legal descriptions, the legal qualifications which were
8 given to Bemba's soldiers who came to fight in the Central African Republic? Were they
9 rebels in their countries? I mean, exactly how are we going to describe them? How are
10 we going to categorise them?

11 A. They were rebels because they did not belong to the regular army of the DRC.
12 They were rebels, and at that time Mr Bemba was the head of that organisation. So they
13 were rebels, they were not regular soldiers of the army of the DRC.

14 Q. Thank you very much, Mr Witness. You say that they would be categorised as
15 rebels with regards to their country. That is what you just said. Can we categorise
16 them? Can we give them the same -- basically the same categorisation when they go to
17 another country?

18 A. Yes, of course. I don't think you can have two armies in one single country. You
19 have the army of the Congo, and then we had Mr Bemba's troops who were not part of the
20 regular army of the DRC, so they would be seen at that point as being rebels. That
21 perhaps is also my personal opinion, but I know that they do not belong to the regular
22 army of the DRC.

23 Q. Thank you very much, Mr Witness. I will have other questions but I will now put
24 to you my last question. You stated, sir, in reference CAR-OTP-0010-0180, and we are
25 talking about Mr Bemba here, and I quote, "He arrived by aeroplane." The question was

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1 already asked of you. I would just like to know whether or not you can confirm this
2 statement.

3 A. Yes, I remember having said that. I remember having said that because at the time
4 he came to Bangui, and he certainly came and he came by aeroplane. He certainly
5 couldn't have come by land.

6 MR ZARAMBAUD: (Interpretation) Thank you very much for having answered my
7 questions. I would like to thank the Bench for having given me the opportunity to speak.
8 I have finished. Thank you.

9 PRESIDING JUDGE STEINER: Thank you, Maître Zarambaud.

10 Maître Douzima, you have the floor.

11 MS DOUZIMA-LAWSON: (Interpretation) Thank you very much, your Honour.

12 Your Honour, the legal representatives would once again like to present their apologies to
13 the Bench for their absence yesterday, which was due to forces beyond our control. We
14 have been nevertheless informed of the decision that the Chamber took yesterday
15 concerning our request to be able to listen to Witness number 9. Mr Zarambaud already
16 made a few comments about that. I would like to question Witness 9. I would like to
17 ensure the Bench that we were not able to obtain, * have access to Transcend and e-Court
18 since Monday, and for that reason I will have to refer to yesterday's transcript, and I
19 thought that it would be a good idea for me to inform you of that before we begin our
20 work this afternoon.

21 QUESTIONED BY MS DOUZIMA-LAWSON: (Interpretation)

22 Q. Mr Witness, good afternoon.

23 A. Hello.

24 Q. We are the legal representatives of the victims in these proceedings and we
25 requested the Bench's authorisation to question you. We are here to present the concerns

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1 and points of views of the victims which have been allowed to participate in these present
2 proceedings. I will ask you a certain number of questions. They will deal with your
3 statement and they will also deal with the investigation which you carried out, and also
4 they will deal with the answers. They will deal with the answers that you provided to
5 the Prosecutor yesterday and this morning.

6 Sir, my first question has to do with the statement which you made; the reference is
7 CAR-OTP-0010-00113, line 33. You deplored the fact that the births were not recorded in
8 the Central African Republic due to a lack of information or means. During the
9 investigation which you conducted, was the number of victims arising from the situation
10 a large number?

11 A. I believe I answered that question. I believe I answered that question yesterday.
12 There was a very large number. We worked with a unit which was headquartered in the
13 building of the Ministry of Social Affairs, and each Friday that unit would transmit the
14 reports, or files, which they had established concerning rape and other abuse that these
15 women had suffered. And that was not all that I had. I also had another file that I had
16 to deal with and so I wasn't able to bring my full attention to bear on some of those things.
17 That was just one part of the work that I had to do. But the number of victims was very
18 high. I can't give you an exact number, but I wanted to provide the Court with some of
19 these reports. But, in any event, there were very many victims. I was not able to deal
20 with all of those cases because I didn't have enough time. We had too much work to do
21 and it simply was not possible.

22 Q. Thank you. I would now like to talk about the issue of the medical certificates.
23 On line 38 - I'll give you the reference, CAR-OTP-0010-0114 - you said that there were
24 victims who were not able to produce a medical certificate. The victims who were not
25 able to provide medical certificates, how were they able to justify their claims?

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1 A. Thank you. You are talking about female victims, victims of violence. The
2 transgressions that women suffered were of various natures. Some were raped. Some,
3 in addition to being raped, were beaten. Some were simply traumatised, more generally
4 speaking. Sometimes the perpetrators would try to just neutralise them in order to be
5 able to seize their property. Those, I think, who were able to produce medical certificates
6 were either those who had been raped or those who had been the victims of rather serious
7 physical violence, and they saw perhaps not a doctor but some sort of medical specialists.
8 And the others I don't think were able to produce medical certificates.

9 Q. Mr Witness, were there any who claim to have been raped and who were not able to
10 present a medical certificate?

11 A. Yes, of course. All the -- not all the victims went to this unit to receive any kind of
12 treatment or any kind of aid. You have to understand that not all the victims went to see
13 the unit. Not all the victims came to see us. But there were some who did come
14 forward and some of their files did not indeed contain a medical certificate.

15 Q. Thank you very much.

16 MR LIRISS: (Interpretation) I don't want to interrupt the proceedings, but I'd like
17 Maître Douzima to read us the statements on pages 0114 because I don't think that it
18 really has anything to do with the question which was asked. I think that we really are
19 dealing with two different subjects. The witness is declaring something entirely different
20 when it comes to these medical certificates. He's giving his opinion.

21 PRESIDING JUDGE STEINER: Maître Douzima, do you have with you the statement on
22 page 114?

23 MS DOUZIMA-LAWSON: (Interpretation) I'm looking for it right now, your Honour.

24 PRESIDING JUDGE STEINER: If I may, it's paragraph 40, 40. (Interpretation) "To my
25 knowledge, the victims received no compensation. Some received medical assistance but

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1 nothing else. These witnesses had gone through serious experiences which traumatised
2 them. Of course they wanted to be recompensed but this procedure could not make it
3 possible for them to be heard." Ms Douzima has said in her question, Maître Liriss.
4 Maître Douzima, you may proceed. You may please repeat, if need be, the question. I
5 just take the opportunity to remind the witness and Maître Douzima, although you
6 understand each other because both speak French, that you should respect the five-second
7 rule because the interpreters into English are having some difficulties. Maître Douzima.

8 MS DOUZIMA-LAWSON: (Interpretation) Thank you for those comments, your
9 Honour.

10 Q. Mr Witness, I'm going to go back to my question, but I think that you already
11 answered it, in fact. I would like to go to the transcript that was taken yesterday, page 21,
12 line 25. You said, sir, concerning the medical certificates, that "the files which had
13 medical certificates were, I believe, conserved." So you -- can you tell us whether there
14 were some files which did not have medical certificates and whether those that had -- that
15 did not have medical certificates, were they conserved?

16 A. Not necessarily, because we also had to take into account the nature of the crime.
17 We had to look at that as well. Those with medical files were the first ones which we
18 decided to conserve them and that made it possible for us to determine exactly to what
19 extent that person had suffered, but that's not to say that the dossiers that did not have
20 these medical certificates were excluded. At the time there were lots and lots of files, I
21 had a lot of work to do, so we couldn't go through each file. We couldn't go through
22 each request that came from the Ministry of Social Affairs. Of course we decided to
23 make those files with medical certificates a priority, but once again, just to repeat it, we
24 were not only dealing with women victims. There were also male victims. There were
25 people who had been victims of looting, and they were not of course able to provide us

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1 with medical certificates, and once again the files that did not have medical certificates
2 were not entirely excluded from our undertakings.

3 Q. Thank you very much, Mr Witness. At page 114 of your statement, as taken by the
4 investigators, at line 40 this time - four-zero - you stated that the victims had the hope to
5 be compensated and that this procedure represented an opportunity for them to be heard.
6 So I wanted to know whether this was one of the conclusions which you drew from your
7 investigation, or if this was an affirmation which came from the statements which you
8 took from the victims?

9 A. Thank you. I suggest that you read the procès-verbaux of the statements from the
10 victims. They all say more or less the same thing at the end, that they suffered, that they
11 lost a certain number of their goods and that they wanted to be compensated, and they
12 would very often even provide a figure. They would say how much they wanted to
13 receive. They were all basically concerned with the same thing. During their
14 statements I think that they all said something, or they all made some kind of request,
15 expressing what they wanted to have in terms of reparations for what they had suffered.

16 Q. If I have understood correctly, then this was a résumé of the statements that you got
17 from the victims?

18 A. Yes, Maître.

19 Q. Thank you very much, Witness. I would now like to move to today's transcript at
20 page 14, lines 14 to 19. Sir, you said that the victims were subjected to certain violence in
21 various circumstances. I would like you to explain to us what you mean by "different
22 circumstances." Are you talking about the place, different places, different times? I
23 would like to know what "various" means.

24 A. Thank you very much. The perpetrators of this abuse and violence had weapons,
25 and they were spread out in the various neighbourhoods and districts in the cities in the

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1 province. I can't describe each exact circumstance. Each time they had an opportunity
2 to do whatever they wanted, well, then of course they did what they wanted. There
3 were women who were raped, and I think that this is in the statements. There were
4 some who were raped even in schools. Some were raped on the roadside. Some were
5 raped in their bedrooms very often in the presence of their family members, their children.
6 I talked about the case of one young man who was ordered to sleep with his mother, to
7 have sex with his mother, and he was killed immediately thereafter. So I think that the
8 circumstances once again are very various, very different. I mean, you have to
9 understand that the same people were carrying these (indiscernible) everywhere. Thank
10 you.

11 Q. Thank you. Let me now once again come back to page 114, line 41 this time. You
12 talked about a certain Vicky, who was one of the persons considered as a suspect in the
13 Prosecutor's list of persons to be charged. I don't know whether we need to go into
14 private session to discuss this?

15 PRESIDING JUDGE STEINER: As far as I remember this person is deceased, so I don't
16 think there is any problem if we talk about this person in open session.

17 MS DOUZIMA-LAWSON: (Interpretation) Thank you, your Honour.

18 Q. Could you tell us who this Mr Vicky is?

19 A. Mr Vicky, according to the file, was I believe the deputy of Paul Barril, he was
20 second-in-command to Paul Barril, and they led, well, an organisation referred to as SPS,
21 Security and Surveillance, or something like that, another militia. I think their offices
22 were next door to the former Head of State and Vicki was killed during the 15 March
23 events.

24 Q. Thank you. Let me go to page CAR-OTP-0010-0137-010-0138. You said that you
25 learnt from a radio broadcast that Bemba was going to be visiting Bangui more than once.

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1 Could you tell us how these announcements were made?

2 A. Thank you. Bemba at the time had a very good relationship with the former Head
3 of State, and naturally when he came the Central African radio announcers, either during
4 the news or at other times, this radio would always announce the fact that Bemba was
5 coming to Bangui. So I think Radio Bangui was the channel from which I learnt about
6 this, unless I am mistaken, but it seems to me that the announcement that Bemba was
7 coming was done through the Central African radio.

8 Q. According to your investigations, did he come only to Bangui, or did he also go into
9 the hinterland?

10 A. My investigations did not reveal anything that could provide an answer to this
11 question. I cannot tell you whether, aside from Bangui, he did go into the hinterland or
12 not.

13 Q. Thank you. I would now like to go to page CAR-OTP-0010-0166, where you said
14 that during your investigation relating to looting, apart from testimonies there was no
15 other evidence. Could you tell the Chamber whether, in addition to the witnesses, you
16 were ever given any report of any ascertainment made by the victims?

17 A. Well, actually these events occurred in a very tense period. I believe this was a
18 period where the services were not working properly, so I don't think that any statements
19 or procès-verbaux were included in the file. I don't believe we did receive any records of
20 looting committed by Bemba's men. This was at a time when nobody could actually
21 have these records made. The government officials were not in a position to do so. It
22 was a difficult time to make any records of this type.

23 Q. Thank you. Let me now go to page CAR-OTP-0010-0199. One of the descriptive
24 elements of the Banyamulengue that you listed on this page, and indeed during
25 yesterday's hearing, was the fact that they did not speak Sango and you continued saying

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1 that they spoke Lingala and other languages from their country. So this is my question:
2 Since you talk about other languages from their country, what are the other languages in
3 their country -- from their country that they spoke?

4 A. Well, I myself don't spoke Lingala, but simply to say that they did not speak the
5 languages of the CAR, because any Central African will speak or understand Sango, as far
6 as I know. The languages - the national languages - of my country are naturally different
7 from the languages spoken by Jean-Pierre Bemba's men in Bangui. I cannot tell you what
8 other languages in addition to Lingala they spoke. I cannot know what they were.

9 Q. But you do confirm that, if there were any other languages, it was not Sango?

10 A. No, not Sango. I said this yesterday too. There were some who tried to speak
11 Sango, but you could easily recognise them as being Congolese because of the way they
12 spoke and because of their own special accent and the difficulties they had in speaking.
13 So you could easily recognise them as being Congolese. There were also some who tried
14 or attempted to speak French, but also found it very hard. There we are.

15 Q. Now, in relation to this last answer, if I refer to the transcript, page 47, lines 5 to 6,
16 you said that there were some Central Africans who understand Lingala. In addition to
17 understanding Lingala, are there any Central Africans who speak Lingala, according to
18 your investigation?

19 A. Well, the investigation -- well, this is more personal opinion, but my investigation
20 didn't go into that sort of detail about whether or not certain Central Africans spoke
21 Lingala or not, but in any case I don't think I could give you any answer deriving from my
22 investigation.

23 Q. But aside from the investigation, since you said here that there are Central Africans
24 who do speak or who do understand Lingala, can you tell us whether there were any
25 Central Africans who -- well, what you said is that they understood Lingala. My

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1 question is whether they also speak Lingala?

2 A. Thank you. Right now I continue to be -- work in a city that is on the border with
3 Congo, where lots of Central Africans do speak Lingala, so I do think there are quite a few
4 Central Africans who understand and speak Lingala and I suppose this applies to Bangui
5 too. I'm talking about the whole of the Congo.

6 Q. Thank you for that answer. That answer -- well, I would like to know if this is
7 enough to make a distinction between a Congolese who speaks Lingala and -- well, the
8 same applies to French. You say that some of the MLC members tried to speak French,
9 so I ask you the same question about them?

10 A. I understand what you mean. I don't think we need be worried about this problem
11 of confusion between Central Africans and Congolese nationals at the time of the events.
12 That -- if we want to know whether Central Africans are -- were infiltrated into those
13 troops I would say no, but in any case I went from Berberati to Bangui and when I was
14 coming during my trip, we met up with MLC men who had set up barricades, and every
15 time we had to introduce ourselves, give explanations and communication between
16 ourselves and these people, there were two or three judges in the vehicle, well, the
17 communication occurred either in Sango -- I already said there is already -- there is always
18 one person in a position to speak some Sango, or some French, and that person would
19 come forward and we would explain to him why we were doing -- we were on this trip.
20 So I don't know whether we can really use this argument of the fact that these people
21 spoke French or Sango, that there was infiltration. There were some terrible events in
22 our country, as we have just described. Well, we didn't experience the same type of
23 things such as rape, when the hostilities was between Central Africans. There were no
24 cases of rape, when there were Central Africans fighting against other Central Africans.
25 Q. Thank you very much, Witness.

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- 1 PRESIDING JUDGE STEINER: Sorry to interrupt you. Do you have other questions
2 because we have to suspend now?
- 3 MS DOUZIMA-LAWSON: (Interpretation) I have two or three.
- 4 PRESIDING JUDGE STEINER: We will suspend for the lunch break and you can
5 continue after the break; is that fine with you?
- 6 MS DOUZIMA-LAWSON: (Interpretation) May I ask you a question: I want to know
7 whether Defence is going to continue this afternoon. If Defence is continuing this
8 afternoon, then there's no problem, but if we have to resume after, just for my sake, well
9 perhaps we should just continue now and deal with it.
- 10 PRESIDING JUDGE STEINER: I am sure the Defence is ready to start after the lunch
11 break. We are going to suspend for lunch.
- 12 Mr Witness, we have now our lunch break. You can take some time to rest. We will
13 continue this afternoon when Maître Douzima still has some questions to put to you and
14 after that Defence will start questioning you. So we are going to resume at 2.35. I ask,
15 please, court usher to accompany the witness outside the courtroom.
- 16 THE WITNESS: (Interpretation) I would like to tell you, your Honour, that I am -- feel
17 rather bad and perhaps I am getting the 'flu. Perhaps somebody could give me some
18 help and give me some sort of medication so that we can continue.
- 19 PRESIDING JUDGE STEINER: I will ask court officer, please, to get in touch with VWU.
20 VWU will provide you immediately with all assistance you need, even to see a doctor, if
21 need be, and to receive the proper medication.
- 22 THE WITNESS: (Interpretation) Thank you, your Honour.
- 23 (The witness stands down)
- 24 PRESIDING JUDGE STEINER: The hearing is suspended.
- 25 THE COURT OFFICER: All rise.

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1 (Recess taken at 1.04 p.m.)

2 (Upon resuming in open session at 2.38 p.m.)

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

4 PRESIDING JUDGE STEINER: Good afternoon. Welcome back. Let's continue
5 with today's hearing with the questioning of Witness number 9. I ask, please, the
6 court usher to bring the witness in.

7 (The witness enters the courtroom)

8 PRESIDING JUDGE STEINER: Good afternoon, Mr Witness.

9 THE WITNESS: (Interpretation) Good afternoon.

10 PRESIDING JUDGE STEINER: Have you been assisted by VWU in relation to your
11 well-being?

12 THE WITNESS: (Interpretation) Yes, madam.

13 PRESIDING JUDGE STEINER: If at any time you feel tired or distressed, or for any
14 reason you feel you cannot continue giving your testimony, please just let us know.

15 THE WITNESS: (Interpretation) Thank you very much, madam.

16 PRESIDING JUDGE STEINER: Maître Douzima, you have the floor to continue with
17 your questioning.

18 MS DOUZIMA-LAWSON: (Interpretation) Thank you, your Honour.

19 Q. Mr Witness, I will conclude my questions very soon. I was saying that I only
20 had three questions left. These are follow-up questions. In the real-time transcript
21 for today, you said that what you were told in the course of the investigation you led
22 was that the only commander whose name was mentioned to you was Mustapha.

23 PRESIDING JUDGE STEINER: Maître Liriss.

24 MR LIRISS: (Interpretation) Your Honour, your Honour, I have the list of
25 questions from Maître Douzima and I do not see on that list this question that she's

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1 asking now from the list of authorised questions.

2 PRESIDING JUDGE STEINER: Maître Liriss, it's not the first time the Defence raises
3 the same issue. The Chamber has already informed that legal representatives are
4 allowed to put questions that arise from the transcript, because they cannot preview
5 in advance the questions to be put in relation to the real-time transcript of today.
6 The legal representative is allowed to put the question.

7 MS DOUZIMA-LAWSON: (Interpretation) Thank you very much, your Honour.

8 Q. Mr Witness, my question was, in the light of your investigation, what was the
9 role Mr Mustapha played within the MLC?

10 A. I think that our investigation did not consist in trying to determine the role or
11 the function of Mr Mustapha within the MLC, but actually to know what he was
12 doing in Bangui at the time of the events with the other MLC soldiers. This is a
13 question we put to certain officers. They told us that Mr Mustapha was in charge,
14 for instance, of receiving funds to be used in order to provide food to MLC soldiers.
15 In a way, he was a go-between, between the State services and his own base, the MLC
16 base. Now, over and beyond that, did he have another role to play or other
17 functions? I do not know. But the times his name was mentioned were times when
18 we were discussing the funds, the money, that was given out in order to purchase
19 food for the soldiers; and we were told that those funds were always given to
20 Mr Mustapha, who was in charge therefore of providing food to the soldiers.

21 Q. Thank you very much. Let me move on to page 29 of today's transcript, lines
22 19 to 28. Earlier, in answering a question from the lady prosecutor, you employed
23 the word "we" in your final report. You were alluding to yourself, as investigating
24 judge, and to the prosecutor of the Republic. Are we to consider the "prosecutor" as
25 being also an author of your own final report?

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1 A. I used the word "we." This is the consecrated way of speaking that you will
2 find in every single ordinance, in every single order. It is in no way a reference to
3 the prosecutor. The order was signed by Masu (phon). This is the traditional form
4 of wording that we use when we take a decision in our capacity as investigating
5 judges. I wonder whether I have made myself clear.

6 Q. Yes, you have made yourself abundantly clear. My last question, page 30 of
7 today's transcript, lines 9 to 12. You said that your ordinance, your order, was
8 appealed against and the case file was then referred to the Chamber Of Accusation
9 which started the work again. What do you mean by recommencing or starting the
10 work again?

11 A. Well, the Chamber Of Accusation, it's really an Appeals Chamber. We came
12 up with our own order, which we notified to the parties, and the public prosecutor
13 reserved the right to appeal, which it did. Then all of this was submitted to the
14 Chamber Of Accusation which had the power of looking into my order, because it is
15 the prerogative of the Chamber Of Accusation to do so. They can either confirm or
16 throw out the decision taken by the first judge.

17 MS DOUZIMA-LAWSON: (Interpretation) Thank you very much, Mr Witness,
18 for having been so kind as to answer my questions.

19 Your Honour, I thank you for your indulgence.

20 PRESIDING JUDGE STEINER: Thank you, Maître Douzima. Mr Witness, we are
21 going to start now with your questioning by the Defence team. As I can see, the
22 Defence will be -- in charge of the Defence will be Maître Kilolo. You have the floor,
23 Maître Kilolo.

24 MR KILOLO: (Interpretation) Thank you, your Honour, for allowing me to
25 address the Bench.

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1 QUESTIONED BY MR KILOLO: (Interpretation)

2 Q. Mr Witness, good afternoon.

3 A. Good afternoon to you, sir.

4 Q. May I introduce myself? My name is Kilolo. I'm one of the members of the
5 counsel of Mr Bemba. I will be asking of you, sir, a certain number of short
6 questions and I would beg you, sir, to give me concise answers.

7 A. Go right ahead. I shall try.

8 Q. Thank you, sir. I would like to refer to the statement you made to this Bench
9 yesterday, the transcript of 3 May 2011, page 8, the end of that page and top of page 9,
10 French version, real-time.

11 Your Honour, you asked whether the witness has had the opportunity of reading the
12 statement that he had made to the investigators and whether you had done so, sir,
13 voluntarily and you confirmed that. And you also confirmed that your statement
14 was accurate and was in line with the truth to the extent of your knowledge. Do you
15 remember that, sir?

16 A. Indeed, I do.

17 Q. May I also remind you, please, of the five-second rule. It would be
18 advisable - for the benefit of the court reporters - whenever I ask you a question, sir,
19 to wait for five seconds so that it can be taken down in English before you answer,
20 and I will do the same.

21 A. I shall do so.

22 MR KILOLO: (Interpretation) I would ask the court officer to show on the screen
23 the first document from the Defence list. This is, obviously, a confidential document.

24 PRESIDING JUDGE STEINER: Court officer, please, provide that the blinds are
25 lowered.

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1 THE COURT OFFICER: Document CAR-OTP-0010-0107 is available on your screens.

2 It's a confidential document.

3 MR KILOLO: (Interpretation)

4 Q. Mr Witness, you should have the document before you. Do you remember, sir,
5 having been interviewed by the investigators in Bangui? Is that the document in
6 question?

7 A. Yes, it is.

8 Q. The signature I see at the bottom of the document, is it your signature?

9 A. Yes, it is.

10 Q. Thank you very much, sir. I would ask the court officer to move on to another
11 document, document 4 from the Defence list. I refer to document
12 CAR-OTP-0019-0137.

13 Mr Witness, can you please tell us whether you recognise the document on the
14 screen?

15 A. Yes, I do.

16 Q. Could you please tell the Bench what document this is?

17 A. This is the first page of my order, the application for a partial dismissal of
18 charges.

19 Q. I would ask the court officer to move to page 0164, 0019-0164. Proceed to that
20 page, please.

21 Mr Witness, are you indeed the person who drafted this application for partial
22 dismissal of charges and referral to Criminal Court dated 16 September 2004?

23 A. Yes, it was I.

24 Q. Again, sir, I would appeal to you to respect the five-second rule. I will
25 endeavour to respect it myself.

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1 The signature which is right on top of your name, is that your actual signature?

2 A. It is, indeed, my signature.

3 Q. Mr Witness, I should like to refer to an excerpt of your statement today to this
4 Chamber, the transcript of 4 May 2011, page 29, lines 28 and following, in the French
5 version, real-time.

6 You said, and I quote, "We told ourselves that in the list of persons to be charged the
7 prosecutor let us know that Mr Bemba was no longer a rebel; he is now a member of
8 government. He is a recognised authority in the Democratic Republic of Congo and
9 it is not cautious to keep him among those to be charged to be referred to any -- to one
10 particular jurisdiction for trial."

11 Do you remember having said that, sir?

12 A. I do.

13 Q. Do you hereby confirm having told this Bench that it was on the basis of the
14 prosecutor's own list of persons to be charged that the prosecutor *asked you not to
15 incriminate Mr Bemba because he had become Vice-President of the Democratic
16 Republic of Congo and, thus, enjoying immunity? Would you stand by that?

17 A. Yes, I stand by that. It is to be found indeed in that list, with many other
18 provisions.

19 Q. Thank you. And I should like to ask the court officer to be kind enough to
20 show on the screen the fifth document from the Defence list, CAR-OTP-004-0084.
21 Mr Court Officer, would you please scroll down to the last paragraph on that page
22 and show it clearly. Mr Witness, you have now before you the referral to by the
23 Republic's prosecutor with the Tribunal de Grande Instance of Bangui, dated
24 28 August 2004. This is document CAR-OTP-004-0084, and I will read the document
25 on the following page, CAR-OTP-0004-0085. Mr Witness, I see that you're coughing,

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1 sir. Please help yourself to some water. It may do you some good.

2 A. Thank you, sir.

3 PRESIDING JUDGE STEINER: Mr Kilolo, sorry if I interrupt you. If you are going
4 to quote parts of this document, just please remember that this is a confidential
5 document, that we are in open session, which means that names should not be
6 mentioned. Ms Kneuer.

7 MS KNEUER: Thank you, Madam President. I would just like to bring to your
8 attention that during the questioning of Witness 6, there was an issue with this
9 document and your Honours indicated at that time that you would take a decision
10 which version of that document would be used ultimately. I just wanted to bring
11 this to your attention. It's the same document, and I'm referring to transcript
12 number 97, English version, page 48, line 4, to page 49, line 13. It's just the effort to
13 assist your Honours in keeping in mind that this is the same document.

14 PRESIDING JUDGE STEINER: This is the document which we are still waiting for
15 an answer from the Congolese authorities on whether these redactions could be
16 lifted?

17 MS KNEUER: I'm sorry --

18 PRESIDING JUDGE STEINER: Maybe I'm wrong.

19 MS KNEUER: I'm sorry, Madam President, that I was not clear. This document
20 exists in two versions: One is annotated and one is not.

21 PRESIDING JUDGE STEINER: Yes, now I remember. It's true, there are some
22 handwritten notes in the document which is the, by the way, is the version I have, so
23 which version is the Defence using at this moment, the annotated one, or the
24 non-annotated one?

25 Maître Kilolo, I was informed that the EVD-T number was given to the annotated

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1 version. So in case the Defence intends to use another version, another EVD-T
2 number will be assigned. It's just for the sake of the record. It's the same document,
3 of course.

4 MR KILOLO: (Interpretation) Thank you, your Honour. There is no annotation
5 on the passage that I'll be leading. We know, we are aware of the decision which
6 was taken yesterday saying that all the documents which are pending a decision from
7 the Central African authorities, from the point of view of their level of confidentiality,
8 could be used as long as we do not mention any of the witnesses' names, or any of the
9 victims' names, excuse me.

10 PRESIDING JUDGE STEINER: It's correct, Maître Kilolo, and at the same time you
11 corrected me because I mentioned the Congolese authorities when I meant, of course,
12 the authorities from Central African Republic. You can continue, please.

13 MR KILOLO: (Interpretation) I would like to ask the court officer to go to the first
14 page of this document CAR-OTP-0004-0065. 0065.

15 Q. Mr Witness, you have the first page of the document on the screen before you.
16 Can you confirm that this document is indeed the one, yours, the document that you
17 are speaking of?

18 A. Yes, it is indeed this document, this application.

19 Q. Could the court officer please turn to 00 -- CAR-OTP-004-0084. 0084, please.
20 Could you please highlight and expand the last paragraph of the document.

21 Mr Witness, you recognise the Prosecutor's application, the Prosecutor of the
22 Republic? This is a document which has 48 pages. We have a section, a single
23 section, which is titled, I quote, "Concerning the response -- the criminal responsibility
24 of Jean-Pierre Bemba." Can you see on the screen what I've just read to you?

25 A. Yes.

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1 Q. I'm going to read it. "Given that Jean-Pierre Bemba is accused of complicity in
2 murder, fatal blows, rape, looting, property destruction, theft, receiving goods and
3 bodies, voluntary physical aggression, arbitrary arrest and kidnapping." Mr Witness,
4 can you confirm that the excerpt which I have just read out to you corresponds to one
5 part of what was stated in the Prosecutor's application?

6 A. Can you read that part concerning the criminal responsibility of Jean-Pierre
7 Bemba?

8 Q. Okay, Mr Witness. Would the court usher please go to the previous page,
9 CAR-OTP-0004-0085, and would he please highlight the first paragraph of that page.
10 I would like to read the second and last paragraph of the section which has to do with
11 Mr Jean-Pierre Bemba's responsibility. I quote the document: "Given that it has
12 been demonstrated that Jean-Pierre Bemba has travelled to Central Africa several
13 times during and after the events which occurred on October 25, 2002, and given that
14 he held meetings with some of his men, with certain of his men, I must state that up
15 until the present no element has made it possible to prove his direct participation in
16 the commission of the crimes perpetrated by his -- by these men. Excuse me, by
17 these men. And if it is not contested that he sent his soldiers at the request of
18 Mr Ange-Félix Patassé, he is nonetheless not guilty of their use on the ground, in the
19 field, and he should be dismissed."

20 Mr Witness, I just read the paragraphs, the two paragraphs which were in the
21 Prosecutor's application. These paragraphs deal with Mr Jean-Pierre Bemba's
22 responsibility. Can you confirm that this confirms exactly to what was stated under
23 the title of the responsibility of Mr Jean-Pierre Bemba in the application of the
24 Prosecutor of the Republic?

25 A. I believe that's - I believe it's the same, yes.

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1 Q. Mr Witness, we have read this 48-page document. We've gone through it
2 line-by-line, and we would be willing to go through it again with you now, if that is
3 necessary. Would you here and now be capable of providing the Chamber with an
4 excerpt of this application by the Prosecutor for the Republic, saying that he should be
5 dismissed because he became the vice-president and therefore he enjoyed diplomatic
6 immunity?

7 A. You are a legal expert and you therefore should know that, as the investigating
8 judge, I cannot talk about responsibility in this kind of document in an application,
9 and the application by the prosecutor does also have to proceed to these things. I
10 think that everybody has to assume the reasons that they adopt to enact them. I
11 don't think that we needed to exclude him. We felt in our ordonnance that we
12 needed to have the charges dropped for reasons that I mentioned. Now, having said
13 that, that doesn't mean that at the time that we had to do exactly what the prosecutor
14 said to us, or asked us to do in this application.
15 That's the answer, sir, that I can provide to you. The prosecutor has his reasons, he
16 gave his reasons and I provided my reasons as well and I said that my ordonnance
17 had also been appealed against. I know exactly for what precise reason, but my
18 ordonnance was appealed against and I think that it's perfectly normal for that kind
19 of thing to happen. So I don't think that I have to do exactly what the prosecutor
20 asks me to do in these cases.

21 Q. Mr Witness, can you here and now, before this Court, can you, sir, confirm that
22 in the application of the Prosecutor for the Republic that no request was made to
23 dismiss the charges against Mr Jean-Pierre Bemba because he had become the
24 Vice-President of the Republic?

25 A. Thank you. Once again, an investigating judge does not have to follow the

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1 recommendations made by the Prosecutor of the Republic. All of this happened a
2 long time ago and I decided not to do exactly what was suggested in the application.
3 I felt that we needed to drop the charges against Mr Jean-Pierre Bemba because of the
4 new functions which he had assumed within the Congolese government, even if that
5 wasn't what was contained in the prosecutor's application.

6 Q. Mr Witness, I see how rigorous you are and I see how interested in detail you
7 are. I would like to encourage you to respond to this and we will come back later to
8 talk about your reasons. I would now like to talk to you about the motivations
9 behind the application made by Mr Findiro, the Prosecutor for the Republic. Can
10 you, sir, confirm here and now before the Chamber that in this application the aspect
11 of Mr Jean-Pierre Bemba's political immunity never came up?

12 A. Yes, because it's in the document which we can see.

13 MR KILOLO: (Interpretation) Thank you very much. I would now like to ask the
14 court usher to please put another document up on the screen, CAR-OTP-00010-0188.
15 This is the third document from the list of documents provided by the Defence.
16 Could you please highlight the second half of the page, the bottom half of the page
17 please, and enlarge it.

18 Q. Mr Witness, we have just dealt with the questions concerning the reasons why
19 the Prosecutor of the Republic asked you to dismiss the charges against
20 Mr Jean-Pierre Bemba. Now, sir, I'd like to talk to you about your own point of view;
21 the statement which you made to the investigators from the Prosecutor's office. I
22 would like to read to you, sir, one question, or rather two questions that were put to
23 you, and I would also like to read to you the answers which you gave to these
24 questions. I quote the question: "At what stage of the investigation was the decision
25 to not -- to dismiss the charges against -- was the decision to dismiss the charges

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1 against Mr Bemba made?" Your answer: "Towards the end." Mr Witness, can you
2 confirm having said that before we move on?

3 A. Okay. You saw that in the initial document Mr Bemba was listed, and as I said
4 that was at a point when the investigation had proceeded to a certain degree, when
5 the application was made by the prosecutor, and that was when the question came up.
6 That was towards the end of the case.

7 Q. Can you please explain to the Chamber that when you say that -- in terms of the
8 time, can you tell us at what point in the proceedings did you decide to dismiss the
9 charges against Mr Bemba? When you say "Towards the end," what exactly does
10 that mean? Exactly at what point were you at at that point? Does that mean that all
11 the statements had been taken and all the victims have been interviewed? Exactly at
12 what point are we when we say "Towards the end"? What exactly does that mean,
13 sir?

14 A. Thank you. You know, this document was drafted in 2003 and right now we're
15 in 2011. Between 2003 and 2011 I think that many things have happened, and I can't
16 tell you exactly what the -- where that point would have been. The application was
17 made. I mean, I can't say but at what point that we made the decision. You're
18 asking me to precisely tell you at what point we made the decision to drop the
19 charges against Mr Bemba, and it's difficult for me to give you an answer at this point
20 in time.

21 Q. Mr Witness, can you please tell the Chamber precisely *what you mean by
22 closing the investigation under the criminal-law procedure of the Central African Republic?

23 A. These are the last acts which we conduct before we reach our final decision.
24 We finish the interviews. We finish the questioning sessions. We listen to the
25 advocates - to the lawyers, excuse me - we read their documents and we send the file

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1 to the prosecutor's office for the application before we decide to close the case.

2 That's what I'm referring to.

3 Q. Does that mean that when you're closing the case, closing an investigation, does
4 that mean that you have finished your investigation and that you are in the process of
5 sending the case file to the Prosecutor of the Republic for his definitive application
6 after having gathered all of the elements of proof?

7 A. Aren't -- I think that you're making me repeat what I said earlier. The
8 conclusion of the procedure is the ultimate phase. It's when we think that we have
9 enough elements, enough information, to be able to make a decision and to draft the
10 final document.

11 Q. At that moment, Mr Witness, I would like to read the question which was put to
12 you concerning that issue. I quote: "Before that decision ...", which is to say the
13 decision to drop the charges against Mr Bemba. Let me begin: "Before this decision,
14 were you able to gather elements of proof concerning the criminal responsibility of
15 Mr Bemba?" Your answer: "No, no."

16 Mr Witness, do you confirm having stated this to the investigators from the
17 prosecutor's office?

18 A. Yes, I do. I did indeed say that.

19 Q. Can you confirm to the Court, sir, this very emphatic "No"? You said it two
20 times, "No, no." Can you please confirm that you were emphatic in giving that
21 negative response?

22 A. Thank you. These were my comments. I don't think that I need to repeat
23 what I already said. I think that the question was even asked yesterday, if it wasn't
24 asked this morning, and I answered that question. What I said was that at that point
25 it was very difficult - quite difficult indeed - for us to gather the information

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1 concerning Mr Bemba, and that was due to the simple reason that the people with
2 whom he worked, the national authorities, were people who were members of the
3 former regime, almost all of whom were at large, so it was very difficult for us to get
4 information concerning Mr Bemba. And we could not speak with Mr Bemba
5 personally either, and that made it difficult for us to get proof concerning Mr Bemba's
6 responsibility. So that's what I can confirm. I imagine you've read the entire case
7 file, and you will see that in that document that there is not enough information
8 concerning the relations between Mr Bemba and the national authorities.

9 Q. Mr Witness --

10 PRESIDING JUDGE STEINER: Maître Kilolo. Ms Kneuer.

11 MS KNEUER: Thank you, Madam President. I think we are back at the point
12 where it's about completeness of quotation, because if we continue reading after the,
13 "No, no," it reads, "Do you have anything to add to this respect?" "I think almost
14 everything. I think I said everything. The issue was to set aside a little bit anything
15 that might harm Mr Bemba, who held the vice-presidency of the Republic of Congo.
16 The investigations, in order to establish any responsibility on his part, were not really
17 conducted in depth." So I think -- I waited for the response of the witness, who
18 exactly stated this again, but I think in all fairness to the witness he should not
19 need -- he should not be misled by an incomplete quotation. Thank you, Madam
20 President.

21 PRESIDING JUDGE STEINER: This time I fully agree with Ms Kneuer. I was
22 about to ask Defence to read the last paragraph, exactly the one in which the witness
23 says that investigations ... (interpretation) we haven't been able to really delve into the
24 investigations to determine his responsibility. (Speaks English) I think now we
25 have the complete picture.

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1 You can proceed, Maître Kilolo.

2 MR KILOLO: (Interpretation) Thank you, your Honour. I was, in fact, just about
3 to move on to that part of the document and I don't understand why she needs to
4 force my hand, why she needs to force my hand. She will be able to speak after I do
5 and, therefore, I don't see how she needs to force my hand. I find that unacceptable,
6 quite frankly.

7 Q. Mr Witness, I was pushed into asking a question which I was on the verge of
8 asking you. My question, sir, is the following: You say in your statement -- and
9 this is the second part of my question. The first one I think was very clear. You
10 heard -- you interviewed a certain number of people, and after those -- after taking
11 their statements, you were able to observe that you are not able to gather elements of
12 proof.

13 At this time, I'd like to ask you to go a bit further. Sir, you say that you are not able
14 to delve sufficiently into the investigation in order to establish his responsibility. Sir,
15 can you confirm to the Court that when the investigation was being concluded, the
16 investigation which led you to observe that the elements of proof which you had were
17 not sufficient to establish Mr Bemba's responsibility, that you had already heard the
18 main and senior Central African officers?

19 A. Well, perhaps you shouldn't try to make me say something I didn't actually say.
20 What I had said was that the investigation had taken place in a somewhat difficult
21 context, simply because the people who were in a position perhaps to supply us with
22 plausible information concerning the relationship between the overthrown Head of
23 State and Mr Bemba were practically all out of the country as fugitives. So we didn't
24 have the possibility of interviewing them.

25 The people that we did have available did not give us sufficient information as

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1 regards the possible liability of Mr Jean-Pierre Bemba, so there were some people,
2 people who were close to the Head of State, who perhaps had some information in
3 their possession relating to the contacts between the former head of government and
4 Mr Bemba. Well, they were all in exile and we were unable to hear them.

5 Q. My specific question, Mr Witness, is as follows: Can you confirm before this
6 Chamber that before issuing your order for the dismissal of charges against
7 Mr Bemba you had already heard General Ferdinand Bombayake, the former director
8 of the presidential security at the time?

9 A. Yes, I heard him on several different occasions.

10 Q. Can you also confirm to this Chamber that before you issued your order you
11 had interviewed General André Mazi, former Deputy-General Chief of Staff of the
12 Armed Forces of the Central African Republic.

13 A. All this because I didn't follow the prosecutor's instructions as regards Bemba?
14 Why all these questions? This decision was taken at the end of the proceeding and
15 that means that all those personalities were interviewed and, indeed, confronted
16 towards the end of the investigation and that meant that all those particular people
17 had already been interviewed.

18 Q. I have some very specific questions to ask you that are very important for this
19 trial and for the transcript, so I want to cover them one-by-one. I would like to know
20 whether before you issued your final order that dismissed the charges against
21 Mr Jean-Pierre Bemba you had already heard Mr Martin Ziguele, former Prime
22 Minister of the Government of the Central African Republic at the time?

23 A. Thank you. Mr Ziguele I think was in exile during the investigation, during
24 the time of the investigation, and I think it was towards the end that his counsel did
25 bring forward some documents. He was in exile and I was unable to interview him

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1 before the end of the investigation.

2 Q. Were you able to hear Mr Angoa, the former Minister or Deputy-Minister for
3 Defence before you issued your order dismissing the charges against Mr Bemba?

4 A. Yes, I did hear him.

5 Q. Were you able to hear Colonel Wandani (phon), former Director-General,
6 Deputy-Director-General for presidential security at the time of President Patassé,
7 well ahead of your order in favour of Mr Bemba?

8 A. Yes, counsel, I did hear him.

9 Q. Mr Witness, did you hear General Yangongo, a senior officer of the Central
10 African Republic, before you issued your order that dismissed the charges against
11 Mr Bemba?

12 A. Yes, that's right.

13 Q. Could you tell the Chamber what the function of Mr Yangongo was at the time?

14 A. I believe -- well, I cannot remember exactly what his function was. I think he
15 was a senior officer, perhaps a Deputy-Minister for Defence. I don't remember
16 exactly, but it's something like that.

17 Q. Could you tell the Chamber what the function of Mr Moholo was at the time of
18 the events?

19 A. Mr Moholo, I believe he was in charge of protocol for the President of the
20 Republic. He was the director for protocol of the former Head of State.

21 Q. Can you confirm to the Chamber that he was a very close associate of former
22 President Patassé?

23 A. I think I already said this. I said this today, and I can confirm that.

24 Q. Did you hear Mr Moholo prior to issuing your order that dismissed the charges
25 against Mr Bemba?

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1 A. That may be; I can't confirm it, but that may be. I believe I did.

2 Q. Mr Witness, I'm not sure whether the transcript is clear. You said "It is possible
3 I heard him."

4 A. Well, this goes back a long way, but I do believe I heard him. Yes, I heard him,
5 and that is why I have already spoken about him.

6 Q. Mr Witness, did you hear Colonel Thierry Lengbe?

7 A. Yes, I did hear him.

8 Q. Can you confirm to the Chamber that you heard him before issuing your order
9 that dismissed the charges against Mr Bemba?

10 A. Of course, because the non-lieu order was the outcome of the (indiscernible).

11 Q. Could you tell the Chamber what the role of Thierry Lengbe, Colonel Thierry
12 Lengbe, was at the time of the events?

13 A. Colonel Lengbe I believe was the Chief of Staff for the army.

14 Q. Were you able to hear Mr Morombaye Paul, the former director of the
15 gendarmerie national?

16 A. No, I did not hear him.

17 Q. Were you able to hear Mr Konamna?

18 A. Yes, I did hear him.

19 Q. Could you tell the Chamber what the function of this person, Mr Konamna, was
20 at the time of the events?

21 A. Mr Konamna was -- worked with the presidency, but I don't remember exactly
22 what his functions were at the time.

23 Q. Can you confirm that you heard Mr Konamna well ahead of issuing your order
24 dismissing of the charges against Mr Bemba?

25 A. Yes, I did of course hear him before that.

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1 Q. Mr Witness, I would now like to come back to the statement that you made
2 yesterday before the Chamber. I'm referring here to the transcript of 3 May 2011, in
3 the French version, real-time transcript, page 34, lines 4 to 9, and I quote, "Generally,
4 the witnesses that we interviewed for the purposes of this case were the military
5 chiefs. These were men that were on the ground during the events. These were the
6 people who had a number of duties and responsibilities at the time of the events.
7 There was no real difficulty in identifying them."

8 Mr Witness, you stated this yesterday before this Chamber. Are you in a position
9 now before the Chamber to confirm that all those military officers from the Central
10 African Republic were heard by you prior to you issuing the order dismissing the
11 charges against Mr Bemba?

12 A. Yes, of course.

13 Q. Mr Witness, we are now, in the coming hours and indeed tomorrow, because
14 we only have 15 minutes left, we are going to cover these officers one-by-one. The
15 Central African officers that we just mentioned and that you recognised having heard
16 before you issued your order dismissing the charges against Mr Bemba, but before
17 doing that I would like to ask you another question. Can you confirm to this
18 Chamber that all of these military authorities that you heard in the capacity of
19 witnesses, the Central African officers, that you asked them all a number of questions
20 about the way in which the operations and the command of the operations were
21 conducted on the ground?

22 A. Not necessarily. Not necessarily because some of them were not on the ground
23 so they were not aware of what was going on, on the ground. And I would also like
24 to say that the investigation didn't relate solely to Mr Bemba. Mr Bemba was not
25 alone and his responsibility alone was not the only one under investigation. So there

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1 was no necessity to ask questions about Mr Bemba of these military leaders. So it
2 really depended on the particular duties of that person at the time of the events.
3 PRESIDING JUDGE STEINER: If I may put a follow-up question, because here
4 you've mentioned that whether a witness can confirm to the Chamber that all of these
5 military authorities that you heard in the capacity of witnesses, et cetera. This is on
6 page 84, lines 24, 25. I would like to ask the witness to confirm whether all these
7 persons mentioned by Maître Kilolo were heard in their capacity as witnesses, or
8 whether some of them were heard in their capacity as suspects?

9 THE WITNESS: (Interpretation) Some of them were heard as suspects. In fact,
10 some of them were in custody and were detained in the central prison. Others were
11 heard as witnesses.

12 PRESIDING JUDGE STEINER: Thank you very much. Maître Kilolo.

13 MR KILOLO: (Interpretation)

14 Q. Witness, let's take a few examples. Let's begin with General Bombayake. Can
15 you confirm to the Chamber that General Bombayake gave a solemn oath before
16 making his statement to you?

17 A. Mr Bombayake was detained; he was a suspect. In fact, he stayed in prison for
18 more than a year so he couldn't take the solemn oath.

19 Q. Can you confirm that Mr Bombayake had signed the record of his hearing
20 before you?

21 A. Of course he signed it. He signed that record. He was indeed assisted by his
22 counsels and he did indeed sign the record of his hearing.

23 Q. Can you confirm that you asked General Bombayake a number of questions, in
24 particular about replenishing supplies for the MLC troops that were in Central
25 African Republic? For instance, fuel, logistics, availability of vehicles? Can you

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1 confirm that you did ask that question?

2 A. That may be, but let me repeat. This goes back a long way and I cannot
3 remember these tiny details, but it could well be that I did ask him that sort of
4 question.

5 Q. I am referring here to the document 7 in Defence list. This is document
6 CAR-OTP-0019-0212, from which it is quite apparent that these questions were
7 indeed raised. I won't be submitting this to you right now but I want to come back
8 in detail to this document tomorrow. But more broadly speaking now, do you
9 remember having asked the various and Central African military officers questions
10 about the way in which the deployment of the MLC units were deployed in the field?

11 A. It could well be. I do believe that that is possible.

12 Q. Do you remember having asked any questions about the command of
13 operations to those senior officers in the Central African Republic relating to the MLC
14 troops in Central Africa?

15 A. That could well be.

16 Q. Here, I am referring in particular to document number 8 in the Defence list,
17 document CAR-OTP-0019-0231, in which it is quite apparent that all these questions
18 were indeed asked, in particular as regards General André Mazi. Mr Witness, could
19 you tell the Chamber at the time of President Patassé, could you tell us - give us - full
20 names of generals or senior officers of Central African nationality who, in view of
21 their rank or their functions, were closely associated with the organisation and the
22 command of the operations conducted in the Central African Republic at the time of
23 the events?

24 A. Well, I'm not part of the general staff of the army, so I don't know who was
25 associated with those operations but at the time, during the events, there were very

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1 frequent changes within the general staff of the army, so I cannot just bring out names.

2 It might be mistaken. I prefer not to answer that question in view of that.

3 Q. On the basis of the knowledge that you acquired through the investigation, can
4 you confirm to the Chamber that there were -- there were at least two generals
5 involved, General Bombayake and General André Mazi, on the basis of your
6 investigation?

7 A. But they weren't the only ones. There was Yamongo (phon), Yangongo and
8 others who were very close to the former Head of State, President Patassé. The Chief
9 of General Staff who was appointed and died a few months later, he too was
10 associated. So it's difficult for me to confirm which of them were the two closest to
11 the Head of State. There was also Gambi, who is the Chief of General Staff and just a
12 few months later I think he died. But there were others too. I think you could
13 usefully consult the archive.

14 JUDGE ALUOCH: Mr Kilolo, can I seek a clarification from the real transcript.
15 When you asked - this is the English version - it's page 88. When you asked the
16 witness, "Can you confirm to the Chamber that there were at least two generals
17 involved, General Bombayake and General Mazi," What did you mean by
18 "involved"? Involved with what was going on? Involved with the Head of State?
19 What exactly did you mean? I didn't quite understand what you meant by "were
20 involved."

21 MR KILOLO: (Interpretation) Please allow me to reformulate the question, Judge.
22 Thank you for drawing my attention to that.

23 Q. Witness, can you confirm to the Chamber that Generals Bombayake and Mazi
24 were involved in the operations, the way in which the orders were conveyed, as to
25 how things should be done on the ground, orders that they received directly from

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1 President Patassé?

2 A. Thank you. What I said was that they were not the only ones. They were
3 perhaps part of the people who were on the ground or close to President Patassé
4 during the events, but they were not the only ones. I am not in a good position to
5 say whether the orders were given to them to be conveyed to their junior officers.
6 I'm afraid I can't do that. But they indeed -- I can confirm that they were with
7 President Patassé to the point he was overthrown.

8 Q. We have only five minutes left. So perhaps we can end with a last series of
9 questions. I'd like to ask the court officer to display, if he would, document number
10 4 of the Defence list.

11 Your Honour, I'm being told that we will actually not have enough time to cover this
12 last series of questions.

13 PRESIDING JUDGE STEINER: Thank you, Maître Kilolo. Since we have only two
14 or three minutes left, I think we can adjourn for today and continue tomorrow.

15 Mr Witness, thank you very much. It was again a very tough day, the whole day
16 giving testimony. We hope that during the night you can recover a little bit of
17 your -- apparently you have a 'flu, which is quite common here in The Netherlands,
18 and that tomorrow you feel better and you come ready to continue giving your
19 testimony.

20 I would like to thank very much the Prosecution team, the legal representatives of
21 victims, the Defence team, Mr Jean-Pierre Bemba Gombo. I'd like to thank very
22 much our interpreters and court reporters. We are going to adjourn for today. We
23 will resume tomorrow morning at 9.30 in this Courtroom 1.

24 I ask, please, court usher to accompany the witness outside the courtroom.

25 (The witness stands down)

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1 PRESIDING JUDGE STEINER: The hearing is adjourned.

2 THE COURT OFFICER: All rise.

3 (The hearing ends at 4.00 p.m.)

4 CORRECTION REPORT

5 The Court Interpretation and Translation Section has made the following correction in
6 the transcript:

7 *Page 39 lines 17-18:

8 "access -- access to the witness since Monday" is corrected by "access to Transcend
9 and e-Court since Monday"

10 SECOND CORRECTION REPORT

11 The Court Interpretation and Translation Section has made the following corrections
12 in the transcript:

13 *Page 54 lines 14 to 15

14 "the prosecutor did not ask you to incriminate Mr Bemba"

15 Is corrected by

16 "the prosecutor asked you not to incriminate Mr Bemba"

17 *Page 60 lines 21 to 22

18 "what you mean by ending the investigation in the Central African Republic?"

19 Is corrected by

20 "what you mean by closing the investigation under the criminal-law procedure of the
21 Central African Republic?"

22 RECLASSIFICATION REPORT

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

24 ICC-01/05-01/08-3038 and the instructions in the email dated 9 January 2015, the

25 version of the transcript with its redactions becomes Public