

Trial Hearing
Witness: CAR-OTP-PPPP-0032

(Open Session)

ICC-01/05-01/08

1 International Criminal Court
2 Trial Chamber III - Courtroom 2
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08
5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and Judge Kuniko Ozaki
6 Trial Hearing
7 Monday, 26 September 2011
8 (The hearing starts in open session at 9.33 a.m.)
9 THE COURT USHER: All rise. The International Criminal Court is now in session.
10 Please be seated.
11 THE COURT OFFICER: Good morning, your Honours, Madam President. We are
12 in open session.
13 PRESIDING JUDGE STEINER: Could, please, court officer call the case.
14 THE COURT OFFICER: Situation in the Central African Republic, in the case of The
15 Prosecutor versus Jean-Pierre Bemba Gombo, case reference ICC-01/05-01/08.
16 PRESIDING JUDGE STEINER: Thank you very much. Good morning and
17 welcome the Prosecution team, legal representatives of victims, Defence team,
18 Mr Jean-Pierre Bemba Gombo. Good morning to our interpreters, court reporters.
19 We will continue today with the testimony of Witness 32, and for that purpose I ask,
20 please, court officer to turn into closed session for the witness to be brought into the
21 courtroom.
22 *(Closed session at 9.35 a.m.) Reclassified as Open session
23 THE COURT OFFICER: We are in closed session, Madam President.
24 (The witness enters the courtroom)
25 WITNESS: CAR-OTP-PPPP-0032 (On former oath)

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

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

4 THE WITNESS: (Interpretation) Thank you.

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

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

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

9 Q. Good morning, Witness.

10 A. Good morning, Counsel.

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

13 PRESIDING JUDGE STEINER: Court officer, please.

14 *(Private session at 9.40 a.m.) Reclassified as Open session

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

16 MR KILOLO: (Interpretation)

17 Q. Mr Witness, for purposes of facilitating our proceedings, I will start in private
18 session and then later on we will revert to open session while doing everything to
19 protect your identity. In public session, I will refer to "BC" for General N'sau, as was
20 the case before, and (Redacted) and

21 I think those are the two essential points that I needed to bring to your attention. I
22 will also be talking from time to time about Presidents Kabila and I will use "Kabila I".
23 We can do that in public session. "Kabila I" for Kabila the father and for the son it
24 will be "Kabila II". Is that fine with you, Mr Witness?

25 A. Ordinarily, I would like us to also use "Kabila I" and "Kabila II" as codes.

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1 Q. I think that some questions were put to you in public session, referring to
2 President Kabila, and so what we are doing is attempting to find ways of not
3 disclosing your identity, and I am speaking here mindful of the fact that it is a
4 president who will control all of this, but otherwise we could pick another code.

5 PRESIDING JUDGE STEINER: I don't think that references to President Kabila
6 should be made in code. It is a public figure and (Redacted)
7 (Redacted), but it would be depending on the
8 question and depending on the answer. What do you think?

9 THE WITNESS: (Interpretation) No problem. That is fine.

10 PRESIDING JUDGE STEINER: And the second point, do you think that referring to
11 (Redacted) it would be safe enough in order to
12 protect your identity?

13 THE WITNESS: (Interpretation) I believe that for the (Redacted) we can change. We
14 can change -- replace the word "(Redacted)" with something else.

15 PRESIDING JUDGE STEINER: Maître Kilolo, any other suggestion, Maître? I think
16 it's too close.

17 MR KILOLO: (Interpretation) We can use "the document" to refer to your
18 document.

19 THE WITNESS: (Interpretation) Why not use a situation or something else,
20 because documents or a document or a (Redacted) refers to (Redacted)?

21 PRESIDING JUDGE STEINER: But we cannot avoid talking about what -- (Redacted).
22 We are trying to find an alternative (Redacted), but suggestions are
23 welcome of course. I think maybe "document" is more general. It's more vague.

24 THE WITNESS: (Interpretation) All right, that is fine.

25 PRESIDING JUDGE STEINER: Maître Kilolo, I think document -- it's not so close as

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1 (Redacted) I think "document" can be used. I just hope that you -- okay, you have

2 (Redacted). Thank you.

3 MR KILOLO: (Interpretation)

4 Q. Witness, we will now begin in private session. Witness, when General N'sau
5 joined the MLC, do you know whether he continued to maintain any relationship
6 with President Joseph Kabila?

7 A. No, I do not know, (Redacted).

8 Q. (Redacted)

9 (Redacted)

10 A. (Redacted)

11 Q. Do you know whether President Joseph Kabila helped or rescued the children
12 of General N'sau and his wife while he was at the MLC?

13 A. No, I do not know.

14 Q. Witness, (Redacted)

15 (Redacted)?

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted) you can remind me and then we can talk about it; remind
20 me of any such information and we can talk about it.

21 Q. Witness, would it be correct to say that when General N'sau joined the MLC
22 President Joseph Kabila assisted the members of his immediate family, his children
23 and his wife?

24 A. Counsel, would you kindly repeat your question?

25 Q. Let me refer to (Redacted), document (Redacted)

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1 (Redacted)

2 (Redacted) "After the general joined the MLC, most members of his
3 family encountered serious difficulties. His wife and all his children were
4 imprisoned at Demiap. During that time, during that particularly difficult time,
5 Commander Joseph Kabila, the current president of the republic, and Commander
6 Agaloa Gangiloa (phon), current brigadier-general, continued to assist his close
7 family members." Does that jog your memory?

8 A. Yes. Your initial question referred to President Kabila, but at the time of the
9 events President Kabila, the current President Kabila, Kabila II, was not yet president.
10 He was a commander.

11 Q. Can you tell the Court the specific nature of the assistance provided by the
12 current President Joseph Kabila to the close family members of General N'sau while
13 he had joined or gone to the MLC?

14 A. Any reference to assistance does not mean that the assistance was provided on a
15 permanent and ongoing basis. (Redacted) on one or two occasions the
16 commander, as he then was, went on patrol to Demiap and on two occasions he sent
17 food to the children and the wife who were there, who were then held in detention at
18 that time, and at that time Musée was still the president.

19 Q. When you say Musée was still president, which president are you referring to?

20 A. President Kabila number 1.

21 Q. (Redacted) while
22 General N'sau was at the MLC or with the MLC in Gbadolite, the movement which
23 was opposed to the regime in Kinshasa, that at such a time Commander Kabila,
24 current president, assisted members of his family, or provided assistance to members
25 of his family? (Redacted)

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1 A. (Redacted) She was the only
2 wife who was held in detention or imprisoned with her children. She was in prison
3 at Demiap, along with the children. The last child, if I am not mistaken, was three
4 years old. When the chief at the time -- and may I say that I was not there. When
5 the chief went around to inspect, he found this lady in prison with her six or seven
6 children, and the last being three years old if I am not mistaken, and that is how he
7 ordered that food be given to that family, particularly to the children.

8 Q. Witness, let me refer to your testimony before this Court, transcript
9 23 September 2011, page 50, line 1 and following, French version of real-time
10 transcripts. Now, do you remember having testified before this Court that while
11 (Redacted)
12 (Redacted)
13 (Redacted) Do you remember that?

14 A. Yes, very clearly I do.

15 Q. When you talk of members of General N'sau's family who sent money to him
16 from Kinshasa, (Redacted), who are you referring to specifically?

17 A. (Redacted) To clarify things further,
18 money was such a rare commodity in Gbadolite that if you received 20,000 francs
19 CFA at the phonie it took some two to three weeks for you to collect the entire
20 amount.

21 Q. Witness, what do you know about the relations between the current President
22 Joseph Kabila and General N'sau?

23 A. What I know is that General N'sau (Redacted) when they were together
24 as freedom fighters against Mobutu's army and when they would go on mission, for
25 example, to Eritrea, (Redacted), that on that mission

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1 it was N'sau who was the chief or head of delegation, although the current president
2 was part of that delegation. That is the current President of the Republic of Congo.
3 So in spite of his presence, it was the general who was the chief of delegation and that
4 is all.

5 Q. Could you tell this Court what AFDL stands for? AFDL?

6 A. I am not sure that I can give you the full meaning, but let me attempt to. It
7 must be the Alliance des Forces Démocratiques pour la Libération, if I'm not mistaken.
8 That is the Alliance of Democratic Forces for Liberation, if I am not mistaken.

9 Q. At the time the AFDL, a political and military movement, was headed by
10 someone. Do you know who?

11 A. The primary leader of any political and military movement is its president, who
12 is the president of the situation under his control, including on the one side members
13 of his government, being the political aspect, and then on the other the military
14 hierarchy.

15 Q. Could you then tell this Court who or what authority was leading the AFDL,
16 which was a political and military organisation?

17 A. The AFDL was headed by the first president, Joseph Kabila.

18 Q. When you say "the first president," are you talking about Kabila the father or
19 Kabila the son? Are you referring to Laurent Kabila, or Joseph Kabila?

20 A. Counsel, I think there was a first president, Laurent Kabila, and the second
21 president is Joseph Kabila.

22 Q. Do you know if the AFDL troops fought the MLC soldiers in Équateur
23 province?

24 A. Yes, I know this from history.

25 Q. Exactly what did you know on this matter?

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1 A. The MLC was fighting the authorities in power in Kinshasa.

2 Q. (Redacted)

3 (Redacted)

4 (Redacted)

5 Q. (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. And what year was that, please?

12 A. In (Redacted).

13 Q. Mr Witness, what did you learn about the fighting between the MLC soldiers
14 and the AFDL forces of President Kabila I?

15 A. I'm sorry, I didn't quite understand your question. Could you please rephrase
16 it for me?

17 Q. What did you know, or rather what did you learn, about the fighting between
18 the MLC soldiers and the AFDL forces?

19 A. There was war between the two parties, and on one side there were the MLC
20 troops and on the other side it was the troops of the Congolese Armed Forces. They
21 were fighting, because those other ones were fighting the authorities in power.

22 Q. When you talk about the troops of the Congolese Armed Forces, are you talking
23 about the AFDL forces at the time?

24 A. Of course, because just at the time when President Kabila I had taken his oath of
25 office, automatically the AFDL army was called "the Congolese Armed Forces."

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1 Q. What did you know about the friendship between General N'sau and President
2 Kabila I?

3 A. I have no idea about that relationship.

4 Q. I refer to the first document on the Defence list at page CAR-OTP-0011-0307.

5 Mr Witness, how did you know at the time, as you told the Office of the Prosecutor,
6 that General N'sau and Kabila I were friends?

7 A. Perhaps there was a mistake? I can't tell you what I don't know. I know that
8 he's the one who was a friend of General N'sau. In fact, the one who was a friend of
9 General N'sau was the current president, Joseph Kabila.

10 Q. All right. What did you know about the friendship between General N'sau
11 and the current president, Joseph Kabila?

12 A. (Redacted), they got along very well because the
13 two of them had the same first name, Joseph, and when they went on assignment
14 together the then Commander Joseph conducted himself very well without excessive
15 pride as the leader of the movement and listened to his advice and any time he
16 needed something by way of advice he would go to General N'sau to ask for that
17 advice, and if I'm not mistaken through that friendship (Redacted)
18 before he even got to Kinshasa Commander Joseph had bought a gift for him, which
19 was a small refrigerator.

20 Q. I would like to refer to the first document on the Defence list at page
21 CAR-OTP-0011-0307. Mr Witness, what exactly did you mean when you told the
22 Office of the Prosecutor, (Redacted)
23 (Redacted)?

24 A. (Redacted)
25 (Redacted) his gratuitous imprisonment in

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- 1 Angenga, the suffering that he went through, (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 THE INTERPRETER: If the interpreter understood correctly.
- 5 THE WITNESS: (Interpretation) (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 MR KILOLO: (Interpretation)
- 9 Q. (Redacted)
- 10 A. (Redacted)
- 11 THE INTERPRETER: Interpreter correction: (Redacted)
- 12 THE WITNESS: (Interpretation) (Redacted)
- 13 (Redacted)
- 14 MR KILOLO: (Interpretation)
- 15 Q. Mr Witness, could I ask you to speak a little louder to make it easier for the
- 16 interpreters to hear you. What can you tell us about the military movement Front
- 17 Révolutionnaire pour la paix du Congo, FRPC, the Revolutionary Front for Peace in the
- 18 Congo?
- 19 A. (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted) As unhappy as they were in Angenga, they felt that it was necessary to
- 23 create a movement in Angenga, in the prison in Angenga. (Redacted)
- 24 (Redacted) He even mentioned the names
- 25 of people who were there with him who took that alternative of setting up that

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1 particular movement.

2 Q. When was that political military movement, the FRPC, created?

3 A. (Redacted) It was in Angenga when he was imprisoned there. (Redacted)

4 (Redacted) I'm not quite sure. I think it was the end of 1998, the beginning of
5 1999. I don't really have it in mind, (Redacted)

6 (Redacted). Perhaps he put the date in; I don't know.

7 Q. Do you mean that the FRPC political military movement was created by
8 General N'sau at the time when he was first arrested in Angenga in 1999?

9 A. Of course, yes, because they were unhappy, but when he got out, because the
10 others who were there got out and had already fled, when they arrived in Gbado the
11 negotiations had already begun through the intermediary of the international
12 community, so it was no longer worthwhile for him or for the others to do that
13 because the negotiations were going to lead to peace in the Congo and that's all.

14 Q. Who were the other companions of General N'sau who set up this political
15 military movement, the FRPC, with him?

16 A. (Redacted) I don't have all of those names in
17 memory, (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 Q. What was the purpose of that political military movement, the FRPC?

24 A. To my knowledge, it was supposed to be a movement which was supposed to
25 revolt against the way the MLC leaders were governing, because among those people

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1 who were detained at Angenga there were also founders of the MLC who were in
2 prison, so they were thinking "We are suffering unbearable things and so we need to
3 work to make our voices heard in a different way. We need to separate ourselves
4 from this MLC system."

5 Q. (Redacted)

6 (Redacted)

7 A. The movement, what can I say? The movement or the organisation didn't
8 work, because just when they got out of prison, for example the general when he got
9 out of the prison, there were already negotiations underway between the warring
10 parties and, as there were already negotiations, there was no way for this movement
11 to begin its activities. But when he decided to leave it, he said "When we go to the
12 other side, for our safety and to have our voices heard we're going to make claims for
13 this movement so that people don't call us members of or contributors to --" well, I
14 don't really know.

15 Q. (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 A. Of course, yes. I do acknowledge that.

23 Q. Is it true that (Redacted)

24 (Redacted) in question?

25 A. Counsel, if you insist on focusing on this movement, it's like where a child is

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1 born into a given family and then the parents and the family decide "No, we're not
2 going to have this child because we already have enough children," but the family is
3 there as a proof.

4 When the general was arrested and because they know who the general was working
5 with, with the MLC people, they knew that when the general fled the Central African
6 Republic to rally the MLC he had come with this and that officer and this and that
7 soldier and these other people, they knew that he was acting for the movement.

8 So all of these people who were won over to the general's cause were
9 considered -- were not well considered after the general was arrested. They were
10 tracked down. People were searching for them. (Redacted)

11 (Redacted)

12 PRESIDING JUDGE STEINER: If you don't mind, this reference on document (Redacted)
13 (Redacted), could you please give the ERN number of this document?

14 MR KILOLO: (Interpretation) Yes, Madam President. It is document CAR --

15 THE COURT OFFICER: Madam President, if I may assist?

16 PRESIDING JUDGE STEINER: Yes, please.

17 THE COURT OFFICER: (Redacted)

18 (Redacted), and that page corresponds (Redacted)

19 and it's a confidential document.

20 PRESIDING JUDGE STEINER: Thank you very much.

21 MR KILOLO: (Interpretation)

22 Q. Mr Witness, (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted). He said "So that is what
2 we're going to do with the other people, but when I got out of prison, the negotiations
3 had already begun and so I felt that it was not important to continue and as the
4 connections with Kinshasa were difficult we were going to talk about the military
5 parameters, but it wasn't possible where we were."

6 (Redacted) "Even if today we were to do it,
7 the entire international community would be against us, because the negotiations are
8 already taking place."

9 Q. (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted) what

13 leader and chief are you talking about?

14 A. At that point in time, we are talking about General N'sau. He and the others
15 are the ones who had that idea but when we were already over the other side (Redacted)

16 (Redacted) other soldiers who had crossed over, who had fled what was
17 going on in the MLC, (Redacted)

18 (Redacted) on the other side to find out

19 what was going on and on top of that to try and acquire some sort of status (Redacted)

20 (Redacted) sought by the regular army of

21 Patassé and the ALC soldiers, that is the military branch of the MLC.

22 Q. When you say (Redacted)

23 (Redacted)

24 (Redacted)?

25 A. The MLC, the people who were there, (Redacted)

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1 (Redacted), because all of those who joined the MLC with the general of those who
2 were -- some of those were arrested, some of them were being pursued in Gbadolite
3 by General Gado and others. They were being tracked and (Redacted)
4 (Redacted)
5 (Redacted) I'm not talking about a movement, because even within the MLC it
6 was not possible to get out for the leaders and the officers of the movement.
7 Creating a movement in Gbadolite where terror reigned is something that you
8 couldn't envisage and in addition I repeat this: The negotiations had already begun
9 to achieve peace in the Congo; the negotiations led by the international community.
10 And so there was no way of creating a front or refusing something or revolting
11 against something in a situation where there was going to be reunification of the
12 country and everyone was going to then want to leave the movement in order to do
13 what they wanted.

14 Q. I would like to return to this (Redacted) document in the Defence's list on page 44,
15 reference (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted) numerous soldiers who were railing against Jean-Pierre Bemba to applaud
21 General N'sau, what soldiers (Redacted)?

22 A. The soldiers belonging to the MLC.

23 Q. Are those the soldiers who joined the political and military movement headed
24 up by General N'sau?

25 A. Counsel, you want to put words into my mouth, something that I'm not -- that

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1 I don't know, but you are in contact with the people who were living at that time in
2 Gbadolite, who worked in that place, and they are in a position to tell you the
3 disparaging tones they made with regard to their leaders. You can check this,
4 because these were people who were languishing in dire poverty. These were
5 people who weren't earning their wage. You can check. There are people who are
6 there and who were living there at that time and I am telling you very -- quite frankly,
7 that if you talk with these people, 90 per cent of the soldiers who were at Gbadolite,
8 and if you asked them -- give them a choice to stay within the movement or leave it,
9 well, 90 per cent of those people would have desired to leave the movement because
10 there was dire poverty, absolute poverty prevailing, and this is what prompts me to
11 say when -- when the injured, the disabled from conflict, when they sang and they
12 railed abuse, this was out in the open. Everybody was aware of this, because these
13 were people who had been cast aside and neglected despite their disability from
14 warfare. There was no other choice. You can check this and people in Gbadolite
15 who were with us can confirm that, Counsel.

16 PRESIDING JUDGE STEINER: Mr Iverson.

17 MR IVERSON: Thank you, Madam President. The page that Defence counsel
18 referred to, (Redacted), doesn't appear to be in the extract that the Defence provide, so I
19 noticed that the Defence has the actual document. I don't know how that would be
20 provided to the Court, but just for the record.

21 PRESIDING JUDGE STEINER: I was waiting for the opportunity to say the same
22 thing to Maître Kilolo. You referred to (Redacted) of the document, but you gave the
23 ERN number of (Redacted), the same previous reference, so we don't have (Redacted) here.

24 MR KILOLO: (Interpretation) Thank you, madam. In all likelihood, I may be able
25 to furnish you with greater detail following the break. Suffice to say we have one

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1 single reference that corresponds to document (Redacted) for which I've already
2 provided the reference which encompasses a number of pages and together make up
3 an excerpt taken from the document (Redacted), unless I'm
4 mistaken, should be featuring in that excerpt.

5 PRESIDING JUDGE STEINER: (Redacted) is not here.

6 MS KNEUER: Madam President, to follow up what my colleague Mr Iverson
7 already put on the record, to be very clear, in the eCourt there are a number of pages
8 missing (Redacted). What is in the eCourt is just an (Redacted), but not the
9 (Redacted). It's not only (Redacted) missing.

10 PRESIDING JUDGE STEINER: But in any case, the excerpt quoted by Maître Kilolo
11 right now, referring to (Redacted), this (Redacted) is not part of the excerpt uploaded in
12 eCourt. That's the point.

13 MR LIRISS: (Interpretation) Just to dispel the confusion, Counsel Kilolo is now
14 going to switch to another topic and so after the break, when our case manager will
15 have dispelled this confusion, perhaps we can return (Redacted). Thank you.

16 PRESIDING JUDGE STEINER: Thank you, Maître Liriss. Maître Kilolo, you can
17 proceed.

18 MR KILOLO: (Interpretation)

19 Q. Mr Witness, would it be accurate to say that the purpose of this political and
20 military movement was the following: To wage war against the MLC and its
21 Ugandan allies to the benefit of President Joseph Kabila?

22 A. No.

23 Q. To the best of your knowledge, what was the purpose of this political and
24 military movement?

25 A. Counsel, you want me to tell you about the situation of a movement which

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1 hadn't started to get up and running.

2 MR KILOLO: (Interpretation) I would just like to return to the (Redacted) that

3 features in the Defence list, (Redacted). This is on (Redacted) and I hope

4 Madam President will be able to find that in her list?

5 PRESIDING JUDGE STEINER: Yes, it is just that the Maître (Redacted)

6 (Redacted).

7 MR KILOLO: (Interpretation) Have you found it, madam?

8 PRESIDING JUDGE STEINER: Yes, (Redacted).

9 MR KILOLO: (Interpretation)

10 Q. (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 A. Of course. Of course. Of course.

19 Q. Could you clarify for the Chamber who were these MLC accomplices,

20 accomplices of the Ugandans, that the political and military movement established by

21 (Redacted) should throw out of the Democratic Republic of Congo?

22 A. These were the Ugandans and the MLC, because they were all very unhappy

23 with the system when they were in prison.

24 Q. Can you cite some names, the names of the major protagonists within the MLC,

25 that the military and political movement sought to throw out of the Democratic

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1 Republic of Congo?

2 A. I don't know, Counsel. I couldn't cite or quote them, but (Redacted)

3 (Redacted). When they established that movement, (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted) I cannot tell you anything quite simply because I wasn't

7 at Angenga, so I can only interpret (Redacted)

8 (Redacted)

9 Q. Mr Witness, would it be accurate to say that General N'sau, (Redacted) as well

10 as the 1,600 deserters (Redacted) to launch this operation

11 against the MLC?

12 A. Counsel, (Redacted).

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 A. With regard to the numbers in question, numbers of those who entered with the

19 general within the MLC, the general had issued the order because he himself was

20 involved. He was -- he was saying "Well, how can children love their dad? Then

21 we've got to go and then you need to come with me, and from the Central African

22 Republic we're then going to see what we can do afterwards." That's how things

23 went. (Redacted) It was the soldiers who the General N'sau commanded in

24 Kabila's army, it was those same soldiers to whom he issued the order to join the

25 MLC, but subsequent to all the disappointments he had it circulated to those near the

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1 border that they could leave the country because they knew that as soon as the
2 general -- the general knew that as soon as he left those people would be hunted
3 down, and that's why when he crossed the border it was about -- he asked people to
4 leave the country because for fear of reprisals undertaken by Jean-Pierre Bemba
5 against them.

6 Q. Mr Witness, I would just like to recall to your memory another statement that
7 you made to the Office of the Prosecutor. I'm referring to the first document in the
8 Defence's list on page CAR-OTP-0011-0312. This is what you say when you talk
9 about (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)"

20 Mr Witness, does this properly reflect your statement made to the OTP?

21 A. Yes. Yes, it was indeed me who made this statement. It was as I told you.

22 The general issued that order to all the soldiers who had come with him and who had
23 rallied his flag and who had worked with him in the MLC. He issued the order for
24 them to leave, bearing in mind that when he left he knew that there would be
25 reprisals and these reprisals took place in Gbadolite against those who weren't able to

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1 get out. These people were arrested, they were whipped, they were

2 treated -- ill-treated by the governing team at Gbadolite.

3 Q. Mr Witness, just as you stated to the OTP, why did -- these 1,620 deserting
4 soldiers from the MLC, why did they come to (Redacted) Bangui? Why did they meet up
5 (Redacted) in Bangui?

6 A. Counsel, when a commander issues an order, an order that says that we must
7 leave, because the commander knew himself what was happening, that he was
8 leaving the camp - the MLC camp - and it wasn't easy to leave the MLC, even if you
9 had the requisite authority. If you didn't have clearance from the MLC president,
10 you weren't able to get out. So bearing in mind that he was leaving, he didn't know
11 that he would be arrested by MLC soldiers, but he did know full well (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted), and in the afternoon of Monday the

18 general was arrested and when the general was arrested this was circulated. This
19 was broadcast on the radio; on the Gbadolite radio. And now I couldn't tell you
20 what fate befell them, because I think I told -- (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 Q. To the best of your knowledge, between Mr Jean-Pierre Bemba and his
25 opponents or political enemies, namely President Laurent Kabila I, Kabila I, and

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1 President Joseph Kabila, Kabila II, General N'sau's preference, (Redacted)

2 (Redacted), inclined to whom to the best of your knowledge?

3 A. (Redacted) - that he didn't betray Musée.

4 It was the circumstances that dictated that, that he was able to join the MLC, and
5 within the MLC he was met with disappointment. Now, by way of preference I told
6 you that he was on a mission with Kabila II and Kabila I, who was the commander of
7 the movement.

8 Q. When you say that General N'sau was on a mission, he was on a mission with
9 President Kabila II, what did you mean by that?

10 A. Counsel, I spoke to you about the AFDL. You asked me about the Alliance of
11 Democratic Forces for Freedom. General N'sau was a member of this. He was at
12 that time a colonel and commander of the 21st Brigade, a brigade which was in the
13 Katanga province, Katanga, because he was already commanding a brigade and this
14 was under -- in Mobutu's era, because a brigade is quite a sizeable body of soldiers.
15 I don't know whether you know the numbers that make up a brigade, but it was in
16 that capacity that he, in conjunction with the General Staff, led the operations to
17 throw Mobutu out of power. And it was -- and within that General Staff, Joseph
18 Kabila was a member of that General Staff, but the person who commanded the
19 operations, that wasn't me. (Redacted)

20 (Redacted) He didn't know that he was subsequently going to be arrested and
21 assassinated by the MLC. (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted) so he was the one who was commanding the said operations.

25 Q. My last question before the break. I'm referring now to (Redacted)

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1 (Redacted)
2 (Redacted)
3 (Redacted)
4 (Redacted)
5 (Redacted) Now, with regard
6 to Jean-Pierre Bemba, you have had sufficient time to read this document and to
7 ready your defence. (Redacted)
8 (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted) How can I answer you,
16 Counsel?
17 PRESIDING JUDGE STEINER: Thank you, Maître Kilolo.
18 Mr Witness, we'll have now our first break. You can have coffee, tea, take some rest.
19 We have a half-an-hour break. It's 11 o'clock. We'll be back at 11.30. Court officer,
20 please turn into closed session for the witness to be taken outside the courtroom. In
21 the meantime, we are going to suspend and resume at 11.30.
22 *(Closed session at 11.01 a.m.) Reclassified as Open session
23 THE COURT OFFICER: We are in closed session, Madam President.
24 (The witness stands down)
25 THE COURT OFFICER: All rise.

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- 1 (Recess taken at 11.01 a.m.)
- 2 *(Upon resuming in closed session at 11.50 a.m.) Reclassified as Open session
- 3 THE COURT USHER: All rise. Please be seated.
- 4 PRESIDING JUDGE STEINER: Welcome back. Could, please, court usher bring
- 5 the witness in.
- 6 (The witness enters the courtroom)
- 7 PRESIDING JUDGE STEINER: We can turn into open session, please.
- 8 (Open session at 11.52 a.m.)
- 9 THE COURT OFFICER: We are in open session, Madam President.
- 10 PRESIDING JUDGE STEINER: Mr Witness, welcome back.
- 11 THE WITNESS: (Interpretation) Good morning.
- 12 PRESIDING JUDGE STEINER: Can we continue with your testimony?
- 13 THE WITNESS: (Interpretation) Yes, thank you.
- 14 PRESIDING JUDGE STEINER: Maître Kilolo, should we turn into private again?
- 15 MR KILOLO: (Interpretation) I'm sorry, Madam President.
- 16 PRESIDING JUDGE STEINER: Court officer, please turn into private session.
- 17 *(Private session at 11.53 a.m.) Reclassified as Open session
- 18 THE COURT OFFICER: We are in private session, Madam President.
- 19 MR KILOLO: (Interpretation)
- 20 Q. Witness, (Redacted) General N'sau?
- 21 A. Yes, (Redacted)
- 22 Q. Were you (Redacted)
- 23 (Redacted)?
- 24 (Redacted)
- 25 (Redacted)

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1 Q. Now, let me remind you (Redacted), document number (Redacted),
2 Defence list of documents, page (Redacted), that would be (Redacted), and this
3 is (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 A. Yes.

9 Q. From what time (Redacted)
10 (Redacted)?

11 A. Counsel, you have rightly read that (Redacted),

12 (Redacted)

13 (Redacted) What you are saying, therefore, is a matter that relates to

14 the past, and now speaking about the present, (Redacted)

15 (Redacted) they were dissatisfied with the manner in which they were

16 imprisoned and that at that time they were no longer in any position to do anything

17 because the accords had already kicked in. (Redacted)

18 even abroad, the entire international community would stand against (Redacted) the

19 negotiations were already ongoing, so that was a matter of the present at that time,

20 and then there was a matter of the past, (Redacted)

21 (Redacted). So these are two

22 different things, Counsel.

23 Q. Witness, (Redacted)

24 (Redacted)

25 (Redacted)

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1 A. (Redacted)
2 (Redacted)
3 (Redacted)
4 (Redacted)
5 (Redacted)
6 (Redacted) The movement was not
7 existing as such.
8 You see, when something comes alive, it does take a number of decisions and can
9 undertake a number of actions. (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted)
17 (Redacted)
18 (Redacted)
19 (Redacted)
20 (Redacted) It was
21 simply with regard to the -- to information that had been given to the chief of the
22 movement, the general, and once the general found out that that information was
23 false he restored him to his functions. That's the situation, Counsel.
24 Q. As reflected in (Redacted) document on the Defence list on (Redacted),
25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 A. (Redacted)

4 (Redacted) I think that a baby who has

5 never been born is not given a name, even if it was estimated that the baby would be

6 born on a given day. If you know that a baby is going to be born then you might

7 give that baby a name, but if the baby is never born you won't describe that child as

8 being a child. It's only the intention to have a child and, as far as I'm concerned, that

9 is the status of the movement. It's something which was starting to take shape.

10 Q. At any given time, (Redacted)

11 (Redacted)

12 (Redacted)

13 A. Counsel, I think that words need to be put in context. "Fight" means that

14 you're already starting to see physical clashes, man to man, weapon to weapon.

15 There had not been any fighting (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 Counsel, (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted).
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted) So that's pretty much how it went, Counsel.
- 18 Q. (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 A. (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 Q. (Redacted)
- 12 (Redacted)
- 13 A. At that time, as -- there was a troop. (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 Q. (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

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1 Q. (Redacted)

2 A. No, Counsel. I'm going to tell you something. (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. (Redacted)

15 A. Is that necessary to this trial, Counsel?

16 Q. I would like to remind you of a declaration, (Redacted)

17 (Redacted) on the Defence list, at page (Redacted), and I quote: (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 Mr Witness, does this faithfully reflect (Redacted)?

25 A. Yes.

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- 1 Q. (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 A. Counsel, do you want me to give you the names of these people, please?
- 5 Q. We are in private session. Please go ahead.
- 6 A. (Redacted)
- 7 (Redacted)
- 8 (Redacted) I was aware of everything. I can repeat myself, because you
- 9 haven't asked me this question, I -- therefore it serves no purpose that I deal with this
- 10 at great length, but (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted) And I would remind you that these were
- 14 people who were unhappy with the system, unhappy with the MLC system. (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted) I had no means at all. I was in a situation of complete lack of
- 18 safety. (Redacted)
- 19 (Redacted)
- 20 (Redacted) How can I
- 21 give you their names here? I'm telling you this, it is the truth. If, for example, given
- 22 that Africa is very far away, (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. (Redacted)

5 (Redacted)

6 A. No.

7 Q. Could you explain to the Chamber what a mutiny is?

8 A. Counsel, don't ask me to give you definitions of words. I don't have the
9 dictionary with me. I think that we are talking frankly here. I can't give you a
10 definition, other than the definition given in a dictionary, and I don't have a
11 dictionary with me, and so I can't answer that question, but as far as I know a mutiny
12 is people who rise up, armed people who rise to create disorder in the camps in which
13 they found themselves.

14 Q. And what do you call a desertion?

15 A. Counsel, desertion is someone who had a job, who leaves that job without
16 warning to follow other ambitions. That's what I would call desertion.

17 Q. More specifically, in the army, (Redacted), in the army, what
18 do people mean by desertion?

19 A. Counsel, I was invited to come here after the service that I am doing to
20 international justice as a witness, instead of going back home I can see that Holland is
21 a lovely country. Let's say I decide to stay here and not go back to my home country,
22 that would be desertion (Redacted). If I turn away
23 from what was asked of me and do something different, let's say I stay here in
24 Holland, I would have become a deserter, I would have deserted that position in
25 which I was doing service.

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1 Q. Do you know why (Redacted) General N'sau was arrested in
2 July 2002 in Bossobolo (phon)?

3 A. In Bossobolo, when they went to arrest him there was no desertion because he
4 was on MLC territory carrying an official mission order. There was no desertion.
5 He was on MLC territory and he was setting off on assignment to Zongo. (Redacted)
6 (Redacted)

7 (Redacted) It is the

8 people from the embassy who then informed Mr Bemba that General N'sau, after his
9 mission to Zongo, was going to flee, was going to defect. When the president of the
10 movement received this order, he sent Colonel Ngato (phon), an officer among the
11 officers there, who sent his team, the Gengaze team - if the offence of desertion had
12 been committed, when those people arrived within a few kilometres away from the
13 general, they began to shoot - well, that was not actually a desertion. So if you were
14 to talk about desertion, you would have had to put people all the way around along
15 the river waiting until his mission ended and waiting until he tried to cross the river.
16 At that point you would have been able to talk about desertion. But he was actually
17 carrying out his orders, his mission, on the MLC territory. That was not an arrest,
18 that was an attempted assassination. (Redacted)

19 (Redacted) It

20 was not an arrest, Counsel, it was an attempted assassination, the first attempt which
21 was unsuccessful.

22 Q. And yet, Mr Witness, General N'sau had organised a movement to desert with a
23 troop made up of about 1,620 soldiers who were connected with President Joseph
24 Kabila.

25 A. They were not being gathered for President Joseph Kabila. I have told you,

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 For your benefit, Counsel, I can remind you of how the general approached the MLC.

7 It was with regard to messages that were reaching the MLC. As he had defected

8 from Gbado in the Central African Republic there was a team, President Kabila I sent

9 a team to execute him at Mbaibanga (phon) in the Central African Republic where he

10 was, and the person who had informed him, I don't know if he is still alive or not, was

11 the -- was Mr (Redacted), who was chargé d'affaires for the Central African

12 Republic. He's the one who contacted them to say that there was an équipe in

13 Kinshasa to arrest him because they had been beaten in the war of Équateur.

14 Now, that had been communicated to me through (Redacted).

15 He said to the general through a communicator President Bemba had said that

16 Kinshasa wanted to kill (Redacted), but he was ready to welcome (Redacted) in his movement. He

17 could see death coming in the Central African Republic and that's why he fled the

18 MLC to save his life. He did not come from the MLC, as such.

19 Q. Mr Witness, to your knowledge, why did General N'sau want to leave the

20 movement for the freedom of the Congo of the MLC with those soldiers?

21 A. Given the climate within the MLC against the generals and the officers and the

22 soldiers with whom he had joined the MLC, I can cite the example of (Redacted),

23 that is someone who had commanded a battalion. He had brilliantly succeeded in

24 his operations but when he returned from that, he was relieved of his functions

25 because he was with the general at all times. There are a lot of other people who

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1 suffered from this situation, and that is why he felt that it was appropriate not to
2 leave these people in the hands of the executioner, to leave. He said, "Without this
3 people are going to do you harm," and that is what he did for the other people who
4 stayed in Gbadolite. I can give you examples, I can give you names.

5 Q. Mr Witness, (Redacted)

6 (Redacted), was this the day after the day when General N'sau was
7 unmasked and this was consigned in some papers.

8 A. Well, with regard to the confirmation of the date, I cannot confirm this.

9 (Redacted)

10 (Redacted) the next day the general was arrested. The
11 general was then transferred handcuffed to Gbadolite. And a few days subsequent
12 to that, on the orders of the supreme commander, president of the MLC, he was -- he
13 went into -- an (Redacted) person heard his statement, and I can't remember the
14 name exactly, (Redacted), but this was -- this statement was made. Therefore, his
15 words were consigned in a statement and not judge, but this happened a few days
16 subsequently.

17 Q. Mr Witness, (Redacted)

18 (Redacted), the next day General N'sau was arrested. (Redacted)

19 (Redacted)

20 A. My question comes in two -- my answer, rather, comes in two parts: One, yes,
21 because it was he himself who wrote that. (Redacted)

22 (Redacted) The second part of my answer is the following: Because of the
23 magnitude of the arrest, you can't just arrive and arrest a general who had been
24 established by the chairman of the MLC and turning up and then opening fire to -- I
25 mean, a general is a superior officer, so you can't just come and arrest him. You can't

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1 just -- you can't just open fire on him, Counsel, that's not an arrest.

2 (Redacted)

3 (Redacted), as you were told. He had a mission order that was official, an official
4 mission order, but somebody who holds that official authorisation, assuming the
5 interim position of power, who could issue the order? Who is above the Chief of
6 General Staff, to send people to kill the general, Counsel?

7 Q. Mr Witness, when General N'sau's arrest took place in July 2002, do you know
8 whether he was as ill as he was subsequently at that point in time, at the time of his
9 arrest?

10 A. He was not ill, he was in good health, and I believe that during his time in jail he

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. (Redacted), were you informed of the fact
17 that he suffered from diabetes?

18 A. Counsel, would you mind accepting the fact that I'm asking Madam President
19 that we can refer (Redacted)

20 (Redacted), he says that

21 "I'm in good health." Somebody who is in prison, I think it's his -- it's very heartfelt,
22 it comes straight from the heart. If he was ill, then he would say he was ill, and
23 having no medical assistance. But he writes there "I am in good health, but what I'm
24 lacking is money and clothes. I've been deprived of everything." So somebody
25 who is in prison expresses his heart openly. When he writes he is in good health,

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1 well, he's not therefore ill.

2 Q. I'd like to refer to the first document that features in the Defence list. This is on
3 page CAR-OTP-0011-0313. Mr Witness, do you recall the following: That Valentin
4 Senga had gone, according to what you say, had gone to see Jean-Pierre Bemba to
5 inform Mr Bemba of the fact that General N'sau was ill?

6 A. Yes, Counsel. Mr Valentin Senga went -- well, intervened when General N'sau
7 had already been hospitalised. He had left the prison to go to hospital. And given
8 the fact that his state of health was diminishing day-by-day, he went to beg the
9 leaders of the movement. Valentin Senga wasn't alone in doing this, there were
10 other people who went also. For example, Dufin Minyiti (phon), who was a special
11 adviser to the leader of the movement, they went -- even Égide, this is the gentleman
12 who took up the duties of GD and the General Staff, he drew up a report which stated
13 that these people need this, even though he's done this, please forgive him so that he
14 can continue to serve the movement. And, for your information, counsel, I will add
15 one further thing: When then N'sau died, the MLC lost something in that death
16 because in the DRC the agreement stated there had to be two divisional generals, on
17 one side and the other, but in the MLC, because he had been de-ranked, there was
18 only one divisional general, Amuli, and the other one was the president of the
19 movement. So when he acceded to the rank of vice-president, he no longer carried
20 that rank, and that's why you can see among all the officers of the MLC, all the MLC
21 officers, there is only one divisional general. When they entered, if they had let
22 N'sau retain his rank, then there would be two divisional generals within the MLC.

23 Q. (Redacted) did you learn that his son had
24 remained by his side during his incarceration and in the hospital when he was ill?

25 A. No, he didn't go to his side. This son, when he arrived, according to the

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1 (Redacted)

2 the general had received no medical assistance. He only had a drip. And what
3 actually had affected Valentin Senga, this is what had prompted Valentin Senga to
4 plead for him, because his state of health meant that he had to be evacuated out of
5 Gbadolite or he could go to Karawa where there was a hospital that was still under
6 the administration of Catholic missionaries, who were reliable or again, he would be
7 referred to -- transferred to Bangui which was done for MLC officials. These latter
8 were -- either received treatment in Karawa or Bangui, but not in Gbadolite, so he
9 went to find assistance.

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 So if, if there was no -- if there had be no animosity within the MLC, well, despite that,
24 assistance should have been provided to Mr N'sau. That's why I'm citing the names
25 of people who had gone to ask the grace and favour to tap into the good feelings of

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1 the president to provide medical assistance to General N'sau, but this assistance was
2 refused.

3 Q. Mr Witness, to the best of your knowledge, did the state of health of General
4 N'sau make it possible for him to be transferred from one hospital to another, and if
5 "yes" to which hospital would that be?

6 A. I told you that the MLC officers, if they weren't treated at the Gbadolite hospital,
7 they were either -- either received treatment at Kawa -- I don't know whether we can
8 really call it a city, but it's a territory within the province of Équateur, where there
9 was a viable hospital. So it was either there that they received treatment or in
10 Bangui. And indeed there was a plane that took them there, I don't recall the name,
11 but when I was told -- actually, there was another MLC officer who was in a serious
12 state of health, but his case meant that he didn't need to be transferred to Bangui, but
13 he was transferred to Bangui where he subsequently died in his hospital bed in
14 horrible circumstances.

15 Q. (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 THE INTERPRETER: Message from the English booth: Could the exchanges
2 please slow down considerably.

3 MR KILOLO: (Interpretation)

4 Q. Why do you think he was poisoned by the soldiers of the MLC and why didn't
5 he just die of an illness? Why do you assume it was poisoning?

6 A. Thank you, Counsel.

7 THE INTERPRETER: Message from the English booth: Could he slow down,
8 please.

9 THE COURT OFFICER: Madam President, if I may, just the interpreters require for
10 the parties and the witness to slow down a little bit for record purposes. Thank you.

11 MR KILOLO: (Interpretation)

12 Q. Mr witness, this is just a reminder of the five-second rule that was announced to
13 you at the outset of your oral testimony. So what you need to do is just wait five
14 seconds after I have put my question to you and then after that five seconds then you
15 can reply, and the same thing is true for me, which means that what we say is
16 properly interpreted in English for the parties, participants and particularly for the
17 Bench.

18 A. Would you please repeat the question?

19 Q. Mr Witness, why do you believe that General N'sau was poisoned by the MLC
20 soldiers and that he didn't, therefore, die of an illness? Very succinctly, please.

21 A. Number 1, I didn't think that it was said at Gbadolite. Number 2, if assistance
22 was to be provided to the general then appropriate treatment should have been
23 provided to him to save his life. Number 3, before the death of the general there was
24 one boy who worked with the General Amuli. I can't remember his name. (Redacted)
25 that was his name. His name has just popped into my mind.

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1 (Redacted) went to the general's girlfriend, (Redacted). I have to speak in
2 French of course, but "Go and find another husband ..." was said "... because the
3 person who died yesterday, the person who lost consciousness yesterday, will die in
4 the hospital." That was (Redacted) who said that. I remember, I remember his name.
5 (Redacted) said this. These are the three points that prove that, in the final
6 analysis, there was indeed something that took that person to his death.

7 Q. Mr Witness, I'm not asking you to speculate upon the cause of death of General
8 N'sau. No, I want you to supply accurate information, if you have such information.
9 Do you know whether Mr Jean-Pierre Bemba liked General N'sau a lot, or not?

10 A. He did like him. When he entered the movement, he was mindful of his merits.
11 Even in his book, he mentioned that. I've forgotten the title of the book. Because
12 just after that, he provided him with the duty of military adviser to the president of
13 the movement. But after his arrest at Angenga, that trust -- well, his release from
14 Angenga, that trust dissipated completely.

15 Q. Mr Witness, after having gone out of the Angenga prison, do you know whether
16 General N'sau received any promotion? Was he -- did he receive another
17 appointment by Jean-Pierre Bemba?

18 A. Yes, yes, I do know that, because at the time in question, at the G4, there was a
19 woman who was responsible for a particular group and the leaders of the movement
20 had decided to have N'sau -- N'sau wasn't working. It was the general himself who
21 had said this, because the day when he came, following his release from Angenga, he
22 was walking and the president of the movement, Jean-Pierre Bemba, came up
23 with -- in his vehicle and agreed -- the president greeted him and said "How are you?"
24 And he said "I'm okay." "Are you working?" And he said "Well, since I've left
25 Bemba, I haven't got any work."

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1 The next day he was told through the Chief of General Staff Amuli that on the order
2 of the president he should go off and work in a particular area, because in that
3 particular area things aren't working properly.

4 Q. Do you know whether Jean-Pierre Bemba had appointed Mr N'sau to the rank
5 of general in July 2002?

6 A. (Redacted)

7 Q. (Redacted)

8 (Redacted)

9 (Redacted)

10 A. (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 Q. (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
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- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted) Counsel.

21 PRESIDING JUDGE STEINER: Thank you, Maître Kilolo. Mr Witness, we'll have
22 now our lunch break. You have time to take some rest. It's 1 o'clock. We will
23 resume at 2.30. Please take your time, and I ask, please, the court officer to request
24 VWU to give some assistance to the witness during the break. Let's turn into closed
25 session, please.

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1 *(Closed session at 1.03 p.m.) Reclassified as Open session

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

3 (The witness stands down)

4 THE COURT OFFICER: All rise.

5 (Recess taken at 1.03 p.m.)

6 *(Upon resuming in closed session at 2.34 p.m.) Reclassified as Open session

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

8 PRESIDING JUDGE STEINER: Good afternoon and welcome back. Maître Kilolo, may

9 I ask whether the Defence can give the Chamber an estimation on the length of the
10 questioning?

11 MR KILOLO: (Interpretation) Madam President, I am afraid we might stretch until
12 Wednesday because we haven't made much progress with this witness.

13 PRESIDING JUDGE STEINER: Yes, I'm afraid I have to agree that we have not advanced
14 too much, because it appears that we're going back all the time, the same and very, very
15 same type of issues, and the Defence maybe has lost a little bit of focus maybe? I don't
16 know. I don't want to interfere with the Defence line of questioning, but it appears that
17 in relation to the issues at stake of the present case we haven't gone too far. Maître?

18 MR KILOLO: (Interpretation) If that is a question for me, Madam President, let me say
19 that we are trying to deal with all matters relating to the credibility and the true motive of
20 this witness in regard to his collaboration with the OTP. We hope that by
21 tomorrow -- we hoped that by tomorrow afternoon we would have concluded, but it is
22 very likely that we will be done by Wednesday morning. However, we will attempt to
23 conclude our examination tomorrow afternoon.

24 PRESIDING JUDGE STEINER: That's fine, Maître Kilolo. I just ask you please to try to
25 be a little bit more focused, because it appears - maybe we are wrong, but it appears - that

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1 since the beginning of the questioning only the issue related to the credibility has been
2 discussed and his relation to the MLC, so if we continue on this same line until
3 Wednesday I think it will become a little bit repetitive. So it is just to see whether we can
4 advance a little bit. Thank you very much.

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

6 (The witness enters the courtroom)

7 PRESIDING JUDGE STEINER: We can turn into open session, please.

8 (Open session at 2.38 p.m.)

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

10 PRESIDING JUDGE STEINER: Good afternoon, Mr Witness, and welcome back.

11 THE WITNESS: (Interpretation) Thank you.

12 PRESIDING JUDGE STEINER: We hope you're feeling better, that you took some time
13 to rest and that you are ready and willing to continue giving your testimony?

14 THE WITNESS: (Interpretation) Thank you, your Honour. I am ready. I would
15 like to apologise, because I -- it was just a matter of an emotion I got.

16 PRESIDING JUDGE STEINER: Let's turn into private session first.

17 *(Private session at 2.40 p.m.) Reclassified as Open session

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

19 PRESIDING JUDGE STEINER: Please, Mr Witness, you can continue.

20 THE WITNESS: (Interpretation) (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 PRESIDING JUDGE STEINER: Mr Witness, you don't have to excuse yourself. The
5 Judges fully understand when sometimes a witness gets emotional. You are dealing
6 with events that touched upon (Redacted), so you don't have to
7 apologise. If at any moment you feel tired, or distressed, you just let us know and we
8 can go into a break. So don't feel shy and just let us know. Is that fine with you, sir?

9 THE WITNESS: (Interpretation) Yes, your Honour. Thank you.

10 PRESIDING JUDGE STEINER: Maître Kilolo, you have the floor.

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

12 Q. Good afternoon, Witness.

13 A. Good afternoon to you and thank you.

14 Q. Thank you. Let me now refer to the second document of the Defence list of
15 documents, page CAR-OTP-0011-0332. Witness, do you remember referring to the
16 existence of a code of conduct - a military code of conduct - for the MLC when you were
17 interviewed by the OTP?

18 A. Could you kindly rephrase your question? I'm not sure I understood it.

19 MR KILOLO: (Interpretation) Madam President, could we revert to open session and
20 we will do the level best to keep within the limits? Now, when talking about Mr N'sau,
21 we'll use the code "Mr Bravo Charlie."

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

23 (Open session at 2.44 p.m.)

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

25 MR KILOLO: (Interpretation)

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

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

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

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

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

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

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

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

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

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

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

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

4 Q. Please do.

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

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

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

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

16 A. Do you want me to read?

17 Q. Yes, please.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 PRESIDING JUDGE STEINER: Let's turn into private session, please.

2 *(Private session at 3.02 p.m.) Reclassified as Open session

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

4 THE WITNESS: (Interpretation) Thank you, Madam President.

5 (Redacted)

6 (Redacted)

7 (Redacted) The state to which the lawyer

8 refers is the State of the MLC, which was led by Jean-Pierre Bemba. I told you that it was

9 a state, with the co-operation of the State of Gbadolite. These were states that were

10 collaborating, so I confirm this. (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 PRESIDING JUDGE STEINER: If Maître Kilolo allows me, just a clarification from the

16 witness on what you said just to check whether the translation was correct. You say here

17 that, "The state to which the lawyer refers is the State of the MLC. I told you it was a

18 state, with the co-operation of the State of Gbadolite." I think there is some problem here

19 in translation. First "... co-operation of the State of Gbadolite," I don't think that is what

20 you said, but we can confirm. But you meant that that region was a state; a kind of

21 independent state from DRC? Is that what you meant, or am I wrong?

22 THE WITNESS: (Interpretation) Yes, Madam President. It is the State, the State of

23 Gbadolite. The territory that the MLC controlled that was a state, and that state -- it is

24 that state that collaborated with the Central African State. So high treason, if a public

25 officer writes this, the State that they're talking about is not Kinshasa. They were at

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1 Gbadolite, talking about the State of Gbadolite under the MLC.

2 PRESIDING JUDGE STEINER: Thank you, Mr Witness.

3 Maître Kilolo, sorry for the interruption.

4 MR KILOLO: (Interpretation)

5 Q. Mr Witness, given that you're talking about a state, how many states were there
6 within the territory of the Democratic Republic of the Congo? Could you clarify that for
7 the Chamber, please?

8 A. I know that there was the Congolese State of the DRC, the capital of which was
9 Kinshasa, and there was a state of the MLC, with Gbadolite as the capital. By way of
10 proof, Gbadolite had not minted money. They were using the Congolese franc of the
11 Democratic Republic of the Congo and the CFA franc, but it turned out that the 100 franc
12 notes from Kinshasa at the time had been taken out of circulation in the MLC State and
13 that is what proves that on the other side there was a state which had a power of decision
14 over the currency and over everything else, just like Kinshasa.

15 And I, Madam President, I have told you - and I am under oath - if there is something that
16 I do not know I have to tell you that I do not know it, but as I sit here before you I say that
17 (Redacted)

18 (Redacted). It is a shame that I didn't know we could go into this in detail, because I virtually
19 came here in a rush. (Redacted)

20 (Redacted) I did not make it up. The public
21 official who took the statement from the general was a lower rank. He could not take a
22 statement from a general, and that is why he wrote down on the document "By order of;"
23 that is, he got authorisation from the president of the movement to take a statement from
24 the general. (Redacted) I did not make this up.

25 MR KILOLO: (Interpretation)

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1 Q. Mr Witness, do you know if there was a third state in Goma?

2 A. Counsel, I was not in Goma. I couldn't tell you exactly what happened there. I
3 can tell you with certainty what I experienced in Gbado, because I was in Gbadolite.

4 Q. To your knowledge, Mr Witness, during this period with which we are concerned,
5 how many independent administrations were there which were recognised by the
6 international community as having the attributes of a state, before reunification of course?

7 A. Counsel, I have no answer to give you on that matter. I can only tell you about the
8 information I have, that that public official who took the statement from the general had
9 written "Attack against the safety of the State;" in other words, high treason. The other
10 components do not concern me because I was not there.

11 Q. Mr Witness, do you know the Lusaka agreements?

12 A. I have never heard of them.

13 THE INTERPRETER: Interpreter's correction: I have heard of them.

14 MR KILOLO: (Interpretation)

15 Q. What do you know of those accords?

16 A. (Redacted) I was not involved in that, so I can't answer you.

17 MR KILOLO: (Interpretation) Madam President, I'm not sure if we should keep going
18 forever in private session. Even though this matter does lead us to proceed with a great
19 deal of caution, I think perhaps we should continue in open session.

20 PRESIDING JUDGE STEINER: Mr Witness, I know it's difficult sometimes, but we tried
21 to go into open session (Redacted). Don't worry, because we
22 redacted from the transcript and so there will be no risk for you. The fact is that we
23 should be in public session as much as possible, but for that we need you to remember to
24 mention just "Bravo Charlie," "the document" and not say that you were there, or that you
25 talked to someone. Can we try again to go into open session?

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1 THE WITNESS: (Interpretation) Thank you, Madam President.

2 PRESIDING JUDGE STEINER: So the reference has been redacted, so don't worry about
3 that, but from now on when we are in open session that light will be red, meaning that
4 you have to be careful. So it is "Bravo Charlie" and (Redacted) is "the document."

5 And, Maître Kilolo, if you put a question that you know in advance that the answer will
6 lead to this kind of information, please you ask for the private session.

7 Court officer, please turn into open session.

8 (Open session at 3.14 p.m.)

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

10 MR KILOLO: (Interpretation)

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

13 A. No.

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

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

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

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

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

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

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

9 Q. I would like to refer to your statement to the Office of the Prosecutor in the first
10 document on the Defence list, on page CAR-OTP-0011-0307. (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 A. Yes, I confirm that.

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

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

23 *(Private session at 3.21 p.m.) Reclassified as Open session

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

25 THE WITNESS: (Interpretation) I had had no prior dealings or problems with Mr

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1 Jean-Pierre Bemba, (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 So if you are following what I'm saying, I had said that when Bravo Charlie got back to

7 the camp (Redacted). I told you that. Once he got out of the place I

8 mentioned, of the prison on the other side, the person who had met him on the way was

9 Mr Jean-Pierre Bemba, who had asked him how he was, and he had answered, "I am well.

10 I am there with my family." "Are you working?" "No, I'm not working." He went to

11 see his Chief of Staff, to give him orders, so that he would fulfil the role that I mentioned.

12 So we're not talking about the well-being of his adversary, or someone he hated. (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 Q. Indeed, I wanted to ask you to make that effort of being very concise in your

25 answers. Please, perhaps concentrate a little bit more on the question and answer briefly

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1 so that we do not have to continue the cross-examination until Wednesday. If we
2 possibly can, we'd like to finish your testimony tomorrow. So if you make an effort to
3 make very brief answers, perhaps we can do that because we don't have very much time.

4 Do you understand me?

5 A. Yes, Counsel, but when you ask me questions which require explanations, I'm
6 always going to have to explain to you so that you can understand my answers to your
7 questions.

8 Q. I would like to refer to the second document on the Defence list, at page
9 CAR-OTP-0011-0346. This is what you say to the Office of the Prosecutor: "I had prior
10 dealings with Bemba, (Redacted)." Remember that we
11 are in private session, we can speak freely. Does that properly reflect your words to the
12 Office of the Prosecutor?

13 A. Yes, I confirm this, (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. Do you remember having asked the Office of the Prosecutor to -- to launch
18 proceedings on your behalf against Mr Bemba, saying that the allegations against (Redacted)
19 (Redacted) didn't have anything to do with the events that are occupying us in the Central
20 African Republic?

21 A. Yes, I asked for that because, other than this Court, I didn't see what jurisdiction
22 could judge Mr Bemba.

23 THE INTERPRETER: Interpreter correction: It's not the allegations against (Redacted),
24 but rather (Redacted). That is page 75, line 9 of the English transcript.

25 MR KILOLO: (Interpretation)

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- 1 Q. (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted).
- 21 Q. (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 Q. (Redacted)

4 (Redacted)

5 (Redacted)

6 When the army and the police services were merged, all the people who had fought, be
7 they soldiers or police, these various bodies were merged into one in order to form one
8 single army, the FRDC, and the national police. (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. (Redacted)

14 A. (Redacted)

15 Q. (Redacted)

16 (Redacted)

17 A. Of course. (Redacted)

18 (Redacted)

19 (Redacted)

20 Q. (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 Q. I would just like now to refer to the first document in the Defence's list. This is on
25 page CAR-OTP-0011-0298. This is what you stated in the information sheet with regard

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1 to your profession. Would it be true to say that currently (Redacted)

2 (Redacted)?

3 PRESIDING JUDGE STEINER: Sorry to interrupt. So just to be clear that this is when
4 the statement was taken, (Redacted), just to make it clear what you declared in (Redacted), not
5 currently.

6 MR KILOLO: (Interpretation)

7 Q. Let me clarify the question. Would it be true to say that that since at least (Redacted),
8 since (Redacted) and (Redacted)
9 (Redacted)?

10 A. (Redacted)

11 (Redacted) because men come and go but institutions remain.

12 (Redacted)

13 Q. Mr Witness, (Redacted)

14 (Redacted)?

15 A. Your Honour, Madam President, I don't know whether it's possible to move into
16 closed session?

17 PRESIDING JUDGE STEINER: We are in private session, Mr Witness.

18 THE WITNESS: (Interpretation) Thank you, your Honour. I think I have already
19 answered that question. The general inspectorate, in other words the number one in the
20 police force, is appointed by the supreme commander; the Head of State being the
21 supreme commander of both the police and the army. (Redacted)
22 (Redacted)
23 (Redacted).

24 MR KILOLO: (Interpretation)

25 Q. It's very clear, Mr Witness. That's why we are staying in private session in order to

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1 safeguard the confidentiality of the information that we are talking about. In the
2 hierarchical chain, when you speak of your supreme commander are you speaking of
3 President Joseph Kabila?

4 A. Yes, because the president of the republic is the supreme commander of the army
5 and the police.

6 Q. (Redacted)

7 PRESIDING JUDGE STEINER: Mr Iverson.

8 MR IVERSON: Yes, Madam President, thank you. Since this morning, Defence counsel
9 has been exploring what I believe would be a perceived bias of the witness and, in so
10 doing, they've inquired into a lot of collateral matters.

11 Now, we would concede that bias is certainly something that's proper to be inquired into,
12 but to go so long on what essential amounts to collateral matters in a kind of unfocused
13 way we think is essentially prejudicial. So the prejudice comes in the form of how long
14 Counsel may be allowed to inquire into collateral matters, rather than directly putting the
15 proposition to the witness?

16 So we've been patient, because we thought, you know, at a certain point he might come to
17 a point, but it doesn't seem that the Defence are arriving at their point. So the objection is
18 essentially asking the Chamber to require the Defence to put their proposition to the
19 witness and then move on.

20 PRESIDING JUDGE STEINER: Thank you, Mr Iverson. Of course I will give the floor
21 to Maître Kilolo, or Maître Liriss, but since the beginning of this afternoon's session, using
22 of course another wording this is more or less what I tried to convey to the Defence, that
23 since yesterday we have only these questions - collateral questions - that the Defence
24 intends to prove bias, or any animosity between the witness and Mr Bemba, which is
25 acceptable to a certain extent. I hope we don't continue in this line.

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1 So I will give the floor to Maître Kilolo but, just adding to the comment made by
2 Mr Iverson for you to answer, I am going to say that details of (Redacted)
3 (Redacted) the witness answer only if his
4 (Redacted) so allow it.
5 You have the floor, Mr Kilolo. Maître Liriss.
6 MR LIRISS: (Interpretation) Your Honour, thank you very much for allowing me to
7 address the Court. I understand the concerns expressed by the Prosecution and even
8 those formulated by the Bench. However, I would for all that call upon your patience.
9 Unfortunately the problem we are labouring under is the fact that we have to pick up on
10 objections, but that in the presence of the witness. Consequently I wish things to be
11 even-handed, but if the witness remains present I think it's important to explain one thing
12 first.
13 This is a witness of the Prosecution. The day before last we heard the Prosecution asking
14 questions that went over and beyond not only the charges, but over and beyond the
15 elements that were supplied to us in the statements. The Bench --
16 PRESIDING JUDGE STEINER: Sorry, Maître Liriss, can we go into open session for you
17 to put your comments in open session? No?
18 MR LIRISS: (Interpretation) No, your Honour. I think there will be points that may
19 reveal the identity of the given individual in what follows. The Bench saw fit -- despite
20 my protestations, saw fit to say what it said but it brings me back to what I said before.
21 On page 76 the witness states unequivocally, when there was a merger -- do you want the
22 indication in the French? When there was a merger, all those who had fought, be they
23 soldiers or police officers, they would belong to bodies and certain entities and these
24 bodies and entities were merged to form one single army, the FRDC. In addition to this,
25 on page 77, he says that (Redacted)

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1 (Redacted).

2 What my learned colleague wishes to establish, (Redacted)

3 (Redacted)

4 Following that, Mr Kilolo will come to a conclusion that you may find striking but a
5 conclusion which stems from (Redacted)

6 (Redacted). I know that, but we have to say this because

7 otherwise it looks as though we're just putting questions gratuitously to the witness.

8 As I said, it's unfortunate they have to say this in the presence of the witness. There you
9 have it, your Honour.

10 PRESIDING JUDGE STEINER: Maître Liriss, I'm sure that the Defence is able to go to
11 the point without staying for so long on these peripheral issues that we've been for a long
12 time. I thought in the beginning of this afternoon's session that -- the Bench prefers not
13 to intervene with the line of questioning by parties, but if you have an objective I'm sure
14 that the Defence team is able to go straight to the point, and this I think is what we are all
15 waiting.

16 So the Defence will achieve what the Defence wants, but without spending so much time
17 going around and around, and repeating, and back and forth and back and forth. This is
18 the only comment, Maître Liriss.

19 In relation to the last question, I insist, Maître Kilolo, that this relates to the current
20 functions of the witness and the witness will answer, (Redacted)
21 unless you preferred to rephrase your question.

22 You can proceed, Maître Kilolo.

23 MR KILOLO: (Interpretation)

24 Q. Mr Witness, what is your (Redacted)

25 (Redacted)

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1 (Redacted)?

2 A. Counsel, I think that (Redacted).

3 Consequently, to ask me questions about my current duties bears no relation whatsoever
4 to the document because (Redacted)

5 (Redacted)

6 (Redacted) So this is not germane to what I do now, because this is not of interest therefore to
7 the Chamber.

8 Q. Very well, Mr Witness. I'd like now to refer to another document. I'm referring to
9 the seventh document in the Defence list. In the English version, it is document
10 CAR-D04-0002-1890. In the French version it is the document that carries
11 ICC-01/05-01/08-721-Anx8, page 20. That's the reference that it carries.

12 Mr Witness, I would like now to read an excerpt taken from a public report, or a report in
13 the public domain, drafted by an international NGO, namely Human Rights Watch.

14 PRESIDING JUDGE STEINER: Maître Iverson.

15 MR IVERSON: The Prosecution fails to understand how counsel can read this document
16 into evidence, essentially. It's not apparent that this witness has any connection or
17 anything to do with this document. If there is a connection, it seems to be so
18 infinitesimal that the prejudice that would arise from confusion or waste of time far
19 outweighs any enlightenment that the Chamber would get from this document in
20 connection with this witness.

21 PRESIDING JUDGE STEINER: Mr Iverson, the OTP had the opportunity to object to any
22 documents on the Defence list of documents, and whether this document can be discussed
23 or even tendered into evidence or not is something that the Chamber will decide in due
24 time. So the Defence is authorised to use the document.

25 MR KILOLO: (Interpretation) Thank you, your Honour.

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1 PRESIDING JUDGE STEINER: Should we continue in private?

2 MR KILOLO: (Interpretation) I can read the document in open session, but then the
3 question should be in private session. I don't know whether you prefer, therefore, to
4 pursue --

5 PRESIDING JUDGE STEINER: You decide, Maître Kilolo.

6 MR KILOLO: (Interpretation)

7 Q. Mr Witness, I'm going to be reading you an extract from this report drafted by
8 Human Rights Watch. This report describes the role of the police, (Redacted)
9 (Redacted), and after that I'll be putting my question to you. I quote: "In general, intelligence
10 gathering section and special services of the police force. It is a division of police,
11 specialised in intelligence gathering and tasked ordinarily under the name of 'Special
12 services.' It is based at Kinmasier (phon), at the centre of Kinshasa, where it manages
13 and runs a detention centre. The special services can legally arrest and confine civilians
14 and those who abuse their authority for political ends."

15 Mr Witness, (Redacted)?

16 A. Counsel, number 1, I am not in a position to answer a question pertaining to the
17 national directorship. (Redacted)

18 Therefore, if this question could be worded to elicit information (Redacted)
19 (Redacted) but what you are saying to me harks back to the past and
20 belongs to the past, and everything that is described there doesn't correspond to the truth.
21 If that were the case, then we wouldn't be here in the first place.

22 Q. Can you possibly clarify to the Bench whether (Redacted)

23 (Redacted), bearing in

24 mind that this report is a recent one, a report that dates from the time under the current
25 parliament, under the presidency of Kabila II?

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1 A. You spoke of "Kinmasier." I think it's been four years since it's changed. It's no
2 longer Kinmasier. I don't know whether you're familiar with the country, but the
3 Kinmasier organisation has changed following the transferal, because the Kinmasier
4 premises was a building that threw out problems. When the owner came, turned up
5 brandishing official documents, his building was given back to that owner. And I would
6 reiterate the fact that with regard to the national directorship, I am not in a position to
7 answer with regard to that part of your question.

8 JUDGE ALUOCH: Mr Kilolo, I'm looking at the document -- sorry, I'm looking at the
9 English transcript, page 85, I think it begins from line 13, where you say the special
10 services can legally arrest and confine civilians and those who have abused the authority
11 for political ends.

12 Are you asking the witness to confirm that (Redacted)
13 (Redacted)? I want to be clear. Is that what you're saying? Is that
14 the question you are putting to the witness? I just want to make sure I understand the
15 question.

16 MR KILOLO: (Interpretation) Yes, Madam Judge. We have a description of these
17 services, the description drawn out by Human Rights Watch, and my question to the
18 witness was to establish whether that description corresponds to reality, to the best of his
19 knowledge. This would then lead me to another line of questioning, which I won't be
20 able to tap into today.

21 JUDGE ALUOCH: Maybe I'll clarify it, the next point, tomorrow, not now here.

22 MR KILOLO: (Interpretation) I can see that we're almost at 4 p.m. Mr Witness, I hope
23 that we'll be able to go very, very quickly so I would call upon you to marshal every effort
24 to be very concise in your answers. I think it is indeed 4 p.m., your Honour.

25 PRESIDING JUDGE STEINER: Court officer, please could we turn into open session.

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1 (Open session at 4.00 p.m.)

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

3 PRESIDING JUDGE STEINER: Thank you very much. Mr Witness, we will adjourn for
4 today. It has been a long day, you must be tired. We will resume tomorrow morning at
5 9.30 in the morning, when Defence will continue questioning you.

6 I would like to thank very much the Prosecution team, legal representatives of victims, the
7 Defence team, Mr Jean-Pierre Bemba Gombo. I would like to thank very much our
8 interpreters, and court reporters. We will turn into closed session for the witness to be
9 taken outside the courtroom. In the meantime, we will adjourn to resume tomorrow
10 morning at 9.30. Court officer, please turn into closed session.

11 *(Closed session at 4.02 p.m.) Reclassified as Open session

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

13 (The witness stands down)

14 THE COURT OFFICER: All rise.

15 (The hearing ends in closed session at 4.02 p.m.)

16 RECLASSIFICATION REPORT

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

18 ICC-01/05-01/08-3038 and the instructions in the email dated 24 October 2014, the

19 version of the transcript with its redactions becomes Public