

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0032

1 International Criminal Court

2 Trial Chamber III - Courtroom 2

3 Situation: Central African Republic

4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08

5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and Judge Kuniko Ozaki

6 Trial Hearing

7 Tuesday, 27 September 2011

8 (The hearing starts in open session at 9.35 a.m.)

9 THE COURT USHER: All rise. The International Criminal Court is now in session.

10 Please be seated.

11 THE COURT OFFICER: Good morning, your Honours, Madam President. We are

12 in open session.

13 PRESIDING JUDGE STEINER: Good morning. Good morning. Could, please,

14 court officer call the case.

15 THE COURT OFFICER: Situation in the Central African Republic, in the case of The

16 Prosecutor versus Jean-Pierre Bemba Gombo, case reference ICC-01/05-01/08.

17 PRESIDING JUDGE STEINER: Thank you very much. Good morning and

18 welcome Prosecution team. Mr Scaliotti is replacing Ms Kneuer. Good morning

19 legal representatives of victims, the Defence team, Mr Jean-Pierre Bemba Gombo.

20 Good morning to our interpreters and court reporters.

21 I am informed that Mr Jean-Pierre Bemba Gombo is not feeling well. You feel free to

22 leave the courtroom if you feel like.

23 Before we bring the witness in, I have an oral decision, an oral decision from the

24 Chamber. It's a procedural issue.

25 Yesterday afternoon, the Defence sent an email to the Chamber seeking leave to add

26 27.09.2011

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1 two additional documents to the Defence list of documents for use with respect to
 2 Witness 32. In its email, the Defence explained that the need to use the two
 3 additional documents only became apparent on Friday, 23 September, during the
 4 Prosecution's questioning of Witness 32 regarding the operation of the military
 5 jurisdiction in the ALC.
 6 Later in the day yesterday, the Prosecution sent the Chamber an email response to the
 7 Defence's request, taking the position that the request should be denied. In the
 8 Prosecution's view, the Defence was on sufficient notice that Witness 32 might testify
 9 about military trials because the information was contained in Witness 32's statement.
 10 The Prosecution noted that the Defence could still inquire into such information
 11 simply by asking the witness about military trials, without using the documents
 12 themselves.
 13 The Chamber notes that this is the second addition to the Defence's list of documents
 14 for use with Witness 32. The Defence's first list was sent on 19 September. An
 15 updated list, which contained one additional document, was provided on
 16 23 September. The Defence did not seek leave from the Chamber to add this
 17 document on the 23 September list, even though the document was added inside the
 18 time-line set by the Chamber in its 19 November 2010 decision on the conduct of the
 19 proceedings (Filing 1023).
 20 That time-line, which is set down in paragraph 16 of that decision, requires the
 21 Defence to provide its list of documents no later than three working days before the
 22 commencement of the Defence's questioning of the witness. The
 23 Defence commenced its questioning of Witness 32 on Friday, 23 September. Thus,
 24 the Defence ought to have requested leave to alter its document list on 23 September.
 25 The Chamber will now turn to the request received yesterday. As an initial matter,

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1 the Chamber recognises that the non-calling party's questioning of a witness will
2 generally be reactionary and may require the non-calling party to adapt its
3 questioning depending on the content of the witness's testimony during the calling
4 party's examination.

5 This may require the addition of certain documents outside the three working day
6 time-line set down in Decision 1023. When such a late addition is sought, however,
7 the non-calling party must provide a justification as to why the additional documents
8 should be added.

9 In this instance, the Chamber is not satisfied that the late addition of the two
10 documents is justified by the explanation provided by the Defence. The
11 Chamber considers that Witness 32's statement provided the Defence with sufficient
12 notice that he might testify about military trials. As such, there is no reason to
13 permit the late addition of documents on that subject.

14 The Chamber notes that any potential prejudice caused by this ruling will be minimal
15 because the Defence will still be able to question Witness 32 about military trials
16 without using the two documents in question.

17 Finally, to the extent that the Defence intends to offer the two documents in question
18 into evidence, it is required to do so following the usual procedure set out in Decision
19 1470.

20 With this procedural matter resolved, I will now ask the court officer to turn into
21 closed session for the witness to be brought into the courtroom.

22 *(Closed session at 9.43 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 9.44 a.m.)
- 4 THE COURT OFFICER: We are in open session, Madam President.
- 5 PRESIDING JUDGE STEINER: Thank you very much. Good morning,
- 6 Mr Witness.
- 7 THE WITNESS: (Interpretation) Good morning, Madam President.
- 8 PRESIDING JUDGE STEINER: I hope you had the opportunity to have a restful
- 9 night and that you feel well and ready to continue giving your testimony?
- 10 THE WITNESS: (Interpretation) Yes, thank you.
- 11 PRESIDING JUDGE STEINER: Mr Witness, I need to remind you that you are still
- 12 under oath. Do you understand that?
- 13 THE WITNESS: (Interpretation) Yes, I am aware of that. Thank you.
- 14 PRESIDING JUDGE STEINER: I also need to remind you about the protective
- 15 measures and that you should avoid releasing information in public sessions that
- 16 could lead to your identification. I hope you still remember the codes we
- 17 established for some documents and for some persons during private session?
- 18 THE WITNESS: (Interpretation) Yes, I do remember. I do remember, thank you.
- 19 PRESIDING JUDGE STEINER: In any case, I will ask the Defence to remind you
- 20 whenever necessary in order to avoid confidential information to be disclosed in
- 21 public session.
- 22 Maître Kilolo, you have the floor.
- 23 MR KILOLO: (Interpretation) Thank you, Madam President, for giving me the floor.
- 24 QUESTIONED BY MR KILOLO: (Interpretation) (Continuing)
- 25 Q. Witness, good morning.

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1 A. Good morning, Counsel.

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

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

5 *(Private session at 9.47 a.m.)Reclassified as Open session

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

7 MR KILOLO: (Interpretation)

8 Q. Mr Witness, yesterday I read out to you a document from the Human Rights
9 Watch, an NGO, which paints a picture of the Directorate of General Intelligence and
10 Special Services of the Police. Do you remember that?

11 A. Yes.

12 Q. In your answer you said that you were not able to talk about the description or
13 to describe the general directorate, (Redacted)
14 (Redacted) Was that your answer?

15 A. Yes.

16 Q. Now, with you I would like us to focus on questions relating to (Redacted)
17 (Redacted)
18 (Redacted) Witness, what do you
19 know of the (Redacted)

20 A. Before I answer you, before I answer that question, I would like to tell you in
21 relation to your first comment relating to a recent report in which the name Kin
22 Mazière was mentioned, whereas Kin Mazière no longer exists as a national
23 directorate since some four years ago; three-and-a-half years to four years ago. If
24 your claim is that the report is recent, then we must understand recent to relate either
25 to this year or to last year. Therefore, it might be proper first of all to cross-check

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1 and determine that Kin Mazière was handed back to its owner.

2 Now, as for the specific question you put to me, I must acknowledge that the Bundu
3 dia Kongo was a political, mystical and religious movement in the Bas-Congo
4 province.

5 Q. Are you aware that this was the movement led by one Mr Ne Muanda Nsemi?

6 A. Yes, I am aware of that.

7 Q. (Redacted)

8 (Redacted) during the presidential elections of 2006 in the

9 Congo Mr Ne Muanda Nsemi and the Bundu dia Kongo movement belonged to the
10 coalition which supported Mr Jean-Pierre Bemba against President Kabila II, which
11 was called the Union for the Nation being the name of that coalition. Do you recall
12 this fact?

13 A. I am aware of that.

14 Q. You must also be aware, (Redacted) that following the 2006
15 presidential elections violent acts of repression, or should I say massacres, were
16 carried out against all the supporters of Mr Jean-Pierre Bemba, particularly in the
17 Bas-Congo province and specifically against members of the Bundu dia Kongo
18 movement. Do you remember that?

19 A. I do not know how to answer you, whether to say that I grant full assertion or
20 affirmation to your question, (Redacted)
21 (Redacted)

22 Q. Let me read out to you an excerpt of the Human Rights Watch report on the
23 facts as they unfolded. Maybe this will jog your memory and enable you to
24 remember a number of things. I'm referring to the seventh document in the list of
25 Defence documents, CAR-D04-0002-1944, that is the English version, and up to the

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1 next page CAR-D04-0002-1945. As for the French reference, it is document
2 ICC-01/05-01/08-721-Anx8, page 79 to page 80, and I quote: "With the resumption of
3 competition between political parties, the BDK, Bundu dia Kongo, became
4 significantly popular among the electorate. It's leader, Ne Muanda Nsemi, won a
5 seat in the National Assembly in July 2006 with one of the highest majorities in the
6 country. In August 2006, the BDK, Bundu dia Kongo, went into an alliance with
7 Bemba's MLC, giving them significant support in the second round of presidential
8 elections. From then on, the brutality of the government forces was unleashed
9 against the BDK, Bundu dia Kongo, increasingly. When demonstrators of the BDK,
10 Bundu dia Kongo, protested and sometimes violently against corruption in the
11 election process in early 2006, the police and the army shot and killed with bullets or
12 bladed weapons 100 or so supporters of the Bundu dia Kongo and other persons not
13 belonging to the movement. In March 2008, the police conducted a preventive
14 attack or action in view of upcoming elections, which according to MONUC
15 investigations, MONUC being the United Nations Mission for the Congo, were
16 apparently deliberate attempts to wipe out the movement. More than 2,000
17 supporters of the Bundu dia Kongo and others were killed. The places -- the place of
18 meeting of the Bundu dia Kongo -- the places of meeting of the Bundu dia Kongo
19 were systematically destroyed. The acts of violence of 2006 -- 2007, rather, and 2008
20 are described in greater detail below."

21 Witness, after listening to all that, are you able to tell this Court how many supporters
22 of Mr Jean-Pierre Bemba and of the Union pour la Nation were massacred by the
23 police of the Bas-Congo province (Redacted) during those
24 demonstrations against the results of provincial elections?

25 A. Counsel, I cannot answer this question either because when the events you are

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1 describing occurred (Redacted) and the facts, or
2 the events you're describing, (Redacted) We were informed of
3 a number of things, by the radio and by papers but what you are failing to mention is
4 that we were aware in the Congo that the people and at Bundu dia Kongo killed
5 people, killed police officers and military personnel. That you omitted to say. But
6 I was informed, like any Congolese, I was informed of what happened but I cannot
7 answer you as such (Redacted) at that particular
8 point in time.

9 Q. Mr Witness, I would like to remind you perhaps what is written in the
10 information that you yourself supplied to the OTP. This will jog your memory with
11 regard to (Redacted) and you will
12 remember therefore that it is exactly (Redacted)
13 (Redacted) And I'm
14 referring in this respect to the first document in the Defence list, on page
15 CAR-OTP-0011-0298. In this particular document, (Redacted) is clearly
16 stated: (Redacted)
17 (Redacted)
18 (Redacted) Have I jogged your memory,
19 Witness?

20 A. Yes, Counsel. Indeed, Counsel, the events that you are referring to were
21 committed on a particular date and I wish to tell you now that (Redacted)
22 (Redacted)
23 (Redacted)
24 (Redacted)
25 (Redacted)

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1 Q. Mr Witness, whatever you may say now, since you acknowledge at last that (Redacted)
2 (Redacted) can
3 you clarify to the Chamber (Redacted)
4 (Redacted)
5 (Redacted) And you will recall that Denis Kalume, Minister
6 Denis Kalume was questioned because this massacre shocked the international
7 community. He was called into the police office. So how many people belonging
8 to the movement by -- led up by Mr Bemba were massacred particularly in
9 March 2008? (Redacted)

10 (Redacted). Would you mind clarifying that to the Bench, please?

11 A. Counsel, (Redacted)

12 (Redacted) and

13 the events you are describing, can you tell me the precise dates of those events and I'll
14 be able to respond based on my knowledge because, to the best of my knowledge,
15 (Redacted)

16 (Redacted)

17 (Redacted) I cannot see, therefore, how I can speak

18 about events that I didn't experience (Redacted)

19 (Redacted) It's up to you to tell me. (Redacted)

20 (Redacted)

21 (Redacted)

22 Q. Were you involved in the intervention of the MLC in Central African Republic
23 in May 2001?

24 A. No, because I arrived in Central African Republic in February, I believe, end
25 January, beginning February, 2002.

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1 Q. Where were you in May 2001 when the MLC soldiers went into the Central
2 African Republic during their first intervention?

3 A. I do not remember very precisely where I was, whether I was outside or in
4 Kinshasa, but I wasn't in the Central African Republic.

5 MR KILOLO: (Interpretation) Your Honour, could we move into open session,
6 please.

7 PRESIDING JUDGE STEINER: Court officer, please.

8 (Open session at 10.09 a.m.)

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

10 MR KILOLO: (Interpretation)

11 Q. Mr Witness, I would now like to read for you a statement, a statement that you
12 made to the Office of the Prosecutor, in the second document in the Defence list, on
13 page CAR-OTP-0011-0240, and let me quote. The question is put to you with regard
14 to the 2001 operation: "Do you know how much time the MLC remained in
15 Bangui?" Your answer: "No." The next question: "Do you know the person who
16 was leading the MLC troops in Bangui for that particular operation?" Your answer:
17 "No." Third question: "Did they stay in Bangui or did they go elsewhere?" Your
18 answer: "I cannot provide you all these clarifications because I wasn't there."

19 PRESIDING JUDGE STEINER: Maître Kilolo, I'm sorry, could you please repeat the
20 reference number in the French version, please.

21 MR KILOLO: (Interpretation) Yes. It's the second document in the Defence list, so
22 this is document CAR-OTP-0011-0319 on page CAR-OTP-0011-0340, in limine.

23 PRESIDING JUDGE STEINER: Thank you.

24 MR KILOLO: (Interpretation)

25 Q. Mr Witness, the excerpt that I've just read out to you, does that correspond to

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1 the statement that you made to the Office of the Prosecutor?

2 A. Yes.

3 Q. Mr Witness, if we move from the date of the first intervention of the MLC in the
4 Central African Republic, in May 2001, is it accurate to say that you arrived in the
5 territory and the control of the MLC more than eight months after the first MLC
6 intervention in the Central African Republic?

7 A. I told you when I arrived in the territory of the MLC.

8 Q. The first time that you arrived in the territory under the control of the MLC,
9 does that correspond to around eight months subsequent to the first intervention, the
10 May intervention 2001, in Central African Republic?

11 A. Counsel, you are giving me the dates and I don't know. I'm not aware of all
12 those dates. I only know the facts, but the dates I'm not aware of.

13 Q. I'd just like to jog your memory with regard to the statement that you made to
14 the Office of the Prosecutor. This is the second document in the Defence list on page
15 CAR-OTP-0011-0339. This is what you say with regard to your arrival in the
16 territory under the control of the MLC: "Me? I arrived in February 2002 from
17 Brazzaville to Gbadolite going through Bangui and Zongo." Is that correct?

18 A. Yes, it is correct.

19 Q. Mr Witness, in your journey before arriving for the first time in the territory of
20 the MLC in February 2002 you went via Bangui, so in total how much time did you
21 spend in Bangui before arriving in the MLC territory in 2002?

22 A. Short of 48 hours.

23 Q. Do you remember having spent only one night, corresponding to the time
24 necessary to wait for a boat to take you over to Zongo the next day?

25 A. Yes, I do remember.

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1 Q. And throughout the day, the only day that you spent at Bangui in
2 February 2002 before entering the MLC territory, do you remember having gone into
3 a tavern?

4 A. Yes, I was on a patio where I was waiting. The people who were doing all the
5 necessary work to enable me to cross over, because I don't speak Sango and so
6 somebody helped me in that respect, a gentleman who had travelled with me from
7 Emulé (phon) right the way through to Bangui.

8 Q. What do you call a patio? Is it a bar? Is it somewhere where you can get a
9 drink? What are you referring to specifically?

10 A. On the ground floor of each hotel, well, tables are set out where people can sit if
11 you want to have a Coca-Cola or an orange juice, or a beer, or whatever. I was there
12 and I was there waiting for this preparatory work to be done, to wait for the
13 boatmen to take me across, and throughout all that time I was there. And that's
14 what I mean by "patio," where people sit. Some people say "café." Everybody has
15 their way of describing that particular locality.

16 Q. So it was in this tavern that you met two people, one person who you didn't
17 know the identity of and the second person that was supposedly a member of your
18 family; is that correct?

19 A. No.

20 Q. Be careful. We are in open session, so please be careful.

21 A. There wasn't a member of my family there. There were two people who I
22 didn't know before. They were sitting at the next door table. When I spoke in
23 French, because in Central African Republic people speak more Sango, particularly
24 the younger generation, and when I spoke to these young people the gentleman that
25 was next to me overheard our conversation, the amount of money that I had to pay to

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1 the boatmen to cross over to Zongo, and this gentleman turned across to me and he
2 said, "Oh, hello. You are from the Congo?" And I said, "Yes." "Where do you
3 come from?" And I said, "Ah, I'm happy because since this morning I've had
4 nobody to talk to," and so we started talking together and chatting.
5 The person who was next to him asked me whether I had my identity papers and I
6 said, "Yes, I've got my passport." And he -- and (Redacted)
7 (Redacted) I didn't ask him his papers and I said, "Well, I've got my passport," and I
8 took out my passport and I showed him (Redacted) and I told him -- I told him that
9 I was leaving to go to Zongo.
10 It was at that particular point in time that the friend who was next to him, a
11 Congolese, because the other one was a Central African person, so we started chatting,
12 "Where do you live?", et cetera, and (Redacted)
13 (Redacted) I had told him the same thing. By quoting names of friends, we actually -- we
14 actually found a common friend, a person that he knew, but I can't cite his name now,
15 but in the document his name does feature. Thank God that that joint friend,
16 because I couldn't speak to him about it, (Redacted) when I was
17 coming here, but because I had to -- because I couldn't reveal anything because of
18 such circumstances. I couldn't talk to him. If there was a friend of Bangui who was
19 there, he could have said that we'd met in 2002.
20 Q. Mr Witness, do you remember having said to the OTP that these two people
21 that you met throughout the day, so in one single day, and that these people told you
22 about events of pillaging, murder and rape that were ascribed, or the responsibility
23 was ascribed, to the MLC? And not only you weren't able to communicate to the
24 OTP the identity of these people, but in addition to that you said that these were
25 people who were more in the opposition camp, opposition opposing political camp,

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1 to Patassé's regime?

2 A. No, I didn't say that, because I didn't know their political inclinations. I knew
3 that one was (Redacted) and he was the one who looked like -- I don't
4 know how to put it. That gentleman had shown that he was unhappy, and I saw
5 that, when he learned that I was Congolese and that I was going to Zongo. And
6 that's at that point that he asked me whether I had my identity papers, and once I had
7 shown the papers it was then -- well, it was because I didn't have my diary on me. It
8 was in Kinshasa. The journal, the agenda, that I was using when I left into the MLC
9 territory, I couldn't -- I could have recouped the names of those people, but those
10 people started telling me things, both of them. What was happening? I'm under
11 oath. The gentleman said to me, "Don't go, because people who have gone there,
12 they have gone, followed the journey that you're doing and they came back here
13 disappointed."

14 Q. I would like to refer to the second document in the Defence list on page
15 CAR-OTP-0011-0340. You say the following with regard to the events ascribed to
16 MLC troops: "I was informed of rapes, murders and pillaging committed by the
17 MLC against the inhabitants of Bangui, who were more for the opposition than for
18 Patassé's regime." The question that was put to you then: "Have you personally
19 met the inhabitants that gave you that information?" And you answer: "Yes." So
20 we asked you the question: "Where was that then?" You add: "It was two Central
21 African gentlemen," and then you talk about those two Central African gentlemen in
22 the tavern. So what is stated in this document belonging to the OTP, does this
23 properly reflect what you told the OTP?

24 A. Counsel, in this document we talk about all the acts that were committed in
25 Bangui 1 and Bangui 2. In Bangui 1 it was the two people with whom I had chatted

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1 before going into Zongo, but many events were told to me when I went back to
2 Bangui and so both of us talked about that. It's not necessarily at that particular time.
3 During that particular time, we talked about acts committed between Bangui 1 and
4 Bangui 2.

5 Q. To conclude on this particular point, can you disclose to the Chamber the
6 identity of those two people? If yes, well, we can go into private session.

7 A. No, I cannot, because even in the documents that you are referring to I
8 indicated that I didn't know their identity, but there is just one friend, a person that I
9 met. We had a joint friend.

10 Q. You spent how much -- how many minutes, or how many hours, with each one
11 of these people? How much time? How much time did you chat? How much
12 time - chatting time - did they give you?

13 A. I was on the patio I think around midday to around 4 or 5 in the afternoon and
14 then I crossed over and I left them there because the young person who was doing
15 the work for me came to collect me on -- at the patio to go down and it wasn't very far
16 from the Ubangi River, I think not even a kilometre away from where we were, so I
17 left them there. When I went off, I left them to go to Zongo.

18 Q. How much time did you spend talking with them, given that you spent about
19 four hours between midday, 12 o'clock and 5 p.m.? Personally, how much time did
20 you spend talking with them about the matters that are of concern to us?

21 A. Well, it's been a long time. I think that it was from a little after 1 p.m. up until I
22 left, somewhere between a bit after 4 and 5 p.m. I don't really remember. It's a
23 long time ago.

24 Q. Mr Witness, having arrived on MLC territory in the month of February 2002,
25 would it be correct to say that in total you spent five months on that territory?

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1 A. I arrived in the month of February and I left in July.

2 Q. Let's talk about the second MLC intervention in Central African Republic in
3 October 2002. Is it true that three months earlier you had already left MLC territory
4 before the second MLC operation in the Central African Republic began?

5 A. You'd have to calculate the month but, at the time of Bangui 2, I was not present.
6 I was already in Kinshasa.

7 Q. I would like to refer to another statement that you made to the Office of the
8 Prosecutor in the second document on the Defence list on page CAR-OTP-0011-0343.
9 This is the question that you were asked: "When the MLC troops intervened in
10 Bangui for the second time, where were you?" Answer: "I was in Brazzaville."
11 Second question: "Who was the commander of the MLC troops during Bangui 2?"
12 Your answer: "I can't remember his name off the top of my head. Two of my
13 guards who had stayed in Bangui knew who had conducted the operation."
14 Mr Witness, does that accurately reflect your own words to the Office of the
15 Prosecutor?

16 A. Yes.

17 Q. Mr Witness, do you remember having said to the Office of the Prosecutor that
18 you had no idea of the military structure of the MLC after you left, that is after the
19 month of July 2002, because you were no longer there?

20 A. Well, that's understandable that I should say that. I was not there, so I couldn't
21 talk about things that I didn't know.

22 Q. Mr Witness, is it true, as you stated to the Office of the Prosecutor, that you
23 knew nothing of Mr Bemba's reaction concerning the abuses that the MLC soldiers
24 were alleged to have committed during the Bangui operation, the Bangui 2 operation,
25 because you were no longer present there?

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1 A. Counsel, if that question was put to me in those terms, I believe that that is what
2 I would have answered because I could not say things that I didn't know.

3 Q. Mr Witness, when you fled when you were leaving MLC territory in the month
4 of July 2002, you passed through Bangui. How much time did you spend in Bangui
5 before definitively leaving Central African Republic territory?

6 A. Off the top of my head, I don't remember exactly any more but you have the
7 documents which could provide you with the exact time that I spent there. It wasn't
8 six months.

9 Q. Do you remember that it was 50 days?

10 A. If that is the case, that would seem natural enough.

11 Q. Mr Witness, when you left Central African territory before arriving in Kinshasa,
12 what other countries did you pass through?

13 A. Through the Republic of the Congo, Brazzaville.

14 Q. Is it true that you arrived in Kinshasa quite precisely on 26 October 2002 and on
15 the previous day, 25 October 2002, you were in Brazzaville in the Congo?

16 A. Well, you're telling me, Counsel. I don't exactly remember the dates, but I was
17 in Brazzaville before I got to Kinshasa.

18 Q. Mr Witness, do you know when the MLC was created?

19 A. No idea.

20 Q. Do you know under what circumstances the MLC was created?

21 A. No idea.

22 Q. Do you have knowledge of the nature of the status of MLC -- of the statutes of
23 the MLC?

24 A. No.

25 Q. During your brief passage through MLC territory, how many MLC meetings

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1 and seminars did you attend, more or less?

2 A. Two or three. I don't quite remember, but I'd say two or three.

3 Q. Did you participate in meetings or seminars during which Mr Jean-Pierre
4 Bemba was present?

5 A. No.

6 Q. Is it true that throughout your brief stay on MLC territory, in truth you never
7 personally met Mr Jean-Pierre Bemba?

8 A. That is true.

9 Q. Is it true that you never saw the slightest order form for fuel or any other
10 military equipment signed by Mr Jean-Pierre Bemba?

11 A. That is true, because I was not a member of the movement.

12 Q. (Redacted)

13 (Redacted)

14 Q. Should we say that you did not know the role of the MLC's political and
15 military council?

16 A. No, I did not know.

17 Q. Mr Witness, do you recall having briefly touched upon the structures of the
18 military bodies of the MLC when you talked to the OTP; it had a G1, a G2, a G3 and
19 G4 and a military command, do you remember that?

20 A. If it is written there then that is true, because I did know that and I knew all of
21 these people who were running those Gs and the military Chief of Staff.

22 Q. Mr Witness, do you know if there was a general secretariat working for the
23 general headquarters?

24 A. Yes. Yes, I know that.

25 Q. Was the general secretariat separate from the general secretariat which was run

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1 by Mr Kamitatu at the time?

2 A. Yes.

3 Q. Can you tell the Chamber what was the role of the general secretariat working
4 for staff headquarters?

5 A. I couldn't answer you, Counsel, because I was not a member of the staff
6 headquarters.

7 Q. What was the role of General Amuli within the MLC?

8 A. He was the general's Chief of Staff.

9 Q. And as such what did he do precisely, to your knowledge?

10 A. Counsel, I was not a member of the staff headquarters, nor of the Army for the
11 Liberation of the Congo, which was the military branch of the MLC. How can I
12 answer such questions?

13 Q. You said in the second document, or rather the first document, on the
14 Defence list, on page CAR-OTP-0011-0315, that there was a G1 within the MLC.
15 What was that?

16 A. To my knowledge, the G1 was the personnel department within staff
17 headquarters of an army.

18 Q. And as such what was its role?

19 A. Counsel, I did not know how people worked within that movement. How am
20 I to define somebody's role when I don't know what that person's real functions are?
21 What I know is what would be standard for a republic, in which each person had
22 their own position and responsibilities, but I can guarantee you that what I heard and
23 experienced myself was not the same as the way things are elsewhere because all of
24 the decisions came from one person, as far as I know. So I couldn't tell you whether
25 that person was working according to what a normal army G1 would do.

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1 Q. You also discussed with the Office of the Prosecutor the existence of a G2.

2 What is the G2?

3 A. The G2? Well, here I can give you an answer, because the G2 is what you often
4 call the person who carried out that function, because initially it was General Kibonge
5 who did that, then he was under detention. This headquarters was called the BRM,
6 the Bureau de Renseignement Militaire, the Office of Military Intelligence. I know
7 this because my house was not far from them. That's where people were arrested
8 and judged and detained.

9 Q. You also discussed with the Office of the Prosecutor the existence of a G3.

10 What was that, Mr Witness?

11 A. I give you the same answer to that as I gave you concerning the G1.

12 Q. What about the G4? You talked about a G4 within the M3 -- the MLC. What
13 was that?

14 A. The G4 I know that it was a supply division for rations, because I saw how
15 people went to buy things in Binga by boat and I also saw the trucks going to get
16 supplies.

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

18 *(Private session at 10.52 a.m.)Reclassified as Open session

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

20 PRESIDING JUDGE STEINER: Maître Kilolo, you inform me when we can come
21 back to open session, depending on the sequence of questions you are going to put to
22 the witness.

23 MR KILOLO: (Interpretation) All right, Madam President.

24 Q. Mr Witness, you were giving us an answer concerning the G4 and I believe that
25 you had not finished?

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1 A. The G4 was in charge of food supplies, supplying the staff headquarters and
2 those soldiers who were in Gbado, providing them with supplies, and it was
3 responsible for sending food particularly to the two brigades that were some distance
4 away at Makanza and Basankusu, if I'm not mistaken.

5 Q. Do you know in the context of the MLC operations on Congolese territory if
6 General N'sau, who was a G4 at the time, had money to re-supply the soldiers who
7 were at the front?

8 A. Yes. He did not have money, but periodically he was given money to go to
9 buy supplies for the soldiers.

10 Q. Mr Witness, do you know how General N'sau got the rations to the MLC
11 soldiers who were at the front?

12 A. I don't know exactly, but I know that there was a truck which the G4 used and
13 there was a motorised boat - I'm not sure exactly what kind of boat, I didn't see
14 it - which would go to buy oil in Binga. I think that it was with these that they
15 re-supplied the soldiers who were accessible by river, and there was the truck and I
16 saw the truck so I can confirm that. The truck transported what was purchased and
17 the supplies, because once it had been bought it had to be supplied to people.

18 Q. Was there also a G5 in the MLC at the time?

19 A. I don't know. I couldn't confirm it to you. I don't know. I didn't hear
20 anything about that. I don't know.

21 MR KILOLO: (Interpretation) Madam President, perhaps it would be appropriate to
22 take the break now?

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

24 (Open session at 10.58 a.m.)

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

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- 1 PRESIDING JUDGE STEINER: Thank you very much.
- 2 Mr Witness, we'll have a short break, half-an-hour. You can have a coffee, a cup of
- 3 tea, try to rest a little bit. It's 11 o'clock and we'll be back at 11.30.
- 4 Court officer, please turn into closed session for the witness to be taken outside the
- 5 courtroom, and in the meantime we will suspend and resume at 11.30.
- 6 *(Closed session at 10.59 a.m.)Reclassified as Open session
- 7 THE COURT OFFICER: We are in closed session, Madam President.
- 8 (The witness stands down)
- 9 THE COURT OFFICER: All rise.
- 10 (Recess taken at 11.00 a.m.)
- 11 *(Upon resuming in closed session at 11.36 a.m.)Reclassified as Open session
- 12 THE COURT USHER: All rise. Please be seated.
- 13 PRESIDING JUDGE STEINER: Welcome back. Could, please, court usher bring
- 14 the witness in.
- 15 (The witness enters the courtroom)
- 16 PRESIDING JUDGE STEINER: Let's turn into open session, please.
- 17 (Open session at 11.38 a.m.)
- 18 THE COURT OFFICER: We are in open session, Madam President.
- 19 PRESIDING JUDGE STEINER: Thank you. Mr Witness, ready to continue with
- 20 your testimony?
- 21 THE WITNESS: (Interpretation) Yes.
- 22 PRESIDING JUDGE STEINER: Maître Kilolo, you have the floor.
- 23 MR KILOLO: (Interpretation)
- 24 Q. Mr Witness, do you know who the Minister for Defence in Central African
- 25 Republic was between October 2002 and March 2003?

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1 A. No idea.

2 Q. During the same time-scale, do you know who was the Chief of General Staff in
3 the Central African Republic?

4 A. No.

5 Q. Do you know, over the same time span, who was the commander of the Central
6 African Presidential Guard?

7 A. No.

8 Q. Over all the Bangui 2 time-scale, between October 2002 and March 2003, over
9 that span of time, do you know whether there was a command centre, an operations
10 command centre?

11 A. No.

12 Q. Have you heard of the Camp Béal?

13 A. No.

14 Q. Do you know what authority responsible for food supplies for soldiers in
15 Central African Republic between October 2002 and March 2003?

16 A. No.

17 PRESIDING JUDGE STEINER: Maître. Mr Witness, don't forget, please, the
18 five-second rule before giving your answer. Thank you. Maître.

19 MR KILOLO: (Interpretation)

20 Q. Do you know in Central African Republic who was responsible for paying the
21 soldiers' wage during the period between October 2002 and March 2003?

22 A. No.

23 Q. Do you know who was responsible for ground co-ordination between MLC
24 troops and Central African Republic troops during the events of Bangui 2?

25 A. No, no.

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1 Q. Do you know who managed the radio frequencies used by military personnel in
2 Central African Republic between October 2002 and March 2003?

3 A. Your Honour, I think that I came to provide testimony in relation to the facts
4 that I know, and I have done so. Other questions coming from the Defence Bench
5 are uselessly wearisome for me, because over that particular period I have said I
6 wasn't there. In Central African Republic, I was never in touch with the authorities
7 on the ground, because myself I was being hunted. How can I answer, yes or no, to
8 issues where -- that I wasn't involved in? I wasn't there.

9 If Defence wishes to put questions to me then, please, build the questions on what
10 I've told and what I know, so that we can have time usefully. I am giving myself
11 over to the Court to provide testimony to justice, and then I'll go home. The "yes,"
12 the "no," events that I don't know about, I think this wastes time for the Court.

13 PRESIDING JUDGE STEINER: Maître Kilolo, do you still think that it's necessary to
14 continue with this line of questioning? Mr Witness, if the Defence just for the
15 purpose of the transcripts intends to put to you some questions just for having you
16 say "No", "No," "No," we cannot avoid. We can recommend Defence not to do that,
17 but maybe it's a line of questioning. I agree with you that we could go to something
18 more substantial, but if the Defence intends to obtain from you, for the purpose of the
19 record, your answers, "No," "No," "No," "No," let's continue with the sequence of
20 "No"s unless there is something you know, of course.

21 Maître Kilolo.

22 MR KILOLO: (Interpretation) Your Honour, we have rather diverse questions to
23 put and I'm still involved in rounding off this line of questioning, which is important
24 for the Defence to the extent that it is important to test the level of knowledge of
25 Mr Witness with regard to the command apparatus that was set in train in Central

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1 African Republic between October 2002 and March 2003; the span of time which is of
2 particular interest to the Court.

3 Q. Mr Witness, do you know which Central African official received the MLC
4 troops when they arrived for Bangui 2 operations?

5 A. No.

6 Q. Do you know where the MLC troops were housed when they arrived on
7 Central African Republic territory during the period which is of concern to us; that is
8 Bangui 2?

9 A. No.

10 Q. Did you learn that President Patassé had private militiamen operating under his
11 orders during the Bangui 2 period?

12 A. No.

13 Q. Do you know how the various ground forces were interrelated in the Central
14 African Republic in the period between October 2002 and March 2003?

15 A. No.

16 Q. Are you aware of the role of General Bombayake, a Central African Republic
17 general, in the military operations that took place in the period which is of concern to
18 us; namely, Bangui 2?

19 A. No.

20 Q. Do you know about the role of the Central African Republic general, Andre
21 Mazi, in the military operations conducted in the Central African Republic during
22 Bangui 2?

23 A. No.

24 Q. Do you know the role of Colonel Tutu Kwesi (phon), a Central African Republic
25 colonel -- his role in the same Bangui 2 military operations?

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1 A. No.

2 MR KILOLO: (Interpretation) I would like to ask the court officer to display on
3 our screens document 47 of the Defence list. I'm referring to document
4 CAR-D04-0002-1499.

5 PRESIDING JUDGE STEINER: Just one minute, Maître Kilolo. I am waiting for the
6 transcript with the number.

7 THE COURT OFFICER: Document CAR-D04-0002-1499 is available on your screens
8 and it's a public document.

9 MR KILOLO: (Interpretation)

10 Q. Mr Witness, can I ask you to read out to the Bench just the title of this document
11 that begins with "Decree"? It's the title in bold.

12 A. "Decree Number No 017/Prés/MLC/07/02 of 14 July 2002 appointing
13 officials -- general officers of Army for the Liberation of Congo, ALC."

14 MR KILOLO: (Interpretation) I would like to ask Mr Court Officer to highlight
15 everything that starts with "Considering." I think it's the fourth paragraph, that's
16 right, right the way through to -- maybe by reducing the display. That's it.

17 Q. Mr Witness, I would like to call upon you to read -- once again, for the benefit of
18 the Bench, would you mind reading the paragraph beginning with "Considering"
19 right the way through to the name "Bule Bangolo"?

20 A. "Taking into consideration the personnel files of the officers of the Army for the
21 Liberation of Congo, particularly with regard to information pertaining to bravery,
22 training, seniority and behaviour. Upon the pronouncement of the council
23 of -- Politico-Military Council of Liberation:
24 Decree

25 Article 1, are appointed brigadier generals, the high-ranking officers whose names

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1 follow:

2 N'sau Deward Joseph

3 Bita Nihirwa Kamara Jean

4 Bauma Ambamba

5 Ndimba Kongba

6 Alongabonyi Bangandiso Benjamin

7 Bule Bangolo."

8 MR KILOLO: (Interpretation) I would just like the court officer to underscore the
9 bottom part of the page so that we can see the date in particular.

10 Q. Mr Witness, would you mind simply reading the date of when this
11 document - decree - was signed?

12 A. 14 July 2002.

13 Q. Mr Witness, you no doubt remember having spoken about appointments,
14 appointments of generals, in July 2002. Is it this document that you were referring
15 to?

16 A. I spoke to you of a first document that was issued instead of this one. The first
17 document for a proposal that was issued at Gemena contained -- well, here you have
18 mentioned the brigadier generals. The first document, the proposal, contained
19 appointments for divisional generals, and the first name was Amuli and the second
20 name I've already told you.

21 Q. To your knowledge, the ranks of generals belonging to the MLC as they are
22 stated in this document, were these ranks after the fact acknowledged by the
23 Kinshasa government at the time of the reunification?

24 A. With regard -- well, what I know -- well, the others I don't know were
25 acknowledged as such, but during the reunification the first name wasn't -- well,

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1 didn't suffice. Even posthumously, even with this particular appointment, this type
2 of -- this name didn't feature.

3 Q. So if I understand what you're saying, Mr Witness, you're saying that the five
4 last names were acknowledged at Kinshasa by the transition government?

5 A. I believe so. I believe so, but I can only recognise -- you know, I didn't have
6 any links or dealings with these people. (Redacted)

7 (Redacted) who is general -- who is a general. Maybe the others, because
8 all the list of people who were appointed by the chief commander of the army, those
9 people their rank was indeed recognised and acknowledged by the Kinshasa
10 government and they wore that rank in the national army.

11 Having said that, Counsel, this is an official document. I spoke of a first document
12 that myself I had seen. Me, I had seen that document. Now, was there another
13 decree, another document that (Redacted)

14 (Redacted) because his name isn't enough to
15 dislodge people posthumously, or people who are still alive? His name didn't exist
16 and that's why, Counsel, you can also shed light on the fact why didn't that name
17 exist, even posthumously, because to my knowledge the condemnation of being
18 stripped of one's rank in a particular camp, that sentence wasn't pronounced.

19 It was -- the death was acknowledged, but the document that abrogated this
20 appointment we never saw. And at the point that I'm talking about in 2002, when
21 there was a reunification, those names isn't enough in and of itself when you think
22 about the official list of all the high-ranking officials in the RDC, high-ranking
23 military commanders in the DRC.

24 Q. Basing ourselves on the second document in the Defence list on page
25 CAR-OTP-0011-0327, Mr Witness, when you --

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- 1 JUDGE ALUOCH: Sorry, Mr Kilolo, can I just establish whether the witness had
2 seen this document before or not, document 47? I didn't get that quite right. Had
3 he seen it before or is he saying he saw a completely different document, please?
- 4 THE WITNESS: (Interpretation) (Redacted)
5 (Redacted)
6 (Redacted)
- 7 PRESIDING JUDGE STEINER: Court officer, please turn into private session before
8 the witness continues.
- 9 *(Private session at 12.02 p.m.)Reclassified as Open session
- 10 THE COURT OFFICER: We are in private session, Madam President.
- 11 THE WITNESS: (Interpretation) Your Honour, (Redacted)
12 (Redacted) Can you imagine that someone who was a superior officer, who was
13 appointed to the rank of brigadier general, could feel frustrated and that they left the
14 movement just a few months before reunification, because -- and counsel knows this
15 well, that party over there knows well, that when Bravo Charlie took the decision to
16 leave he left everything (Redacted)
17 (Redacted)
18 house.
19 (Redacted) if today I were appointed to the rank of general, I
20 would be the happiest man in the world, that particular day. But for him, it was a
21 different proposition, that he should be a two-star general of a division.
22 The document went to Gemena. I know this. It is written there "Gbadolite, 14
23 July." I know nothing about that but, when the proposal for appointments was sent
24 out, the general was in Gemena. He was not in Gbadolite, because I was in
25 Gbadolite. When the list came out, before he was notified, it was read out over the

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1 radio. They announced this on the radio.

2 And when he was notified, when he was given this document, he was very frustrated.

3 (Redacted)

4 (Redacted)

5 (Redacted) That was the situation. (Redacted) and this is the

6 document that was at the root of all the problems that we are discussing today.

7 MR KILOLO: (Interpretation) Court officer, I no longer need to see this document

8 on the screen. Your Honour, we can go back into open session.

9 PRESIDING JUDGE STEINER: Court officer, please turn into public session. We'll
10 be back into public session, Mr Witness.

11 THE INTERPRETER: Interpreter correction: The very last sentence was "at the
12 root of all the problems that we are suffering today."

13 (Open session at 12.05 p.m.)

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

15 MR KILOLO: (Interpretation)

16 Q. Mr Witness, let's come back to your statement to the Office of the Prosecutor, in
17 the second document on the Defence list, on page CAR-OTP-0011-0327. Mr Witness,
18 when you say to the Office of the Prosecutor that it was the Chief of General Staff of
19 the MLC who had prepared the troops who were to set off to conduct the Bangui 2
20 operation, what exactly does that mean "to prepare the troops"?

21 A. The information that I received at that time -- because the person who managed
22 all of the troops, in terms of their numbers, was the Chief of General Staff. He is the
23 one who had received the order from the chief commander, the commander-in-chief,
24 to prepare the soldiers who were to go to the Central African Republic.

25 Q. And who was that Chief of General Staff who prepared the soldiers who were

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1 to go off to conduct the Bangui 2 operation?

2 A. You know his name, Counsel. And to tell you even more, after the Prosecution
3 team came through, I tried to ask around a bit more to get more information and I
4 was even given the names and the people who had commanded those troops in
5 Bangui. I cannot mention their names here, but I was told them.

6 Q. Without making any connection to yourself, for reasons of confidentiality, when
7 you talk about the Chief of General Staff who prepared the troops who were to go off
8 for Bangui 2, are you talking about General Amuli?

9 A. As you are the one mentioning that name, you know that he is the person who
10 fulfilled that particular role.

11 Q. Could you help the Chamber to visualise that concept? When you say that he
12 prepared the troops, what does that mean? What exactly did he do? What are the
13 exact actions? What happened precisely?

14 A. Counsel, I was given information about these things. I was not there myself,
15 and so I cannot describe it exactly to you, but I don't think -- you're an intellectual, I
16 don't think that a commander-in-chief would come himself to assemble the troops
17 and the soldiers for a mission. He commands, he gives the orders that a given
18 person should prepare so many battalions or so many men for a given purpose.
19 That's how it's done.

20 In your firm, I believe that if you need a document you're going to call your secretary
21 and issue instructions. You're not the one who is going to go off and find the
22 document. You probably wouldn't know how to quickly lay your hands on a
23 document, whereas your secretary would.

24 Q. On the basis of your statement to the Office of the Prosecutor, in the second
25 document on the Defence list, on page CAR-OTP-0011-0325, when you say that the

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1 commanders in the field within the MLC reported to the Chief of Staff, General

2 Amuli, how did you know this?

3 A. I was informed by the people who were in the field, and also the rank and file of
4 the MLC who were routed in Kinshasa.

5 Q. Do you know through what channels the commanders in the field reported
6 back to their Chief of Staff, General Amuli? Through what channels?

7 A. Counsel, these channels that you are talking about are the means of
8 communication, as far as I know. In Gbadolite I told you that, to my knowledge -- in
9 Gbado there were not many people who had satellite telephones. Even the Chief of
10 Staff or the generals did not have them. And so the head of the movement did have
11 one, I don't know if the secretary-general in the political wing had such a phone, but
12 from Bangui to Gbado there was no telephone link, no ordinary telephone link. You
13 had to use a satellite cellphone, because the military command was based in
14 Gbadolite.

15 Q. Do you know if the field commanders within the MLC also sent their reports to
16 General Amuli in writing; in other words, by way of mail addressed to General
17 Amuli?

18 A. In writing, Counsel? I don't believe so. I don't know. Perhaps the final
19 reports, because there is a great distance separating Bangui from Gbadolite. So to
20 send someone with mail to Gbadolite could take more than a week and, as you well
21 know, the longer it takes for information to get to its destination, the longer -- how
22 can I put it, or the more it diminishes the importance of that information.
23 And in a military terrain, in a military situation, information needs to be sent, or is
24 sent constantly, and the commanders follow operations minute by minute, if not
25 second by second.

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- 1 Q. I would like to refer to the second document on the Defence list on page
2 CAR-OTP-0011-0325. When you are asked the question concerning the means of
3 communication used by the field commanders who were reporting to their Chief of
4 Staff, General Amuli, you say "Telephony and mail." What do you mean by "mail"?
- 5 A. You're talking to me about Bangui. In Bangui, to my knowledge, there was no
6 MLC telephony. Perhaps the people who were fighting -- I was not there myself, but
7 I know that in Zongo, a territory which was bordering Bangui, there was telephony.
8 There were telephones used by the MLC. And the mail, well, twice there was a
9 presidential motorbike which came to Zongo to deliver mail, or collect mail. That is
10 what I saw when I entered MLC territory in 2002.
- 11 Q. Mr Witness, I refer to your statement in the second document on the Defence
12 list at page CAR-OTP-0011-0345. You say that, "During the second operation in
13 Bangui, the MLC troops fled the Central African Republic. They did not receive an
14 order to retreat." How do you know this?
- 15 A. Because -- because there were other MLC soldiers who found themselves being
16 routed in Kinshasa and I met them, and they are the ones who told me this and you
17 know that perfectly well, Counsel. You know that in Bangui 1 the movement was in
18 control of the terrain, they had the time to organise their return, but in Bangui 2 the
19 people who were thrown in disarray under fire from the enemy didn't have enough
20 time to think about what they were doing. They didn't have enough time to
21 leave -- to think about things twice before leaving the field.
- 22 Q. Mr Witness, referring to the document number 2 on the Defence list at page
23 CAR-OTP-0011-0330 at the end, and the following page CAR-OTP-0011-0331 in
24 limine, you say that most of the MLC soldiers were former soldiers of the Congolese
25 armed forces. How did you know that?

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1 A. Counsel, I was there. I talked with soldiers. And I will tell you, you would
2 know that a significant part of the arms of the movement, or a part of the arms of the
3 movement, were weapons that they had taken from the Congolese armed forces; even
4 the vehicles used by the soldiers in Gbadolite.

5 Q. To your knowledge, Mr Witness, how many soldiers were there among the
6 MLC troops overall, in general terms?

7 A. No idea.

8 Q. Do you know if about 25 per cent of the military personnel of the MLC were
9 former soldiers who had been trained by Bravo Charlie when he was in the Zairean
10 armed forces?

11 A. The percentage is an estimate, but you would know that Bravo Charlie trained a
12 lot of soldiers, commandos, at the time of the second republic, and you don't send
13 unreliable units to the front. You often send elite units. And those who were
14 captured, or who voluntarily surrendered to the MLC soldiers, were former soldiers
15 of the FARDC and of the FAZ, who were in the FACA and who then joined the
16 movement that had conquered their positions.

17 Q. Could you help the Court to understand? Sometimes you say that there were
18 ex-FAZ soldiers in the ranks of the MLC and sometimes you talk about ex-FAC
19 soldiers. Could you help the Chamber to understand that?

20 A. Counsel, the former FAZ, Zairean armed forces soldiers, most of those within
21 the armed branch of the movement were most of the people who had not joined the
22 movement because they had been captured, or because they had surrendered in the
23 field. Most of those officers are the ones who had fled the entry of the AFDL into
24 Kinshasa and who were in Brazzaville, and others in bordering countries who came
25 in to join the Movement for the Liberation of the Congo afterwards, but I'm talking

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1 about the rank and file who surrendered. There were lots of those - a lot - who
2 came and who were in FAZ, the Zairean armed forces, and afterwards in the
3 Congolese armed forces which Kabila I was leading, and during the operations, after
4 they had been defeated by the enemy, they joined the enemy side with their weapons
5 and their uniforms.

6 Q. Talking now about the officers, to your knowledge were there many officers
7 who were formerly of the Zairean armed forces within the MLC?

8 A. The majority - the majority - were former FAZ and former civil guard soldiers;
9 even people from Mobutu's gendarmes. There were even a few junior officers who
10 had been trained in Uganda, but you have read -- you presented to me the names of
11 the generals who were appointed here. All of those generals had been part of
12 Mobutu's army. There were no superior officers trained in the movement who had
13 access to those ranks there, to my knowledge.

14 And please, if I may, in the decree it does say "superior officers." These were
15 superior officers from where? They were superior officers from the FAZ and the
16 FAC, who joined the movement.

17 Q. Mr Witness, in the second document on the Defence list, on page
18 CAR-OTP-0011-0331, you say to the Office of the Prosecutor that the MLC troops
19 were recruited for a permanent movement and not for one-off operations. What
20 does that mean?

21 A. I don't remember that answer, Counsel.

22 Q. No problem, I will read it out for you. Here's the question: "Were the troops
23 just recruited for operations, or for something permanent?" Your answer: "To
24 reinforce a permanent movement. They had to be able to March on Kinshasa as the
25 AFDL had done." Is it coming back to you now?

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1 A. Yes, that is my answer. Yes, that is my answer, but the question that you
2 asked me doesn't correspond and doesn't accord with my answer there. Could you
3 please rephrase your question differently, because you said "permanent troops or
4 non-permanent troops" and that does not reflect the question and the answer that you
5 read out.

6 Q. Mr Witness, do you know where the various training centres were located on
7 the territory occupied by the MLC?

8 A. No.

9 Q. Is it true that there were military training sessions run by Ugandan officers and
10 other Congolese military officers within the MLC?

11 A. Yes, because it was the majority of Ugandan officers who trained - the majority
12 of Ugandan officers - and then a minority of Congolese officers who trained or -- or
13 commanded the MLC army.

14 Q. Mr Witness, coming back to your statement to the Office of the Prosecutor, in
15 the second document on the Defence list, at page CAR-OTP-0011-0323 when you say
16 that all of the MLC colonels were former -- formerly of the Zairean armed forces, how
17 did you know this?

18 A. Because I was -- because I was in Gbadolite and I knew a lot of them. The
19 majority were colonels of the special presidential division of Mobutu and a few
20 officers from the Zairean armed forces.

21 Q. Would it be true to say, Mr Witness, that -- Mr Witness, did you attend even just
22 one trial that took place in Gbadolite under the administration of the MLC?
23 Personally did you attend?

24 A. Not one, but two trials.

25 Q. Do you remember having mentioned before this Court the arrest, according to

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1 you, the arbitrary arrest of Mr Kibonge?

2 A. Counsel, I mentioned an arrest, an arbitrary arrest, but I wasn't among the leaders,
3 the leaders who ordered that arrest; but I did mention that -- well, the
4 reasons underpinning that arrest. And the person who told me of that, (Redacted)
5 (Redacted) the order of Mr Bemba, who had
6 ordered to bombard and shell Mr Muziki's (phon) residence, who was there with
7 his wife and children.

8 You know General Kibonge. He is alive. If you don't believe what I tell you, you
9 can ask him your question and he will answer because he is a general of our armed
10 forces, of the Democratic Republic of Congo's armed forces, and he is alive to this
11 day.

12 MR KILOLO: (Interpretation) Could we go into private session, please.

13 PRESIDING JUDGE STEINER: Court officer, please.

14 *(Private session at 12.34 p.m.)Reclassified as Open session

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

16 MR KILOLO: (Interpretation)

17 Q. Mr Witness, I'm going to recall to your memory an excerpt of a statement that
18 you made before this Chamber. Because it was in private session at that particular
19 point in time, I'm going to also read it out in private session. I'm referring to the
20 transcript, the edited transcript, in the French version of 23 September 2011 page 43
21 right the way through to page 50 but, obviously, I'm not going to read the entirety of
22 that excerpt. I'm going to confine myself to reading out one or two excerpts.
23 Here is the question that was put to you, and this is on page 46, line 15 through to line
24 19: "For General Kibonge's trial, this trial, how long did it last?" Your answer:
25 "Not more than ten days." "What you said beforehand, that one of the charges was

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1 not obeying an order, were there other charges brought against Kibonge?" Your
2 answer: "No."
3 On page 47, line 17 through 25, and I quote: "Apart from that, well, because I
4 understood this really as a political trial, and that's why, even when the sentence was
5 pronounced, I didn't leave and even though we knew what the end result would be
6 and that was that. That was the end result." "You said that you thought that it was
7 a political trial, and following that can you repeat what you said?" "We knew the
8 outcome of the trial because Kibonge was hunted directly by the president of the
9 movement. So what the judges decided couldn't impact the leader, and that's why
10 when the sentence was pronounced I didn't leave."
11 On page 49, line 20 through to 28, this is what you say, here's the question: "Do you
12 know who had authority to convene a martial court within the MLC?" Your answer:
13 "This was upon the orders of the leader of the movement. It was he who issued the
14 order." Question: "The leader of the movement, what is his name?" Your answer:
15 "It is Mr Jean-Pierre Bemba." Question: "Who had the authority or the powers
16 within the MLC to mitigate a sentencing or to pardon a detained individual?"
17 Answer: "Well, it is the president because, to my knowledge, there wasn't a general
18 prosecutor. There weren't any accredited judges who led or judged the two people
19 that I saw had been judged."
20 Page 50, line 8 through to 12: "When General Kibonge was arrested in the east, this
21 arrest was conducted under the authority of what person? Who authorised, who
22 authorised that arrest?" Answer: "To arrest a high-ranking officer the order could
23 only be issued from the chief, the leader of the movement. It was Jean-Pierre Bemba
24 who had ordered the arrest of Colonel Kibonge."
25 Mr Witness, do you remember that statement that you made?

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1 A. Yes, I do remember.

2 JUDGE ALUOCH: Mr Kilolo, are you asking about one statement or the entire
3 paragraph you have read from the transcript, because you've been simply quoting
4 from the transcript. Are you asking him about all that you have read or just one
5 statement?

6 MR KILOLO: (Interpretation)

7 Q. Mr Witness, my question relates to all the excerpts that I've just read out just
8 now. Do you remember having made these various statements before the Chamber?

9 A. Yes, I remember very clearly.

10 Q. Mr Witness, do you know Mr Bokolombe?

11 A. Yes, I saw him at Gbadolite.

12 Q. Do you know what was his function or his rank within the MLC?

13 A. Counsel, if -- since we're talking about an individual, I would prefer that we
14 talk about him in closed session because you're asking me a question where I have to
15 clarify.

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

17 THE WITNESS: (Interpretation) Thank you, your Honour. The question that
18 Counsel is -- has put to me with regard to Mr Kipumbule (phon) -- Mr Bokolombe, it
19 was this gentleman who was the GD; in other words, the boss of the military
20 intelligence office of the MLC at the time of Bangui 1.

21 And because the Counsel is goading me to say this, I do have information. I was
22 informed, and it was Mr Bokolombe who had ordered the military operations to be
23 conducted, military operations of the MLC in Bangui. And when I arrived at Gbado,
24 this was after the operations and I saw the jeep with which Mr Bokolombe was
25 driving. The people at Gbado said he had that at Bangui, among -- because of the

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1 pillaged goods in that place.

2 THE INTERPRETER: It's a member of "G2," clarifies the interpreter, not "GD."

3 MR KILOLO: (Interpretation) I would suggest now, your Honour, that we move
4 back into open session, with your leave.

5 PRESIDING JUDGE STEINER: Mr Witness, we are turning back into public session,
6 so pay attention. And if need be, we turn back into private. Court officer, please.
7 (Open session at 12.44 p.m.)

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

9 MR KILOLO: (Interpretation) I would like to ask the court officer to display on
10 our screens the 46th document in the Defence's list, CAR-D04-0002-1768.

11 THE COURT OFFICER: Document CAR-D04-0002-1768 is available on your screens.
12 It's a public document and will be broadcasted outside the courtroom.

13 MR KILOLO: (Interpretation) Can I ask the court officer to bring into relief the
14 first half of this page?

15 Q. Mr Witness, I would like to ask you once again to read for the Chamber a first
16 extract from this document that starts with "Note", and would you mind reading
17 right the way through to "Beni conspiracy"?

18 A. "Concerns an investigation conclusion with regard to the Beni conspiracy."

19 Q. Do forgive me. Would you mind starting with "Note - Intelligence note?"

20 A. "Intelligence note to the EMG leader, ALC number
21 ALC/061/G2-EMG/FLC/2001.

22 Copy sent for the sake of information to His Excellency the President of the National
23 Front for the Liberation of Congo at Gbadolite.

24 Subject: The conclusion -- the findings of investigation about the Beni conspiracy.

25 Excellency, after gathering testimony and statements at Beni and having conducted

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1 interviews of suspects taken back to Gbadolite, we submit with all due respect to you
2 the findings from the investigations and the responsibilities lifted from certain
3 persons involved in the Beni conspiracy relieved of their duties."

4 Q. Thank you, Mr Witness. When we -- right at the beginning you read,
5 "Intelligence note. This note is sent to the EMG/ALC leader." Can you enlighten
6 the Chamber, who is the EMG leader? What does that mean, "EMG leader"? "EMG
7 leader, ALC"?

8 A. The Chief of General Staff.

9 MR KILOLO: (Interpretation) I would now like to ask the court officer to bring up
10 the last two paragraphs on this page. Would you mind bringing up, or blowing up,
11 the last two paragraphs on this page, please?

12 Q. Would you mind, for the benefit of the Chamber, reading out the last two
13 paragraphs, starting with the paragraph beginning with "Retrieving."

14 THE INTERPRETER: The last paragraph, correction from the interpreter.

15 THE WITNESS: (Interpretation) "Burundi and General Omari are laying -- making
16 political capital out of the mutiny, seeking to eradicate the FLC which since its arrival
17 had closed off all the financial taps and seduced the ..." --

18 MR KILOLO: (Interpretation) Mr Court Officer, would it be possible now to
19 switch to the next page by bringing up the first two paragraphs, if you wouldn't mind?
20 The next page is OTP -- it's OTP-D04-0002-1768.

21 THE INTERPRETER: 69, corrects the interpreter. 69.

22 MR KILOLO: (Interpretation)

23 Q. Mr Witness, for the benefit of the Chamber would you mind continuing your
24 reading first two paragraphs. It begins with "Colonel," and it finishes with "APC."

25 A. "Colonel Kibonge who, out of greed, rallied to the cause. Their final objective

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1 involved throwing out of power President Bemba and his supporters with a view to
2 establishing the RDC populaire, or the Mbusa, where Mbusa cordon would be
3 president, Colonel Kibonge would be the co-ordinator in the executive and Minister
4 of Defence and Omari, Chief of General Staff of the APC".

5 MR KILOLO: (Interpretation) I would just like to ask the court officer to slightly
6 scroll up the page so that we can see very clearly the first two paragraphs that have
7 just been read out. Of no longer seeing, rather.

8 Q. Would you mind reading out the paragraph that begins with "The three people
9 who are unsatisfied" and then finishes with "the movement"?

10 A. "The three unsatisfied elements, namely, Burundi and Omari, for having lost all
11 their former benefits Kibonge, who it is said posed problems in defence expenditure
12 in particular and of the front in general, to the benefit of the group that he has dubbed
13 the Belgiquans, while he also served the movement himself."

14 MR KILOLO: (Interpretation) Your Honour, seeing that we've reached almost
15 1 o'clock, perhaps it would be time to stop here.

16 PRESIDING JUDGE STEINER: Maître Kilolo, we are going to the break. I need to
17 inform Defence has already spent six hours, 45 minutes, and the Chamber really
18 hopes that Defence will conclude today with its questioning of the current witness.

19 Mr Witness, we are going now into our lunch break. It's almost 1 o'clock. We'll be
20 back at 2.30. I ask, please, court officer, to turn into closed session in order for the
21 witness to be taken outside the courtroom.

22 *(Closed session at 12.57 p.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 12.57 p.m.)
- 2 (Upon resuming in closed session at 2.34 p.m.) Reclassified as Open session
- 3 THE COURT USHER: All rise. Please be seated.
- 4 PRESIDING JUDGE STEINER: Good afternoon and welcome back. I ask, please,
- 5 court usher to bring the witness in.
- 6 (The witness enters the courtroom)
- 7 PRESIDING JUDGE STEINER: Can we turn into open session, please.
- 8 (Open session at 2.36 p.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 afternoon and thank you, Madam
- 12 President.
- 13 PRESIDING JUDGE STEINER: Are you feeling well and ready to continue giving
- 14 your testimony?
- 15 THE WITNESS: (Interpretation) Yes, thank you.
- 16 PRESIDING JUDGE STEINER: Maître Kilolo, you have the floor.
- 17 MR KILOLO: (Interpretation)
- 18 Q. Good afternoon, Mr Witness.
- 19 A. Thank you, Counsel.
- 20 Q. I would just like to draw your attention to the fact that we don't have a lot of
- 21 time. We have about one hour and 20 minutes to finish off the questioning, so could
- 22 I ask you to be as brief as possible so that we can finish the questioning today?
- 23 A. Yes, Counsel, that is what I hope as well, but when you ask me questions which
- 24 require explanations I think that I have to answer you as such so that the Court is
- 25 enlightened.

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1 MR KILOLO: (Interpretation) I would like to ask the court officer once again to
2 put up on the screens document 46 of the Defence list, this time on page
3 CAR-D04-0002-1772.

4 THE COURT OFFICER: The document as referenced by Counsel at page 1772 is
5 available on your screens and it's a public document.

6 MR KILOLO: (Interpretation) Could I ask the court officer to zoom in on the final
7 paragraph, please?

8 Q. Mr Witness, could I ask you to read the very last paragraph of the conclusions
9 concerning the Beni conspiracy, please?

10 A. Excuse me: "We request finally the convening of the general disciplinary
11 council to rule upon these cases and hit hard to discourage any other over-ambitious
12 individuals who might be tempted to try this."

13 MR KILOLO: (Interpretation) Court officer, could I ask you to zoom in on the end
14 of the page, the date, the stamp and so on? Thank you.

15 Q. Mr Witness, could you read out for the Court the name of the person who
16 signed this investigation report?

17 A. Chief G2, Jean Louis or J Louis Bokolombe, commander.

18 Q. Could you also give us the date that you can read on the screen?

19 A. 28 June 2001.

20 Q. Do you recognise the customary seal of the MLC?

21 A. No, no, I'm not in the habit of seeing the MLC seal so how do you expect me to
22 recognise it?

23 Q. Very well, Mr Witness. Court officer, I no longer require the document on
24 screen.

25 PRESIDING JUDGE STEINER: Before we take this document from the screen, I see

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1 that here in the seal that you referred to is stated "Front de Libération du Congo."

2 My question to the witness is: Is this the same as "Mouvement de Libération du
3 Congo, MLC"?

4 THE WITNESS: (Interpretation) Your Honour, I cannot give you an exact answer,
5 because when I read the seal I see at the top "Liberation Front of the Congo" and
6 within the seal "Congo Liberation Army, General Staff Headquarters, G2," and so as
7 far as I know the ALC, the Liberation Army of the Congo is the armed branch of the
8 MLC, so I can't give you an exact answer.

9 MR KILOLO: (Interpretation) Court officer, I no longer need the document on
10 screen.

11 Q. Mr Witness, after having become familiar with this document, do you know
12 that the cause of the arrest of Mr Papy Kibonge was that his participation in a mutiny
13 along with Mr Burundi and Mr Omari?

14 A. Counsel, I don't know if you are talking about Papy Kibonge, or Gédéon
15 Kibonge, and in addition to that you are asking me about a document. I don't know
16 how that was established, so I don't know how you expect me to answer your
17 question. And, Counsel, you were not there yourself. Now, it is true that you're
18 defending your client, but I know the situation, I know what happened, and in all
19 conscience, even if I read this, nothing proves that the report was as it appears. You
20 can come up with a report just to please the chief, so I don't see the purpose of
21 answering such questions. I don't think it's useful, because I haven't mentioned any
22 of this.

23 Q. Yes, Mr Witness, I am not asking you to speculate. I'm just asking you to tell
24 us what you know, so if you don't know then please say so clearly. My question
25 relates to Gédéon Kibonge.

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1 A. Counsel, I have not speculated. I think that I've mentioned two names. You
2 talked about Papy Kibonge and I told you about Gédéon Kibonge, but the events that
3 I'm talking about here are the facts that were transmitted (Redacted)
4 (Redacted) He is alive and during his defence in Gbadolite there were people
5 who were there. You can ask them. (Redacted)

6 (Redacted)

7 (Redacted)

8 Q. Should we understand (Redacted)

9 (Redacted)

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

11 *(Private session at 2.47 p.m.) Reclassified as Open session

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

13 THE WITNESS: (Interpretation) Yes, Counsel. General Kibonge is alive. He is a
14 general of the armed forces, if you could check those facts. Thank you.

15 MR KILOLO: (Interpretation)

16 Q. Do you remember having discussed with the Prosecutor the issue of the
17 appointment of magistrates and of judges in the military jurisdiction in the territory
18 under MLC control? I believe, Madam President that, we could go into open
19 session.

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

21 (Open session at 2.48 p.m.)

22 THE WITNESS: (Interpretation) I don't remember.

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

24 THE WITNESS: (Interpretation) I really don't remember, because it's been a long
25 time now, but I know what I know and here in the Court I talked about the judges

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1 who made up the court from General Gédéon Kibonge's trial. The presiding judge
2 was the Chief of General Staff and then there was the -- and then there was the
3 assistant presiding judge was also the assistant to the general -- the Chief of General
4 Staff. And then there was the second trial. I did not see an official judge of the
5 court who was judging those people; not a military one, not a civilian one. I didn't
6 see any.

7 MR KILOLO: (Interpretation)

8 Q. Do you also remember having stated before this Court that Mr Jean-Pierre
9 Bemba was the one who appointed the magistrates for the military jurisdiction in
10 MLC territory?

11 A. No, Counsel. I was asked who appointed those judges and I told you that a
12 Chief of General Staff, I told you this counsel, cannot sit as a judge without the
13 authorisation of his superior. The Chief of General Staff, or the Chief of Staff, was
14 the number 2 in the army. He could not go and sit as a judge without the
15 authorisation of the person above him, the supreme commander, or I'm not sure what
16 you would call him.

17 Q. To clarify this question, Mr Witness, to your knowledge who appointed and
18 designated the judges who sat on that case?

19 A. Counsel, could you give me the name of somebody who was appointed in
20 Gbado in the movement to any function who was not so appointed by the leader of
21 the movement?

22 Q. Do you remember having stated that (Redacted)
23 (Redacted)
24 (Redacted)

25 Q. May we take it that you have confirmed knowledge of the Congolese judicial

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1 system?

2 A. A bit, yes, because when you don't practice the profession there are certain
3 things that escape you.

4 Q. Can you tell the Court how career magistrates are appointed and by whom?

5 A. Career magistrates are appointed by the Head of State on recommendation of
6 the High Council of Magistrates.

7 Q. Are you talking about the law that governs the status of career magistrates? Is
8 that correct?

9 A. Counsel, could we talk about things that are really of relevance to this trial,
10 please?

11 MR KILOLO: (Interpretation) Very well, Mr Witness. In that case, could I ask the
12 court officer to put up on screen the 12th document of the Defence list at page
13 CAR-DEF-0002-0053.

14 THE COURT OFFICER: This document is a public document, and unless otherwise
15 instructed it will be broadcasted outside, and it is document which reference is
16 CAR-DEF-0002-0001.

17 MR KILOLO: (Interpretation)

18 Q. Mr Witness, to facilitate the task, I am going to read this myself. You have
19 before you a document in which you can see "Court-martial following an adversarial
20 procedure." Can you see that on the document?

21 A. Yes, I see it at the bottom of the screen.

22 Q. This is a decision that was taken in the context of the Gbadolite trial. Could
23 you just read the extract which begins in French "Par ces motifs," "For these reasons,"
24 and could you stop at "480"?

25 A. "For these reasons in the light of the code for the organisation of judicial

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1 authority, in the light of the code of criminal procedure, in the light of the criminal
2 code of book 1, Articles 21 and 23, Articles 79, 80, 81 and 82 of book 2, in the light of
3 the Code of Military Justice Article 480".

4 Q. Mr Witness, did you know that the rulings handed down by military
5 jurisdictions in MLC territories made reference to the Congolese military code; the
6 Code of Military Justice?

7 A. I don't know.

8 MR KILOLO: (Interpretation) I would like to ask the court officer to put on the
9 screen the tenth document on the Defence list at page CAR-DEF-0002-0398. Court
10 officer, please could you begin with page CAR-DEF-0002-0399 -- 89.

11 Q. Mr Witness, do you recognise the page that is currently being displayed on our
12 screens?

13 A. Yes, yes, I have read that.

14 Q. Could you clarify what document we are dealing with?

15 A. Code of Military Justice.

16 Q. Could you tell us what date this code carries, please?

17 A. 1972.

18 MR KILOLO: (Interpretation) I would like to ask the court officer to now move on
19 to CAR-DEF-0002-0398. Would you please zoom in to the second half from
20 "Article 6"?

21 Q. Mr Witness, little by little I am going to be reading for the Chamber these
22 excerpts of these various articles. Following that I am going to be putting my
23 question to you: Article 6 of the military justice code in the Congo, I am reading:
24 "The council of general war court-martial is made up as far as possible of five
25 members of Zaire nationality, all being general officers belonging to the armed Zaire

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1 forces, except for the ruling made by a magistrate or a member of a regional
2 court-martial that doesn't enjoy the rank of a general officer. The presidency is
3 fulfilled -- the role of the presidency is filled by a general officer.

4 Article 7: The members of the general court-martial and their proxy members are
5 appointed by random for a session of three months among the officers of the Zaire
6 armed forces by the general auditor of the armed forces."

7 Mr Witness, before going further, were you aware of the fact that these members of
8 the military jurisdiction in question were appointed by random and this under the
9 auspices of the auditor general of the armed forces?

10 A. Thank you, Counsel. For this particular case, the armed forces, the national
11 armed forces of the country in question, the national armed forces of the ALC, just
12 seeking to have that clarified.

13 Q. Mr Witness, before - well before - putting this question to you I indicated to you
14 the existence of a ruling handed down by a court-martial at Gbadolite, that famous
15 trial, and you saw with me that their ruling was underpinned by the military code of
16 justice. I'm now to looking at with you the various provisions of that same code,
17 hence my question, which I reiterate, I want to know whether you were aware of the
18 fact that the members of this military jurisdiction were appointed by the auditor
19 general of the armed forces and this was done at random. Did you know this?

20 A. Yes, I did know that.

21 Q. A general official, a general officer, was this the person who presided over the
22 trial of Gédéon Kibonge?

23 A. Yes, Counsel, but Article 7 stipulates that the members of the general
24 court-martial and their proxies are appointed by random for a session of three months
25 among the officers of the Zairean armed forces by the auditor general of the armed

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1 forces, and to the best of my knowledge, if you are speaking to me about this
2 particular article, I would need to know a bit more about who is the auditor general,
3 who appointed that court at Gbadolite.

4 Q. Do you know Mrs Rose Mika?

5 A. No.

6 Q. Through this question I will answer your question: "Article 8: The
7 appointment of members of the general court-martial is subordinate to the adherence
8 of hierarchical principles. The assessor of the general court-martial of the same rank
9 as that of the person brought before the Court must be of greater seniority. If this
10 condition cannot be filled, the assessor is of a rank immediately above." Were you
11 aware of this hierarchical principle dictating the make-up of the bench of this judicial
12 authority?

13 A. Yes, I was aware of that.

14 Q. According to your knowledge of the make-up of the bench in the Gédéon
15 Kibonge trial, this hierarchical principle, did it prevail based on your knowledge of
16 the ranks of those people who were leading that particular trial?

17 A. Yes.

18 MR KILOLO: (Interpretation) I would like now to call upon the court officer. We
19 will remain with this same document, but move to CAR-DEF-0002-0428. Could you
20 please blow up Article 196 at the bottom of the page, please?

21 Q. Mr Witness, I'm now going to read this article for the sake of swiftness.

22 Article 196 of the Congolese code of justice, let me quote: "If the military magistrate
23 instructor deems that the events in question constitutes something that goes over and
24 beyond the powers of the military jurisdiction and if guilt is sufficiently established
25 he will refer the accused persons before that judicial authority. He refers the accused

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1 person before that judicial authority."

2 Mr Witness, were you aware of the fact that it is the instructor - the military
3 instructor - magistrate that has the power to refer an accused person before a military
4 jurisdiction to be tried?

5 A. Yes.

6 MR KILOLO: (Interpretation) I would like to call upon the court officer to now
7 move to page CAR-DEF-0002-0430. Would you mind bringing up Article 212, right
8 at the bottom of the page.

9 Q. I'm going to read Article 212 of the military Congolese code. I quote: "The
10 official of the military public ministry is responsible for prosecuting people who have
11 been taken directly before or referred to the jurisdiction of the armed forces. He
12 notifies them immediately of this direct transfer, or referral. He then convenes the
13 tribunal either at the seat of that -- of this latter, or in any place that falls under his
14 powers -- of powers that he clarifies."

15 Mr Witness, do you remember having said that the court often had as its seat a place
16 next to Hotel Makile (phon)?

17 A. Yes.

18 Q. Did you know that it was the officer of the military public ministry who had the
19 power to convene the tribunal and in any place that it may wish to specify?

20 A. Counsel, I am aware of this. Counsel, I am aware of this, but please forgive me.
21 I don't want to enter into this debate. Why, you may ask? Because number 1, an
22 OPG, an official of police judiciary, if he is not accredited before an official of the
23 public ministry, he cannot establish a written statement and this written statement
24 cannot be taken into consideration at the level of the office of the public ministry, or at
25 the court because the person officially is not properly recognised or acknowledged by

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1 the judicial authorities to do such a thing. He is right at the bottom of the
2 hierarchical pyramid.

3 MR KILOLO: (Interpretation) Would you mind bringing up the page
4 CAR-DEF-0002-0436.

5 PRESIDING JUDGE STEINER: Maître Kilolo, is it really necessary that you read the
6 code, instead of directly asking whether the witness has any knowledge about the
7 trials on the period of the facts or something? It appears a Bar exam. We cannot
8 see the point, Maître, analysing article by article the code from Zaire and asking the
9 witness whether he knows that the code says that.

10 MR KILOLO: (Interpretation) Your Honour, this exercise strikes us as extremely
11 important to the extent that Mr Witness made a statement about the unfolding of the
12 proceedings taken before the military tribunal at Gbadolite pretend -- claiming that it
13 was Mr Bemba that was involved in the appointment of magistrates in the
14 decision-taking and even a minute ago he reiterated a fact that Mr -- that nothing
15 could be done without the involvement of Mr Jean-Pierre Bemba.

16 We submitted to him a ruling handed down by the Gbadolite court-martial, people
17 who had been prosecuted based on the facts that are of concern to us in the Central
18 African Republic. He read that the judges on that court-martial focused on in their
19 ruling -- focused on the Congolese code -- military code of justice and it's this code
20 that we are currently looking at, well, all of it.

21 In other words -- well, not all of it, rather, but the articles we've just gone over,
22 focusing in on specific issues linked to the make-up of that bench, because he says the
23 person that tried Mr Kibonge was an officer or a general of the armed forces
24 appointed by Mr Jean-Pierre Bemba and we've just shown that in the military code of
25 justice in the Congo it was an officer in the armed forces that had to be appointed as

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1 presiding that tribunal.

2 So I wanted to confront him with that and to establish whether he remembered that,
3 because he said that he had full knowledge of Congolese law and that he had legal
4 training.

5 PRESIDING JUDGE STEINER: Maître Kilolo, you can proceed. I think it appears
6 that all these controversies that you want to show you should show it to the Chamber
7 in your final allegations, but if you think that it's important to show it to the witness,
8 please continue. Maître Liriss.

9 MR LIRISS: (Interpretation) Your Honour, it's just to pick up on what my learned
10 colleague said. Do you remember that on -- do you remember that on Friday, the
11 last session on Friday, in the examination chief of the Prosecution, proceedings were
12 talked about a lot, the proceedings pertaining to General Gédéon.

13 Now, Mr Kilolo has read one after the other the statements that've been made in open
14 session and that have been translated into the transcription and the statement made
15 by the witness with regard to the reasons underpinning the arrest of the general that
16 he contested, also on the fact that he thought that the judges weren't qualified enough,
17 about the choice of the judges being appointed and this he said was -- came under the
18 responsibility of Mr Bemba and the fact that there wasn't an officer of the public
19 ministry.

20 Perhaps we expressed ourselves poorly beforehand. Perhaps we could have warned
21 the Chamber why we were adopting this particular approach, but it strikes me as
22 even-handed that even in -- that also in open session we are attacking these
23 affirmations made by the witness and we can attack them by demonstrating the legal
24 underpinnings of what actually occurred. That's it. I just wanted to provide extra
25 flesh on the bones of what my learned colleague had said.

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1 JUDGE ALUOCH: Mr Kilolo, I have so far not heard you trying to establish through
2 the witness whether the trial that was conducted, those officers were appointed or
3 elected in accordance with this military code of justice. I would have thought that's
4 the reason why you're quoting several articles from this military code, but I have not
5 heard you make that connection yet.

6 MR KILOLO: (Interpretation) Thank you very much, Madam Judge Aluoch. We
7 asked the question of Mr Witness and he said that the military code of justice with
8 regard to the make-up of the bench in the military tribunal provides for the fact that it
9 was indeed officers belonging to the Congolese armed forces who sat on that bench.
10 In addition to that, he also confirmed the fact that the presiding judge of the tribunal
11 in the trial of Gédéon Kibonge was a general officer compliant with Article 6,
12 secondly of the code of military justice. So from that perspective things are very
13 clear.

14 I would now like just to round off on this point by asking the court officer to make
15 available to us page CAR-DEF-0002-0436.

16 Q. Mr Witness, do you remember having said to the Prosecutor that the trial of
17 Mr Kibonge had taken place very swiftly and it was rather expeditious? Do you
18 remember that? It was overly swift, do you remember that?

19 A. I do remember that, but I told you that in such cases to not ask me of dates
20 because I gave you approximate dates. I think I remember saying approximate dates
21 because I wasn't very sure, but it wasn't a trial that lasted a long time because I -- I
22 spent five months at Gbadolite.

23 Consequently, if the trial of such a magnitude were to last a long time, it could even
24 take eight months because you had me read about conspiracies, the names of people
25 and witnesses had to be heard in order to retain charges. I think that in the space of

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1 five months a trial of this couldn't be concluded in the space of five months.

2 Q. Very well, Mr Witness. I'm now going to read to you. This is Article 241 of
3 the military code of justice. Let me read: "If the proceedings cannot be concluded
4 during the same hearing, the president orders its resumption on the day and at the
5 time that he says. The same is true for cases that are expected to be heard, but
6 haven't yet -- but couldn't be called on the day that was set for that trial."

7 Here's my question: Were you aware that with regard to penal -- for criminal
8 proceedings laid down in the Congolese law that judgments before
9 tribunal -- military tribunals are rendered in the shortest space time possible to -- in
10 the same day, or at least as early as the next possible hearing? This is the principle,
11 the military tribunal sits without -- sits until it has made its ruling. Were you aware
12 of this?

13 A. Yes, I am aware of that, but I'm not entering into a debate about time-frames.
14 It is you who have just used the word "expeditious" or "overly swift," but of course in
15 my statement unless I am mistaken there is never those words. I never used those
16 words to describe that trial.

17 Counsel, once again, I would like to tell you something. The code that you're
18 reading to me here, we know this, perhaps you are saying this to people who have
19 been familiar with democracy for a long, long time, but where we have experienced
20 dictatorship we can have read to you codes of justice without the case corresponding
21 to what is laid down in the code. We know what happens. Why are you bringing
22 me into that particular realm of thing?

23 We know dictatorships, so when a commander is a dictatorship -- you're a Congolese
24 such as I am, you experienced the era of Mobutu, you saw trials. So in order to get
25 rid of one's opponent, you had him condemned to death and so then you could get

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1 close to the presidentship and so you could get his grace and favour and manipulate
2 him as you wish.

3 You can say this to expatriates, but not to Congolese because we're familiar with
4 dictatorship. We're familiar with this, because it's recent history. I don't want to
5 enter into this debate. I didn't come here to talk about debates about MLC, about the
6 MLC, what it's like, et cetera.

7 I know that I came here to tell the truth and nothing but the truth, but please don't
8 goad me into telling me -- in having me say that a dictatorship was stronger than
9 Mobutu. If you're familiar with these movements, Counsel, then you can tell me the
10 names of those people who established the movement and who are still members of
11 that movement, but please don't take me into this territory. Please, let's stay in the
12 realm of the real debate in -- for the sake of time, because you actually reminded me
13 that we need to not waste time. Please, Counsel.

14 Q. Thank you very much. I didn't need all those speculations. We are now
15 going to pursue --

16 PRESIDING JUDGE STEINER: Maître Kilolo, if you allow me, since we've been
17 submitting the witness to a Bar exam, I would like to ask the witness whether the
18 witness has any information on -- to when this code - military code - was in force in
19 DRC, because this code shown by the Defence is the Code Pénal Militaire du Zaïre.
20 Do you know whether or to when this code was in force in DRC?

21 THE WITNESS: (Interpretation) Your Honour, I don't exactly know up until when,
22 but I believe that one or two modifications were brought to the code by the eminent
23 Professor Nkulia (phon), modifications brought to the Code of Military Justice, but
24 because I didn't ready myself on that, because this is a subject that escapes me, but
25 because he is talking to me about this I was saying that we know the effects of

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1 dictatorship. When you are brought to trial, these people who drew up these notes
2 and reports, this note sent to the Chief of General Staff that you can read here, they
3 are in the pay of who?
4 Well, your Honour, perhaps maybe you can't understand because you haven't
5 experienced life under a dictatorship, but we have done so and we know what justice
6 is in a country where a given territory is -- comes under the authority of an individual.
7 We are familiar with this, so with that in mind I would really ask, with all the respect
8 that I owe to the Court, whether we could just move to the crux of things, because
9 with this, under a dictatorship, I know that we do something that is over the top. It's
10 like a constitution. How many times have we not -- how many times have we seen
11 in Africa that a Head of State should be doing two terms of office and then he
12 embarks upon a third term of office and he foists it on people to give him a third
13 mandate and if it is in the -- if it's in the case of a rebellion and this is why I am saying
14 to Counsel we need to go to the crux of things. I didn't come here to attack people or
15 to say things that could hurt people. No, we need to base ourselves and focus and
16 speak of what's crucial. Thank you.

17 PRESIDING JUDGE STEINER: You can continue, Maître Kilolo.

18 MR KILOLO: (Interpretation)

19 Q. Mr Witness, do you remember stating to the Office of the Prosecutor that
20 Mr Bokolombe's jeep was looted in Bangui? Do you remember that?

21 A. Yes, I remember that, and to tell you something else, according to the
22 information that I received in Gbadolite, Mr Bokolombe was even dismissed from
23 that role because he had done a lot of things under his own steam that he had not
24 revealed to the movement.

25 Q. I would like to refer to your statement in the second document on the Defence

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1 list at page CAR-OTP-0011-0341. This relates to the source of your information

2 concerning the criminal origins of Mr Bokolombe's jeep. This was the question --

3 PRESIDING JUDGE STEINER: Sorry to interrupt you, Maître. Should we go into
4 private session?

5 MR KILOLO: (Interpretation) Not necessarily, Madam President. I am keeping it
6 all in mind.

7 Q. Question: "How did you know that Bokolombe's jeep had been stolen in
8 Bangui?" Answer: "Everybody in Gbadolite was saying so. Gbadolite is a small
9 town. Everyone was talking about it". Next question: "Did people from the MLC
10 (Redacted) confirm that to you?" Your answer: "No, but the population was
11 talking about it." Additional question: "Were there outward signs to indicate that
12 the vehicle came from Bangui?" Your answer: "No, there were no licence plates."
13 Do you remember this?

14 A. I remember that well, but you're talking to me about Bokolombe's jeep. I
15 actually mentioned lots of jeeps.

16 Q. Mr Witness, on the basis of the information at the disposal of the Defence, but
17 also the information available to the Chamber, I would like to refer to the French
18 version of the transcript, the edited transcript of 16 September 2011, page 48, line 19 to
19 22. That information tells us that Bokolombe's jeep was actually a gift that had been
20 made to him by President Patassé. Did you hear anything about that?

21 A. Counsel, during the Bangui 1 war, Mr Patassé -- well, during the war I don't
22 know how he could have turned up where gunfire was being exchanged and make a
23 gift to the man who was commanding the operations. I can't confirm that for you.

24 Q. Mr Witness, I'm referring to the same document, number 2 on the Defence list,
25 at the same page, CAR-OTP-0011-0341. Do you remember telling the Office of the

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1 Prosecutor that the information you had received concerning the provenance of
2 Mr Simene's pick-up, and furthermore you said that you had seen him in Kinshasa,
3 you had received information that he had bought that pick-up in Bangui. Who gave
4 you that information?

5 A. Once again, the people who were with us in Gbadolite. Bought or stolen I am
6 simply passing on to you the facts that were recounted to me, the information that I
7 reported, but if you don't believe me ask all of the inhabitants of Gbadolite about
8 these vehicles, they won't contradict me, but I'm happy because you talked to me
9 about a gift from President Patassé. Well, that proves that that jeep had in fact left
10 Bangui in order to be seen in Gbadolite, but under what circumstances, Counsel?

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

13 PRESIDING JUDGE STEINER: Court officer, please.

14 *(Private session at 3.38 p.m.)Reclassified as Open session

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

16 MR KILOLO: (Interpretation)

17 Q. Mr Witness, you were not there, either in Bangui or in Gbadolite, from the
18 month of October 2002 onwards when the Bangui 2 operation began. (Redacted)
19 (Redacted)

20 (Redacted) The Office of the Prosecutor asked you, when you said that
21 during the Bangui 2 operation MLC soldiers killed, raped and looted, you were asked
22 who gave you that information, and your answer is to say that it was (Redacted)
23 (Redacted) Here I am referring to the second document
24 on the Defence list at page CAR-OTP-0011-0344. Do you remember telling the Office
25 of the Prosecutor that?

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1 A. Yes, I remember.

2 Q. Mr Witness, is it true that (Redacted)

3 (Redacted)

4 (Redacted) as you yourself stated to the Office of the Prosecutor?

5 A. Yes, Counsel, but just one clarification. (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. Could you confirm that (Redacted)

12 (Redacted)

13 A. No, (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. Is it correct that (Redacted)

18 A. Of course, Counsel.

19 Q. I would like to read out for you a statement that you made to the Office of the
20 Prosecutor in the second document on the Defence list at page CAR-OTP-0011-0344.

21 This is the question you were asked concerning the events of Bangui 2. Question:

22 "With regard to the rapes, can you give us an estimated number?" Your answer:

23 "No." Mr Witness, does that accurately reflect your answer to the Office of the
24 Prosecutor?

25 A. Yes.

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1 Q. I'll continue on the same page: "Who were the victims of the massacres, the
2 killings? We are still talking about Bangui 2." Your answer: (Redacted)
3 (Redacted) Next question: "Civilians or
4 soldiers?" Your answer: "I don't know. When there is war there is no lack of
5 civilian victims, of stray bullets or deliberate killings". Mr Witness, does that
6 faithfully reflect your words to the Office of the Prosecutor?

7 A. Yes.

8 Q. And finally you were asked about the victims of looting during Bangui 2. You
9 say: "I don't know." Do you remember that?

10 A. Yes.

11 Q. And finally, Mr Witness, to your knowledge, did the investigators try to make
12 contact with (Redacted) to check the words that you attribute to
13 them?

14 A. At that -- in that -- during that period, (Redacted) and it was
15 virtually impossible (Redacted)

16 MR KILOLO: (Interpretation) Madam President, could we go back into open
17 session, please?

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

19 (Open session at 3.46 p.m.)

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

21 MR KILOLO: (Interpretation) This brings the cross-examination of the Defence to
22 an end. We thank you for your co-operation and we wish you a safe return home.
23 Madam President, we have finished. Thank you very much.

24 PRESIDING JUDGE STEINER: Thank you very much, Maître Kilolo. I ask whether
25 the Prosecution intends to re-direct?

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1 MR IVERSON: No re-direct, Madam President. Thank you.

2 PRESIDING JUDGE STEINER: Thank you, Mr Iverson.

3 Mr Witness, your testimony before this Chamber is concluded. Before you leave the

4 Court, I want, as with all other witnesses in the case, to express the thanks of the

5 Judges for the time you have taken to come to this country and to give evidence in

6 this trial. In order for the Judges to find the truth, it's crucial that witnesses like

7 yourself are prepared and willing to give evidence to assist us on the relevant issues

8 of the case. We are aware that this probably must have been inconvenient for you.

9 You left your country, your family, your work and spent more than a week here

10 under pressure and the only thing the Court can say now is thank you very much for

11 your co-operation with the Court.

12 But before you leave us, the Chamber would like to know whether there is anything

13 you would like to address to the Bench. This is your opportunity to take the floor, if

14 you so wish.

15 THE WITNESS: (Interpretation) Up to this point, no, Madam President, but I think

16 that I will no doubt have contact with the Office of the Prosecutor. At any time I

17 have anything to say, I will make sure I convey it to you. I too would like to thank

18 you very much for my welcome here, for my stay and for everything that we have

19 gone through together in this place. Thank you very much.

20 PRESIDING JUDGE STEINER: The Victims and Witnesses Unit, VWU, will

21 continue keeping contact with you for whatever you need, whatever information you

22 need to communicate to the Court. Thank you again very much and we wish you a

23 safe journey back to your home.

24 I ask, please, the court officer to turn into closed session for the witness to be taken

25 outside the courtroom.

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1 *(Closed session at 3.51 p.m.)Reclassified as Open session

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

3 (The witness is excused)

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

5 (Open session at 3.52 p.m.)

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

7 PRESIDING JUDGE STEINER: Before we conclude today's hearing, the Chamber

8 wants to address the question of witness scheduling, or scheduling, better saying.

9 As the Prosecution explained during the hearing on Friday, 23 September, it's having
10 scheduling difficulties in relation to the next witnesses. Later, on 23 September, the
11 Prosecution sent an email explaining the situation with respect to the availability of
12 the next three proposed witnesses: 31, 45 and 65.

13 The Chamber has received an update from the Registry today regarding availability
14 of those witnesses and we understand the current situation to be as follows: And
15 without going into details, Witness 31 is in principle ready to testify but still awaiting
16 some bureaucratic arrangements, and Witness 65 still awaiting as well some
17 bureaucratic arrangements, but more probably that this week will be ready to travel.
18 In light of the information, it appears unlikely that we will have another witness
19 ready to testify this week.

20 It's possible, however, that either Witness 31 or 65 may be ready to commence their
21 testimony on Monday, 3 October. As the parties and participants are aware, Friday
22 7 October is a Court holiday and the Chamber will not be sitting on the week
23 beginning on 10 October.

24 Therefore, the question is whether there is sufficient time to hear the evidence of
25 Witness 31 or Witness 65 next week in a scenario in which they are able to begin their

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1 testimony on Monday, 3 October?

2 To this end, the Chamber would like to receive a realistic estimate from the parties
3 and participants on the length of time they expect they will need to conduct their
4 questioning of Witness 31 or Witness 65. We appreciate that these are just estimates,
5 but if they are realistic they will assist the Chamber in planning.

6 I would like to ask first the Prosecution whether the Prosecution is already in a
7 position to give the Chamber an estimation, or an updated estimation, since the
8 Prosecution in its filing 975 had estimated for Witness 31 four hours and for Witness
9 65 seven hours. So my question is whether the Prosecution maintains this estimation,
10 or is in a position to give an updated estimation?

11 MR SCALIOTTI: Thank you, Madam President, for giving me this opportunity to
12 reiterate that actually the Prosecution maintains its previous statement, so we
13 maintain the fact that with regard to Witness 31 the testimony is expected to last for
14 four hours and for Witness 65 seven hours. Thank you.

15 PRESIDING JUDGE STEINER: Thank you, Mr Scaliotti. Maître Zarambaud and
16 Maître Douzima, the Chamber has not ruled yet on your applications to question
17 these witnesses, and of course any estimate will depend on whether those
18 applications are granted, so I won't ask you to make an estimate at this point, just
19 reminding that until up to today Maître Zarambaud does not appear to have filed an
20 application to question Witness 31 and Maître Douzima does not appear to have filed
21 an application to question Witness 65.

22 So my question to Maître Kilolo or Maître Liriss is are you in a position to advance
23 any estimate to the Chamber in relation to either Witness 31, or Witness 65?

24 MR LIRISS: (Interpretation) Could you give us a few moments to consult, Madam
25 President?

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1 (Pause in proceedings)

2 PRESIDING JUDGE STEINER: Mr Scaliotti?

3 MR SCALIOTTI: Madam President, if I can update the Chamber? I just got an

4 email and apparently let's say the bureaucratic difficulties for Witness

5 31 apparently - because as I am saying I just received the email, but apparently - are

6 solved, so maybe there is a chance that Witness 31 would be able to travel before we

7 anticipated and maybe the testimony could start even before Monday. I wanted to

8 give you this immediate update.

9 PRESIDING JUDGE STEINER: Mr Scaliotti, this is really good news and we hope

10 the information is confirmed and that we can start maybe on Friday.

11 Maître Liriss, I'm -- I will give the Defence some time to confer and to come even by

12 way of a message or email with an estimate for the Chamber, bearing in mind that it

13 is more likely that Witness 31 will be the next one to come and testify.

14 With the indulgence of our interpreters and court reporters, I will take just a few more

15 minutes just to remind especially the Defence, but the Prosecution as well, that this

16 Chamber since the beginning avoided to impose any kind of artificial time limit for

17 the questioning of a witness. This is not the approach adopted by this Chamber.

18 However, I would like parties and participants, but parties mainly, to bear in mind

19 that the Chamber has ample legal basis to provide the parties with a fixed number of

20 hours to conduct its examination of a given witness. Regulation 54(d) of the

21 Regulations of the Court provides the Chamber with express authority to rule on the

22 length of questioning of the witnesses. Regulation 43 allows the Presiding Judge to

23 determine the mode of questioning of witnesses in order to avoid delays and ensure

24 the effective use of time. In addition, Articles 64(6)(f), 64(8)(b), Rule 134(1), 134(3)

25 and 141 provide the Chamber with more general authority to rule on issues related to

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1 the conduct of the proceedings.

2 The Chamber will continue to avoid imposing any kind of time limits, but the

3 Chamber asks the parties to bear in mind the powers of the Chamber to limit the time

4 of questioning a witness by making a wise use of the time the parties are estimating

5 for the questioning of the witnesses.

6 So having these reminders, the Chamber thanks very much the Prosecution team, the

7 legal representatives of victims, the Defence team, Mr Jean-Pierre Bemba Gombo, that

8 we wish Mr Bemba Gombo is feeling better, and thank very much for the interpreters

9 and court reporters. We are going to adjourn and the parties will be informed on

10 whether the Chamber will resume on Friday, or on Monday. In principle we can

11 state that the Chamber will resume only on Monday, but with a possibility of

12 anticipating and starting with Witness 31 on Friday. So the parties and participants

13 and the public in general will be notified of the sitting hours of the Chamber.

14 Having said that, this hearing is adjourned.

15 THE COURT USHER: All rise.

16 (The hearing ends in open session at 4.06 p.m.)

17 RECLASSIFICATION REPORT

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

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

20 version of the transcript with its redactions becomes Public