

Trial Hearing
Witness: CAR-OTP-PPPP-0065

(Open Session)

ICC-01/05-01/08

1 International Criminal Court
2 Trial Chamber III - Courtroom 2
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08
5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and
6 Judge Kuniko Ozaki
7 Trial Hearing
8 Wednesday, 5 October 2011
9 (The hearing starts in open session at 9.34 a.m.)
10 THE COURT USHER: All rise. The International Criminal Court is now in session.
11 Please be seated.
12 THE COURT OFFICER: Good morning, your Honours, Madam President. We are
13 in open session.
14 PRESIDING JUDGE STEINER: Good morning. Could, please, court officer call the
15 case.
16 THE COURT OFFICER: Situation in the Central African Republic, in the case of The
17 Prosecutor versus Jean-Pierre Bemba Gombo, case reference ICC-01/05-01/08.
18 PRESIDING JUDGE STEINER: Thank you very much. Good morning. Welcome
19 Prosecution team, legal representatives of victims, Defence team, Mr Jean-Pierre
20 Bemba Gombo. Good morning to our interpreters, court reporters. We will
21 continue today with the evidence by Witness 65, so I ask, please, the court officer to
22 turn into closed session in order for the witness to be brought into the courtroom.
23 *(Closed session at 9.36 a.m.)Reclassified as Open session
24 THE COURT OFFICER: We are in closed session, Madam President.
25 (The witness enters the courtroom)

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- 1 WITNESS: CAR-OTP-PPPP-0065 (On former oath)
- 2 (The witness speaks French)
- 3 PRESIDING JUDGE STEINER: We can turn into open session, please.
- 4 (Open session at 9.38 a.m.)
- 5 THE COURT OFFICER: We are in open session, Madam President.
- 6 PRESIDING JUDGE STEINER: Good morning, Mr Witness.
- 7 THE WITNESS: (Interpretation) Good morning, your Honour.
- 8 PRESIDING JUDGE STEINER: Did you have a restful night?
- 9 THE WITNESS: (Interpretation) Yes, thank you.
- 10 PRESIDING JUDGE STEINER: Are you feeling well and ready to continue giving
- 11 your testimony today?
- 12 THE WITNESS: (Interpretation) Yes, of course.
- 13 PRESIDING JUDGE STEINER: Mr Witness, I need to remind you that you are still
- 14 under oath. Do you understand that?
- 15 THE WITNESS: (Interpretation) Yes, I do.
- 16 PRESIDING JUDGE STEINER: I also want to remind you that you are under
- 17 protective measures, that your voice and image broadcast outside the courtroom are
- 18 being distorted so that the public cannot identify you, but in order to keep that
- 19 protection you need to help us. In open session, or public session, please don't
- 20 mention any information that could lead to your identification. For instance,
- 21 mentions to your current or previous occupation, sometimes when you say "We did
- 22 this," "We did that" can lead to your identification, so try to use a code in order not to
- 23 put yourself in the scene you are describing to the Chamber. At any time you can
- 24 ask us to go into private session, and in private session you can speak freely because
- 25 what you say is not listened outside the courtroom. Is that fine with you, sir?

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- 1 THE WITNESS: (Interpretation) Yes, thank you.
- 2 PRESIDING JUDGE STEINER: Thank you very much. And now I'll give back the
3 floor to Maître Liriss. He will continue questioning you. Maître Liriss, bonjour.
- 4 MR LIRISS: (Interpretation) Good morning, your Honour. Your Honours, good
5 morning. Good morning to you, Mr Witness.
- 6 THE WITNESS: (Interpretation) Good morning.
- 7 MR LIRISS: (Interpretation) Your Honour, could we go very briefly into closed
8 session, please?
- 9 PRESIDING JUDGE STEINER: Court officer, please turn into private session.
- 10 *(Private session at 9.41 a.m.)Reclassified as Open session
- 11 THE COURT OFFICER: We are in private session, Madam President.
- 12 QUESTIONED BY MR LIRISS: (Interpretation) (Continuing)
- 13 Q. Mr Witness, I would like to ask you a few questions. Could you recall the
14 drawings which we studied yesterday? When I say that I am going to talk about
15 (Redacted) Do we agree on that point? Will
16 you remember that?
- 17 A. Yes.
- 18 Q. If there is a problem, I think that the Presiding Judge will allow us to go into a
19 closed session?
- 20 PRESIDING JUDGE STEINER: Maître Liriss, since it appears that (Redacted)
21 (Redacted)
22 (Redacted)
23 (Redacted)
24 (Redacted) Do you agree with that,
25 Maître?

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1 MR LIRISS: (Interpretation) (Redacted)

2 (Redacted)

3 (Redacted) I think we can go back into open session and try this if

4 you will, your Honour?

5 PRESIDING JUDGE STEINER: Let's turn into public session. I'm still not so sure
6 that this code will work.

7 MR LIRISS: (Interpretation) Neither am I.

8 PRESIDING JUDGE STEINER: Court officer, wait a little bit, please. Maître, let's
9 try just to call it (Redacted) without another adjective.

10 MR LIRISS: (Interpretation) Very well, so (Redacted) Can we go into open
11 session, please?

12 PRESIDING JUDGE STEINER: Court officer, please.

13 (Open session at 9.45 a.m.)

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

15 MR LIRISS: (Interpretation)

16 Q. Mr Witness, the following question has already been asked of you and I will

17 give the reference to you in French and English. In French, 0222-0224. In English, I

18 believe it is 0241-0240, if I am not mistaken. The question was: "When the base

19 received instructions for the units, did they come only from Amuli, or also from

20 Bemba?" And the answer was the following: "Sometimes from Bemba. He also

21 gave instructions to the base and the base -- he would ask the base to write them in

22 the log-book. Before transmitting them, Bemba had to read the instructions recorded

23 in the log-book. Sometimes he would give instructions directly, saying do this or do

24 that, and Amuli had to be informed of these instructions. After that, the base would

25 transmit them to the different units."

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1 Do you remember this question and this answer, sir?

2 A. Yes, of course.

3 Q. However, when reading the transcription of the hearing of 3 October - and let
4 me give the references for this - in French, transcription in real-time: Page 21, line 26
5 to 28; and then page 22, lines 1 to 16; page 22, line 22 to 28; page 23, lines 1 to 13 and
6 then lines 18 to 24; and then finally page 26, lines 2 to 8. In English: The
7 transcription of 3 October 2011; page 20, lines 2 to 7; page 20, lines 19 to 24; page 17,
8 lines 13 to 14; and still on page 17, line 25; and finally page 18, line 4. We must add
9 into this list still in English: Page 16, line 17 -- I beg your pardon. Yes, page 16, line
10 17; page 17, line 2 and lines 7 to 10.

11 Now, this is what is of interest to us here. Page 26 in French, or page 20 in English,
12 line 2, the question was: "You are telling us that President Bemba received copies of
13 the messages. Do you know to what extent Mr Bemba was involved in the process
14 of sending messages to the units in the field?" And your answer: "I believe I have
15 already answered this question. I said I do not know if General Amuli used to talk
16 with President Bemba or not before sending a message and asked to have it sent."

17 Further down, line 23, this is 19 to 24 in English, you said: (Redacted)
18 (Redacted) now I have a question. If Mr Bemba wanted to send a
19 message to the units in the field, what did he have to do?" Answer: "I believe that I
20 have already answered this question. I do not know, because it was rare," and this is
21 what interests me, "it was rare for President Bemba to send messages to the units in
22 the field. Very often the person who wrote the message was General Amuli."

23 Question, the next question: "Mr Witness, I have just re-read your answer. You are
24 telling us that Bemba rarely sent out messages to the units in the field so, my question
25 is the following: When this was the case, when he rarely sent out messages, when he

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1 did on the rare occasion send out a message, what would Bemba do and so on and so
2 forth?"

3 What actually interests me is that on several occasions in these pages you talk about
4 the rare occasions when Mr Bemba would send messages to the units in the field.

5 Now, the Prosecutor asked you to read the reference of your statement, which I have
6 just quoted, 0222-0224 and 0241 to 0240, you confirmed this statement which says:

7 "Occasionally or sometimes Bemba would give instructions. Sometimes he gave
8 direct instructions." The answer to all Mr Scaliotti's questions is that this was rare
9 and in all your statements you always say "sometimes." So here is my question: Is
10 it correct to conclude that when in page 224 in French -- 0224 in French or 0240 in
11 English, when you say "Sometimes Bemba would also give instructions," this
12 expression "sometimes" did this refer to the expression you used in your testimony
13 when you said that it was in fact rare for him to do so?

14 A. Thank you for that question. Let me try and give a detailed answer. The
15 representatives of the Prosecution gave us yesterday the copy of the transmission
16 log-books. We all read and saw the contents of these messages. If they could
17 contain 15 or perhaps 20 messages, then in fact there was only one message which
18 would come directly from the president which stated that 20,000 Congolese francs
19 were going to be given to a third person, and from this we conclude that it was rare
20 for the president to give instructions to the units. Even though he was the
21 commander-in-chief, in practical terms it was the role of General Amuli to do this
22 because he had full authority linked to his position.

23 Q. Thank you very much indeed, Mr Witness. Can we move on to the next
24 question now, please? We have a document in our possession, which the Chamber
25 has and which the participants and the OTP have as well. It comes from this

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1 document, it emerges from this document, that you said this: "The orders given by
2 Amuli had first of all to be checked by Bemba before they were sent to the intended
3 recipient."

4 Now, your Honour, this is not contained in the witness's statement, but this is
5 contained -- sorry, can you read this for me?

6 MR KILOLO: (Interpretation) "This is the Prosecution in-depth analysis of charter
7 of incriminatory evidence, CAR-OTP-Witness 0065."

8 MR LIRISS: (Interpretation)

9 Q. So, Mr Witness, I looked for this statement in the interview which you gave to
10 the investigators and I did not find this, unless I am mistaken, but I am sure I did not
11 find it. So my question is as follows: You perhaps made the statement in another
12 document, I don't know, but my question is to ask you can you confirm this statement
13 in which, let me repeat, "The orders given by Amuli had first of all to be checked by
14 Bemba before they were sent to the intended recipients"?

15 A. Thank you for the question.

16 PRESIDING JUDGE STEINER: Just one minute. Ms Kneuer.

17 MS KNEUER: Madam President, I'm a little bit concerned about the procedure. I'm
18 not sure if it's fair to confront the witness with an in-depth analysis chart that the
19 Prosecution generated. The witness may not have any knowledge about that. On
20 top of that, I'm wondering if the Defence is suggesting that the chart should be
21 tendered into evidence? So I'm a little bit concerned about the current procedure.

22 PRESIDING JUDGE STEINER: Yes, it is a quite unusual procedure, Maître Liriss.
23 The chart is not evidence, was not generated or submitted to the witness. On the
24 other hand, in the witness statement there is the information quite similar to this one
25 that you want the witness to confirm. Why you are not using the statement on page

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1 0224, the last paragraph, at least appears to be quite similar?

2 MR LIRISS: (Interpretation) No, your Honour, I apologise. It's not the same thing.

3 Here the Prosecution says that 065 stated that. The Prosecutor doesn't say -- what

4 the Prosecution can say about the statement, they say that it's a statement given by the

5 witness himself, so as I haven't seen this witness's statement it's possible that this was

6 done somewhere. It's quite normal, unless we leave things as they are, for the

7 Chamber to take this into consideration. I think this should be pointed out. If there

8 is a statement that isn't correct, this should be an issue that is raised. The attention of

9 the Chamber should be drawn to this. This is an analysis of evidence and if I didn't

10 do this I would not be performing my duties, your Honour.

11 PRESIDING JUDGE STEINER: Instead of asking the witness to confirm something

12 that is on a document that the witness has never seen, you can just ask the question

13 for the witness. That makes everyone's life easier, Maître Liriss, and you obtain the

14 information you want.

15 MR LIRISS: (Interpretation) Thank you, your Honour. That is very helpful.

16 Q. Witness, my question is as follows: Is it true that the orders issued by the Chief

17 of the General Staff, Amuli, the operational orders issued by him, had to be checked

18 by Mr Bemba first of all prior to them being conveyed to the recipient?

19 A. Thank you very much for that question. All the orders that came from Amuli

20 were written down in the log-books and all other commanders had examples of this;

21 that is to say examples of the orders that came from the person in charge. They were

22 read and people were familiar with them, but I didn't say that it was first necessary to

23 have the authorisation of the president in order to transmit the messages, whereas on

24 each occasion Amuli sent messages, whenever he sent messages, he'd send a copy for

25 information to the president.

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1 Q. Thank you, Witness. I'm going to read out a statement that you gave, unless
2 the Presiding Judge thinks it would be better for you to have this statement in front of
3 you. It's page 0022-0225 in French and in English 0038-0242.

4 PRESIDING JUDGE STEINER: Just, Maître Liriss, to be sure that can be read in
5 public session, please.

6 MR LIRISS: (Interpretation) Yes, your Honour, you can trust me.

7 Q. The question is as follows: "When the base received a message from a unit in
8 the field, what would the base do?" Answer: "The base would transmit it to the
9 recipient." Question: "Did the base write it down, or did it convey the message
10 verbally?" And the answer that I'm interested in is as follows: "The operational
11 messages were never verbal. The message was encoded. The base had to decode
12 the message to have an idea of the message and then transmit it to the recipient, either
13 to President Bemba or to General Amuli."

14 Witness, can you confirm this statement, according to which the messages - the
15 operational messages - could never be given verbally?

16 A. Of course.

17 Q. It's perhaps the second time this question has been put to you, but I'm putting it
18 to you for the sake of better clarity. Why was it necessary for the message to be
19 written down? What was the tactical advantage for the army?

20 A. Thank you very much for that question.

21 Q. I apologise, why was it necessary for it to be first encoded and written down?
22 What was the advantage for the army?

23 A. Thank you very much for that question. The radio procedure that was
24 followed in war time was such that it was forbidden to name each and every
25 individual, or each and every item, and therefore it was necessary for us to conceal

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1 everything in order to avoid information leaks, for otherwise the enemy would have
2 an advantage over you.

3 Q. Thank you, Witness. I see that it is a matter of security, that security is the
4 reason for this. Could you confirm the statement that follows: 0022-0226 in the
5 French, 0241-0242 is the reference in English. I'll be very careful and try and
6 understand me. The investigator put the following question: "Each communication
7 therefore had to go through the centre?" And your answer was: "Yes, the brigades
8 could have three battalions. They would communicate amongst themselves, but the
9 operational messages would have to reach the centre. They could communicate
10 between themselves, but the operational messages had to pass through the centre."

11 Question: "Was it necessary for each order from Bemba, or the Chief of the General
12 Staff, to pass through the centre before it was relayed to the level of brigades or
13 battalions?" And the answer was: "Yes." Witness, can you confirm this?

14 A. Of course.

15 Q. I suggest that you say either "Of course I can confirm that" or "Yes, I can confirm
16 that." This is for the sake of the transcript, for the record.

17 A. Yes, my answer is, yes, I can confirm that.

18 Q. Is it true that the operational orders as issued over the phonie had to be entered
19 in a log-book?

20 A. Yes, I can confirm that.

21 Q. You said that there were log-books that concerned the messages exchanged
22 between the units and the hierarchy and vice-versa. These log-books contained
23 messages with the hour, the date, the name of the sender, the recipient, the name of
24 the person who was copied, the number of the text. You said this on page 0228 in
25 French and page 0244 in English. Can you confirm this, sir?

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1 A. Yes, I can confirm that.

2 Q. If you were ever shown these actual log-books, would you recognise them?

3 A. Yes, I would recognise them.

4 MR LIRISS: (Interpretation) With the Presiding Judge's leave, I have two examples
5 of the original log-books. The Chamber might want to first have a look at them and
6 then show them to the witness so that he can confirm their authenticity, or the
7 Chamber might prefer the court officer to show these log-books to the witness
8 directly.

9 PRESIDING JUDGE STEINER: Maître Liriss, I would prefer that the court usher
10 first submit to the Prosecution and then it can be given to the witness. Ms Kneuer.

11 MS KNEUER: Thank you, Madam President. The Prosecution does not object that
12 the two log-books will be shown to the witness. However, the Prosecution would
13 like to reserve its right to inspect the log-books afterwards. In addition, I found
14 some papers in the log-books. I suggest that they will be removed and not shown to
15 the witness. It appears to me that they are not related to the log-books.

16 MR LIRISS: (Interpretation) Thank you, Ms Kneuer. I had this shown to you so
17 that there would be no objections from you.

18 PRESIDING JUDGE STEINER: Maître Liriss, these are documents 16 and 17 on the
19 Defence list of evidence; correct? The books.

20 MR LIRISS: (No interpretation)

21 PRESIDING JUDGE STEINER: Maître Liriss, should we display the electronic
22 copies on the screen?

23 MR LIRISS: (Interpretation) I don't see that it will be necessary. I'm interested in
24 the witness confirming the authenticity of the documents and then we'll show him the
25 electronic version, and the witness could also confirm the authenticity of that

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1 document.

2 (Pause in proceedings)

3 MR LIRISS: (Interpretation) At the moment, your Honour, I think it would be best
4 to move into private session.

5 PRESIDING JUDGE STEINER: Court officer, please, private session.

6 *(Private session at 10.24 a.m.)Reclassified as Open session

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

8 MR LIRISS: (Interpretation)

9 Q. Witness, have you had a look at these log-books? You have had a look at the
10 log-books. (Redacted)

11 A. Yes, I can confirm that.

12 Q. (Redacted)

13 A. Yes, I can confirm that.

14 Q. Can you tell us which periods these two log-books cover, if you have a look at
15 the dates on the first and last pages of each log-book?

16 A. The first log-book, the date on the first page is 4 September and it goes up to
17 1 November 2002. That concerns the first log-book. As for the second log-book, the
18 first date is 21 December 2002 and the final date is 7 February 2003.

19 Q. Thank you, Witness. You have certainly noted that there's one log-book that is
20 missing that covers the period from November until 21 December 2002, a log-book
21 that should be between these two; isn't that correct?

22 A. Yes, I can confirm that.

23 Q. Do you remember what happened in Kinshasa in 2007 before the declaration of
24 the -- before the election results were made known?

25 A. Yes, there were troops from the Congolese armed forces that had launched an

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1 attack on the vice-president's personal guard.

2 Q. Do you remember the attack and the grenades thrown into the offices of the
3 MLC in the avenue du port?

4 A. Yes. There was even a helicopter according to the information that we were
5 able to follow on the television.

6 Q. Do you remember the fire of the building in which the MLC office was located
7 in avenue du port?

8 A. I didn't follow that, but I'm certain that there was damage in the residence.

9 Q. It isn't important. It doesn't matter, Witness. The Chamber has documents
10 that were filed and that concern this matter. There is in fact a Human Rights Watch
11 report, so after this fire in the office - in the MLC offices - we were only able -- well,
12 given this fire in the offices, we were only able to save these two log-books. I don't
13 think that we need them any more.

14 PRESIDING JUDGE STEINER: Maître Liriss, I am sorry, maybe there is a translation
15 problem here. You said "There is in fact a Human Rights Watch report, so after this
16 fire in the office - in the MLC offices - we were only able -- well, given this fire in the
17 offices we were only able to save these two log-books." Is this a -- I don't understand.
18 Is this something that you were asking the witness, or who are these "we," "we were
19 only able"? I didn't understand why this was put to the witness. Could you clarify
20 that, please, what the Human Rights Watch report has to do with that? Could you
21 clarify, please?

22 MR LIRISS: (Interpretation) I think it's a translation error, your Honour. My
23 question was whether it's true that there is a missing log-book and he said that that
24 was the case, a log-book in-between these two log-books, and then I tried to obtain
25 information as to whether he could remember what happened in the case of the fire in

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1 the MLC office and he said that he was familiar with the fire in the building of the
2 residence, but he wasn't familiar with the fire in the office. I said it didn't matter if
3 he didn't remember that, but I said that if the Chamber needed information about this
4 matter the Chamber already has in its file the Human Rights Watch report that refers
5 to this fire and it was following this event that unfortunately we were not able -- and
6 when I say "we" I mean the MLC. The MLC was only able to save these two
7 log-books, whereas other log-books were lost because of the fire. So it was a matter
8 of explaining why this intermediary log-book is missing and many other documents
9 as well. It was an explanation I was providing to the Chamber and to the
10 participants. I wanted the witness to help us with this.

11 PRESIDING JUDGE STEINER: Has the witness any information on how these two
12 books were saved from the fire?

13 THE WITNESS: (Interpretation) I don't have any information about that. What
14 I can confirm is that we went to Kinshasa and (Redacted)

15 (Redacted)

16 (Redacted) there were telephones and documents and there was

17 a fire there. I can give you that information. Even the telephones at the centre were
18 in the fire.

19 PRESIDING JUDGE STEINER: (Redacted)

20 (Redacted) This is the first time you see the books, the original ones?

21 THE WITNESS: (Interpretation) Yes, I can confirm that.

22 PRESIDING JUDGE STEINER: Thank you. Maître Liriss. Ms Kneuer.

23 MS KNEUER: Madam President, I was about to object when your Honour
24 addressed the Defence yourself, because I don't think that Defence counsel actually
25 was asking the witness a specific question. It was my impression that the entire

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1 purpose was to make a statement, actually to testify. I just want to mention this for
2 the record as usual and of course the Prosecution trusts that the professional Judges
3 will consider the probative value in their judgment, but I am also concerned because
4 the statement is very confusing. If Defence counsel is saying "we" and then
5 explaining that "we" means MLC, it is really not helpful if Defence Counsel is
6 testifying and providing such confusing information.

7 Thank you, Madam President.

8 PRESIDING JUDGE STEINER: Thank you, Ms Kneuer. That's why I tried to obtain
9 some information from Maître Liriss, because that could be a translation problem, but
10 at the end it's quite clear that Maître Liriss was making a statement and the Chamber
11 will give the proper consideration to that.

12 Maître Liriss, you can continue with the questioning of the witness, please.

13 MR LIRISS: (Interpretation) Thank you, your Honour.

14 Q. Witness, even though the intermediate log-book is not with us, the one in the
15 middle, is it possible to conclude that if operational messages had been exchanged
16 between the troops in Bangui and headquarters in Gbadolite, between
17 21 December 2002 and February 2003, the dates of those two log-books in question,
18 this must -- this must have been recorded in the said log-book?

19 A. I can confirm that all the operational messages were written down and recorded
20 in the log-books.

21 Q. Witness, generally speaking, in light of the log-books -- your Honour, I think it
22 would be appropriate to give the witness the two log-books. Well, not the originals,
23 but how would you put it? The electronic versions?

24 PRESIDING JUDGE STEINER: Electronic yes.

25 MR LIRISS: (Interpretation) Yes, CAR-D04-0002-1642 at 1767 and then

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1 CAR-D04-0002-1514 at page 1638.

2 THE COURT OFFICER: We can only display one document at a time. I would just
3 like to know which document can be displayed first and then we can go to the second
4 document and so on and so forth.

5 MR LIRISS: (Interpretation) That's not serious. It's not a problem.

6 Q. The first question was a general one; namely, generally speaking, given these
7 log-books in which all messages are recorded when messages come from the units
8 and then go up the military hierarchy?

9 A. Thank you for your question. All the commanders of the units would send
10 their messages to the Head of General Staff with a copy for information purposes to
11 the president.

12 Q. And now, generally speaking, messages from the top of the military structure to
13 the bottom, who would send these messages to the units?

14 A. Counsel, I think I've answered that question yesterday. All the messages - all
15 the operational messages - were issued by the Head of the General Staff and he too
16 would have a copy or send a copy for information purposes to the president.

17 MR LIRISS: (Interpretation) With the authorisation of the Chamber, could
18 document CAR-D04-0002-1520 be displayed on the screen?

19 THE COURT OFFICER: Document CAR-D04-0002-1514, at page 1520, is available
20 on the screens. Although it's a public document, it will not be broadcasted because
21 we are in private session.

22 MR LIRISS: (Interpretation)

23 Q. Witness, you can see this document on your screen and my intent is merely to
24 illustrate what you just said. Now, either you can read this yourself, or I will read
25 out what we see here, as you wish, but I would prefer to read out the content here. If

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1 I stumble on a word, please help me. Now, the first message here, this is a message
2 to a sector commander to the Head of the General Staff and it says: "Your Honour, I
3 have the honour to greet you and inform you about the general situation which is
4 calm. All the soldiers have arrived in Bafwasende and are awaiting instructions
5 from higher ranks. Soldiers from Kisangani are on their way to Buta. The situation
6 in Penge remains to be considered. Difficulties: Lack of ammunition, thus unable
7 to deal with all possibilities. The morale -- the morale of higher-ranking officers and
8 the troops is good."

9 Witness, now is this an operational message?

10 A. Yes, I can confirm that.

11 Q. On the right-hand side we see a message from the sector commander and this
12 message is once again to the Chief of General Staff: "I have the honour to greet you
13 and report that at 1400 hours the commander of Delta Brigade was hurt and signalled
14 current position (indiscernible), one kilometre only from Watsa. According to
15 information, enemy in possession and an attack on a company in order to ..."

16 THE INTERPRETER: The interpreter apologises.

17 THE WITNESS: (Interpretation) Route. Any route.

18 MR LIRISS: (Interpretation)

19 Q. "Route from Duruba (phon), entry to Watsa as soon as the company arrives at
20 the particular point. No clash to report. A small truck sent was -- did arrive except
21 for one large vehicle." Now, this seems to be an operational message and the
22 commander is waiting for an instruction.

23 A. Yes, I can confirm that.

24 MR LIRISS: (Interpretation) To move along more quickly, I'll choose only two
25 more messages.

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1 Court usher, the same references but page 15.

2 THE INTERPRETER: Inaudible.

3 MR LIRISS: (Interpretation) Court officer, I beg your pardon.

4 THE COURT OFFICER: Document CAR-D04-0002-1514 at page 1561 is now
5 available on the screens.

6 MR LIRISS: (Interpretation) I'm not going to read out the message, but basically
7 this message seems to be asking the Chief of General Staff to promote a number of
8 soldiers to a higher rank, and this is the answer from the Chief of General Staff and
9 this is on the right-hand side of this particular page: "Authorisation for your
10 message, message 553, but soon you will have to restrict yourself to the proposal."
11 I'll now turn the page, page 1562, "Particularly you will have to limit yourself to the
12 proposition when it's -- especially if it's a member of a question of designating a
13 brigade leader, or the designation of a battalion commander for instance."

14 Mr Witness, does this confirm that the Chief of General Staff had the power to
15 confirm or to assign or to even better to grant a higher rank to someone?

16 A. The message I confirm.

17 Q. The second last message, same reference, 1520, page 1520.

18 THE INTERPRETER: Interpreter correction: The last reply from the witness was
19 "The message confirms it."

20 MR LIRISS: (Interpretation)

21 Q. I will read this out now. I will read this out now to you, Witness. I'm not
22 quite sure why, but I keep confusing the court officer and the court usher. In any
23 event, this is the message and this is I believe a message to the sector commander also
24 with a "cc" to Charlie Mike: "Any operational order, or security related or defence
25 order, you must refer to the head of army quarters of the ALC. No one is allowed to

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1 give you an order," and I will stop at this point.

2 My question is as follows: Is this what actually happened in the real-life
3 circumstances?

4 A. Yes, I can confirm that.

5 MR LIRISS: (Interpretation) Now the very last message. Court officer,
6 CAR-D04-0002-1642, at page 1736, and this is the last one.

7 Q. This is the message to your right, at the lower part. This is a message from the
8 Chief of General Staff to all commanders, to all the brigade commanders, to the
9 battalion commanders and to all the commanders, and it says: "I hereby order you
10 with the agreement of the commander-in-chief to begin recruitment of young people
11 for the ALC. We must increase troop levels ..." and he goes on mentioning the
12 various conditions; for example the people have to be of Congolese nationality and
13 aged 18 to 30. This is a recruitment order.

14 Mr Witness, can you confirm that the Head of General Staff had the power to order
15 recruitment of new soldiers?

16 A. I can confirm that and the message confirms this as well.

17 MR LIRISS: (Interpretation) We will now move on to another topic before the
18 break, but I believe that we can move into open session, your Honour.

19 PRESIDING JUDGE STEINER: Court officer, please.

20 (Open session at 10.54 a.m.)

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

22 MR LIRISS: (Interpretation)

23 Q. Witness, we've talked about the phonie quite a bit and now we are going to talk
24 about another means of communication. You stated that an operational brigade
25 might use -- other than the phonie system, might use walkie-talkies either for

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1 communication between battalions or to communicate with the military hierarchy.

2 That's page 0022-0206; and 0038 in English, 0040. Witness, is this statement correct?

3 A. Yes, I can confirm that.

4 Q. Thank you, Witness. I myself am having a hard time hearing you. If you
5 could please speak up, this will also help the interpreters. Now, did you know, was
6 it the same system used by the brigades sent to the CAR with the authorities
7 remaining back in Gbadolite?

8 Your Honour, we're in the habit of saying "Gbado." That is shorthand for Gbadolite.
9 In any event, the use of walkie-talkies amongst the units in Bangui and the authorities
10 that had remained in Gbadolite, was this system easy to use?

11 A. Thank you for the question. Yesterday, all of us read the messages that came
12 from Bangui the first day when Mustapha had arrived, and in the messages he spoke
13 about communication difficulties, so my answer is our structure - our communication
14 structure - only applied to the Congo, not to communications in the CAR.

15 Q. Thank you, Witness. Generally speaking, according to your technical
16 knowledge what was the range of these walkie-talkies? Could they reach as far as
17 Gbadolite or any -- from any town in the CAR?

18 A. No, that statement I made mention of that somewhere. I said that the
19 walkie-talkies that were used by the commanders in the field were within a simplex
20 network, which means that you could only transmit to a distance of three, four or five
21 kilometres. That's all.

22 Q. One last question before the break, sir. Witness, regarding this matter, you
23 said that it was the base, that is to say the centre, that assigned the walkie-talkies to
24 the commanders. Do you remember whether it was the centre that assigned the
25 walkie-talkies to commanders who had gone off to the CAR? The question may be

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1 repetitive, but it's in a different context, you see?

2 A. No.

3 MR LIRISS: (Interpretation) I believe it is the time.

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

5 MS KNEUER: Thank you very much, Madam President. Notwithstanding that the
6 Prosecution objected to the usage of the in-depth analysis chart, the Prosecution
7 would appreciate if the reference could be provided. Maître Liriss quoted a sentence
8 of the in-depth analysis chart and I simply have a hard time to find that quotation.

9 Thank you, Madam President.

10 PRESIDING JUDGE STEINER: If you could do it after the break, Maître Liriss, come
11 with an answer to Ms Kneuer's request, please.

12 MR LIRISS: (Interpretation) Oh, yes, I'll do that. I'll meet with my learned friend.
13 I really don't understand what this is all about, or this difficulty.

14 PRESIDING JUDGE STEINER: Mr Witness, we'll have our half-an-hour break in
15 order to give you some time to take -- to have a coffee, take some rest. It's 11 o'clock.
16 We'll be back at 11.30.

17 I ask, please, the court officer to turn into closed session for the witness to be taken
18 outside the courtroom. In the meantime, we will suspend and resume at 11.30.

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

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

21 (The witness stands down)

22 THE COURT OFFICER: All rise.

23 (Recess taken at 11.02 a.m.)

24 *(Upon resuming in closed session at 11.34 a.m.)Reclassified as Open session

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

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- 1 PRESIDING JUDGE STEINER: Welcome back. Could, please, court usher bring
2 the witness in.
3 (The witness enters the courtroom)
4 PRESIDING JUDGE STEINER: We can turn into open session, please.
5 (Open session at 11.36 a.m.)
6 THE COURT OFFICER: We are in open session, Madam President.
7 PRESIDING JUDGE STEINER: Thank you.
8 Mr Witness, welcome back.
9 THE WITNESS: (Interpretation) Thank you very much indeed, your Honour.
10 PRESIDING JUDGE STEINER: Are you ready to continue with your testimony?
11 THE WITNESS: (Interpretation) Yes, we can continue.
12 PRESIDING JUDGE STEINER: I'll give the floor to Maître Liriss, asking Maître
13 Liriss whether you found that reference as requested by Ms Kneuer before the break?
14 MR LIRISS: (Interpretation) Yes, indeed, your Honour. The reference is
15 ICC-01/05-01/08-781, marked "Confidential Annex A," page 182.
16 PRESIDING JUDGE STEINER: Ms Kneuer.
17 MS KNEUER: Thank you, Madam President - sorry - for giving me the floor, and I
18 also apologise that I'm coming back again to the in-depth analysis chart, but the
19 Prosecution has real concerns.
20 First of all, I would like to recall the purpose of the in-depth analysis chart, and I'm
21 referring to two decisions of the Pre-Trial Chamber and this Chamber, in particular
22 decision number 55 and thereof paragraph 72, and decision 682, paragraph 26, and
23 with your leave I would briefly like to quote one sentence. The second half of
24 paragraph 26 reads as follows: "In the view of the Chamber, this document does not
25 involve any of the Prosecution's internal documents. To the contrary, it is based on

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1 the material that has been filed as part of the Prosecution's disclosure obligations.

2 Furthermore it is a necessary and proportionate procedural tool that assists in

3 revealing the Prosecution's case against the accused, notwithstanding the resources

4 that will be necessary for its completion."

5 So from the Chamber's decision - this Chamber's decision and the Pre-Trial Chamber's

6 decision - it is quite clear that the in-depth analysis chart is a procedural tool assisting

7 parties and participants and it's by no means meant to be evidence, or even to become

8 evidence.

9 The second point that I would like to make is the Prosecution is instructed to analyse

10 evidence, so it cannot be held against the Prosecution if we are exactly doing that. If

11 we analyse, it is our opinion and it's generated by us. It has nothing to do with any

12 of the witnesses appearing before this Court.

13 Looking at the reference that my learned colleague from the Defence provided, and I

14 have page 182 here in front of me, it does not appear to me that the quotation that my

15 learned colleague provided to your Honours is in this chart.

16 My learned colleague quoted twice from the chart, and I'm referring to the English

17 transcript, real-time, page 8, lines 23 to 25, and page 9, lines 14 to 16, and I will read it

18 for the convenience of the parties and participants. It is a quotation: "The orders

19 given by Amuli had, first of all, to be checked by Bemba before they were sent to the

20 intended recipient."

21 The closest quote -- the closest quotation I could find in the in-depth analysis chart on

22 page 182 is the fourth paragraph, but it is just not in there. I cannot find it. So

23 basically my concern is not only that the Defence tried to use this chart here as

24 evidence, but there is an allegation that the Prosecution is not conducting its duties

25 properly, which is incorrect, and in addition it appears that the witness is being

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1 confused.

2 The witness is told, "The Prosecution said X,Y and Z and that is supposed to be your
3 statement." I don't think this is fair to the witness, or even helpful, and the reason
4 why I am emphasising this issue about the in-depth analysis chart so much is that I
5 would like to prevent that this happens in the future again.

6 I think it is at least impure, dishonest, to quote the Prosecution like that and to
7 confront the witness with a document that he does not know and he has no idea how
8 it was generated and make him believe that there is a contradiction.

9 Thank you, Madam President.

10 PRESIDING JUDGE STEINER: Thanks, Ms Kneuer. Maître Liriss.

11 MR LIRISS: (Interpretation) Your Honour, I do not want to create any pointless
12 dispute with the Prosecution on this point. We have had wonderful co-operation
13 with the Prosecution so far. I know that the OTP's duty is -- well, what the duty is,
14 and they have explained this, but the Prosecution also has to say precisely what the
15 witness actually said. My learned friend says that she cannot actually find what was
16 said. May I read out in my poor English what I actually have?

17 This is on page 182. CAR-OTP -- (no interpretation). (Speaks English) "Explains
18 that each message, each message written by (Redacted) (Interpretation)
19 you know who this was, (Speaks English) "... was double-checked by Bemba before
20 sending it to (Redacted) (Interpretation) This is on page 182.

21 I checked through the statements, and I'm told that this is an unusual procedure but
22 there is no standard procedure when you are trying to establish the truth. So, from
23 my standpoint, I do not want to cast any doubt whatsoever upon the honesty of the
24 work which has been undertaken by the Prosecution. All I'm trying to do is to
25 re-establish the truth and say that the witness did not say that at all, neither in his

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1 statement, neither anywhere else, and I believe that the incident is over. It's closed.

2 PRESIDING JUDGE STEINER: I think this incident has to be closed but with the

3 strong recommendation of the Chamber, and for the time being just a

4 recommendation, that the deep analysis chart is not quoted or used to confront any

5 witnesses, because at this point Ms Kneuer's correct. This in-depth analysis chart is

6 just a tool in order to help parties, participants and the Chamber to find the correct

7 quotation, and the Chamber will have opportunity to double-check when it's needed.

8 It's not a piece of evidence that should be submitted to any witness in order for its

9 content to be confirmed or not.

10 So with this strong recommendation of the Chamber, I think we should continue with

11 the questioning of the witness, reminding the Defence that we have a very, very strict

12 schedule, and it's better if we proceed.

13 You have the floor, Maître Liriss.

14 MR LIRISS: (Interpretation) Thank you very much.

15 Q. Once again, good morning to you, Mr Witness.

16 A. Good morning.

17 Q. On page 0228 in French - 243 in English - of your statement you indicated that

18 there were satellite suitcases which could be used as an alternative means of

19 communications and that not all brigade commanders actually had one. Do you

20 know if Mustapha had one?

21 A. I don't know.

22 Q. You said on this point that communications using this satellite suitcase were

23 independent of the base and, therefore, would it be correct to say that the base could

24 know whether or not Mustapha communicated with Bemba using this satellite

25 communication means, if he actually had one?

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1 A. Yes, that is correct.

2 Q. If Mustapha ever actually had one of these satellite cases, and if he did
3 communicate with Mr Bemba, then would the operator in the base, would the
4 operator in the base who was working with Mustapha, have been informed of this
5 and, if yes, then could he have talked to the base? If you would like me to repeat the
6 question, I will.

7 A. Yes, could you repeat the question, please?

8 Q. Do you know -- I beg your pardon. You do not know if Mustapha had a
9 satellite communication means. Let us imagine that he did have satellite
10 communications and that he used this means to communicate with Mr Bemba, then
11 would the base operator who worked for Mustapha, would he have known this?

12 A. I cannot answer that question because, very often, the president worked locked
13 away in his salon, in his rooms, where he worked on his communications and so I
14 cannot answer that question.

15 Q. Thank you. Let's move on to another point.

16 PRESIDING JUDGE STEINER: Maître Liriss, just to remind you about the
17 five-seconds rule, please.

18 MR LIRISS: (Interpretation) Thank you.

19 Q. Mr Witness, a little earlier on you stated that sometimes Mr Jean-Pierre Bemba
20 would ask the base, using walkie-talkie, to find him a person in order to establish
21 contact with that person. This is on page 0022 in French, 0230. In English 0058,
22 page 246. Do you remember that, sir?

23 A. Yes, I do remember.

24 Q. In that case, therefore, the conversation between that person and Mr Bemba
25 would be non-coded, would it not?

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1 A. Yes, of course, but that was only if they were not talking about operations.

2 Q. Since you said that the conversations about communications could not be
3 uncoded, would it be correct to say that when Bemba wanted to talk to a colleague
4 then that conversation did not concern military operations?

5 A. I mentioned this situation earlier on because I had a specific memory in mind.
6 May I quote the name of a person, please?

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

8 *(Private session at 11.54 a.m.)Reclassified as Open session

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

10 PRESIDING JUDGE STEINER: Now you can speak freely, Mr Witness.

11 THE WITNESS: (Interpretation) There was Valentin Senga, who was a -- or who
12 is a senator had a mission in Gbondo to rebuild the aerodrome in Gbondo, and on
13 that day the president wished to talk to him over the phonie system and (Redacted)
14 (Redacted)

15 This did not concern operations, and this is what I wanted to state. This is why I
16 talked about this particular situation, saying that sometimes the president, if you can
17 understand what I mean by that, this was a rare occasion but this particular occasion
18 involved Mr Valentin Senga.

19 PRESIDING JUDGE STEINER: Can we turn back into open, Maître Liriss? Court
20 officer, please.

21 (Open session at 11.56 a.m.)

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

23 MR LIRISS: (Interpretation)

24 Q. I wanted to ask you a question, Mr Witness, on the same principle concerning
25 the CAR, but since you have said that this was a very rare occasion then I will move

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1 on to another question.

2 Can you confirm to the Chamber that every unit chief had his own transmission
3 log-book similar, for example, to the one which we looked at just now?

4 A. Yes, I can confirm that.

5 Q. Can you confirm that the information contained in these log-books was
6 identical?

7 A. Yes, I confirm that.

8 Q. Would I be correct in saying that the similar nature of the information contained
9 in the different transmission log-books of the unit chiefs, that because of the similarity
10 of the nature of information, that checks could therefore be carried out? Perhaps I
11 could rephrase this question better.

12 If there were to be any kind of check, then would this check cover the similarity of the
13 nature of the messages?

14 A. Thank you for that question. Every message that was sent by the unit
15 commanders has a specific number assigned to it and this number is used as a
16 reference number. What this means is that the copies are identical and this means
17 that information is transformed into a message.

18 THE INTERPRETER: The interpreter apologises. She did not understand the last
19 part of the witness's answer.

20 MR LIRISS: (Interpretation) Could we move into private session, please?

21 PRESIDING JUDGE STEINER: Court officer, please.

22 *(Private session at 12.01 p.m.)Reclassified as Open session

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

24 MR LIRISS: (Interpretation).

25 Q. Witness, I think that the English interpreter didn't fully understand the last part

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1 of your statement, or rather your answer. The best thing to do would be for me to
2 put this question to you again. Given the checks that were done, if there were checks
3 that were done, did these checks concern identifying the messages and ensuring that
4 they tallied; the messages in the various log-books tallied?

5 A. I said a minute ago that the number assigned to the messages by the
6 commander, or from the commander, served as a reference and transforming
7 information would be tantamount to a kind of violation, so the messages had to be
8 identical when transmitting them and receiving them.

9 Q. Thank you, Witness. We are in private session. In a statement that you gave
10 before this Court, (Redacted)

11 (Redacted)

12 (Redacted) if it wasn't possible to (Redacted) Do you remember
13 that?

14 A. Yes, I can confirm that.

15 Q. Could you tell us the name of his butler?

16 A. Yes, Mr Marcel Angoma (phon).

17 Q. Given the information that we have -- and I'll provide you with a reference
18 immediately, your Honours. In the English it's CAR-OTP-0058, page 0228, 0260 and
19 0261, and for the French version it's CAR-OTP-0056, page 0343, 074 and 0 -- 0374 and
20 0375.

21 Witness, according to the information that we have, and I have provided the relevant
22 references to the Chamber, according to that information, one of Jean-Pierre Bemba's
23 personal bodyguards would first have to check the log-book and even sign it before
24 handing it to Mr Bemba. Could you tell us what your reaction is to this information?

25 A. Thank you for that question. I'll go back a little bit. Yesterday,

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1 Mr Jean-Jacques -- Maître Jean-Jacques showed messages from an old log-book and
2 then he put a question, and the question was: "At the end of the message there was a
3 reference. Whose identity was concerned?" And I said: "This is something that
4 was noted by the president." This was in answer to your question concerning
5 messages, or log-books, and the level of confidentiality of these log-books and
6 messages. Earlier on the log-book was provided to the president himself, and then
7 at a later date he wanted this delivery to be carried out through his butler and he
8 didn't want any other person, any stranger, to have the right to go through the
9 log-book. This was in order to avoid information leaks.

10 Q. Witness, the question was put to you on page 0022-2248, and in the English
11 version it's page 0264 -- the question was "... whether generally speaking crimes had
12 been committed and, if that was the case, was the HQ informed of the fact and was
13 this noted down in the log-books?" You answered that, "Yes, that was the case."
14 Can you confirm this answer?

15 A. Yes, I can confirm it.

16 Q. I'll provide you with two illustrative examples. Yes, Witness?

17 A. With your leave, Maître, I want to confirm something. Could you perhaps
18 show the text on the screen so that I'm sure what I'm -- about what I'm answering?

19 Q. Are you referring to your answer to what I have just read out?

20 A. Yes, of course.

21 Q. That's not a problem.

22 PRESIDING JUDGE STEINER: Court officer, please. It's the document that ends
23 on 0248.

24 THE COURT OFFICER: Just a moment, Madam President, if we can have a few
25 seconds to display the document?

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1 THE INTERPRETER: Interpreter's correction: The witness previously said, "I'm
2 afraid I might confirm something that I have forgotten."

3 PRESIDING JUDGE STEINER: Mr Scaliotti.

4 MR SCALIOTTI: Thank you, Madam President. I would like to briefly raise a
5 point, and I'm quoting here the question that Maître Liriss just asked to the witness.
6 He was making reference -- if my understanding is correct, he was making reference
7 to what is in page 0264 and I see that the question is: "... whether generally speaking
8 crimes had been committed and, if that was the case, was the HQ informed of the
9 fact?"

10 So if I go to page 0264 I see that in fact this was the question that was put to the
11 witness, but I think that the kind of answer that Defence counsel was trying to have
12 confirmed doesn't match exactly to the answer that the witness had provided during
13 the interview, because I see that - and I am quoting from page 0264 - the witness said
14 on that occasion, "I can tell you about the operation in Basankusu." So I think that
15 the way in which the question was asked of the witness for confirmation is a bit
16 deviating from what the witness actually said, because apparently the answer was
17 related to a specific operation and it was not related to the usual way of proceeding
18 with regard to reporting of crimes.

19 Thank you.

20 PRESIDING JUDGE STEINER: I think with the page on the screen being shown to
21 the witness, I think Defence can repeat the question and follow the answer to obtain
22 the confirmation or correction. Is the page displayed, court officer?

23 THE COURT OFFICER: Yes, Madam President. Document CAR-OTP-0022-0240,
24 first redacted version at page 0248, is now available on the screens. It's a confidential
25 document.

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- 1 MR LIRISS: (Interpretation) Thank you. Usher, could we see the last three
2 paragraphs please? Could we zoom in?
- 3 Q. Witness, I'll read this out to you. Please follow what is being said: "Would
4 the commanders in the field usually report on crimes - acts of violence - to the
5 headquarters?" And you said: "It's difficult because (Redacted) and the
6 mission lasted for (Redacted)
- 7 The investigator was insistent, and said "Yes, but in general terms if crimes were to be
8 committed in the course of an operation would these crimes be -- would the
9 headquarters be informed of these crimes and would they be noted in the log-books?"
- 10 And you said the following: "I'm going to speak about the operation in Basankusu.
11 If there were any cases of anti-social behaviour, the commander would inform the
12 base that such-and-such a soldier had done such-and-such a thing, and that certain
13 measures had been taken against him, and that the code of conduct was being
14 enforced." "How would Bemba usually react when he received such information?"
- 15 Well, that would be my following question, but is this in fact what you said? Did
16 you in fact say that when crimes were committed in the field, generally speaking,
17 these crimes were noted down in the log-books?
- 18 A. Yes, I can confirm that.
- 19 PRESIDING JUDGE STEINER: Could, please -- I ask the court officer to display the
20 next page, the page ending in 0249.
- 21 THE COURT OFFICER: Yes, Madam President. The page is available on the
22 screens, page 0249, first redacted version.
- 23 PRESIDING JUDGE STEINER: Maître Liriss, just for clarification, I would like to
24 confirm with the witness that his -- these questions and answers are related to the
25 year 2001, as it is stated in page 0249.

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1 THE WITNESS: (Interpretation) That's my statement.

2 PRESIDING JUDGE STEINER: So I think it would be for the benefit of the Chamber
3 if the Chamber asks you whether the same proceeding were adopted in relation to the
4 facts occurred in 2002/2003?

5 THE WITNESS: (Interpretation) Your Honour, with your leave, I think I have
6 said that (Redacted) In
7 principle, as a rule, whenever the Chief of the General Staff -- well, the Chief of the
8 General Staff would always insist on respecting the code of conduct and he insisted
9 on good relationships between the population and the troops in the territory of the
10 Congo; otherwise the population wouldn't be in favour of us, wouldn't support us. I
11 think I said that in my statement.

12 PRESIDING JUDGE STEINER: Mr Witness, this is the first paragraph of this page
13 that is displayed. This is exactly what you said, but then when you were asked
14 where this happened you said in 2001.

15 THE WITNESS: (Interpretation) It was just an example, because in Basankusu
16 there were troops. This happened a long time ago but I remember certain things.
17 There are some who went to look for cassava plants in the peasants' fields; and the
18 owners, they had no authorisation to do this and the peasants reported on this to unit
19 commanders. And those who had acted in this way had to be punished, so this is
20 just an example that I am providing to you with.

21 PRESIDING JUDGE STEINER: You can continue, Maître Liriss.

22 MR LIRISS: (Interpretation)

23 Q. Witness, you said that it was an example to show that when crimes were
24 committed, generally speaking, these crimes would be noted in the log-books. Let's
25 take an example in 2002, because you said that this was just an example. I'm asking

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1 the usher for the first log-book, CAR-D04-0002, page 1572.

2 THE COURT OFFICER: Document CAR-D04-0002-1514 at page 1572 is available on
3 your screens.

4 MR LIRISS: (Interpretation)

5 Q. Witness, could you read out the third message that starts on the page to the left
6 and ends at the page to the right. The page number is 277 but, if you would prefer, I
7 could read this out for you and you could keep an eye on me.

8 A. You can read it out, Maître.

9 Q. Thank you. It's the sector commander in Bangui, sector south in Bangui.

10 MR LIRISS: (Interpretation) Your Honour, I think we're in private session. It's
11 not necessary.

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

13 THE COURT OFFICER: Just before going into open session, Madam President, if I
14 may, can the document be displayed outside?

15 PRESIDING JUDGE STEINER: As far as I remember, it's a public document.

16 (Open session at 12.24 p.m.)

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

18 MR LIRISS: (Interpretation)

19 Q. Witness, it's a message "Extremely Urgent" from the commander of sector south
20 in Bangui, message number 267 dated 4 October 2002: "We are informing you of the
21 various complaints that I keep receiving in your name." He's reporting to his
22 subordinate, the commander of the 28th Battalion, I think. "I'm hereby informing
23 you of the various complaints that keep -- I keep receiving in your name and it
24 concerns problems that have to do with common law and interference in civilian
25 affairs. You are not unaware of the fact that the MLC has taken up weapons not for

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1 their own pleasure, but to defend the general interests of the Congolese people and to
2 re-establish a state of law in the DRC. Given what precedes, you must immediately
3 release without any conditions, unconditionally, Mr Honoré Mongenge whom you
4 arbitrarily arrested because of a rivalry that concerns marriage, and this just a purely
5 civil affair, and this means that there's a risk of engaging disciplinary proceedings
6 against you." I'll stop there.

7 I can continue: "So you must be aware of the fact that we are the Judges and we
8 defend the rights of people. You have to carry out the orders without fail."

9 Is this message an example according to which crimes committed were usually noted
10 down in the log-books, crimes or violations were usually noted down in the
11 log-books?

12 A. Yes, of course, Maître. With your leave, I am telling about a situation that
13 happened a long time ago. I'm only human and I can forget certain things.

14 Q. Witness, I don't hold this against you, I just wanted to corroborate what you
15 said that, generally, this would be -- these things would be noted in the log-book, and
16 I wanted to use examples to corroborate this; examples not only from the year 2001,
17 but also from 2002 and 2003. With the assistance of the usher, I'd like to see
18 document CAR-D04-0002, page 1662.

19 THE COURT OFFICER: Document CAR-D04-0002-1641 at page 1662 is available on
20 your screens. It's a public document.

21 MR LIRISS: (Interpretation)

22 Q. I will read this out for you and you can check this. It's a document from the
23 battalion commander in Bunia and it's to the Chief of the General Staff of the ALC:
24 "I hereby greet you, your Honour, and request your authorisation to preside over the
25 disciplinary council, and it should be convened to deal with the assassination in

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1 Bunia and this will allow us to prepare the file for the martial -- for the court-martial
2 that could be sitting in Bumba, as per your instructions. The file concerns Corporal
3 Ekoko-Bengo, who killed with a dagger the civilian Diso Koloko Adrien, and it also
4 concerns Corporal Mbusi (phon), who shot a civilian in the leg. Puro is the name of
5 the civilian who has been hospitalised. The trial in Bumba will reassure the
6 population," and the message is dated 27 December 2002. Does that confirm the fact
7 that, in general terms, crimes would be noted in the log-book?

8 PRESIDING JUDGE STEINER: Maître Scaliotti, are you going to ask whether it's a
9 question to the witness?

10 MR SCALIOTTI: Madam President, yes. My simple observation is that what we
11 should ask the witness is whether or not he can confirm a given fact, but I think that
12 we cannot go beyond and ask the witness to draw a conclusion that from that fact
13 there was a general practice in that sense. So the question should be limited, in my
14 view, to the fact to what he has in front of him, but we cannot ask the witness to draw
15 conclusions.

16 Thank you.

17 PRESIDING JUDGE STEINER: Maître Liriss, I agree with the Prosecution. Nor
18 draw conclusions, neither draw conclusions, nor yourself making again observations
19 instead of asking a single question to the witness in relation to this document.

20 MR LIRISS: (Interpretation) Your Honour, the question that I'm putting to the
21 witness is as follows: In relation to the statement made to the effect that, generally
22 speaking, crimes were recorded in the log-book, is this case which I've just read out to
23 you, does this corroborate what you said earlier? I'm not drawing any conclusions.
24 I'm asking a question in order to corroborate something. If you believe that I can put
25 the question differently, I am entirely available to do so. I'm only asking the witness

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1 to corroborate the description that he gave.

2 PRESIDING JUDGE STEINER: Repeat the question, Maître Liriss, please.

3 MR LIRISS: (Interpretation)

4 Q. Witness, you stated to the investigators that generally speaking, when crimes

5 had been committed, these crimes were recorded in the log-book. Do you remember

6 saying that?

7 A. Yes, I can confirm that.

8 Q. You gave one case in 2002 in Basankusu. Do you remember that?

9 A. Yes, I can confirm that.

10 Q. Does this case corroborate your statement to the effect that crimes were also

11 recorded in the note -- in the log-book?

12 A. I confirm.

13 JUDGE ALUOCH: Okay, that's fine. He's already answered, so it's okay. I was

14 going to ask you to clarify when you say "corroborate," but he understands and he

15 has answered and so it's okay.

16 MR LIRISS: (Interpretation)

17 Q. Now, I read out another account of a case in 2002. To show a certain continuity,

18 I will read out a case that occurred in 2003. This is at page -- in the same log-book,

19 page 1672, and then we will leave it at that.

20 THE COURT OFFICER: The page requested by Counsel, 1672, is available on the

21 screens and it's also a public document.

22 MR LIRISS: (Interpretation)

23 Q. Witness, I don't want to tire you out. This is my last question for corroboration

24 purposes. This is the commander of the South Bangui area, who was sending a

25 message to the commander on 5 January 2003: "I'm honoured ..." -- "To: HVS," I

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1 think: "I'm honoured to send you greetings and tell you about the number of
2 detainees. A number of people have been detained for hold-ups and one person has
3 been also detained for distributing war ammunition. Another person has been
4 detained for murder, condemned to eight years in prison by way of court-martial,
5 plus one ordinary case of robbery, plus one detainee in Gemena," and so on and so
6 forth. This is January 2005, so my question is the same. Does this case corroborate
7 your statement to the effect that crimes, generally speaking, were recorded in the
8 log-book?

9 A. Yes, I can confirm that.

10 MR LIRISS: (Interpretation) Could you provide some guidance, your Honour?

11 How long do I have? Until 1? Very well, thank you.

12 Q. Witness, the Presiding Judge read out a passage to you in English and you
13 answered a question about Mr Jean-Pierre Bemba's general reactions. I'd like to ask
14 the court officer if he could display on the screen a particular instruction from
15 Mr Bemba, and if you could read it to yourself silently, or you can read it aloud if you
16 wish, and I will then ask you a question in relation to this instruction.

17 Court officer, if you could please display document number -- document 12.

18 Document 12 on the Defence's list.

19 THE COURT OFFICER: Item number 12 refers to document CAR-D04-0002-1513
20 and it's a public document. It will be broadcasted outside, unless otherwise
21 instructed.

22 MR LIRISS: (Interpretation)

23 Q. Witness, would you like us to zoom in, or can you read this quietly in its current
24 format, the way it's currently shown to you?

25 A. Are you asking me to read this out?

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1 Q. If you could read this out, but I'd like to know first of all whether you'd like us
2 to zoom in so you can read it better? If it's fine the way it is, if you could just go
3 ahead and read.

4 A. "Heading: Congo Liberation Movement. The President. Gbadolite,
5 May 31st, the year 2000. Number 052/Prés/MLC, May 2002. To: All ALC brigade
6 commanders. For information purposes, copies to the secretary-general of the MLC,
7 the national secretary responsible for military activities and the ALC head of staff.
8 Re: Instructions. Pursuant to the Code of Conduct governing military discipline
9 within the ALC, the French acronym for the Congo Liberation Army, and in
10 particular with regard to point 5.5, which deals with offences such as killing a civilian,
11 treason, going AWOL, engaging in subversion, rape, abduction or disobeying legal
12 orders for which the death penalty is required, if the President of the ALC High
13 Command is of such an opinion.
14 Point number 2: "Taking into account certain practical provisions that have to do
15 with the verification of the actual guilt, guilt -- being guilty for one of these offences, a
16 finding of guilt by the discipline committee of the army headquarters of the ALC for
17 crimes such as rape, theft or assassination and, above all, in light of the nature of the
18 offence in question."
19 Point number 3: "I expressly order you to apply the sentence that is provided for, for
20 these offences, and to provide me with an ad hoc report on these matters. However,
21 you must convene the brigade discipline committee to rule in this regard without -- in
22 a dispassionate way. This is to avoid any pointless deaths of soldiers because we
23 have the responsibility to ensure that their lives are not sacrificed in vain. Signed by
24 Jean-Pierre Bemba, Commander-in-Chief of the ALC."

25 MR LIRISS: (Interpretation) Thank you, Witness. Now, this last document, court

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1 officer, this is document number 11 on our list.

2 THE COURT OFFICER: Item number 11 corresponds to document

3 CAR-D04-0002-1512. It's a public document and is available on your screens and

4 will be broadcasted outside unless otherwise instructed.

5 MR LIRISS: (Interpretation)

6 Q. I will read this out for you. "Re: Complaint filed against a person who goes

7 by the alias Pablo, Agent BRM, in Sidi for attempted murder to the national secretary

8 responsible for military activities and intelligence in Gbadolite. Mr Secretary,

9 Mr National Secretary, I have read the correspondence, unnumbered, of

10 11 February 2000 that was sent to you by Mr Victor Kose-Torongbanze a court official

11 within the Sidi within Bosobolo regard to the above-mentioned matter and I hereby

12 instruct you to locate the BRM officer who has been identified to summon this person

13 and arrest him if the events that he has been accused of have been confirmed. Please

14 keep me informed of progress made in this regard."

15 Witness, I've read out or I've you read these documents and this is in relation to the

16 answer that you gave at page 0029-0249, French version, and in the English

17 version -- unfortunately, I don't have the English reference.

18 You were asked what Mr Bemba's attitude was when he learned about such crimes,

19 and you replied, saying he would ask that the code of conduct be implemented and

20 enforced. He always wanted to be on good terms with the local population.

21 Otherwise, they might betray us. I will leave it at that.

22 Now, the two documents that we've just read out, you and I, do these documents

23 partly corroborate or entirely corroborate, or not at all, the answer that you gave to

24 the investigators at page 0249?

25 A. Yes, I can confirm that.

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1 MR LIRISS: (Interpretation) Your Honour, could we briefly go into private session.

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

3 *(Private session at 12.51 p.m.)Reclassified as Open session

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

5 MR LIRISS: (Interpretation)

6 Q. Witness, I think you'll recall that you stated during your last statement, and this

7 was before the investigators, that (Redacted) at the time of the rebel

8 attack, but you didn't know that they had attacked. Do you remember saying that?

9 A. Yes, I can confirm that.

10 Q. My question is as follows: (Redacted) wasn't it in

11 anticipation of the retaliation for this attack, or the reaction to this attack?

12 A. Thank you very much for the question. At first, at the beginning of the hearing,

13 I was asked this question already, and I answered, saying that it was just a stop-over

14 for technical reasons. It was a matter of getting some fresh supplies, some basic

15 necessities, and (Redacted)

16 Q. Witness, do you know whether Mr Bemba during this stop-over met with

17 officials from the Central African Republic?

18 A. Thank you very much for the question. I don't know if I've already been asked

19 that question but I think I replied, saying that they had gone into town and went to

20 the supermarket to buy some items. (Redacted)

21 (Redacted) And what's more, if there had been a bit of a delay taking

22 off from Bangui, (Redacted)

23 Q. Witness, now, you say that "they" went into town (Redacted)

24 So what is the basis of your knowledge, to say with certainty, that Mr Bemba did not

25 meet with officials in the Central African Republic, at least in the course of that

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- 1 particular stop-over?
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 MR LIRISS: (Interpretation) Your Honour, we can go back into open session.
- 7 PRESIDING JUDGE STEINER: Court officer, please turn into open session.
- 8 (Open session at 12.55 p.m.)
- 9 THE COURT OFFICER: We are in open session, Madam President.
- 10 MR LIRISS: (Interpretation)
- 11 Q. Witness, do you recall how many days after the attack? Now, you don't know
- 12 the date of the attack, and this is the public date, it was 25 October. Do you
- 13 remember how many days after the attack the MLC troops crossed the Ubangi River?
- 14 A. Counsel, we had a message yesterday, and it was specified that when Mustapha
- 15 arrived in Bangui.
- 16 Q. Are you talking about 0001 of 31 October 2002, CAR-D04-0002-1637?
- 17 THE INTERPRETER: Interpreter's note: The witness is making reference to an
- 18 earlier -- a message that was read out earlier.
- 19 THE WITNESS: (Interpretation) Of course.
- 20 THE INTERPRETER: Interpreter's correction: 30 October.
- 21 MR LIRISS: (Interpretation) Just to make sure that we're talking about the same
- 22 message, court officer, could you please display that on the screen?
- 23 THE COURT OFFICER: Document CAR-D04-0002-1514 at page 1637 is available on
- 24 your screens and it's a public document.
- 25 MR LIRISS: (Interpretation)

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1 Q. Witness, I'm going to read this out to you quickly, and then you can confirm
2 whether or not you were talking about this same message: "From: Commander
3 operations in Bangui. To: Chief of Defence Staff ALC. I am honoured to send you
4 my greetings. Arrived at 9 a.m. After a co-ordination meeting with officers, the
5 operations began at 1300 hour. Enemy death toll: 25 dead and three captured,
6 Chadians. Weapons: 15 SMGs. Four large vehicles including one full of tyres,
7 one vehicle with a large generator and two tractors. Five pairs of uniforms in bad
8 condition. 15 SMG chargers, or magazines. Two dead, one injured. Difficulties
9 on the terrain. Abandoned by the nationals. No co-ordination with the Libyans.
10 Poor communications for liaison amongst operations. Lack of pharmaceutical
11 products, that is to say medications. Lack of supplies. Further reports to come
12 21st -- correction, 30 October 2002. 1520 hour."

13 Now, is this the message that you were talking about, Witness?

14 A. Yes, I can confirm that.

15 MR LIRISS: (Interpretation) It is 1 o'clock, your Honour. This -- there will be
16 a -- we have a new line of questioning and we may finish today.

17 PRESIDING JUDGE STEINER: Maître Liriss, the last time you promised me a
18 surprise it was not a good one, so I better not count on surprises. Thank you, Maître.

19 Mr Witness, we will suspend now for our lunch break. You will have time not only
20 to have lunch but to take some rest. It's 1 o'clock. We will resume at 2.30 in the
21 afternoon.

22 Court officer, please turn into closed session for the witness to be taken outside the
23 courtroom.

24 *(Closed session at 1.02 p.m.)Reclassified as Open session

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

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- 1 (The witness stands down)
- 2 THE COURT OFFICER: All rise.
- 3 (Recess taken at 1.02 p.m.)
- 4 *(Upon resuming in closed session at 2.35 p.m.)Reclassified as Open session
- 5 THE COURT USHER: All rise. Please be seated.
- 6 PRESIDING JUDGE STEINER: Good afternoon and welcome back. Could, please,
- 7 court usher bring the witness in.
- 8 (The witness enters the courtroom)
- 9 PRESIDING JUDGE STEINER: We can turn into open session, please.
- 10 (Open session at 2.37 p.m.)
- 11 THE COURT OFFICER: We are in open session, Madam President.
- 12 PRESIDING JUDGE STEINER: Thank you. Good afternoon, Mr Witness.
- 13 THE WITNESS: (Interpretation) Good afternoon, your Honour.
- 14 PRESIDING JUDGE STEINER: Did you manage to take some rest during the lunch
- 15 break?
- 16 THE WITNESS: (Interpretation) Yes, thank you.
- 17 PRESIDING JUDGE STEINER: That means that you are ready to continue giving
- 18 your testimony?
- 19 THE WITNESS: (Interpretation) Yes, I am ready.
- 20 PRESIDING JUDGE STEINER: Thank you very much, Mr Witness. Maître Liriss,
- 21 you have the floor.
- 22 MR LIRISS: (Interpretation) Good afternoon to you, your Honours.
- 23 Q. Mr Witness, hello.
- 24 A. Thank you.
- 25 Q. Reading the transcription I see Her Honour asked you a question, and let me

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1 take today's French transcription, page 14, in English page 41, line 6 to 14 in English,
2 page 41 in French, lines 3 to 11, in English 41 as well, lines 6 to 14.

3 It is not your fault at all. In fact, it is mine. I'm reading the -- your Honour said,
4 "I think, therefore, that for the Chamber, if the Chamber asks you if this procedure
5 were adopted, a procedure related to the events in 2002 and 2003."

6 Now, in fact, I believe that I did not leave you time to answer this question, sir. My
7 question is this: The Judge read out to you the page in which you were indicating
8 that Mr Bemba used to react to crimes which were committed and you quoted the
9 example of Basankusu. Do you remember this?

10 A. Yes, I do.

11 Q. And the Presiding Judge said that this happened in 2001.

12 A. I remember this, yes.

13 Q. Now, in fact this was what was written down and the Presiding Judge asked
14 you whether this situation - whether this procedure - whereby crimes that had been
15 committed were registered in the log-book, if this procedure was also used in 2002
16 and 2003. I believe that was your question, your Honour. What was your answer,
17 please, sir?

18 A. Let me confirm that this was the same procedure.

19 Q. Thank you very much indeed, Mr Witness. Let us continue. You said that
20 the major part of the troops of the MLC arrived in Bangui on the date which is on
21 page 1637, 30 October 2002. I then asked you the following question: "Where did
22 these troops come from?"; in other words, which different units did these troops come
23 from?

24 A. Thank you for that question. These troops came from Imese.

25 Q. Between Imese and Zongo, what is the difference -- I beg your pardon, what is

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1 the distance between these two places?

2 A. There's a long distance between the two. Imese is downstream of Zongo and,
3 if you want to travel that distance using the river, then it would certainly take you a
4 certain number of days. I don't know how many, but it's quite a distance. Even if
5 you were to walk the distance, it would be lengthy. I remember that (Redacted)
6 (Redacted) travelling around, and (Redacted) and it was
7 very long. It took a certain number of days.

8 Q. Thank you. So it's a long distance. Can you make any approximate guess of
9 what we're talking about? 10, 50, over 100 kilometres, or fewer than that?

10 A. Well, I don't want to tell a lie, but I would think it's more than 100 kilometres.

11 Q. How did these troops arrive in Zongo, if you know of course?

12 A. Thank you for that question. The representative of the OTP presented us with
13 a text yesterday which mentioned troop movements and, if I remember correctly,
14 I believe that we even managed to determine what route the troops had taken when
15 they were marching by foot, if I remember correctly, of course.

16 Q. Did any troops come from Basankusu, as far as you know?

17 A. I have forgotten.

18 Q. It doesn't matter. The main question is whether all the troops came from the
19 Echo Brigade or was it a mixture of troops coming from different brigades?

20 A. Yes. I'm sorry, I simply don't remember.

21 Q. Can I ask you the question differently then? How many men are in a brigade,
22 please?

23 A. There was no fixed number, but roughly 1,500.

24 Q. Now, we know that there were roughly 1,500 people travelling in the Central
25 African Republic. If we're talking about the whole of the Echo Brigade, how many

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1 people remained behind or was there a brigade which remained behind to occupy the
2 position previously occupied by the Echo Brigade? I'm talking about Imese and
3 Zongo.

4 A. I'm sorry, sir, could you please repeat your question?

5 Q. When the troops crossed over, can you tell me if Imese, in Dongo and in Zongo,
6 which were the sectors covered by the Echo Brigade, were these places left empty of
7 troops?

8 A. I think it's really impossible for me to answer this without seeing my statement,
9 but I don't believe that the places could have been emptied.

10 Q. Would it be precise to say that the troops sent into Central African Republic
11 included a part of the Echo Brigade and other brigades too?

12 A. I do remember something. We had a battalion commander -- can I quote his
13 name? (Redacted) came from Bravo and the troops had been evacuated
14 by plane.

15 Q. So the troops sent into the CAR were a mixture of troops from different units?

16 A. Yes, because this plane used to cover the Bangui-Zongo-Basankusu route. It
17 then went from Zongo to Basankusu and then Isiro, as well.

18 Q. Since Mustapha was in charge of the Echo Brigade and has been sent to the
19 CAR, who in the meantime continued to command the Echo Brigade which remained
20 behind in Dongo, Zongo and Imese? In other words, was Mustapha replaced by
21 somebody or was he still in full command of the whole brigade?

22 A. In the absence of Mustapha there certainly must have been somebody who
23 could cover his functions, but I do not know who that was.

24 Q. Mr Witness, I would like you to tell me what you know. Do you know if
25 anybody replaced Mustapha, or did Mustapha continue to command the Echo

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1 Brigade? If you do not know the answer, it's not important. Don't worry.

2 A. Thank you. I do not remember.

3 Q. Although he was in CAR, could Mustapha still continue to give orders to his
4 brigade which remained behind in the DRC concerning, for example, supplies and
5 any other kind of order for the proper functioning of the brigade?

6 A. Thank you, but I do not remember.

7 Q. Please don't worry about it. Mr Witness, yesterday we had a discussion
8 concerning CAR-D04-0002, page 1654, and I would like to ask the court officer, with
9 the approval of the Presiding Judge, to put this document up on the screen so we can
10 have another look at it.

11 THE COURT OFFICER: Document CAR-D04-0002-1641, at page 1654, is available
12 on your screens and it's a public document.

13 MR LIRISS: (Interpretation)

14 Q. Mr Witness, the point in question yesterday concerned secretary number 019.
15 In fact, this is the document on the left.

16 A. I remember.

17 Q. Do you remember what you said about giving numbers?

18 A. Yes, I do.

19 Q. Could you repeat to the Court what you said about how the numbers were
20 attributed?

21 A. These were order numbers which cover messages from the first to the last.
22 Here you have the sender who sent the message, and this is his 119th message.

23 MR LIRISS: (Interpretation) Could the Chamber please refer to the English
24 transcription of yesterday, page 26, lines 2 to 12. In French, this is page 27, lines 6 to
25 13.

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1 Q. And you said the following, when you were asked a question "In what
2 sequence did these numbers follow on, how were these numbers attributed?" And
3 you answered: "I have just said that these were order and reference numbers; that is
4 to say, if you have to count or number all the messages sent by this commander then
5 it is easy to say that this is his 270th message."

6 Do you remember that?

7 A. Yes, I confirm that.

8 Q. Is it, therefore, correct to say that the number refers not to one department but
9 to the person who sent the message?

10 A. Yes, I confirm that.

11 Q. And here, concerning the message of 24 December, is it correct to say that
12 number -- it is the 19th message of the Bangui operations co-ordinator?

13 A. Yes, that is correct.

14 MR LIRISS: (Interpretation) I'd now like to ask the usher to show number 1648, or
15 rather the court officer to show that document.

16 Q. You have the message in front of you, don't you? It's the second message to
17 your right. It's the page on the right-hand side. "From: Colonel Mustapha," it
18 says.

19 A. Okay.

20 Q. "Number 023." Does this number refer to the 23rd message from Colonel
21 Mustapha, or to the 23rd message that came from Bangui? That is in relation -- this
22 question is in relation to the explanation you have just given us.

23 A. It's the 23rd message from Colonel Mustapha.

24 Q. Does the name Dikundu Kuese, or Diku (phon), mean anything to you?

25 A. Yes.

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1 Q. Who was this person, if you don't mind saying?

2 A. One of the personal bodyguards.

3 Q. What was the name of the co-ordinator at Bangui, a colonel?

4 A. I have forgotten his name. Yes, is it Colonel Diku? I don't know. There
5 must have been a colonel who came from Alpha Brigade, who was also responsible
6 for co-ordination.

7 Q. And this is why I have referred to Colonel Dikundu Kuella (phon), also known
8 as Diku or Cordo -- Coordo. If this means nothing to you it doesn't matter, but I just
9 wanted to know whether there's a difference between Colonel Mustapha and the
10 operations co-ordinator in Bangui who came from the Alpha Brigade?

11 A. Yes, there's a difference.

12 Q. Can we then say that the first message that you read out came from this
13 co-ordinator? That's what it says, in fact. It says, "Co-ordinator Bangui
14 operations," or "Coordo Bangui operations," and it was his 19th message, whereas the
15 second message came from Colonel Mustapha himself, as it says, and it was his 23rd
16 message, if I'm not mistaken.

17 A. Of course.

18 Q. Witness, the sequence of numbers then doesn't follow; the sequence in which
19 the messages were sent. I'm perhaps repeating myself, but it follows the numbers
20 assigned to each person on messages that were sent; is that correct?

21 A. Yes, it's correct.

22 Q. Witness, before the majority of the troops went to the Central African Republic,
23 do you know whether there was a scouting mission or reconnaissance mission?

24 A. I don't know.

25 Q. I'm referring to a reconnaissance mission. Do you know a gentleman called

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1 René? Captain René?

2 A. Yes, I do.

3 Q. I will read out what you said to the OTP with regard to this subject. We'll have
4 a look at page 0250. I'll provide the reference for the English version, madam.

5 I think that the number for the English version is 0252 -- no, 0265 or 0266.

6 PRESIDING JUDGE STEINER: It's page 266.

7 MR LIRISS: (Interpretation) In the English version, your Honour?

8 Q. I'll read it out, Witness.

9 PRESIDING JUDGE STEINER: Depending on what you are going to read, I think
10 we should go into private session.

11 MR LIRISS: (Interpretation) You are quite right, your Honour.

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

13 *(Private session at 3.10 p.m.)Reclassified as Open session

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

15 MR LIRISS: (Interpretation)

16 Q. You said: (Redacted)

17 (Redacted) Co-ordination had already

18 come to an end with the authorities." Question: "Which authorities?" Answer:

19 "Amuli and the commander of Zongo, René. (Redacted) the operator in

20 Zongo. (Redacted) that things were heating up and that war was raging. He said
21 that the rebels had taken hold of part of the airport and of a bank.(Redacted)

22 told me that Amuli had asked the commander in Zongo, namely René, to provide

23 support for President Patassé to prepare the troops to cross over, because once again

24 Patassé (Redacted) assistance."

25 Do you recall having given that statement and can you confirm what you said?

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1 A. Yes, I can confirm that.

2 Q. And now does this refresh your memory? Do you remember a team that may
3 have crossed over to prepare for the arrival of the majority of the troops, and the
4 purpose of crossing over was to carry out reconnaissance?

5 A. That's quite certain. In the messages that we read through, in the messages
6 shown to us by Mr Jean-Jacques, reference was made to a team that was to cross over.

7 Q. Correct. So that is message 1631 that was spoken about yesterday, the date of
8 26 October 2002, and the message refers to a section - to a company - of 151 troops
9 that crossed over together with Captain René. The question that I would like to put
10 to you is as follows: How much time did this section spend in Bangui before they
11 returned?

12 A. Thank you very much for that question. It wasn't the entire company that
13 crossed over. They crossed over and they returned on the very same day.

14 Q. In military terms, and in the light of your experience, this preparatory mission
15 was it necessary to have such a preparatory mission prior to the arrival of the
16 majority of the troops?

17 A. Yes, it's better to carry out reconnaissance in order to prepare for the arrival of
18 the majority of the troops.

19 Q. Thank you, Witness. I'll now move on to another question. Were you in the
20 MLC when the MLC was attacked by the Chadian army from the CAR?

21 A. I apologise, but could you repeat that question?

22 Q. Do you remember in 1998 the Chadian army, which was an ally of Kabila's
23 AFDL, attacked the MLC from the CAR? It was along the Gbadolite-Lisala axis.

24 A. Yes, they had come from Zongo. Yes, because there were large vehicles and a
25 certain Jafunda (phon) Robert was a victim of the attack that had been launched.

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1 Q. Do you know whether in 2002, in the course of Bozizé's rebel attack, and in
2 order to avoid what happened in 1998, do you know whether the MLC authorities
3 took any measures to reinforce the border between the DRC and the CAR?

4 A. I don't know.

5 Q. Were you able to note that weapons were being supplied along the border, at
6 Gemena and Zongo?

7 A. No.

8 Q. Thank you.

9 PRESIDING JUDGE STEINER: Maître Liriss, can we turn back into open session?

10 MR LIRISS: (Interpretation) Of course, madam.

11 PRESIDING JUDGE STEINER: Court officer, please.

12 (Open session at 3.18 p.m.)

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

14 MR LIRISS: (Interpretation)

15 Q. Witness, on a number of occasions you referred to the commander of the MLC
16 troops in the CAR by the authorities in the country, and that included a general
17 whose name was Bombayake, and you mentioned this not only in the transcript but
18 also at page CAR-OTP-0022-2053 in the French version, and in the English version
19 0269. 253 in French and 0269 in English, in the English version. Do you recall this?

20 A. Yes, I can confirm that.

21 Q. You said that this could be seen in the report from Colonel Mustapha, you
22 could see in a report from Colonel Mustapha, (Redacted)
23 (Redacted) Do you remember that?

24 A. Yes, I can confirm that.

25 PRESIDING JUDGE STEINER: Maître Liriss, just to remind you that we are in open

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1 session. If need be, we can go into private.

2 MR LIRISS: (Interpretation) It seems that that would be necessary now, your
3 Honour.

4 PRESIDING JUDGE STEINER: Court officer, please.

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

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

7 MR LIRISS: (Interpretation) Could we please see Defence document number 7 on
8 the screen.

9 THE COURT OFFICER: Item number 7 is referenced as CAR-DEF-0002-0567, and
10 this document is available on your screens. It's a public document, but since we are
11 in private session it will not be broadcasted outside the courtroom. Thank you.

12 MR LIRISS: (Interpretation)

13 Q. I'll give you some time so that you can familiarise yourself with the document,
14 to familiarise yourself with the document, Witness, and if you think it's too small, if
15 it's not visible enough, we can zoom in. Or, if you like, if you would like it to be
16 translated into English, I could read it out for you.

17 "To His Excellency, the National President of the MLC. Excellency, hereto I have
18 enclosed background information on operations carried out by ALC troops, our ALC
19 troops in the Central African Republic which was a response to the invitation from
20 His Excellency, the Central African President Ange-Félix Patassé who requested that
21 you provide troops to assist him in order to confront the various rebel forces
22 threatening his democratically elected government. It is on the basis of this
23 agreement that you deemed it appropriate to assign this mission to me as a
24 commander of an ALC brigade, and in order to lead the troops as far as Bangui, the
25 capital of the Central African Republic, it is quite normal that upon returning I should

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1 report to you on the manner in which the events unfolded and the manner in which
2 our troops in the field conducted themselves in the course of the operations. It
3 should be emphasised that our troops were placed under the full responsibility and
4 command of the Central African authorities. They themselves were in charge of
5 military logistics, of fuel, ammunition, food supplies, medical supplies and other
6 items. As soon as I arrived, I put -- I asked the Central African military authorities
7 against whom we would have to fight. I also asked what the chart was that
8 concerned the leaders who were to lead the operations in the field, and it is on the
9 basis of this concern that I have raised that the Central African authorities deemed
10 that it was appropriate to present me with the following chart, or the following
11 details. The chief of the Central African General Staff, General Ernest Betibangi, at
12 the top, operations commander; Brigadier-General Mazi, Central African; General
13 Operations Commander, Brigadier-General Bombayake (commander of the Central
14 African Presidential Guards); commander of the Central African troops Major Tutu
15 Kuese. Having presented this chart, the group of leaders in charge of the operations,
16 who is with the Chief of General Staff at its head, attributed me the position of deputy
17 commander of operations, and this was in accordance with my prerogatives as a
18 brigade commander. Having been given this status, it was my responsibility to
19 monitor the conduct of my troops and for political purposes I regularly reported to
20 my hierarchy in Gbadolite."

21 PRESIDING JUDGE STEINER: I don't want to interrupt your reading, but
22 apparently there is no need for the reading to be in closed session, and we are in
23 closed session -- in private session.

24 MR LIRISS: (Interpretation) You're quite right, your Honour. I was elsewhere.

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

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1 (Open session at 3.29 p.m.)

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

3 MR LIRISS: (Interpretation) Thank you, your Honour. Do you think that it is
4 necessary to read this out?

5 PRESIDING JUDGE STEINER: If you are reading for the sake of the Chamber, there
6 is no need, Maître Liriss. You can continue.

7 MR LIRISS: (Interpretation) You are correct, ma'am.

8 THE INTERPRETER: Mr Liriss continues reading out the letter.

9 MR LIRISS: (Interpretation) "It should be specified to you as well that all of our
10 daily operations were always provided to the Head of the Chief of General Staff of
11 the Central African Republic, who regularly toured the operational sites. Mr Bozizé,
12 who was a rebel at the time, with his Chadian allies took a number of hostages in a
13 school, many of whom were religious people, nuns, and several children, both girls
14 and boys. They were tortured and raped. Thus, our arrival came as a great relief to
15 the population which had been freed."

16 Court officer, we are on the second page now. I'm very sorry about that:

17 "Testimony of these events during their evacuation to Bangui under escort, or
18 escorted by Central African Republic soldiers. In Bossangoa, a village of Mr Bozizé's,
19 there also was a stream of rapes, looting and torture of the population. All of this
20 information was provided to us by his soldiers, whom we had captured. These
21 rebels had them tortured for Patassé. In Buzumu, they also committed the same
22 horrific crimes. Information received by the deputy governor of that province,
23 whose life was saved, thanks to us.

24 To our great surprise, on 7 and 8 November 2002, while we were moving towards the
25 rebel-held villages, a group of Central African Republic soldiers, with seven of our

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1 own soldiers, engaged in looting; the looting of residences of a number of people who
2 were suspected of being close to Bozizé.

3 When I learned of this I informed the hierarchy in Gbadolite, and the hierarchy
4 dispatched Colonel Romain Mondonga there to carry out an investigation. Once the
5 investigations were concluded, those accused were transferred to Gbadolite to stand
6 trial.

7 As for the Central African Republic, it was General Mazangi, the Central African
8 Republic auditor general, who was responsible for trying their own soldiers. In this
9 regard, it is appropriate to point out that the items stolen by these soldiers were
10 turned over to General Mazangi and Lieutenant Damango Bertrand, both of whom
11 are from the Central African Republic. As an officer, I was satisfied to note that no
12 military authorities or high-ranking officers of the MLC opposed the punishment
13 meted out to these badly behaved soldiers. In conclusion, our return to the DRC
14 was not an easy one because we had a hard time of it, quite a hard time of it, because
15 of the CEMAC force." By the way, your Honour, this stands for the Economic and
16 Monetary Community of Central Africa.

17 "The CEMAC forces, along with Bozizé's forces and his allies, and our lives were
18 spared only because of the people of the Central African Republic who helped us
19 cross the Ubangi River in a canoe. These events occurred over approximately three
20 weeks, and even our operator who was with Bozizé, also his life was spared thanks to
21 one of his sons. Even though our lives were spared and we were safe, the rebels of
22 Mr Bozizé, who overthrew President Patassé to whom we had come -- to whose
23 assistance we had come, had tortured and killed a number of Congolese people who
24 were living in Bangui, the capital of the Central African Republic, and throughout all
25 the provinces.

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1 To conclude, I took three battalions to the Central African Republic and the number
2 of our soldiers represented only one drop of water in an entire river.

3 Signed: Mustapha Mukiza Gaby, Colonel and Commander of the Echo Brigade."

4 Could we move into private session so I could put the question?

5 PRESIDING JUDGE STEINER: Court officer, please move to private session.

6 *(Private session at 3.39 p.m.)Reclassified as Open session

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

8 MR LIRISS: (Interpretation)

9 Q. Witness, the message, the report that I just read out, is this indeed the(Redacted)
10 (Redacted) in your testimony yesterday and in your statement to the
11 investigators?

12 A. Yes, I confirm that.

13 Q. Are we to gather that this document is authentic?

14 A. Yes, I confirm that.

15 Q. I do have a concern. The war ended, to the best of our knowledge, on
16 15 March 2003. Why was the report drawn up only in May 2003? Do you know?
17 Do you have an explanation for this?

18 A. Quite often, a commander who is on a mission could draw up a report only at
19 the end of the mission that had been given to him.

20 Q. Now, the end of the mission that was entrusted to the commander, did that
21 correspond to the physical grouping of all the men who had been entrusted to him?

22 A. I'm sorry, Counsel, I haven't understood your question.

23 Q. I've understood your answer. You said that the report was only done at the
24 end of the mission, and the question I'm asking you is about what is written here, the
25 route that is described here. Did the end of the mission correspond to the

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1 regrouping and the arrival of all the troops that had been entrusted to you?

2 A. In actual fact, the troops were crossing over in a -- it was a route, so to speak,
3 and Mustapha reported about this, but I don't know the date of when they were able
4 to regroup. I don't know exactly when everyone arrived.

5 Q. So I gather from that that a report is carried -- is provided at the end of the
6 mission; is that correct? Is that how a commander would understand it?

7 A. Yes, I confirm that.

8 MR LIRISS: (Interpretation) Your Honour, I do hope we are in open session, or in
9 private session?

10 PRESIDING JUDGE STEINER: We are in private session, Maître.

11 MR LIRISS: (Interpretation) We can go into open session, your Honour.

12 PRESIDING JUDGE STEINER: Court officer, please.

13 (Open session at 3.44 p.m.)

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

15 MR LIRISS: (Interpretation)

16 Q. Witness, could you tell us whether, during the second operation in Bangui,
17 Mr Bemba travelled to that place and whether he was able to meet with the troops in
18 Bangui?

19 A. Yes.

20 Q. How do you know that?

21 A. I remember that General Amuli (Redacted) to warn Zongo about their arrival
22 in Zongo by helicopter.

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

24 *(Private session at 3.46 p.m.)Reclassified as Open session

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

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1 MR LIRISS: (Interpretation)

2 Q. Witness, I think you've realised that when we were talking about Amuli, about
3 (Redacted) in any event it's not serious, don't worry, we shall continue in private
4 session.

5 A. I'm sorry, I didn't realise. I remember that General Amuli had (Redacted) let
6 the Zongo operator know that they would be arriving by helicopter and then they
7 were supposed to cross over to go to Bangui.

8 Q. Generally speaking, was (Redacted) always aware of Mr Bemba's travels or the
9 travels of a military authority within territory that was under your control?

10 A. Yes. Each time the president was to go somewhere (Redacted) obliged to
11 forewarn the commander who was on site so that security arrangements could be
12 made.

13 Q. So those were the circumstances under which you learned that the president
14 was to go to Bangui, going by way of Zongo. You said that he spoke to the troops.
15 How did you know that?

16 A. The Zongo operator (Redacted) and, yes, yes, it was the operator in Zongo
17 who (Redacted)

18 Q. On that occasion, (Redacted) what Mr Bemba had said to
19 the troops?

20 A. The operator in Zongo spoke to (Redacted) who was in Bangui because he
21 was -- correction, it was difficult (Redacted) him easily. He had said - and that
22 was (Redacted)- that the president had had a -- had given a pep talk, so to speak,
23 before the troops and, more specifically, at PK12 if I recall correctly.

24 Q. Do you remember what you said about the contents of this pep talk, so to speak?
25 Could you explain to the Chamber what you mean by this expression?

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1 A. It was just a message that the person in authority gives to these soldiers to raise
2 their morale and to explain to them what their mission is all about.

3 Q. Now, is a pep talk a "causerie moral," in French, is that an order?

4 A. But the message from an authority given to soldiers cannot be -- can only be
5 considered as an order.

6 Q. Can you remember the content of this pep talk that was -- that you were told
7 about?

8 A. Yes. The operator -- well, I wasn't alone, I was (Redacted) and he
9 (Redacted) that they had received the president at PK12.

10 In short, the message that he extended to them was one of courage and wishing
11 them luck and that they were under the authority of the Central African Republic
12 authorities. I don't have all the details, but that was the thrust of the message.
13 After that, this pep talk was also broadcast on the radio.

14 Q. Which radio station was that?

15 A. Radio Liberty.

16 Q. Now, during the pep talk, did he talk about discipline?

17 A. Counsel, that was a long time ago. What I remember about the message was
18 that they were under the authority, under the -- they were under the orders of the
19 Central African Republic authorities. If you could get the recording, you know, it
20 was broadcast on Radio Liberty, but I don't have a lot of details to give you.

21 Q. That is not a problem. We have touched upon the majority of issues of concern
22 to us. Tomorrow we will just talk about the dealings amongst the authorities,
23 between Mustapha and -- between Mustapha and the authorities. We will then be
24 talking about -- we will then be talking about some matters related to the measures
25 that may have been taken and, finally, you will be free to go.

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- 1 MR LIRISS: (Interpretation) Ma'am, it is now 4 p.m. I believe we can call it a day.
- 2 PRESIDING JUDGE STEINER: Court officer, please turn into open session.
- 3 (Open session at 3.55 p.m.)
- 4 THE COURT OFFICER: We are in open session, Madam President.
- 5 PRESIDING JUDGE STEINER: Thank you, Maître Liriss. I'm sure Defence is
- 6 aware of the time constraints that we have for tomorrow.
- 7 Mr Witness --
- 8 MR LIRISS: (Interpretation) What are those time constraints, please?
- 9 PRESIDING JUDGE STEINER: To finish by tomorrow.
- 10 MR LIRISS: (Interpretation) I made a promise to you. You no longer believe in me,
- 11 ma'am?
- 12 PRESIDING JUDGE STEINER: I am always optimistic, Maître Liriss.
- 13 Mr Witness, you must be tired. It has been another long day. Tomorrow, for sure,
- 14 we will conclude with your questioning and your testimony before this Chamber.
- 15 We hope you have a very restful night. We will adjourn now and resume tomorrow
- 16 morning at 9.30.
- 17 I thank very much the Prosecution team, the legal representatives of victims, the
- 18 Defence team, Mr Jean-Pierre Bemba Gombo. I thank very much to our interpreters,
- 19 court reporters. We are turning now into closed session in order for the witness to
- 20 be taken outside the courtroom. In the meantime, we will adjourn and resume
- 21 tomorrow at 9.30.
- 22 Court officer, please.
- 23 *(Closed session at 3.57 p.m.)Reclassified as Open session
- 24 THE COURT OFFICER: We are in closed session, Madam President.
- 25 (The witness stands down)

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- 1 THE COURT OFFICER: All rise.
- 2 (The hearing ends in closed session at 3.58 p.m.) Reclassified as Open session
- 3 RECLASSIFICATION REPORT
- 4 Pursuant to Trial Chamber III 's Orders, ICC-01/05-01/08-2223 and
- 5 ICC-01/05-01/08-3038 and the instructions in the email dated 30 July 2014, the version
- 6 of the transcript with its redactions becomes Public