

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

- 1 International Criminal Court
- 2 Trial Chamber III - Courtroom 1
- 3 Situation: Central African Republic
- 4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08
- 5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and
- 6 Judge Kuniko Ozaki
- 7 Trial Hearing
- 8 Thursday, 8 December 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.
- 19 Good morning. Welcome Prosecution team, legal representatives of victims,
- 20 Defence team, Mr Jean-Pierre Bemba Gombo. Good morning our interpreters, court
- 21 reporters.
- 22 We will continue today with questioning of Witness 219 and for that purpose I ask,
- 23 please, court usher to bring the witness in.
- 24 (The witness enters the courtroom)
- 25 WITNESS: CAR-OTP-PPPP-0219 (On former oath)

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

1 PRESIDING JUDGE STEINER: Good morning, Mr Witness, and welcome back.

2 THE WITNESS: Good morning, ma'am. I'm glad to be back.

3 PRESIDING JUDGE STEINER: Are you ready to continue with your testimony, sir?

4 THE WITNESS: I'm very ready, ma'am.

5 PRESIDING JUDGE STEINER: General, I need to remind you that you are still

6 under oath. Do you understand that?

7 THE WITNESS: I understand that, your Honour.

8 PRESIDING JUDGE STEINER: The Defence will continue with its questioning and I

9 give the floor to Maître Kilolo. You have the floor, Maître.

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

11 Q. Good morning, Witness.

12 A. Good morning, sir.

13 Q. This morning we shall continue. Witness, are you aware of the arrangements

14 or agreements that may have been entered into between Mr Jean-Pierre Bemba and

15 the former president, Ange-Félix Patassé, regarding military operations by the MLC

16 contingent in the Central African Republic?

17 A. I am not aware, sir.

18 Q. Can you tell the Court about the relevance or importance of knowledge of the

19 ground regarding command control in military operations?

20 A. The lay of the ground plays a very major role in command and control of the

21 men; in other words, the topography of the ground.

22 Q. Witness, let me refer to your report, the second document on the Defence list of

23 documents, page CAR-OTP-0064-0612, and this is what you have to say in that report:

24 "In order to prepare my report, I considered the following documents: A letter of 2

25 June 2010 forwarded by Mr Massimo Scaliotti of the Office of the Prosecutor of the

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

1 International Criminal Court." Then you go on to state that you also considered a
2 summary of the relevant facts relating to the instructions you were given. Do you
3 remember this part of your report?

4 A. I do remember it very well.

5 Q. Witness, who drafted the summary of facts which you analysed before writing
6 your report?

7 A. I'm not aware of the facts you are talking about. If you can probably show me,
8 you know, the letter?

9 Q. Witness, I'm referring to -- to your report and my question is to find out from
10 you, following what you say about what happened before you drafted your report,
11 you say that you did not only consider the letter of instructions from the Office of the
12 Prosecutor, but you reviewed a summary of the relevant facts. What was the content
13 of that summary of relevant facts which you reviewed?

14 A. The relevant facts I'm talking about are the documents that were sent to me, a
15 very large document of witness statements which were all packed in one box and sent
16 to me. I reviewed all of them, the one I could, you know, read, the ones which were
17 in English, and then I selected the ones that I am referring to which I have written
18 there, those were the ones which were relevant to me in coming up with the report.
19 The ones which were not relevant to me I just discarded them. The ones that I was
20 not able to understand because they were in French, I did not even ask anybody, you
21 know, around me to translate them into French. That's what I'm -- that's what I'm
22 referring to.

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

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

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

1 (Private session at 9.44 a.m.) * Reclassified as Open session

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

3 MR KILOLO: (Interpretation)

4 Q. Witness, in your report - and I'm referring here to the second document of the

5 Defence list of documents, page CAR-OTP-0064-0615, paragraph 25 - it is your

6 statement that your understanding of the facts was based on reading witness

7 statements and testimonies. Now, I would like to consider with you the various

8 witnesses whose statements were forwarded to you. You received a copy of the

9 testimonies of eleven witnesses. My question to you is to find out whether you fully

10 and exhaustively read all those testimonies?

11 A. I read all of them. All the witness statements that were sent to me which were

12 in English, I read all of them.

13 Q. Witness, in your document and regarding (Redacted)

14 (Redacted) you say that you read the statement of 11 April 2008 as well as the statement

15 of 12 April 2008, reference CAR-OTP-0009-0346. My question to you then is to find

16 out from you whether you did not read the statement of 9 December 2009?

17 A. The statements that I have written down there, especially as concerned (Redacted)

18 (Redacted) are the ones that I read. If there is another (Redacted) which

19 you are referring to which I did not read, then it means it was not there because there

20 is -- it is the one that I'm referring to which is relevant - which is relevant - to my

21 report, the two statements that I've referred to there. They are relevant to my report.

22 Q. Do you remember (Redacted)

23 A. Yes, I read several (Redacted)

24 (Redacted) and I have indicated in my report the relevant areas which helped me to

25 come up with my assessment of the report that I eventually produced.

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Private Session)

ICC-01/05-01/08

1 Q. Indeed, Mr Witness, you state that you (Redacted) of
2 28 April 2008, his statement of 29 April 2008 and his statement of 1 August 2008. Are
3 we then to understand that you did not read the statement of 30 April 2008 and the
4 statement of 2 August 2008?

5 A. As I said in the case of (Redacted) that appear in my report,
6 the statement that appear in my report, are the ones I'm referring to which were
7 relevant in my compiling my report. There is a possibility - and let me say now
8 there is a possibility - that I read, you know, all the reports you are talking about, but
9 the only one I am referring to when I was doing my report are the ones which were
10 relevant to my, you know, writing my report as an expert witness. There is a
11 possibility that I read all of them, but the ones that are appearing in my report are the
12 ones which were relevant and helped me in coming up with my assessment of the
13 whole situation. There is a possibility. I'm a human being and I read those things
14 in the year 2009, I think that is when I first got those statements, late 2009, and we are
15 now in the year 2011, towards the end of it.

16 Q. As far as you can recall, Witness, do you have any idea of the number of pages
17 (Redacted) which you received may have added up to?

18 A. (Redacted) had several, you know, pages. I won't be able to tell you offhand
19 how many there were. Yes, there were several, you know, pages.

20 MR KILOLO: (Interpretation) Madam President, could we return to open session,
21 please?

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

23 (Open session at 9.52 a.m.)

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

25 MR KILOLO: (Interpretation)

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

1 Q. Witness, could one say that all the information you received on military
2 operations in the Central African Republic, within the context of the events we are
3 concerned about, that all the facts came to you from the events and the documents
4 that the Prosecutor made available to you?

5 A. That's definitely correct. Most of the information that helped me write my
6 report gathered -- gathered from the documents that I received. Some of it, me as a
7 military person, I also used as I have stated there, my own knowledge of what would
8 happen. Not that this is really, you know, what happened, but what would happen
9 in situations like the one which was in -- which occurred in Central African Republic.
10 I've always stated that I read other, you know, documents, which I have shown you
11 there, I've written there, on my report.

12 Q. Witness, I want to refer to the second document on the Defence list of
13 documents, page CAR-OTP-0064-0614, paragraph 20 and 21. At those paragraphs,
14 you provide a list of military officers whom you wanted to meet, Congolese
15 commanders and officers of the Central African military. Are we to understand that
16 the information provided to you by the Office of the Prosecutor was not sufficient to
17 enable you to form an informed decision on the operations as they were
18 conducted - the military operations as they were conducted - in the Central African
19 Republic?

20 A. I would not agree with that statement. I would say that I needed, you know,
21 just to cross-check the information that I already had. I already had information that
22 these officers were in a position of authority, or in command, or on the staff. They
23 would probably, you know, add more information which I already had. That's all
24 why I wanted, you know, to go and talk to them, and that's all. It did not mean that
25 the information that I had would not have allowed me to come with a report that I

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

1 submitted. My report did not depend on if I saw them, if I didn't see them. My
2 report will be -- you know, I couldn't write a report. No, not at all. I needed just
3 extra information.

4 Q. Witness, you could not have, or you cannot reasonably exclude the fact that this
5 additional information which you may have received from Congolese or Central
6 African officers could have either confirmed or somehow not confirmed the
7 information that you were working with. Is that not the case, Witness?

8 A. I agree with that, but in my view it was a matter of having a little bit more
9 information, that's it, but it would not change my mind at all on my report, you know,
10 drastically. It will not. It would be good to have more information. I could have
11 asked to go and talk to anybody that I felt might be of some further information.
12 Unfortunately, I didn't.

13 Q. It is a shame indeed, is it not, Mr Witness, as you say, that you were not able to
14 do so, but do you believe that were an opportunity presented to you and were you to
15 certainly discover that high-ranking Central African or Congolese officers who were
16 themselves implicated in the management of military operations out in the terrain,
17 were they to give you information contradicting what you had at hand, whether it be
18 in terms of the conduct of operations or in terms of military intelligence or logistics,
19 do you believe that this might then have changed the conclusions you reached?

20 A. I think you are asking me something which I didn't do, unfortunately. If I did
21 and I had conflicting information, you would have seen the report that I came with.

22 Q. Mr Witness, after you received the instructions from the Office of the Prosecutor
23 in the year 2009, did you personally in the interim follow the various -- the various
24 testimonies provided before this Court in the Bemba case?

25 A. Testimonies, or the statements that were sent to me? Testimony and

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

1 statements are, in my own understanding, are two different things. Testimony may
2 be that I was following what was happening here in the Court. If that is what you're
3 asking me, not at all. I've not followed the Bemba case until I arrived here this week
4 to give evidence. I've not followed it at all, because it was not important to me.

5 Q. Can we then consider that of the list of 11 witnesses whose statements were
6 provided to you by the Office of the Prosecutor, six of those statements are, for the
7 most part, victim witnesses of the crimes alleged who do not have a knowledge of the
8 structure of command that was established within the Central African Republic
9 during the events?

10 A. If we're talking about the command and control, and I believe that is what
11 you're referring to, I had very good information from the documents that I got, which
12 was very clear to me in my mind of what the command and control systems was put
13 in place in MLC, either at Gbadolite, all the way down to the Central African sector in
14 Bangui. If there were witnesses that I have reviewed their information which had
15 nothing to do with command and control, and they were victims, I don't believe that
16 they had anything to do with my coming up with a report that I have written about
17 command and control. Not at all.

18 Q. Mr Witness, could we therefore note that you limited your knowledge, the
19 knowledge that you gleaned, to five witnesses' statements, those individuals notably
20 who had knowledge of military structure and command in the Central African
21 Republic during the events?

22 A. If that is your understanding, I have no qualms about that. I am quite
23 convinced in my mind that the information that I got in the statements that I went
24 through -- and also don't forget that command and control is not something that is
25 out of ordinary in a military sense. It's not out of the ordinary. A military person

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

1 like me would very well understand what command and control from a
2 brigade -- from a division level to a brigade would be like, regardless of the situation.

3 Q. Mr Witness, in the second document of the list of Defence documents at page
4 CAR-OTP-0064-0616.D1 in limine, and also at page CAR-OTP-0064-0620 in limine, the
5 Office of the Prosecutor requested that you give an overview of the military structure
6 of the MLC and also the role of the supreme military commander of the MLC within
7 the conflict in the Central African Republic in 2002 and 2003. He also asked you to
8 say who was really in command of the MLC troops in the Central African Republic in
9 the period under study. Do you recall this?

10 A. I recall that very well.

11 Q. Do you believe, Mr Witness, that it would be useful to also know the role of the
12 supreme commander of the Central African Republic armed forces during the conflict
13 in the Central African Republic between October 2002 and March 2003?

14 A. Absolutely.

15 Q. Do you believe that it would be useful to know the military chain of command
16 of the Central African Republic at the time of the events?

17 A. Correct.

18 Q. Do you think it would be useful how the supreme commander of the Central
19 African Republic armed forces headed up the military operations of the MLC troops
20 who had come to the Central African Republic at his behest?

21 A. That is absolutely important, yeah.

22 Q. Do you believe that it would be useful to know the methods and means used by
23 the supreme commander of the Central African Republic armed forces in the exercise
24 of control - effective control - and command of the MLC troops and subordinates?

25 A. I agree with you. It is important.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

1 Q. Mr Witness, in the second document of the list of Defence documents at page
2 CAR-OTP-0064-0619 in limine, the Office of the Prosecutor requested that you clarify
3 the degree of interaction between the MLC contingent and the Central African
4 Republic armed forces, the FACA, and also the presidential security unit, the USP.
5 You received the statements on this subject from the (Redacted) Central African officers who
6 headed up the operational command centre, notably Thierry Lengbe, Commander
7 Thierry Lengbe, (Redacted) Do you recall this?

8 A. I recall that very well.

9 Q. Do you think it would be useful to know (Redacted)
10 (Redacted) under the orders of whom
11 the command -- operational command centre was placed? I'm talking here of (Redacted)
12 (Redacted)

13 A. I don't know him. If you're asking me if I know him personally, I don't.

14 Q. Do you think it would be useful to be aware of the (Redacted)

15 (Redacted)

16 (Redacted) at the time, might have made to the Office of the Prosecutor?

17 A. Any information that would clarify all this -- prove the information to the
18 contrary is naturally useful. I don't know what difference it will -- it made, or it
19 makes to you, but I know that any information that clarifies a question is useful.

20 Q. Do you believe, therefore, that it would be useful to be aware of the contents of
21 (Redacted)

22 (Redacted) notably on the subject of command of troops within the Central African
23 Republic? The MLC troops within the Central African Republic?

24 A. It would be useful if, for example, he had any information that has not been
25 captured in the witness statements that were availed to the Office of the Prosecutor, it

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Private Session)

ICC-01/05-01/08

1 would be useful.

2 PRESIDING JUDGE STEINER: Maître Kilolo, if you allow me please to interrupt
3 you? I'm sorry.

4 Court officer, could you please go into private session for a minute.

5 (Private session at 10.14 a.m.) * Reclassified as Open session

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

7 PRESIDING JUDGE STEINER: Maître Kilolo, the last two or three minutes I have
8 been ordering redactions since you are referring to the names of persons that gave
9 statements to the Court. Usually, names of persons that co-operated with the Court
10 are not said in public session, so if you will continue asking these kind of questions
11 we have to stay in closed session -- in private session, better saying.

12 MR KILOLO: (Interpretation) With your leave, Madam President, it would seem
13 to me that the names of (Redacted) and all the other Central
14 African officers have always been given in open session. There have been many a
15 reference made in the various transcripts and I don't think this has been an issue.
16 What is more, these are not Prosecution witnesses and no protection -- protective
17 measures have been applied, so I do not see why we would not state their names as
18 we did on other occasions.

19 PRESIDING JUDGE STEINER: The names of these persons can be mentioned in
20 public session at any time. What cannot be mentioned is the fact that they gave
21 statements to the Prosecutor. The protection that these people need is not to be seen
22 as being co-operating with the Court at any moment, so what you are saying, you
23 were talking about statements given by these people and this is the information that
24 can never be said in public session. Do you understand the difference, Maître?

25 MR KILOLO: (Interpretation) Yes, I do understand only too well. If you would

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Private Session)

ICC-01/05-01/08

1 allow me a moment, please, Madam President? Very well, Madam President.

2 I think I shall continue in private session for the time being.

3 Q. Mr Witness, do you believe it would be useful to be aware of the contents of (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted) is the name, on the subject of logistics and means of communication that

7 were put at the disposal of MLC troops at the time of the events?

8 A. I don't know whether you are asking me whether it would have been useful to

9 me in preparing my report, or it would be useful in general? That is my question to

10 you.

11 Q. Do you think that in terms of the principle itself, Mr Witness, do you recall

12 having stated yesterday that the question of logistics was rather a grey area? Do you

13 remember having said that yesterday?

14 A. Yes, I said that.

15 Q. Do you think on the same subject that any light shed by a Central African officer,

16 notably (Redacted)

17 (Redacted) do you believe that those statements on

18 the subject of logistical means at hand, and on the subject of the means of

19 communication at the disposal of MLC troops at the time of the events, would have

20 been useful?

21 A. Yes.

22 Q. Do you think, Mr Witness, that the statements provided by (Redacted)

23 (Redacted)

24 (Redacted) at the time, do you think that what he states on the subject of the logistics

25 at the disposal of MLC troops at the time of the events in the Central African Republic,

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Private Session)

ICC-01/05-01/08

1 do you think that this would be of use?

2 A. In line with what I've said, any extra information which clarifies the situation
3 would be naturally, you know, helpful, and it is the same like in this particular case.

4 Q. Do you believe that it would be useful to have knowledge of (Redacted)
5 (Redacted)

6 (Redacted) on the subject of the command of MLC troops and on the subject
7 also of the co-ordination and level of co-operation between the MLC contingent and
8 the Central African Republic armed forces?

9 PRESIDING JUDGE STEINER: Mr Iverson.

10 MR IVERSON: Madam President, the Prosecution would like to object. This is
11 repetitive questioning. The witness has already answered that any additional
12 information that would clarify a question would be useful.

13 PRESIDING JUDGE STEINER: Do you want to respond, Maître Kilolo?

14 MR KILOLO: (Interpretation) This is not at all repetitive, Madam President.

15 These are questions which have a bearing on different issues each and every time.

16 For example, the preceding question honed in on logistical matters, notably whether
17 (Redacted) who

18 gave information on logistics within the army at the time, has nothing to do with the

19 question that I have just put a moment ago; that is with regard to the level of

20 co-operation between the MLC contingent in the Central African Republic, and the

21 Central African Republic armed forces within the operational command centre. I am

22 talking here about (Redacted)

23 (Redacted). I believe that this was

24 a central issue within the witness's expert report.

25 PRESIDING JUDGE STEINER: Maître Kilolo, the witness can answer the question,

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

1 unless the witness prefers the Defence to repeat the question?

2 THE WITNESS: Please repeat it again. Now that there has been several
3 interventions, I want to hear clearly what you would like me to answer to.

4 MR KILOLO: (Interpretation)

5 Q. Mr Witness, do you recall that the Office of the Prosecutor asked you to provide
6 your opinion - and you made mention of this in your report - on the level of
7 co-operation that existed between the MLC contingent in the CAR and the Central
8 African armed forces? Do you recall this?

9 A. I recall that very clearly.

10 Q. Do you also recall having stated that it was your wish to personally meet out in
11 the field in the Central African Republic some (Redacted)
12 (Redacted)

13 A. I recall that and it is in my report, which you have seen.

14 Q. My question in this regard is to ascertain whether you believe that it would be
15 useful to be aware of the contents of (Redacted)

16 (Redacted)

17 (Redacted) at the time of the events, might have provided in terms

18 (Redacted)

19 (Redacted)

20 A. It would have been useful.

21 MR KILOLO: (Interpretation) Madam President, I can see that it is 10.30 -- oh, dear,
22 yes, of course, we have to go to 11 o'clock, don't we? Very well.

23 Q. Mr Witness, were you aware that there had been an investigation conducted in
24 the Central African Republic on the subject of the events which occurred in the CAR?

25 Did you hear that the judicial authorities within the CAR had conducted

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Private Session)

ICC-01/05-01/08

1 investigations and that the Prosecutor of Bangui had interviewed a number of
2 military officers of the CAR who were privy to defence secrets associated with the
3 events which unfolded in the Central African Republic at the time? Did you come to
4 hear of this?

5 A. In the documents that I received, yes, there was a place where I read that there
6 was an inquiry which was ordered. Whether that inquiry covered the military
7 officers or just was a general inquiry, that was not very clear to me, I read in some of
8 the documents that I had.

9 PRESIDING JUDGE STEINER: Maître Kilolo, you just let me know when we can
10 turn back into open session.

11 MR KILOLO: (Interpretation) I believe that we can indeed return to open session,
12 Madam President.

13 PRESIDING JUDGE STEINER: Court officer, please turn into public session.
14 (Open session at 10.29 a.m.)

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

16 MR KILOLO: (Interpretation)

17 Q. Mr Witness, do you think that statements that may have been made by the
18 Prosecutor in Bangui containing not only the findings of his investigations, but also
19 interviews of several Central African military officers regarding the command of
20 MLC troops in the Central African Republic, do you believe that such information
21 would be interesting to be aware of; that is information from the State Prosecutor in
22 Bangui?

23 A. Unfortunately, I don't have that information myself, what he stated, and it
24 would be guesswork for me to say whether it would be useful or not useful.

25 Q. Let me in that regard refer to --

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Open Session)

ICC-01/05-01/08

1 JUDGE ALUOCH: Can I ask for a clarification on this answer, or rather your
2 question? When you say, line 24 of the transcript, "Question: Mr Witness, do you
3 think that statements that may have been made by the Prosecutor in Bangui
4 containing not only the findings of his investigations, but also interviews of several
5 Central African military officers," do you mean pronouncements? When you say
6 "statements," do you mean pronouncements, public pronouncements, or what do you
7 mean? Written statements? I just want to be clear on what you mean.

8 MR KILOLO: (Interpretation) Madam President, or rather Judge Aluoch, with
9 your leave I will rephrase that question.

10 Q. Mr Witness, I want to refer to the transcript, the edited transcript, French
11 version, of 7 April - 7 April 2011 - page 16, lines 25 to 28, as well as to the edited
12 transcripts, English version, page 17, line 23, and page 18, line 6.

13 PRESIDING JUDGE STEINER: Maître, before you quote, are you sure that these
14 parts of the transcripts refer to statements given in public session?

15 MR KILOLO: (Interpretation) Yes, I can confirm that, Madam President.

16 Q. Witness, the State Prosecutor in Bangui came and appeared before this Court as
17 a witness and the question was put to him, the following question: "Did you
18 interview military officials at the time, who by virtue of their positions were
19 associated with or aware of defence secrets of the Central African Republic?" This
20 was his answer: "Yes." Then he went on to state that he had interviewed military
21 authorities, some of whom were in charge of directing or commanding the operations.
22 In that regard, Mr Witness, there are statements - written statements - and records of
23 interviews conducted by the Prosecutor, that Prosecutor in Bangui, and this material
24 deals with statements given by a number of Central African officers. My question to
25 you is the following: Are you aware of that and did the Prosecutor mention it to

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Open Session)

ICC-01/05-01/08

1 you?

2 A. I am not aware of that and nobody has mentioned that to me until now you
3 have, you know, you are referring me to those statements.

4 Q. Mr Witness, therefore you were not aware that the Prosecutor in Bangui had
5 provided information to this Court from various military sources of the Central
6 African Republic who had made statements not only about the command and control
7 of MLC troops in the Central African Republic, but also on matters of military
8 intelligence and logistics. You did not have that information; is that not the case?

9 A. You're correct.

10 Q. Do you think that that mass of information would have been interesting not
11 only in regard of the assessment of the command of MLC troops and control thereof
12 in the Central African Republic, but also in relation to the assessment of co-operation
13 between the MLC contingent and the High Command of the Central African army?

14 A. I want to state that any information that can clarify any grey areas is always
15 useful, but personally what I am saying or what I've said in my statement is that the
16 information that I had which I gleaned was sufficient for me to come to the
17 conclusions that I make.

18 Q. Witness, I must confess to you that we read your professional background with
19 great interest, and I must say that it is a brilliant professional, an illustrious
20 professional background, and your CV highlights great experience in humanitarian
21 affairs and peace missions of the UN. I'm referring here to the Defence document
22 number 2, page CAR-OTP-0064-0610, paragraph 8 to 13. Would this be a correct
23 assessment of your experience, Mr Witness?

24 A. What has been written about me is exactly what I think I am. There may be
25 other things that is not captured in that paper, because experience is not just writing

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

1 about what you did when. Experience also has a little bit of wisdom which you can
2 only gather through a lot of things and it cannot be expressed in one or two, you
3 know, pages, and that's what I believe. I don't want you to think otherwise that that
4 was just to gloss me as an individual. I believe quite clearly in my mind that I
5 cannot speak for myself, but people who have worked with me, who have seen me,
6 may speak about me. If they don't speak about me now, maybe they will speak
7 about me when I'm gone. Thank you.

8 Q. Witness, do you have experience in commanding a unit during military
9 operations in time of war?

10 A. Yes, I did in my own country during our Shifta Campaign, and the Shifta
11 Campaign was a real nasty campaign in the northeastern province where we were
12 fighting against the Somali, you know, military, you know, people.

13 Q. Witness, if the President of the United States, Commander-in-Chief of the
14 American army, or the British Prime Minister or should I say the French President,
15 Commander-in-Chief of the Armed Forces, if any of those persons were to visit the
16 troops of their countries operating in Afghanistan or in Iraq, would that make of them
17 the commander of the operations taking place on the ground?

18 A. I think you are talking about two different things here, I think. A political
19 commander, commander in-chief, a political commander-in-chief, is different from a
20 military commander-in-chief, and also is different from a military commander in the
21 field, or a military commander in peacetime location. The people you are talking
22 about have vast amount of senior officers and command structures that will advise
23 them, will monitor all the campaigns that they themselves deploy their troops, you
24 know, to undertake, including Afghanistan. That's what I'm -- that's the way I
25 understand it.

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Open Session)

ICC-01/05-01/08

1 Q. Witness, did you delve in-depth into the matter of the organisation of the MLC
2 military command on the Congolese territory?

3 A. If you look at the statement or the information that was asked of me to look into,
4 I was not supposed to look at the organisation, command and control of the MLC
5 within Congo. I was specifically asked to address command and control and
6 deployment of MLC troops to the CAR.

7 Q. Witness, I would now like to refer to a diagram, captioned "MLC military
8 structure 2002/2003," and that will be document CAR-OTP-0064-0759. Do you
9 remember that document?

10 A. (No audible response).

11 PRESIDING JUDGE STEINER: Maître Kilolo, which document is that in the list of
12 the Defence, please?

13 MR KILOLO: (Interpretation) Document number 2 on the Defence list of
14 documents and I would like to ask the court officer to please display that document
15 on the screens, reference CAR-OTP-0064-0759. My apologies, your Honour,
16 document number 20 on the Defence list of documents.

17 THE COURT OFFICER: Document CAR-OTP-0064-0759 it's available on your
18 screens by pressing the button "PC1" and it's a confidential document.

19 MR KILOLO: (Interpretation)

20 Q. Witness, could you tell us who prepared this diagram?

21 A. I prepared this myself, me myself.

22 Q. The next line of questions will bear on this matter and I would like to focus on
23 the central part of this diagram in which you situate Mr Jean-Pierre Bemba as the
24 commander-in-chief, followed by General Amuli as Chief of General Staff and then
25 thereafter you have the other levels of command within the General Staff structure of

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Private Session)

ICC-01/05-01/08

1 the MLC contingent on the Congolese territory. My question to you is to find out in
2 relation to this central structure -- I'm not talking about the intervention force of the
3 MLC in the Central African Republic, I'm dealing with the Congolese aspect of this
4 diagram. Before you drew this diagram, did you study in-depth matters relating to
5 who transmitted orders to MLC troops on the Congolese territory and by what
6 channels? Did you deal with that question?

7 A. If you look at this organisation that I drew myself, and the information I got
8 from the documents and the statements that were sent to me by the Office of the
9 Prosecutor, they did not draw this they themselves. From the information that I
10 gleaned, as you rightly stated, from the statements they got, as a military man it gave
11 me a very clear understanding on how the structure - command structure - was and
12 the staff. In fact, the middle there is the staff, headed by General -- oh, I'm sorry.
13 Am I allowed to mention the name, or we are in a private or what?

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

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

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

17 PRESIDING JUDGE STEINER: You feel free to speak, Mr Witness.

18 THE WITNESS: The staff, which is I would call the divisional staff, or the
19 headquarters staff, headed by Chief of Staff, and he had his staff. These are not
20 commanders. They are staff, G1, G2, G3 and G4, and then they had brigades. In
21 the information that I had, which I got from the documents that I had, it portrayed
22 that they had, you know, the following brigades. You will have -- and in each
23 brigade there will be so many battalions. That's all that I'm showing there. And
24 then the most important one that we were going to deal with is the brigade in the
25 Central African Republic, right? And that shows, if you can see, the command line

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

1 goes all the way down and then there is a command line in dotted line. The
2 commander-in-chief was in charge of all the MLC forces. It's -- they're all his forces,
3 whether in peacetime or in war, and he has a chain of command either through his
4 staff all the way down, or he has a direct put in dotted line command over his forces
5 in the Central African Republic. Yes, that's what this document, you know, portrays.

6 MR KILOLO: (Interpretation) Court officer, I no longer need this document to be
7 displayed on the screen.

8 Q. Witness, in your report - and I'm referring to the second Defence document,
9 page CAR-OTP-0064-0617, paragraph 28 - in that segment you stated that
10 Mr Jean-Pierre Bemba is the one who issued orders to the junior commanders of the
11 MLC and that he did so bypassing the command chain. Do you recall that finding or
12 conclusion of yours?

13 A. I remember that very well.

14 PRESIDING JUDGE STEINER: Maître, can we go back into open session?

15 MR KILOLO: (Interpretation) Yes, Madam President.

16 PRESIDING JUDGE STEINER: Court officer, please.

17 (Open session at 10.56 a.m.)

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

19 MR KILOLO: (Interpretation)

20 Q. Witness, did you conduct two separate and distinct analyses on this matter:
21 One on the transmission or signalling of orders during MLC operations on the
22 Congolese territory and the other on the operations of the MLC contingent in the
23 Central African Republic?

24 A. Not at all. I did only one analysis of the MLC's operation in the Central
25 African Republic, and the analysis, my findings, came in one -- they're in the report

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Open Session)

ICC-01/05-01/08

1 that you have.

2 Q. Witness, how then do you reconcile the position that Mr Jean-Pierre Bemba
3 commanded the troops without going through the chain of command? How do you
4 reconcile that with another conclusion in your report, which is document 2 of the
5 Defence list of documents, page CAR-OTP-0064-0616, paragraph 27, where you state
6 that the MLC troops received training that enabled them to understand and follow or
7 obey military orders through the command chain during the combat operations?

8 A. I believe you are not understanding, you know, the sequence of my report.
9 The sequence of my report is talking about how were the MLC troops trained to
10 become MLC troops before they were deployed in the Central African Republic, or in
11 your own -- or in the Congo for that matter? As a military man, I know very well
12 that when irregular forces recruit men and women to fight for them, they don't just
13 take them from their homes, give them weapons and then they go to fight. They
14 train them. And you'll agree with me that MLC forces were trained in military
15 tactics and they were trained in normal military chain of command and they were
16 made to be in a position whereby they will get orders from the military chain of
17 command.

18 Now, you are mixing the two. When we talk about a particular conflict, a particular
19 intervention, we are talking about the intervention in the Central African Republic.
20 Once they were deployed, once they are deployed, what was their chain of command?
21 That's what my report is talking about. Was their chain of command remained the
22 same from the top or all the way down on a daily basis? In my report I state that is
23 not the case, and I have gleaned that information from very senior officers from MLC
24 which I have seen among the documents that I got which state quite clearly even the
25 decision to deploy was not discussed at the highest level of the staff. If the highest

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

1 military staff officer did not know before the deployment took place, how do you
2 then justify that once the troops were deployed they were still being commanded in
3 the normal military chain of command? That is what is in my report.

4 PRESIDING JUDGE STEINER: Maître.

5 Mr Witness, we'll have now a short break, a half-an-hour break.

6 THE WITNESS: Thank you, ma'am.

7 PRESIDING JUDGE STEINER: It's almost five-past-11. We will resume at 11.35.

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

9 (The witness stands down)

10 THE COURT OFFICER: All rise.

11 (Recess taken at 11.03 a.m.)

12 (Upon resuming in open session at 11.39 a.m.)

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

14 PRESIDING JUDGE STEINER: Welcome back. We'll continue with the
15 questioning of Witness 219 and I ask, please, court usher to bring the witness in.

16 (The witness enters the courtroom)

17 PRESIDING JUDGE STEINER: Mr Witness, welcome back.

18 THE WITNESS: Thank you, ma'am.

19 PRESIDING JUDGE STEINER: Can we continue with your questioning?

20 THE WITNESS: Please, I'll be delighted.

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

22 MR KILOLO: (Interpretation) Madam President, I would like to request that we
23 move into private session, please.

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

25 (Private session at 11.42 a.m.) * Reclassified as Open session

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

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

2 MR KILOLO: (Interpretation)

3 Q. Mr Witness, I'm going to be putting a series of questions to you with regard to
4 the chain of command of the MLC intervention force within the CAR, and during this
5 line of questioning I shall be making reference (Redacted)
6 (Redacted) to the Office of the Prosecutor and I would like to agree with you as to the
7 codes that we shall attribute to those individuals in order not to reveal their identities
8 when we are referring to the statements provided to the Office of the Prosecutor. I
9 shall begin with (Redacted) I shall quite simply refer to him as (Redacted)"

10 Then when speaking of (Redacted)

11 (Redacted) I shall talk of (Redacted)

12 and when speaking of (Redacted)

13 (Redacted) I shall talk of (Redacted) There we are. I hope that we will be able to
14 understand ourselves.

15 Madam President --

16 PRESIDING JUDGE STEINER: Maître Badibanga.

17 MR BADIBANGA: (Interpretation) I thank you, Madam President. I do have a
18 slight concern I would like to raise with regard to the suggestion just made by Maître
19 Kilolo which might give rise to some difficulties. I believe that since we have -- since
20 starting the trial we have been referring to witnesses by pseudonyms or numbers and
21 I believe that when referring to Witness (Redacted), you know, it might be easy for people to
22 situate or identify those individuals. So I think that other codes might be a good
23 idea.

24 PRESIDING JUDGE STEINER: I am still waiting for the end of the transcript to call
25 your attention for the fact that these codes are not so protective. Maybe we could

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Private Session)

ICC-01/05-01/08

1 find "Jean-Pierre," or "Marcel" or something like that as we did sometimes, because it
2 is too obvious that this is the witness number and it was mentioned in previous
3 testimonies and could easily lead to the identification of these persons. So I ask,
4 please, Defence to make a more suitable proposal.

5 MR KILOLO: (Interpretation) Very well.

6 Q. Witness, under such conditions, when I refer (Redacted) I shall
7 talk about "Marcel." When I talk to you of (Redacted)
8 (Redacted), I shall talk of "Leonard," or "Leonard" and when speaking (Redacted) I
9 shall refer to "Bernard," "Bernard." I shall also refer to (Redacted) who
10 was the liaison officer within the Presidential Guard at the operational command
11 centre, but in view of the fact that he did testify in open court we will not have to hide
12 his identity in any way?

13 PRESIDING JUDGE STEINER: Thank you very much, Maître. Do you want to go
14 into public session then?
15 Court officer, please.

16 (Open session at 11.47 a.m.)

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

18 MR KILOLO: (Interpretation)

19 Q. Mr Witness, do you know what the FACA loyalist soldiers' mission was within
20 the context of the military or the military context that we are studying in the CAR
21 here?

22 A. Not at all.

23 Q. Do you know what the presidential security unit soldiers' mission was within
24 the context of those very same military operations at the time of the events?

25 A. No. No, I don't know.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

1 Q. Do you know what the mission of the MLC troops was in the CAR within the
2 context of the military operations during the time of the events?

3 A. From the information that I gathered, they were to support the Central African
4 Republic government forces to repel the invasion of Bozizé's, you know, forces.
5 That's the information that I gathered from the statements that I had.

6 Q. Mr Witness, are you aware of what Mr Jean-Pierre Bemba said to the MLC
7 troops when he arrived in Bangui at PK12 as to the subject of their being placed under
8 orders?

9 A. I'm not aware.

10 Q. Do you believe that this information could be of use, that is when assessing the
11 question of command within the MLC troops in the CAR?

12 A. It is.

13 Q. I'm referring to transcript, that is the French edited version of the transcript,
14 dated 5 October 2011, page 60, lines 20 to 28, and I'm also referring to the English
15 version, edited version, of the transcript, dated 5 October 2011, page 61, lines 6 to 13.

16 Mr Witness, what do you say on the subject of Leonard's statement, Leonard who
17 stated that when Mr Bemba arrived at PK12 in Bangui he said to his troops, the MLC
18 troops on location, that they had been placed under the orders of the Central African
19 Republic? What do you say to that?

20 A. Do you want me to elaborate on what effect it would have on my report, or the
21 effect that it would have on the statement of Leonard?

22 Q. Well, Witness, if you could tell us what it means precisely in military terms
23 when Mr Bemba says to the MLC troops in the Central African Republic that they are
24 under the orders of the Central African Republic?

25 A. If you put your troops under the orders of another command, or country, that

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

1 means you are telling them "You will now get your orders from so-and-so, not from
2 me." That's what I understand it.

3 Q. Mr Witness, do you know which instructions Mr Bemba personally gave to
4 Commander Mustapha before he, that is Commander Mustapha, left the CAR for
5 Bangui on the subject of the chain of command within the MLC within the CAR?

6 A. Are we in closed session, so I can mention names? Thank you, madam.
7 I don't know.

8 Q. Do you believe that such an item of information, notably on the subject of what
9 Mr Bemba personally said to Commander Mustapha before the troops departed for
10 Bangui, do you believe that this information could be useful in the assessment of the
11 command over MLC troops in the CAR?

12 A. It is.

13 Q. In this regard, I would like to refer to document 25 on the list of Defence
14 documents in the French version, that is the statement CAR-OTP-0027-0731, and the
15 English version thereof, and in fact it is a bilingual version, I'm referring to document
16 CAR-OTP-0034-1543.

17 PRESIDING JUDGE STEINER: Maître Kilolo, here names are not to be mentioned.

18 MR KILOLO: (Interpretation)

19 Q. Mr Witness, how do you understand Marcel's statement stating that
20 Mr Jean-Pierre Bemba had given the instruction that as soon as the MLC troops were
21 to arrive on Central African territory they would be placed under the orders of the
22 CAR authorities? How do you understand this, precisely?

23 A. What that means is that they will relinquish their normal chain of command and
24 be attached to another chain of command. They are no longer under the chain of
25 command of home country. That is what it would mean to me.

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Open Session)

ICC-01/05-01/08

1 JUDGE ALUOCH: Mr Kilolo, if I may just seek further clarification on that answer?

2 Does this, therefore, mean a transfer of control, please? Is that what it means?

3 THE WITNESS: Literally that is what it would mean, but whether it is practice is a
4 different thing altogether. There are pronouncements and practices. There can be a
5 pronouncement - a political pronouncement. There are no military pronouncements.
6 In the military sense, it is the instruction that is given is what you follow. There are
7 no political pronouncements or a media pronouncement for the consumption of the
8 media. The practice in the military sense would be very difficult for a military man
9 to understand.

10 JUDGE ALUOCH: Thank you.

11 MR KILOLO: (Interpretation)

12 Q. General, as far as you know, did President Patassé give orders to Commander
13 Mustapha at the time of the events in the Central African Republic?

14 A. Can you repeat, because I was confused about names and --

15 Q. As far as you know, did President Patassé, the former President Patassé of the
16 Central African Republic, that is at the time of the events, did he give any orders to
17 Commander Mustapha at the time of the events?

18 A. I have no knowledge at all that will make me say he did or he did not. From
19 the documents that I have, the statements that I have, I have no knowledge at all. I
20 don't want to guess.

21 Q. As far as you know, did the General Chief of Staff of the Central African army at
22 the time of the events, did he give orders to Commander Mustapha?

23 A. Again, I have no information to that effect.

24 Q. Do you think that information on that topic from various military officers who
25 were involved in operations on the ground in the Central African Republic could be

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Open Session)

ICC-01/05-01/08

1 useful in the determination of matters relating to the command of MLC troops?

2 A. I think you are asking me to guess and I don't think it is fair for me to guess. If
3 I had the information about these officers who were in that particular mission, I had
4 the information that they said so, that this is what happened, I would be in a very
5 good position to answer your question in the positive or negative, whichever way it is,
6 but you're asking me to guess and I think it's unfair to me.

7 Q. In that regard let me refer to document 26 of the Defence list of documents page
8 CAR-OTP-0020-0259, and also to the bilingual version of that very document, namely,
9 document CAR-OTP-0034-1221 at page CAR-OTP-0034-1241 and 1242. Mr Witness,
10 what is your understanding of Marcel's statement as follows, or how is -- what is your
11 understanding of Marcel's statement whereby he states that Commander Mustapha
12 received orders from the Central African General Staff, orders to move to
13 such-and-such a position on the ground?

14 A. In my opinion, if he received orders to move, yes, he received orders to move
15 from the staff of the Central African Republic and that's what you are saying and that
16 is what is in the statement. Is that not correct?

17 Q. That is absolutely correct, Witness.

18 PRESIDING JUDGE STEINER: Mr Iverson.

19 MR IVERSON: I'm sorry, perhaps it was a misunderstanding, Madam President, but
20 we're having difficulty finding the reference in the statement, so if perhaps Defence
21 counsel could just more clearly state where that -- where that item is to be found?

22 PRESIDING JUDGE STEINER: Thank you, Mr Iverson. I couldn't find as well.

23 Maybe there was a misunderstanding here in the transcript. It is the 1221 that I can't
24 find, or 1242.

25 MR KILOLO: (Interpretation) I mentioned two numbers, 1221 is the first page of

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Open Session)

ICC-01/05-01/08

1 the document, to facilitate identification of the document, but the relevant page is
2 1242 and I have a paper copy of the document here with me. You may want to refer
3 to paragraph 663 to 670, document number 27.

4 PRESIDING JUDGE STEINER: That made it easier. Thank you.

5 MR KILOLO: (Interpretation)

6 Q. Witness, as far as you know, what command structure was in charge of taking
7 all decisions relating to military operations by the MLC troops on the ground in the
8 Central African Republic?

9 A. In the documents that -- and the evidence that was given to me, it was very clear
10 to me that on the ground the brigade commander tried very hard - tried very hard - to
11 work with another force, the Central African Republic force, co-ordination which did
12 not succeed, and as a result the brigade was more or less on its own issuing
13 instructions to lower command from the brigade headquarters, getting instructions
14 from his higher command in Gbadolite. That is the information that I have.

15 Q. In that regard, I would like to refer to document number 28 on the Defence list
16 of documents. The first page of that document, document CAR-OTP-0020-0283, and
17 the relevant page of that document will be page CAR-OTP-0020-0286. As for the
18 English version, which in fact is a bilingual version of the document, it will be
19 document CAR-OTP-003-40-1267 for the first page of the document and the relevant
20 page I am referring to is CAR-OTP-0034-1271.

21 I would like to read out an excerpt in private session, please.

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

23 (Private session at 12.12 p.m.) * Reclassified as Open session

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

25 MR KILOLO: (Interpretation)

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Private Session)

ICC-01/05-01/08

1 Q. Mr Witness, I would like to ask you to tell me your understanding of
2 (Redacted) to the Office of the
3 Prosecutor. Let me read out from the bilingual version, paragraphs 88 to 103. The
4 question to him was the following: "Who took decisions relating to the operations
5 that you were conducting on the ground?" And his answer was the following:
6 "There was a co-ordination or co-ordinating unit." Next question: "What do you
7 mean by co-ordination?" Answer: "All the meetings took place in Bangui." Then
8 he goes on to say: "When we were asked to go and help President Patassé, we could
9 no longer wait for orders from Gbadolite. While there, we were under the authority
10 of Bangui. They were the ones who gave us orders and we complied with their plan
11 and their instructions."

12 Madam President, maybe we can revert to open session so that the witness may give
13 us his understanding of (Redacted) to the Office
14 of the Prosecutor.

15 PRESIDING JUDGE STEINER: Court officer, please.

16 (Open session at 12.15 p.m.)

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

18 THE WITNESS: Do you want me to give you the answer?

19 MR KILOLO: (Interpretation)

20 Q. Yes, please tell us your understanding of Marcel's statement?

21 A. In that statement he's stating that he had moved from his previous command
22 structure and he would be getting instructions, you know, from another command.
23 That's what he's stating. It's clear.

24 Q. Witness, as far as you know, did Mr Jean-Pierre Bemba or did he not interfere or
25 play any role whatsoever regarding the orders that the General Staff of the Central

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Private Session)

ICC-01/05-01/08

1 African Republic would have issued to Mustapha during the operations in the Central
2 African Republic?

3 A. I have no information stating that there was interference in any instructions by
4 anybody, instructions given from the Central African Republic to the MLC forces
5 while they were inside MLC forces. I don't have that information, so I won't be able
6 to tell you whether he -- he interfered or not.

7 Q. Thank you, Witness. Now, let me in that regard refer to a statement in
8 document number 28 of the Defence list of documents and this is document
9 CAR-OTP-0034-1267, that is the first page of that document. I'm sorry, let me be
10 more specific. I'm referring to document number 28 on the Defence list of
11 documents, which is reference on first page CAR-OTP-0020-0283, and I want to refer
12 specifically to page CAR-OTP-0020-0286. The bilingual version of that document,
13 which is in English and French, is referenced on the first page as document
14 CAR-OTP-0034-1267 and I want to refer specifically to page CAR-OTP-0034-1271. I
15 also want to refer to the bilingual version and focus specifically on page
16 CAR-OTP-0034-1277, and I would apply to read that statement in private session,
17 your Honour?

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

19 (Private session at 12.20 p.m.) * Reclassified as Open session

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

21 MR KILOLO: (Interpretation)

22 Q. Witness, I would like to ask you, as a military man, to give us your
23 understanding of this (Redacted) rather (Redacted)

24 (Redacted) which he made to the Office of the Prosecutor. The following question

25 was put to him: "When (Redacted) that the authorities

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

1 of the Central African Republic had given you orders on a particular operation, who
2 within the MLC had power or authority to approve those operations pursuant to the
3 instructions of the Central African authorities?" In his answer he said: "There was
4 no need for approval. We simply needed to inform them and then carry out the
5 operation. We did not need to wait for any decision from Gbadolite, no."

6 Mr Witness, when we return to open session I would like you to give us your
7 understanding as a soldier of the information I have just read out to you.

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

9 (Open session at 12.23 p.m.)

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

11 THE WITNESS: The precise and simple answer is the brigade commander is stating
12 that his understanding was he didn't have to clear with anybody back in his home
13 country, because he had already been given instruction by the people on the ground,
14 the high authority on the ground, and he got on with it. That's the simple answer.

15 MR KILOLO: (Interpretation)

16 Q. Witness, in the second document of the Defence list of documents, namely your
17 report at page CAR-OTP-0064-0617, paragraph 29, you argue that Mr Bemba had
18 absolute control on the daily activities of the MLC troops in the Central African
19 Republic. Do you remember that part of your statement?

20 A. I remember that very well.

21 Q. In the same document, you stated that Mr Bemba forwarded telegrams and
22 electronic messages to the junior commanders of the MLC who were deployed in the
23 Central African Republic. Do you remember that detail?

24 A. I remember that also very well.

25 Q. What do you mean by "electronic messages"? What does that mean?

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Open Session)

ICC-01/05-01/08

1 A. For a military man, any message that is not written and passes through the wire,
2 for example, radio, VHF, or HF, we call it electronic messages. The message that is
3 written down and passed on a paper is not electronic. That's the military
4 terminology.

5 Q. Witness, as far as you know, what were the various resources available to the
6 headquarters in Gbadolite which were used to contact commanders on the ground for
7 the purpose of transmitting or signalling operational messages to the field from the
8 Congo?

9 A. Again, the documents that I had sight of talked of radio communication, HF,
10 talks of Thuraya satellite. I think Thuraya is what they refer to as satellite
11 communication.

12 Q. Witness, on this point I would like to refer to testimonies before this Court as
13 appear in the edited transcript, French version, of 3 October 2011, page 37, lines 15
14 and 16 - lines 15 and 16 - and also to the edited transcripts English version of
15 3 October 2011, page 37, lines 3 to 4. This is an excerpt of Leonard's testimony before
16 this Court: "Apart from the phonie, we did not have any other means by which to
17 contact the commanders who were on the ground within the context of the MLC
18 operations." Is this a new piece of information for you?

19 A. Can you repeat that again, what Leonard, you know, stated, because I relied on
20 his information and other information? Can you repeat it in the Court?

21 Q. This is what Leonard asserts: "Apart from the phonie ..." which is a
22 transmission radio unit "... the MLC did not have any other means by which it could
23 contact the commanders on the ground."

24 A. So what is the question?

25 Q. Is this a piece of information that you had at your disposal?

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

1 A. The information that I had was that they had radio communication, radio
2 communication, and radio communication would be HF, VHF, or whatever. They
3 had satellite communication and they had -- which I believe was Thuraya, if that is
4 what they call satellite, Thuraya, in other words is it a phone? That's the information
5 that I had and if he, Leonard, states that they only had one means of communication
6 here in Court the Court will accept that that is all that was there. I believe - I
7 believe - I would accept that. If somebody comes here and say "No, what we had
8 said earlier on is not what we had and this is what we had," I will accept that and I
9 will believe it.

10 PRESIDING JUDGE STEINER: Maître Kilolo, if I may? I may be wrong, but it
11 appears that the excerpt that you read from Leonard's testimony may appear out of
12 context because even I am not sure whether he was talking about communication
13 from Gbadolite to the field, or among the commanders on the ground.

14 I think -- I think maybe you should put it within context.

15 MR KILOLO: (Interpretation) Might we go into private session, please?

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

17 (Private session at 12.33 p.m.) * Reclassified as Open session

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

19 MR KILOLO: (Interpretation)

20 Q. I think we shall try and put things in order, Mr Witness. We are talking here
21 about (Redacted)

22 (Redacted)

23 (Redacted) Very well. The question was put to him, I'm reading here

24 from paragraph 10 of this very document. Question: "Do you know how a

25 Thuraya telephone works?" (Redacted) says,

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Private Session)

ICC-01/05-01/08

1 answers saying: "I have never used such a device." A further question is put to
2 him: "In addition to the Thuraya, which was as you said available to the person
3 you've just mentioned, do you know whether any other means of communication
4 existed for the units out in the field?" So the question was with a view to
5 ascertaining whether for the units out on the ground the headquarters in Gbadolite
6 was able to communicate with them in order to transmit orders. He answered in
7 saying: "I've already answered this question. With the exception of the phonie,
8 there were no other means of contacting the commanders who were out on the
9 ground." Do you understand the context better now?

10 A. I do understand quite clearly what you are talking about. When you talk about
11 commanders on the ground, commanders on the ground at what level? Is it a
12 commander at the brigade level? It is a commander at the battalion level? Is it a
13 commander at, you know, in an outpost as a company? So be careful about when
14 you lump everything together and you put everybody in the same boat. There is
15 communication from, as you rightly state, from Gbadolite to the brigade, right, in the
16 field wherever they are, and then there is communication from the brigade to the
17 battalion and then there should be communication from battalion to company and
18 from company to platoon. So be very careful when you lump everything together
19 and you talk about the only communication available was this. At every level could
20 be one -- you know, more than three/four lines of communication available to a
21 commander and he may not declare that he has that communication. I expected, you
22 know, a communication officer to be more precise and state "From this level to that
23 level this is all we had. From this level to that level, this is what we had. From this
24 level to that level is what we had." So be very careful.

25 PRESIDING JUDGE STEINER: Maître Kilolo, if you allow me? I was right. Put in

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Private Session)

ICC-01/05-01/08

1 context your last question to the witness was misleading, because now you read from
2 paragraph 10 of this very document: "Question: 'Do you know how a Thuraya
3 telephone works?' (Redacted) answers saying:
4 'I have never used such a device.' A further question is put to him: 'In addition to
5 the Thuraya, which was as you said available to the person you've just mentioned, do
6 you know whether any other means of communication existed?'" And then the
7 answer was: "There was only the phonie." So next time, Maître Kilolo, please put
8 the question into context in order not to mislead the witness.
9 You can proceed.

10 MR KILOLO: (Interpretation) I think we shall move forward, Madam President, in
11 order not to become bogged down on this subject, but I would say that we do not
12 have the same reading of the matter. The initial document, this was hailing from
13 (Redacted) in French, and the reading that we provided of the response
14 given by (Redacted) he says "I have already answered that question." So with regard
15 to the question that was put to him previously, it was this question that was
16 misleading him, that was attempting to mislead him, i.e. by saying that the Thuraya
17 was already available. He went on to clarify by saying "I've already answered that
18 question." He cast it aside and he says "With the exception of the phonie, there was
19 no other means of contacting the commanders out in the field," but in order not to get
20 embroiled in this I think we should move forward.

21 PRESIDING JUDGE STEINER: Let's go ahead, Maître Kilolo. The transcript speaks
22 for itself. Should we continue in open session, or in private session?

23 MR KILOLO: (Interpretation) Might we move into open session, please?

24 PRESIDING JUDGE STEINER: Court officer, please.

25 (Open session at 12.40 p.m.)

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

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

2 MR KILOLO: (Interpretation)

3 Q. Mr Witness, to your knowledge which communication network did Mustapha's
4 radio operational unit use in the Central African Republic?

5 A. Between what headquarters to what headquarters?

6 Q. The question has a bearing upon all of the communication made through his
7 radio operator, through Mustapha's radio operator, because of course there was a
8 communication network that was used. Did he use a network? Well, which force
9 did this network belong to? Was it the Congolese forces? Was it the CAR forces?
10 Could you please shed light on the matter?

11 A. I don't have that information, so how can I shed light on it? The only thing
12 I know is that some -- he had some communication to his lower command, which is
13 battalions. There was a drawing by somebody that they had communication
14 between point A to point B, but if you are asking me the specific type of equipment
15 that they had I don't have that information. Whether it belonged to MLC, or it
16 belonged to the CAR, I don't have that information.

17 Q. I would like in this regard to refer to transcript, the edited version of the French
18 transcript, page 56, line -- lines 24 to 28, and page 57, line 1. I would also like to refer
19 to the edited version of the English transcript, page 55, lines 4 to 15.

20 Mr Witness, what is your understanding of the statement provided by Leonard?

21 PRESIDING JUDGE STEINER: Mr Iverson.

22 MR IVERSON: I'm sorry, but the Prosecution is a bit confused about which
23 transcript. Is it today's, or is it -- is he referring to another transcript?

24 PRESIDING JUDGE STEINER: You forgot to give the name -- the number of
25 transcript, Maître Kilolo.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

1 MR KILOLO: (Interpretation) Yes, indeed, let me clarify. This is transcript T-168,
2 dated 3 October 2011, and from memory the French version, it would be page 56, lines
3 24 to 28, and page 57, line 1 until line 5, that is for page 57, and in the English version
4 thereof, edited version, dated 3 October 2011, page 55, lines 4 to 15.

5 Q. Witness, I would like to see what your understanding is of the statement
6 provided by Leonard before this Court. He stated that there was no frequent
7 connection between Mustapha's operator in the Central African Republic at the time
8 of the events and the communication networks of the MLC in the Congolese territory,
9 because Mustapha's operator would rarely appear within the MLC network. He
10 would use the Central African Republic network, where he would receive orders.
11 Every now and again he would appear within the MLC network, the Congolese MLC
12 network, just to inform them of general matters. How do you understand that?

13 A. I understand that they were operating on two different networks: One they
14 would be joining the CAR when they needed to, or if that is their -- that was their
15 primary, you know, means of communication, but at the same time they would join
16 their country's network as and when it was convenient to them. That's what I would
17 characterise that statement, the one you are reading, which I never had.

18 Q. To your knowledge, how often did (Redacted) in the CAR gain access
19 to the MLC communication network at the time of the events?

20 A. How often?

21 THE INTERPRETER: The interpreter will repeat the question: "How often did
22 (Redacted) in the CAR gain access to the MLC communication network at
23 the time of the events?"

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

25 (Private session at 12.49 p.m.) * Reclassified as Open session

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Private Session)

ICC-01/05-01/08

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

2 PRESIDING JUDGE STEINER: Mr Kilolo, this kind of question can lead to the

3 conclusion that the witness had access to (Redacted) so I would

4 prefer you to put it in private session, please. Can you repeat the question.

5 MR KILOLO: (Interpretation) Not at all, Madam President. Even if the references

6 provided here have nothing to do with (Redacted) at all. We are talking

7 here about (Redacted) but if you so wish I shall --

8 PRESIDING JUDGE STEINER: The question was "How often did (Redacted) have

9 access to MLC communication network at the time of the events?", it gives the

10 impression that you are asking the question from (Redacted) I'm

11 sorry, maybe it's a problem -- we have a problem in translation, but let's just play on

12 the safest side and you repeat the question in private session.

13 MR KILOLO: (Interpretation)

14 Q. I shall put the question to you again, Mr Witness. To your knowledge, how

15 often did (Redacted) in the CAR gain access to the MLC communication

16 networks at the time of the events? Were these contacts regular, were they on an

17 irregular basis, after what period of time?

18 A. I don't have that information at all, other than the information that I gleaned

19 from the -- you know, the statement that I got that there was daily communication

20 between Gbadolite back to Mustapha. It was available. Whether it was used or not,

21 that's a different thing altogether.

22 Q. In this regard, I would like to refer to (Redacted)

23 (Redacted) transcript T-168, dated 3 October 2011. In the edited

24 French version, that would be page 59, lines 3 to 6, and also in the edited version of

25 the English transcript, dated 3 October 2011, page 58, lines 18 to 21. (Redacted)

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Private Session)

ICC-01/05-01/08

1 (Redacted) says as follows: "I shall
2 clarify that the Bangui operator was not a permanent fixture within our network. He
3 could spend days without appearing at all on the network." Now, Mr Witness, how
4 do you understand this in terms of a military situation out in the field?

5 A. That is a very disastrous way of doing things. That's the way I understand it.
6 If an operator who is in one network, or is supposed to be in one network, would
7 appear today and for three or four days he doesn't appear, that means that there is
8 something wrong. If I am answering the question that you posed to me, there's
9 definitely something wrong.

10 Q. To your knowledge, Witness, was the structure of communications within the
11 MLC at the Gbadolite headquarters designed in order to enable connections with the
12 CAR?

13 A. I don't know. I don't have that information.

14 MR KILOLO: (Interpretation) Do you think, Madam President, that we might
15 return to open session?

16 PRESIDING JUDGE STEINER: You tell me, Maître Kilolo.

17 Court officer, please turn into open session.

18 (Open session at 12.55 p.m.)

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

20 MR KILOLO: (Interpretation)

21 Q. Witness, I would like to refer to testimony provided by a witness before this
22 very Court in T-170, dated 5 October 2011, in the French edited version, page 20, lines
23 21 to 25, and also to the edited version of the English transcript, dated 5 October 2011,
24 page 20, lines 11 to 14. Now, this is what Leonard states as follows: "The
25 communication structure of the MLC was not applicable within the CAR. It was

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

1 only applicable on Congolese territory." Now, Mr Witness, how do you understand
2 this, were you to associate this with the reality of what happens out on the ground in
3 terms of communication?

4 A. It looks to me what he's saying is that the communication they had in the field,
5 in other words in CAR, while it could still dovetail into the MLC's
6 communication -- the overall MLC's communication all the way back to Gbadolite,
7 but they used it at their own whims as and when, you know, they wanted to use it.
8 They could communicate to Gbadolite, in other words the MLC's troops, and that is at
9 the headquarters of the brigade. They could communicate all the way back home,
10 but they would also communicate with -- within the communication that they had set
11 up for themselves within CAR and they chose when to communicate and when not to
12 communicate. A very sad situation.

13 PRESIDING JUDGE STEINER: Thank you, Maître Kilolo.

14 Mr Witness, we will have now our lunch-break. It's 1 o'clock sharp. We will
15 resume at 2.30.

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

17 THE WITNESS: Thank you, ma'am.

18 (The witness stands down)

19 THE COURT OFFICER: All rise.

20 (Recess taken at 1.00 p.m.)

21 (Upon resuming in open session at 2.35 p.m.)

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

23 PRESIDING JUDGE STEINER: Good afternoon. Welcome back.

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

25 (The witness enters the courtroom)

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Open Session)

ICC-01/05-01/08

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

2 THE WITNESS: Good afternoon, your Honour. I'm glad to be back.

3 PRESIDING JUDGE STEINER: I'll give then the floor back to Maître Kilolo to
4 continue your questioning. Maître.

5 MR KILOLO: (Interpretation)

6 Q. Good afternoon, Mr Witness.

7 A. Good afternoon, sir.

8 Q. Thank you. Do you know what type of general information was received, or
9 what type of general information Mustapha transmitted to the Gbadolite General
10 Staff headquarters during the events in the Central African Republic?

11 A. No, I don't know.

12 Q. In this regard, I would like to refer to testimony provided before this very Court
13 by a witness. I am referring to transcript, the edited version of the French transcript,
14 dated 3 October 2011, page 59, lines 15 and 16, and this is transcript 168. I am also
15 referring to the edited English version of the transcript, dated also the 3rd of the 10th
16 2011, page 59, lines 5 and 6. Leonard stated as follows before the Chamber: "When
17 Mustapha's radio operator in the CAR appeared on the MLC network, it was with a
18 view to informing them of general matters and notably the MLC troops in the CAR
19 were under the orders of General Bombayake." Now, Mr Witness, how do you
20 understand this precisely?

21 A. Can you, you know, make it clearer? This is a statement which was given in
22 the Court here by Leonard? Leonard? And he's talking about overall or regular
23 communication between the CAR radio operator of MLC to the MLC headquarters
24 back in Gbadolite? Is that what you're talking about? Or was it one particular - one
25 particular - communication only? Was it the regular one?

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Private Session)

ICC-01/05-01/08

- 1 MR KILOLO: (Interpretation) Might we move into private session, Madam
2 President, please?
- 3 PRESIDING JUDGE STEINER: Court officer, please turn into private session.
4 (Private session at 2.41 p.m.) * Reclassified as Open session
- 5 THE COURT OFFICER: We are in private session, Madam President.
- 6 MR KILOLO: (Interpretation)
- 7 Q. Mr Witness, I shall read to you in extenso what was said. The question that
8 was put, and I'm reading paragraphs 11 to 16 of the transcript, transcript number 168,
9 dated 3 October 2011, page 59, lines 11 to 16 of the French version. The question was
10 put (Redacted) as
11 follows: "You told us that there was a Central African network and that the MLC
12 troops in the CAR used this network upon which or through which they would
13 receive their orders, and on the basis of these orders they would then move to a
14 location from where they were to provide news or an update. Could you please tell
15 us who gave the orders?" And the response from Captain Lembi is as follows:
16 "According to the messages, these are the messages received from Mustapha's
17 operator in the CAR, Mustapha and his troops would receive orders from General
18 Bombayake." Now, as a reminder, we have already talked about (Redacted)
19 (Redacted)
20 (Redacted) Now, my question to you, Mr Witness, and we might return to open session
21 for your response, would be how precisely do you understand this information, you
22 as a military man?
23 Might we move back into open session, Madam President?
- 24 PRESIDING JUDGE STEINER: Court officer, please.
25 (Open session at 2.44 p.m.)

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

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

2 THE WITNESS: To answer you, it is clear to me that Marcel, this is open, yeah? Is
3 that correct?

4 MR KILOLO: Yes, of course.

5 THE WITNESS: Marcel had two lines of communication. He could receive
6 instructions from the chain of command that you have just referred to and he would
7 also receive instruction from his own chain of command. To answer that particular,
8 you know, issue, that he was receiving instructions from the chain of command of the
9 individual you have named that would give him instructions.

10 MR KILOLO: (Interpretation)

11 Q. Let us enter into a little more detail on the subject, Mr Witness. Now, generally
12 speaking, could you tell us what the subject matter of the messages was sent by
13 Commander Mustapha to the MLC General Staff headquarters in Gbadolite at the
14 time of the events?

15 A. Unless I have the details of what subject matters he was discussing, or getting,
16 or clarifying through his normal chain of command back to Gbadolite, there's no way
17 I can guess. The only thing that I would tell you that a commander who is detached
18 from his normal chain of command, even if he's in a different country, or different
19 area, it is normal practice that he will still discuss operational matters, logistics
20 matters, administrative matters, with his normal chain of command. Even if he's
21 detached to command -- to another command, that is the normal practice in the
22 military sense.

23 Q. In this regard, Mr Witness, I would like to ask you to tell us what your
24 understanding is of the testimony provided before the Court by Leonard himself.

25 We're talking here of the edited version of the French transcript, dated 4 October 2011,

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

1 page 51, lines 23 to 26, in addition to the edited version of the English transcript,
2 dated 4 October 2011, page 51, lines 9 to 14. Leonard says as follows, in essence:
3 "The radio messages that came from Mustapha's operator in Bangui provided
4 information of a general type covering for example the number of casualties and the
5 number of dead." Now, how should we understand this information in concrete
6 terms, in terms of military command, that is?

7 A. I really am not clear on what you are, you know, trying to ask me to say.
8 Report of dead, casualties, is a normal procedure for any commander at whatever
9 level to report back to his higher authority, or even to the lower authorities sometimes.
10 So that is the way I take it. This is a normal occurrence which you report. If you've
11 lost men you report back, because it is important for whoever deployed you, gave
12 you the responsibility of having these men and women to go into battle, to know
13 what has happened, you know, to their men and women under your command,
14 because they're responsible. Whoever deployed you is responsible for the welfare of
15 those men and whatever they're doing. So if he is informing his headquarters about
16 this, this is his responsibility. He cannot shy away from that responsibility.

17 Q. Witness, to your knowledge who was the recipient of the messages that
18 Commander Mustapha transmitted to the MLC general headquarters at the time of
19 the events?

20 A. If you give me the messages, it's very easy for me to say this was directed to the
21 Chief of Staff, or it was directed to the commander-in-chief, or it was directed to
22 whoever, but since I don't have sight of those messages, the only thing I can do to you
23 is to let you know that any information that goes from one command to the other
24 command is meant for the highest leadership of that command, including the staff,
25 including the staff. The highest staff member, if for example it is going in a division

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

1 headquarters, the Chief of Staff has to attend to that information, all the way to the
2 division commander who will attend to that message, but unless I have the message,
3 because when a brigade commander writes a message, sends a message, he specifies
4 who that message is meant for on that message. If it is going to be copied to
5 somebody else, he also specifies that this message is to the Chief of Staff, but copied to
6 so-and-so, or it is meant for the division commander and is copied to the Chief of Staff.
7 But in view, you know, that I haven't seen those, you know, messages, myself, you're
8 asking me to guess and I don't want to guess, please.

9 Q. Now, in this regard, Mr Witness, I would like to see quite how you and I can
10 understand the statement made before the Court and I'm referring here to the
11 transcript, the edited version of the French transcript, dated 3 October 2011, page 61,
12 lines 10 to 14, as well as to the edited version of the English transcript, dated
13 3 October 2011, page 61, lines 11 to 13. It arises herefrom that Leonard stated before
14 this Chamber that all the messages sent by Mustapha to the MLC from the CAR were
15 exclusively sent to General Amuli, with copy for information to Mr Bemba. Now,
16 Witness, how do you interpret this information?

17 A. That is absolutely normal and that's the right way, unless - unless - the brigade
18 commander wants that message to go directly to the commander-in-chief, right, and
19 the commander-in-chief is the one to act on it. Then he can write "This is to the
20 commander-in-chief copied to Chief of Staff." The line of communication is -- should
21 go to the staff, just like he has done, and he's copying them to the commander-in-chief.
22 In other words, keeping the commander-in-chief all the time in the picture what is
23 happening. That's the right way to do it.

24 Q. Witness, are you aware of whether Mr -- of whether he -- why he had reasons
25 not to stay in permanent contact with Mr Bemba in the Central African Republic at

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Private Session)

ICC-01/05-01/08

1 the time of the events?

2 A. No, I have no reason that he was not in contact. It's -- the only thing I have
3 heard from you is that on and off his radio would pop up on the net, the MLC
4 mega-net. Sometimes it would not be there for a couple of days, the radio operator,
5 that is the radio operator, not the sector commander himself. The radio operator.
6 That's the information I had and this I only heard this from you at the moment.
7 I don't know why he would do that.

8 MR KILOLO: (Interpretation) Could we move into private session, please, Madam
9 President?

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

11 (Private session at 2.59 p.m.) * Reclassified as Open session

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

13 MR KILOLO: (Interpretation)

14 Q. Mr Witness, could you please provide me with your interpretation of (Redacted)
15 (Redacted)

16 (Redacted) We are referring here to transcript 168, dated

17 3 October 2011, in the edited French version, page 60, lines 1 to 5, and also in the

18 English version, edited version of the transcript dated 3 October 2011, page 59, lines

19 19 to 22. This is what (Redacted)

20 He says: "Contact was not established on a permanent basis. Days could go by and
21 in the evening the operator would inform us. If you put the question to him asking
22 him why he did not pop up on the network, he would answer by saying that he had
23 received the order to advance and that this was why he could not appear on the
24 network."

25 Now, Mr Witness, what does this information bring to mind when it is explained that

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

1 Mustapha does not appear on the network - the Congolese network - for a number of
2 days and he provides a reason saying that he had received an order from the Central
3 African staff headquarters to advance?

4 Maybe we might return to open session for the answer?

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

6 THE WITNESS: The only thing I can gather out of that is that --

7 THE COURT OFFICER: I'm sorry.

8 THE WITNESS: Sorry. Oh, sorry, not yet.

9 (Open session at 3.03 p.m.)

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

11 THE WITNESS: The only thing that I can gather out of that is that they were in a
12 fluid military campaign, whereby occasionally or regularly or often they were moving
13 from point A to point B, right? And as such sometimes they were out of
14 communication, because they're moving. Very unusual for a brigade, but it happens.
15 The brigade, even if it is moving, there should always be communication back to the
16 headquarters. In the normal system, you don't close shop and you move for two
17 days or three days without communicating back to your division headquarters, but in
18 view of what the witness stated I cannot assume that that was his explanation, that
19 once they are on the move they closed shop. They were not communicating for
20 whatever reason it was, I don't know what reason why.

21 MR KILOLO: (Interpretation)

22 Q. Mr Witness, what do you say about the aspect of this information that states
23 that the MLC troops received orders from the Central African authorities in order to
24 advance on the ground and that it was only subsequently at a later stage that the
25 MLC headquarters in Gbadolite was informed of the matter? What do you say in

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

1 terms of military command in terms of management of operations out in the field?

2 A. I think I had answered that a little earlier on, but I will answer you again. It

3 looks to me that there were two lines of chain of command, including the one that

4 goes -- you know, the one that goes through to the CAR chain of command, right, and

5 as such the poor brigade commander was getting his instructions, orders, from these

6 two lines of communication. That's all I can, you know, say on this particular thing

7 and I think I have tried to let you understand it. I believe you understand it.

8 Q. Witness, what is your understanding -- and here I'm referring to another

9 testimony of a witness before this Trial Chamber, transcript number 168, edited

10 French transcript version of 3 October 2011, page 57, lines 22 to 26, and also to the

11 edited English version of the transcript dated 3 October 2011, page 57, lines 7 to 10.

12 Leonard says the following: "The reason why Mustapha's operator in the CAR was

13 not in permanent contact with the MLC headquarters in Gbadolite was because the

14 operator was using the CAR network where they were under instructions or orders or

15 following instructions or orders." Could you provide us with your understanding of

16 this?

17 A. My understanding and the answer would be they were terribly deficient in

18 communication gadgets that they had at that headquarters; in other words, the CAR

19 sector headquarters or brigade headquarters in -- not CAR, the MLC brigade. If they

20 only depended upon one radio, one line of communication, if you are talking

21 to -- brigade headquarters is talking to his headquarter, or operational headquarters

22 in Bangui, he cannot communicate with his headquarters back. The only thing I can

23 say about that is that they were terribly deficient in the communication that was

24 provided for their brigade commander because a brigade commander should have

25 the means to communicate at least with two or three lines, going up and going down.

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Open Session)

ICC-01/05-01/08

1 Q. To your knowledge, Witness, did Mr Jean-Pierre Bemba have any contact with
2 General Mazi, that is to say the Deputy Chief of General Staff of the Central African
3 Republic armed forces, during the events?

4 PRESIDING JUDGE STEINER: I'm sorry to interrupt you. I have been just
5 informed that there is a technical problem with the real-time version of the French
6 transcript. It has frozen since 3.01, so they are working on it. So I would like to ask
7 first if you are aware of that and whether we can continue even if without the French
8 transcript?

9 MR KILOLO: (Interpretation) I think we shall get by with the English version and
10 we can continue, Madam President.

11 Q. Witness, would you like me to rephrase my question, or put it to you once
12 again?

13 A. Put it to me once again, please.

14 Q. To your knowledge, Witness, did Mr Jean-Pierre Bemba have any contact with
15 the General André Mazi, the Central African general, who was the Chief or the
16 Deputy Chief of General Staff of the CAR armed forces during the events?

17 A. I have no knowledge of that.

18 Q. In this regard, I would like to refer to document number 41. This is a bilingual
19 English/French version of the document, the first page being CAR-OTP-0034-1434,
20 page 0034-1457.

21 Witness, what is your understanding of this statement provided by Marcel, who told
22 the Office of the Prosecutor that to his knowledge Mr Jean-Pierre Bemba did not have
23 any contact with General André Mazi? What is your understanding of this? What
24 precisely does it mean?

25 A. Do you want me to speculate? I don't want to speculate. Here is a brigade

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Open Session)

ICC-01/05-01/08

1 commander telling somebody else that "My boss was not in contact with so-and-so."

2 It is between him and whoever he's talking to. Me, I cannot speculate about that.

3 Q. Witness, in the second Defence or document in the list of Defence documents at
4 page CAR-OTP-0064-0619, paragraph 30, you stated that Mr Jean-Pierre Bemba, who
5 appointed Mustapha as commander to the forces of intervention of the MLC in
6 2002/2003, well, do you recall this piece of information?

7 A. Yes, I do.

8 Q. You also stated in the second document on the Defence list, on page
9 CAR-OTP-0064-0617, that Mr Bemba had decided on his own that the MLC troops
10 were to be deployed in the CAR without the military leaders of the MLC being
11 informed thereof. Do you remember that?

12 A. Yes.

13 Q. To your knowledge, Witness, from whom did the order come that went to the
14 MLC troops who were on the Congolese territory; the order to cross over to Bangui
15 during the events?

16 A. I thought you would ask me to clarify the appointment of the brigade
17 commander and then I answer that and then the next one which was who authorised
18 the troops to go across? Is that what you're saying?

19 Q. We'll take it in stages. We'll go through the order of the questions that have
20 been put to you. First question, Witness: To your knowledge, who was it who
21 gave the order to the MLC troops to cross over to Bangui during the events?

22 A. If I remember well, in some of the documents that I reviewed, there is evidence
23 that the order to deploy was given by the commander-in-chief, Mr Bemba, for the
24 troops to deploy, and that is in line with my military way of thinking that you cannot
25 deploy troops, especially outside your country, without the commander-in-chief's

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Open Session)

ICC-01/05-01/08

1 sanction.

2 Q. Fine. Thank you, Witness. In this regard, I would like to ask for your expert
3 opinion and your understanding of something that was said by a witness before this
4 Chamber. This is transcript T-170, and in the edited French version it was
5 5 October 2011, page 51, lines 18 to 23, and in the edited English transcript, it is also
6 5 October 2011, page 51, lines 19 to 24. Leonard stated before this Chamber that:
7 "The Chief of General Staff of the MLC army, the Congolese Liberation Army,
8 General Amuli, gave the order to the Zongo commander to prepare the troops to
9 cross over because President Patassé had requested the support of the MLC."

10 Witness --

11 A. Would you like my comments on that?

12 Q. Witness, could you give us your understanding of that in terms of command
13 and orders to deploy?

14 A. My understanding is straightforward and simple. The orders are given by the
15 commander-in-chief, somebody who is in command, through his staff, the most
16 senior staff officer, and in this scenario that you are giving us the gentleman you have
17 just mentioned that gave orders for the troops to cross is a gentleman who was not
18 in command himself. He is the co-ordinator of the staff at the highest level, and any
19 instructions that he issues he issues them in the name of the commander-in-chief. It
20 would be unheard of for a Chief of Staff to deploy the troops of his country, or his
21 organisation, outside his area or their country, or even in their country, without
22 getting the nod, the authority, of the commander-in-chief. It would be unheard of
23 and, if that happened, the Chief of Staff should have been sanctioned straightaway by
24 the commander-in-chief. You cannot deploy troops without my authority. That's
25 the way the military works. If it worked in the MLC that, you know, that way

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Private Session)

ICC-01/05-01/08

1 probably, you know, you are suggesting that it is the Chief of Staff who sanctioned
2 this without the authority of the commander-in-chief, I'm sorry, that would not
3 happen in the military, you know, connotation. That's the best I can -- I can --

4 PRESIDING JUDGE STEINER: Mr Kilolo, Maître Kilolo, if you allow me? Could,
5 please, court officer turn into private session for a while.

6 (Private session at 3.25 p.m.) * Reclassified as Open session

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

8 PRESIDING JUDGE STEINER: Thank you. Maître Kilolo, I'm sorry. Just I want
9 myself to have it very clear. On page 62, in the English transcript, where you talk in
10 your question "Could you please provide me with your interpretation of the
11 statement or testimony made before this Court by (Redacted)" so here in the
12 transcript we have (Redacted) So could you tell us (Redacted)
13 (Redacted) Could you please give the full name of (Redacted), or
14 spell it please?

15 MR KILOLO: (Interpretation) Your Honour, we are talking about (Redacted)
16 (Redacted) Thank you.

17 PRESIDING JUDGE STEINER: Thank you very much. We can turn back into open
18 session, please.

19 (Open session at 3.27 p.m.)

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

21 MR KILOLO: (Interpretation)

22 Q. Witness, could you tell us what is meant by an operations theatre?

23 A. Operations theatre in the military sense means the area of operation where
24 troops will be deployed to fight a battle, or concentrate before they get into the battle,
25 battle formation. It's a whole area. It depends from -- it depends on the kind of

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Open Session)

ICC-01/05-01/08

1 operation you are undertaking. It could be a whole lot of -- half a country, quarter of
2 a country, but it is the area where the troops are deployed to fight the war.

3 Q. In the case before us, Witness, there was a conflict pretty well throughout the
4 entire territory of the Central African Republic from the north at the border with
5 Chad right through to the furthest south where there's the border with the town of
6 Zongo on Congolese territory. Are we to understand that the entire territory of the
7 CAR made up a theatre of operations?

8 A. No, the theatre of operations would be where you have deployed your troops
9 where the bad guys have deployed their troops. You cannot say that because there
10 is insecurity around for example Bangui that Bangui, the capital, is a theatre of
11 operation. That's probably why President Patassé -- President Patassé's troops were
12 trying very hard to secure their -- you know, their capital city. You cannot say the
13 whole CAR was a theatre of operation. I think that would be, you know, unwise and
14 not necessary and not true.

15 Q. Witness, if we accept that the different troops, the pro-Patassé troops, whether it
16 was USP, MLC or FACA, were deployed at different points in Bangui, but also in
17 Damara, Bossembélé, Bozoum, would you say that those different areas of
18 deployment of the pro-Patassé troops made up a single theatre of operations?

19 A. Yes, and if you look at the lay of those areas that you are talking about they are
20 not very far away from each other, are they? Maybe 20/30/50 kilometres, you know,
21 from one another? I don't know. So my answer is yes.

22 Q. Could you explain to us the principle of single or unique command? What is
23 your understanding of that term?

24 A. Single command is command that is exercised by one particular, you know,
25 military organisation, under one command. Joint command, because I think you are

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

1 probably going to, you know, ask that. Joint command is if, for example, MLC and
2 the CAR forces are under one joint command, command centre, command
3 organisation, then that is a joint command. So there are two different militaries, two
4 different armies. Even if it was a brigade and another brigade, they are two different,
5 but they are in a joint command. But a single command is -- a single command is,
6 for example, your troops deployed from the brigade level going all the way down to
7 the platoon level were under one command, the brigade commander, battalion
8 commander, company commander. That is one command, but when it went to the
9 division, right, from brigade to division, if that brigade was getting instructions from
10 this other command you are talking about, then that is a joint command headquarters.
11 They will be going to a joint command headquarters. It's not purely their own
12 command. It's a command which is being manned by two different armies or two
13 different staff. I hope I made it clear.

14 Q. Witness, the principle of single or unique command, is that something that is
15 vital for the success of military operations?

16 A. One single command gives the commanders very good chain and less
17 problematic. Command which is shared has got its uniqueness. It is like you said a
18 unique command, but it also has its share of amounts of challenges and difficulties. I
19 have served in both and I know.

20 PRESIDING JUDGE STEINER: Maître Kilolo, sorry, it is just for the record. The
21 French real-time transcript is working again since 3 hours 28 minutes.

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

23 Q. Witness, could you tell us what you know about what is referred to as a unit
24 being placed on orders, a particular unit as compared to another unit?

25 A. Put on orders to move, or put on orders? Just put on orders?

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

1 Q. Let me clarify my question. Could you tell us what you know about what is
2 meant when a foreign unit is put on orders in relation to the command of a theatre of
3 operations, when we're talking about a foreign commander, that commander being
4 the commander of the theatre of operations?

5 A. I think that is French connotation, not the English connotation of my military
6 background. Perhaps what you mean is that unit is put under command, under
7 command, of another unit -- of another -- another organisation which is not their own
8 organisation. For example, one of the units that was under Marcel could have been
9 detached to command - detached to command - working closely under the command
10 of a CAR brigade, or whatever. Is that what you meant? And if that's what you
11 meant, exactly what I have said is what it is. In other words, it's been detached from
12 its normal command and put to another command, and normally it would be stated
13 even further "You are under command for operational duties," or "under command
14 for logistics," or both, whichever it is, so you have to be very careful again. Under
15 command or on orders as you say it, perhaps in French, for what purposes was it put
16 on orders? There has to be clarification. You are put on orders for a particular
17 specific reason and even specific time. You may not be there permanently.

18 Q. Thank you, Witness. Could you give us an explanation successively as to what
19 actually happens in practice on the ground when a foreign unit is put under the
20 command of a foreign commander on foreign territory? How do things occur in
21 succession when the putting under command is to do with the management and the
22 carrying out of operations on the ground firstly and, secondly, when it is to do with
23 the logistics side of things and, thirdly, when it is to do with the management of
24 military intelligence?

25 A. All those information will have been agreed upon at the staff planning level,

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

1 whereby there are written instructions, this foreign force which is going to be under
2 command, the host country's military organisation for leadership will be for this
3 particular period, the force will be organised like this, they will be getting their
4 operational orders from the new command, logistics, and they should be -- everything
5 in writing so that there is no ambiguity, there is no guessing, who is responsible for
6 this foreign force which is being put under command of a host country's military, you
7 know, organisation. That's the way it should be. Proper planning before
8 everything is taken into consideration. The commander who is going to command
9 that particular force will be given enough time even to go and discuss in the foreign
10 land, that is run what we call reconnaissance, I believe you're an ex-military man, so
11 you should know, recce. You will do a recce, does not just wake up one morning
12 and he's launched into the area which he has had no opportunity to go and see the
13 area where he's going to, you know, deploy, especially before the operation begins.
14 He may not have the opportunity to go all over the place, because if there is the
15 insurrection in the country you will be a very brave brigade commander, you know,
16 to be doing his recce behind the enemy line, no, but that planning process must be
17 done before you deploy.

18 Q. Just to make sure I'm fully understanding, Witness, if we stick to this case of a
19 unit being put under command, we're talking about a particular unit being placed
20 under the command of a foreign unit, now when that putting under command occurs,
21 when it comes to the actual direction of operations in that particular case who is it
22 who defines the military strategy to be applied on the ground?

23 A. You are talking about the unit and I believe you are talking about a battalion?

24 A unit is a battalion.

25 Q. It could be a group of units, whether it's a battalion or brigades. It doesn't

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Open Session)

ICC-01/05-01/08

1 matter how many men and women are sent and put under the command of a foreign
2 organisation, the question is when you have the putting under command.
3 We said there are three levels, operations, logistics and intelligence. Now, let's talk
4 about the operations. A decision is taken, a certain number of soldiers, battalion or
5 brigade, is sent and put under the command of a foreign organisation for the
6 purposes of operational direction for a given period of time. So my question is as
7 follows: In that case, in practice what will be the attributions of the foreign
8 commander who receives the foreign units or group of units?

9 A. If a unit, two units, a brigade for example, is put under a foreign command, that
10 foreign command is expected to give them the operation direction, logistics, and that's
11 why I said all these have to be planned early on and an agreement reached,
12 agreement reached, especially if it is a, you know, a larger force like a brigade and
13 above. A battalion -- even a battalion, you are sending a battalion outside your
14 country, there has to be an MOU. MOU is -- you know what MOU is. An
15 agreement between the two. An agreement, memorandum of understanding
16 between the two countries, who is going to do what, when, how, for how long, where
17 they are going to get their orders once they deploy there.

18 Q. When there is such an MOU, in practice the question of defining the military
19 strategy, as applied to the theatre of operations, do you know whether that is
20 something that is dealt with by the foreign commander who then is in charge of the
21 foreign soldiers who are put under his command in the context of those operations?

22 A. Rephrase it. Rephrase it, please.

23 Q. We have a situation of a group of soldiers being put under command, we're
24 talking about a foreign unit, for the direction of operations. In that case, who defines
25 military strategy to be applied in the theatre of operations?

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

1 A. A military strategy will be discussed and agreed upon by the two militaries at
2 the highest level. You don't send, you know, troops outside your borders and you
3 do not know what they are going to do, how the other person is going to use them,
4 because that would be terrible. Soldiers are not like vehicles. You can lend your
5 car, you know, to somebody else. If he smashes it, fine, you might get another car,
6 but men and women who are going to die, or who may die for another country, the
7 overall plan - operational plan - must be agreed upon between the two armies even
8 before deployment takes place, so that you are quite clear if you wake up tomorrow
9 as a Chief of Staff or a division commander in the country where the troops came
10 from and you hear that "Oh, your troops have now been deployed to a completely
11 different theatre which was not agreed upon," you have a right to tell the other people
12 "No, our agreement was our troops will be deployed in this area and this is exactly
13 what they are going to do."

14 Q. And, Witness, in the same case, who prepares the combat orders that are to be
15 given to those troops on the ground?

16 A. There are many combat orders. The deployment orders - the initial
17 deployment orders - for the troops you are going to send out, even the logistic orders,
18 the intelligence that they need to have will be issued first of all from their own
19 country. There will be successive operational orders, logistics orders, once they are
20 deployed. Those will be issued by the headquarters that is going to co-ordinate or to
21 oversee the operation on a day-to-day basis, month-to-month basis, a year-to-year
22 basis, however long that operation is going to take.

23 Q. Thank you, Witness. I can guarantee that it's an edifying experience to discuss
24 all of this with you. Would you be good enough to run through for us the different
25 attributions which are generally speaking those of the commander who receives the

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

1 foreign units or troops who come under his command?

2 A. Again, I think you are speaking French now, not English. Sorry, please put it

3 in a way that, you know, I understand, somebody who is thinking in English.

4 I know English is not my language, neither is French your language, but you know

5 the way you put it I tend to think that this is you're thinking in French and giving it in

6 French and I may not be familiar, you know, with what you are really, you know,

7 saying.

8 Q. Witness, we agreed that foreign troops are put under the command of a

9 commander, the commander of the theatre of operations. Necessarily that

10 commander has a number of functions or duties, what I refer to as attributions, in

11 other words what he can and should do to do with strategy, the plan, combat,

12 deployment, the order to -- order of advancing et cetera, et cetera, so could perhaps

13 we ask you to go through a list of those different responsibilities of the commander in

14 the theatre of operations?

15 A. If you're talking about the commander in the theatre of operation at the highest

16 level, and I believe that's what you are talking about, operational commander, right,

17 he will plan with his staff of course, he will give direction, he will supervise and

18 provide, you know, for all the troops, regardless of whether they are his own troops,

19 when I say "his own troops" the troops from his own country, or the troops that are

20 put under his command, that is the normal system of doing things. If all that was

21 agreed upon by the two nations, right, and put in that MOU we are talking about, but

22 if there is -- if there is an agreement that those forces put under his command will

23 remain either for logistics or operations still under their own command they can work

24 together, support each other, but each one is responsible for everything that we're

25 talking about. In other words, there will be sectors - clearly defined sectors - of

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Open Session)

ICC-01/05-01/08

1 operation.

2 Q. And from the point of view of logistics management, could you -- well, I won't
3 say go into detail, but perhaps run through a list of the responsibilities? Are they to
4 do with weapons, ammunition, uniforms or vehicles? What are the logistics duties
5 and responsibilities of the new commander of the theatre of operations who is
6 receiving the foreign troops?

7 A. The commander receiving the foreign troops -- sorry, the commander receiving
8 foreign troops will not want to have troops who come under his command who do
9 not have vehicles, radios, food, uniform, things like that. He would -- and personal
10 weapons. He would expect that those troops which are being deployed under his
11 command will not be a bother from day one. However - however - it is expected
12 that resupply, resupply, of things like what I'm talking about, if that particular
13 country is capable of resupplying, because vehicles will break down. Spare parts
14 will be required. Fuel will be required. Food will be required. If that is in the
15 agreement that that particular country is going to provide it, they will have to provide.
16 That is what should happen, but you don't want to be devilled, the commander in this
17 country, with troops who will be dependent 100 per cent on you. Only a
18 very -- even rich countries don't do that in these major deployments, like even in
19 Afghanistan, they go self-contained, but they are under one command and they get
20 their resupplies from their own countries.

21 PRESIDING JUDGE STEINER: Maître Kilolo, if you don't mind I would steal the
22 last minute of your questioning because the Chamber still needs to issue a short -- to
23 make a short, not decision, but a short ruling.

24 Mr Witness.

25 THE WITNESS: Yes, sir -- ma'am, sorry.

Trial Hearing
Witness: CAR-OTP-PPPP-0219

(Open Session)

ICC-01/05-01/08

- 1 PRESIDING JUDGE STEINER: Thank you very much. We will stop for today.
- 2 It's enough. It's been a long day. We thank you very much. We wish you have a
- 3 very restful night. We will resume tomorrow morning at 9.30.
- 4 I ask, please, court usher to accompany the witness outside the courtroom.
- 5 THE WITNESS: Madam President, I hope Mr Kilolo will not be going on forever.
- 6 He has to --
- 7 PRESIDING JUDGE STEINER: We also hope, Mr Witness.
- 8 THE WITNESS: Dugou (phon), time is up.
- 9 (The witness stands down)
- 10 PRESIDING JUDGE STEINER: I ask for just this time, I promise, one minute.
- 11 Before we suspend, the Chamber would like to briefly address a scheduling issue.
- 12 The Chamber has received applications from Maître Zarambaud and Maître Douzima
- 13 regarding their proposed presentation of evidence. In the context of these
- 14 applications, it would be very useful for the Chamber to receive as well information
- 15 from the Defence on two matters.
- 16 First, the Chamber would like to have an indication - only an indication, if
- 17 possible - on whether the Defence anticipates asking for a break in the proceedings to
- 18 enable it to prepare its presentation of evidence. If the answer is "Yes," what would
- 19 be the approximate duration of that break that the Defence anticipates asking for?
- 20 Are we talking about a few days, weeks, months?
- 21 Relatedly, if the Defence anticipates asking for a break in proceedings, does it propose
- 22 the break after the Prosecution has completed its case, its presentation of evidence, or
- 23 after the legal representatives' presentation of evidence, assuming of course that the
- 24 Chamber grants the legal representatives' applications in whole or in part?
- 25 Second, it would be helpful in terms of scheduling if the Defence could provide the

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

1 Chamber with a preliminary indication on the duration of the Defence's presentation
2 of evidence, assuming of course that the Defence chooses to present evidence. The
3 Chamber appreciates that this will be a preliminary estimate only and may well
4 change as the cases -- as the case progresses. We are not asking to be informed of the
5 identities of potential witnesses, or the nature of the evidence to be presented. What
6 we would like is that the Defence -- the Defence's best sense at this stage of how long
7 its presentation of evidence might last, approximately how many witnesses are we
8 talking about and how long might that their testimony last?

9 Again, the Chamber understands that the information we are asking for will be
10 preliminary in nature and cannot bind the Defence in any way. Nevertheless, it
11 would be useful for the Chamber to have whatever information the Defence can
12 reasonably provide at this stage, even for the purpose of adjusting the Court calendar
13 for next year.

14 The Chamber asks the Defence to provide this information as soon as it is reasonably
15 able and, in any event, no later than the end of the day on Wednesday, 14 December.

16 It should be formally recorded, so the Chamber would prefer if the Defence could
17 provide its response in a written filing by that day.

18 Having said that, I would like to thank very much the Prosecution team, legal
19 representatives of victims -- Mr Haynes?

20 MR HAYNES: I only had one question in relation to that direction, which of course
21 we will comply with, and that is what form of filing do you anticipate us making?

22 At this stage in time, the details of the Defence case are not necessarily something we
23 would wish to share with all the parties. Would you anticipate it being an ex parte
24 filing?

25 PRESIDING JUDGE STEINER: It can be an ex parte filing --

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0219

1 MR HAYNES: Thank you very much.

2 PRESIDING JUDGE STEINER: -- but then I would like -- I would like that the
3 Defence follows the Regulations of the Court and justifies the need for the ex parte
4 filing, but I would like just to recall that we are not asking for details --

5 MR HAYNES: No.

6 PRESIDING JUDGE STEINER: -- of the Defence strategy; just we need if possible an
7 estimation of the length of the presentation of Defence evidence for practical
8 purposes.

9 MR HAYNES: We understand.

10 PRESIDING JUDGE STEINER: Personal, staffing, scheduling of the courtroom,
11 et cetera.

12 MR HAYNES: Thank you.

13 PRESIDING JUDGE STEINER: Thank you very much, Defence team, Mr Jean-Pierre
14 Bemba. Thank you, our interpreters, court reporters. We will adjourn for today
15 and resume tomorrow morning at 9.30. The hearing is adjourned.

16 THE COURT USHER: All rise.

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

18 RECLASSIFICATION REPORT

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

20 ICC-01/05-01/08-3038 and the instructions in the email dated 3 February 2014, the
21 version of the transcript with its redactions becomes Public.