International Criminal Court

Trial Chamber III - Courtroom 1

Situation: Central African Republic

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

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

Trial Hearing

Wednesday, 21 November 2012

(The hearing starts in open session at 9.07 a.m.)

THE COURT USHER: All rise.

The International Criminal Court is now in session.

Please be seated.

THE COURT OFFICER: Good morning, your Honours, Madam President. We are in open session.

PRESIDING JUDGE STEINER: Good morning.

Could, please, court officer call the case.

THE COURT OFFICER: Situation in the Central African Republic, in the case of The Prosecutor versus Jean-Pierre Bemba Gombo, case reference ICC-01/05-01/08.

PRESIDING JUDGE STEINER: Thank you very much.

Good morning. I welcome the Prosecution team, legal representatives of victims, Defence team, Mr Jean-Pierre Bemba Gombo. Good morning interpreters, court reporters.

We will continue today with the questioning of Witness 49. Before the witness is brought into the courtroom, the Chamber has a short oral decision to be issued. It's the oral decision on the Prosecution's request to add an item to its list of documents.

Yesterday the Prosecution requested leave to add an additional item to its list of

documents to be used during the questioning of Witness D04-49. Specifically, the Prosecution requested to include the video excerpt, including the corresponding transcripts and translations.

The Prosecution submitted that it only became aware of the relevance of the item during yesterday's hearing and that the late inclusion would not be prejudicial to the Defence since the Defence had been in possession of the item since 13 August 2012 and would have the opportunity to re-examine the witness on this issue if necessary.

The Defence responded arguing that an answer from the Witness during the hearing of 20 November renders the use of the video moot. In this regard, the Defence referred to a portion of the transcript where the witness stated -- so to make a reference to a portion of the transcript of yesterday's testimony, it's transcript 271-CONF-ENG ET, page 43, lines 11 to 13.

As an initial matter, the Chamber recalls that the dead-lines set in its decisions are not optional and need to be followed unless there is good cause warranting a departure therefrom. At the same time, the Chamber has already recognised that the non-calling party's questioning of a witness will generally be reactionary, and may require the non-calling party to adapt its questioning depending on the content of the witness's testimony during the calling party's examination. This may require the addition of certain documents outside the three working days' time limit set down in Decisions 1023 and 2141.

In the present case, the Chamber is satisfied with the Prosecution's justification as to the late amendment of its list of documents. In addition, the Chamber is not persuaded by the Defence's argument that the aforementioned statement by the witness would render use of the item moot.

For these reasons and in accordance with Article 64(6)(f) of the Statute, the Chamber

grants the Prosecution's request to use the video for its questioning of Witness D04-49. Finally, to the extent that the Prosecution intends to tender the relevant item into evidence, it is required to do so following the usual procedure set out in Decision 1470, paragraph 8. I will now ask the court officer to turn briefly into closed session in order for the witness to be brought into the courtroom.

*(Closed session at 9.14 a.m.) Reclassified as Open session

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

(The witness enters the courtroom)

WITNESS: CAR-D04-PPPP-0049 (On former oath)

(The witness speaks French)

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

(Open session at 9.15 a.m.)

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

PRESIDING JUDGE STEINER: Thank you.

Good morning, Mr Witness.

THE WITNESS: (Interpretation) Yes, thank you, Madam President.

PRESIDING JUDGE STEINER: Welcome back, and we hope you are ready to continue with your testimony?

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

PRESIDING JUDGE STEINER: Mr Witness, I need to remind you that you are still under oath. Do you understand that, sir?

THE WITNESS: (Interpretation) I do.

PRESIDING JUDGE STEINER: I also wanted to remind you that you are expected to speak slower than normal and to give the five seconds before you start giving your answer in order to allow our interpreters and court reporters to do their job. We need to

facilitate their lives in order for the Judges and the parties and participants to have a proper translation and interpretation and transcripts of your testimony.

Is that fine with you, sir?

THE WITNESS: (Interpretation) Yes, indeed, Madam President. I do understand.

PRESIDING JUDGE STEINER: And finally to remind you again that you are under protective measures and therefore you should, during open or public sessions, avoid saying anything that could lead to your identification; mainly your current and previous occupation or functions and the kind of information we have already discussed. If need be, we go into private session and then you can feel free to speak whatever you want.

Can we proceed?

THE WITNESS: (Interpretation) Yes, indeed, Madam President.

PRESIDING JUDGE STEINER: Thank you very much, sir.

Maître Badibanga, you have the floor.

MR BADIBANGA: (Interpretation) Yes, thank you. Good morning, Madam President, your Honours.

QUESTIONED BY MR BADIBANGA: (Interpretation) (Continuing)

Q. Good morning, Mr Witness.

A. Good morning, Counsel.

Q. I hope that you were able to rest up and today we will require a certain level of concentration for this session. I believe that, if the exercise goes well and I manage to put clear questions to you and if you manage to answer me in an equally clear and concise manner, we will be able to move forward and hopefully draw your testimony to a close. When we left off yesterday we were examining a document, and I was asking you whether you were familiar with the document, or whether the contents thereof was familiar to you, whether you managed to recall it, and did the night itself shed any light

on the matter; the matter which we discussed?

A. Counsel, maybe we could start afresh, where we left off, and then I will be able to provide you with an answer, as many answers as you like?

MR BADIBANGA: (Interpretation) With your permission, Madam President, could we call up upon the screen the document that we were looking at yesterday when we left off? That was document bearing reference number CAR-DEF-0002-0001, and we were looking at page 0026 of the document.

Q. Mr Witness, yesterday you read the following excerpt, and I shall spare you the effort of reading it again. I shall read it to you:

"Question: Do you recognise that you took looted goods, looted goods from the Central African population, and if so - if so - and what was their destination?

Answer: Yes, well it was difficult to -- they were televisions, they were radios, there were cigarette cartons and I missed some of the list. I was not able to recall them all. I put them in three pick-ups, Toyota pick-ups, Land Cruiser model, and this was on a Wednesday, more specifically on 29 October 2002 at approximately 1600 hours. I do not know where these possessions were heading. I handed them over to Colonel Moustapha in presence of commander of battalion of the 2nd Battalion and Colonel GD -- Central African GD. They were only those goods that had been looted by the soldiers working for the 28th Battalion."

Do you remember this excerpt, Mr Witness?

A. Are you talking about whether I recall the matter with reference to what we said yesterday? Yes, indeed, Counsel, I do.

Q. So the question that I was putting to you in conjunction with this excerpt was, were we to consider the contents of this document to be accurate, Mr Bomengo would then have been in on that date, at 1600 hours, and he would have been able to commit those

acts; that is to say he would have looted the goods and he would have loaded them into three separate vehicles. I was asking you whether, despite this affirmation, you still contend that there were no troops present in the Central African Republic on 29 October 2002?

A. Yes, thank you, Counsel. Now, before answering your question, I would like ask you to read this document carefully. If you look at the stamp, the stamp upon this document, it says "General Staff G2 section." Now, generally speaking a document of this type, in view of the fact that it is an officer (Redacted) to section D2 notably, in principle this document should bear a transmitted stamp. What is that? That is a document that repeats the contents, that is to say the person sending the document and the recipient of said document, but I do not know whether this would bear witness.

(Redacted)

(Redacted) I do not know -- well, this might have been a draft. I'm not quite sure. Where did -- where was this dug up? It is difficult for me to certify the precise contents thereof.

And, moreover, if you look closely the criminal investigations officer, who is comparing with the other from Gemena, we're talking here about a date, and one wants to have us believe that he was in Bangui at that specific date. He is denying the fact. He is saying "Niamwe" (phon). He is saying that the fact described is this. He is a person who is accused, who is defending himself, so it would be difficult for me to -- what do we say? Well, it would be difficult for me to certify the contents of this document.

I don't know. Maybe you have another document, maybe an annex or the transmitted document signed by the figure of authority, that would certify that this document is indeed accurate and that it was made at such-and-such a date? That's what I believe.

Q. So what you are telling us is that, generally speaking, the MLC and the ALC operated in the following manner; notably that when a document came from a specific service then the person in charge had to sign the document in order to authenticate its contents. Is that correct?

A. Yes.

Q. And, even if your answer is only "Yes," I would recommend that you do wait the five seconds for those interpreting to be able to do their job.

A. Yes, I do apologise, Counsel. I shall make sure that I do that.

Q. And the formality that you just explained to us with regard to the transmitted document would therefore enable us to authenticate a document coming from a specific service or division; is that correct?

A. Yes, Counsel. Military correspondence is different from civilian correspondence. What precisely does its involve? Well, as you can see, I believe that a document was shown the day before yesterday. If you notice here the actual typescript of the document, if you look here this is a different typescript and, in order to authenticate a document of this type as you say, well, annexed to such a document of military correspondence is a document upon which is written transmitted document such-and-such, file number such-and-such, the number of the sender, the number of the recipient and two, if there are two, and the name of the person. So the person sending the document cannot sign it as such. It is the person in charge who takes the responsibility of signing this document before it is sent to another division.

MR BADIBANGA: (Interpretation) Could the court officer please move to the following page, which would be page 0027, please, and that would be the upper section of the page.

Q. Before we read any further on, in the final analysis, you haven't answered my

question. You maintain that on Wednesday, 29 October, at 1600 hours, this gentleman was in Bangui, and you're saying that's incorrect?

A. Yes, Counsel, that's right, because on that date, as I said previously, the brigade that was supposed to cross to Bangui had not done so. On that date, the unit that had not yet crossed over could not, could not have been committing the acts that are described in this memorandum, or this account, from the judicial police officer.

Q. Witness, perhaps you could help me understand this. This is November 2012, ten years after the events. Why are you so sure, ten years later, about the dates and about the information that you're providing in this fashion and yet you contradict a document that shows that it was 15 days or one month -- well, a document that was prepared 15 days or a month after the event, that was prepared in November 2002, less than a month or barely a month after the troops entered the CAR? So could you explain to us why are you so sure, why are you putting so much faith in your own memory rather than this document before you?

A. Thank you, Counsel. First of all, (Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

Q. I don't want to interrupt you, but I remind you we are in open session. I don't know whether your reply is heading in the direction of certain information that might identify you but I remind you, we are in open session.

A. Thank you, Counsel. I was saying earlier that an official, someone who is responsible for a unit, has to do his duty, has to do his work, and if you are leading such a unit, (Redacted) -- you can't be an amateur. This is a very delicate area

to be working in, a very delicate unit. That's the first thing.

Secondly, a father in his (Redacted)

(Redacted)

(Redacted).

Secondly --

PRESIDING JUDGE STEINER: Mr Witness, sorry to interrupt you.

Court officer, please could we turn into private session.

*(Private session at 9.36 a.m.) Reclassified as Open session

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

PRESIDING JUDGE STEINER: You can continue, sir.

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

Secondly, (Redacted)

(Redacted)

You see, some officers like that, some officers who are there and they take advantage of the section chief being distracted even just for a second. So you really have to have to focus because there is no democracy, really. So you have to focus, you have to be on top of things and my work, if I recall properly, what I'm telling you, that was my job.

MR BADIBANGA: (Interpretation)

Q. Am I to understand from what you're saying that (Redacted) may have manipulated the information found in this document, and that it's not correct or accurate?

A. Counsel, well, if you look at this document and analyse it in depth, you'll see something. You will see that -- now, isn't it so, that what is described in this document, in the final analysis, I believe he was arrested, he was tried by the court martial and found guilty, and if I recall correctly, it was subsequent to the report by the commission of Colonel Mondonga, who had travelled to Bangui to conduct an investigation, and if I

remember correctly, the court martial that dealt with the matter. Now, I don't see what the link would be, (Redacted)

(Redacted)

(Redacted). That's what I'm saying.

MR BADIBANGA: (Interpretation) I'm sorry that we have to go back to this document once again but, court officer, could we go to page 0010.

Q. Witness, would you like to correct your previous statement, or would you like me to ask you more questions in light of this particular page that we see here?

A. Would you allow me to look at the document?

Q. Now, I remember that when Mr Haynes showed you a document, it was the document relating to (Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

Q. I didn't do a very good job of putting my question to you. What I meant -- I'm sorry, what I'm trying to say is this: When you look at the text right here, does this ring a bell?

A. Who signed this document, Counsel?

Q. We'll find out in just a moment. Court officer, could you scroll down to the bottom of the page?

A. This document is not signed.

Q. Could you tell us what the name is at the bottom of this document is, Witness?

A. It reads (Redacted)

Q. (Redacted)

(Redacted)
(Redacted)
(Redacted)
(Redacted)
(Redacted)
(Redacted)
(Redacted)
(Redacted)
(Redacted)
(Redacted)

Q. Would you be so kind as to read out paragraph number 6?

A. "All the same, given the fact that they were arrested towards the back …", so to speak, "… far from the line of combat, we presume that they had stayed behind to loot. Consequently, we wish to refer this matter to your court in the interests of justice. Your orders shall be binding upon us."

(Redacted)
(Redacted)
(Redacted)

Q. Could the court officer please scroll up so we can see at the top of the document, and I'd like to ask the witness if he could please read out paragraph 1.

A. Paragraph 1: "We hereby forward the additional report relating to the Willy Bomengo et al file for your judicial authority."

MR BADIBANGA: (Interpretation) Thank you. Could the courtroom officer please move on to the previous page, page 0009?

Q. Witness, could you please read out this document, starting with the heading and all

the way down to the signature?

A. Thank you, Counsel. (Redacted)

(Redacted)

(Redacted)

(Redacted)

Shall I go on?

Q. Yes?

A. (Redacted)

(Redacted)

Q. (Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

A. Yes.

Q. Even when you are just saying "Yes," please wait five seconds.

A. Very well.

Q. (Redacted)

(Redacted)

(Redacted), wouldn't it?

A. Oh, Counsel, in this particular case, in actual fact, in actual fact, what I'm saying is this: This case relating to these soldiers, who had been found in flagrant -- flagrantly looting in Bangui, this doesn't happen -- this sort of thing, this sort of thing can't drag on and on. There can't be delays. It had to be passed on to headquarters and then to the court martial, and then the court martial, they have their own investigators, their own

judicial police officers, so (Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

A. I'm saying that this document -- I've never seen this document, and the content of this -- this matter was dealt with by the court martial that tried the soldiers that were involved, and the date of this document is not the date that I am familiar with.

Q. Now, the page that is right in front of you on the screen, CAR-DEF-0002-0009, is this a forgery or is it the real thing?

A. It hasn't been signed. This document has not been signed.

Q. You're not answering my question. I didn't ask you whether it had been signed or

not; I was asking you if it was a forgery or not. I think the answer should be pretty easy.

A. If it had been signed, Counsel, and (Redacted)

(Redacted) it hasn't been

signed. So it's up to you to draw the appropriate conclusions that you wish to draw.

Q. Witness, perhaps I'll show you one last page, 0008. Could the courtroom officer please display that page on the screen. And already I'll point out to you that this is a document that (Redacted), and this is -- well, I'll read the first sentence rather than having you do it.

It says, "(Redacted)

(Redacted)

(Redacted)

Now, if this is authentic, I mean this means that (Redacted)

(Redacted)

(Redacted)

(Redacted)

PRESIDING JUDGE STEINER: Yes, Mr Haynes?

MR HAYNES: Out of fairness to the witness, could he be shown the bottom of the page as well, please --

PRESIDING JUDGE STEINER: I was going to suggest exactly that.

MR HAYNES: -- given the assertion that was just made?

PRESIDING JUDGE STEINER: I was going to suggest exactly the same for the court officer to display the bottom of the page, please.

MR BADIBANGA: (Interpretation) I apologise, your Honour. We really didn't gain any time. I should have pointed that out.

Q. Witness, you have the document before you, you can see the entire page and my

question remains.

A. Yes, Counsel. My answer is a simple one and it's the same. Look at this document. This document, Counsel, I'm telling you the truth, this document has not been signed. It hasn't been signed. And, Counsel, I'm telling you, the investigations and the forwarding of the case to this Court was done -- this was done at the level of the court martial. The investigation was not done by the G2 office. The G2 office did not have a computer, did not have -- it was when someone receives a legal matter, the court officer in question has no jurisdiction.

Q. Witness, do you remember saying yesterday that office 2 was also an investigatory office? I think you were talking about disciplinary matters and you were making a distinction between them and criminal matters; do you remember saying that?

A. Counsel, I do remember and let me repeat this. Given the degree of this case, and given the relevance of the offences committed by those accused, in any event, the Officer of the Public Prosecutions, it's already been referred to him. (Redacted)

(Redacted)

(Redacted)

(Redacted) This was something that would be at the level of the Prosecutor of the Republic, not that a low-level judicial police officer would deal with.

MR BADIBANGA: (Interpretation) I would like to ask the court usher to return to page 0027, please. Could we look at the lower part of the page, the second part?

Q. Mr Witness, because we're in closed session, or in private session, I'm going to put a question to you which I believe deals (Redacted) and then we'll return to open session. Let me read the penultimate answer, (Redacted)

(Redacted)

(Redacted)

(Redacted)

A. (Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

MR BADIBANGA: (Interpretation) Your Honour, we can go back to open session.

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

(Open session at 10.02 a.m.)

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

MR BADIBANGA: (Interpretation)

Q. Mr Witness, let us continue looking at this document and I want to ask you to confirm or not some of the information contained therein.

Could we please, court usher, go to the top of the page?

Would you read, please, the answer next to the marking in the margin? Please, I would like you to read that excerpt.

A. "Soldiers looted at the residence of the Minister of Defence. These were Tura, Kule, Ekutsu and others. I found that money on them. Ekutsu gave me €50 and another one gave me €10. A higher amount was handed over to the battalion commander."

Q. Did you ever hear mention of this incident that took place at the Minister of Defence's place and did that information ever come your way from the Central African Republic?

A. No. No, Counsel.

Q. Can you read the last question and the last answer that appear on the screen?

A. "No, in the capacity of S2 what advanced position could I have abandoned?" "What about the four Chadian suspects who were freed or liberated by you?" "Those were students residing in Bangui. They were not suspects. They simply wanted to leave the area of fire and go behind our positions into those areas where there was calm."

Q. Without mentioning your position within the MLC, are you able to tell us whether or not you were aware of any -- any particular attention that was paid to the Chadians during the operations in the Central African Republic?

A. I did not quite follow. Did you say "intention," or "attention"?

Q. Let me be more specific. As far as you know, did the S2, particularly the S2s in the Central African Republic and maybe all the other soldiers, did they have to pay any special attention to the Chadians? Was there any particular issue at stake, or were there any particular concerns about the Chadians?

A. The Chadians, Bozizé's militia and those people from Chad, that group was the one that was involved in the fighting. Not Chadian civilians, but the Chadian soldiers and militia. That is what it was.

Q. Is that the thrust of the question to Willy Bomengo as to his having released the four Chadian suspects?

A. Counsel, as I said a short while ago, you know that the conduct of the operations was not within the purview of those who were in Gbadolite. It is the commander on ground who would be able to answer. I didn't monitor everything minute-by-minute, so this kind of report really could not have been the type that would have a great impact on the unfolding of the operations, so really I don't know. I really don't know.

MR BADIBANGA: (Interpretation) Can we go to page 0029, court usher, please? Can we look at the second segment of the document, please?

Q. Now, Witness, I am going to read out this excerpt, the underlined part of the

document:

"Question: Do you therefore deny having pillaged, raped or extorted things in Bangui?

Answer: No. And, by the way, those who raped did not get here.

Question: Can you give us the names of those who raped people in Bangui?

Answer: It was one of my soldiers who told me that a soldier allegedly raped a girl.

Question: What is the name of the soldier who informed you about the little girl having been raped?

Answer: I do not remember the name of the soldier and the battalion to which he belonged."

Do you know, or are you aware, Mr Witness, that there were also allegations of rape made against soldiers of the MLC in the Central African Republic?

A. No, Counsel. No.

Q. You never heard mention of any allegations that soldiers committed acts of rape in the Central African Republic? Is that your testimony?

A. Yesterday I said that there had been rumours and that some radio stations did broadcast some information, but you see, Counsel, the context was one wherein the Congolese had gone to the Central African Republic and were receiving logistical support from the Central African authorities. The Bozizé rebels and these soldiers were all operating in the same area and, you see, Counsel, when you are at the battle-front and bullets are flying here and there, then the conduct or attitude of a soldier can be something that needs to be looked into. Do you think that they would have time to engage in those things? Well, I don't -- I think it's something you need to look into. But I also said that when those rumours reached us, President Jean-Pierre Bemba I believe wrote to a human rights organisation, or something like that, calling for an investigation from the Central African authorities in order to clarify those points, but there was no clear

answer, no clear evidence, you see? So when the person who was on the ground is interviewed and he provides such an unspecific answer, whereby a soldier from the ammunitions brigade allegedly told him that another soldier allegedly committed the rape, you see, so who raped whom? Who are the people who were raped? So they were not seen and so, from an operational standpoint, this is what I can say, and this is what we look at. But from a tactical standpoint, you have this kind of answer from the person who is being interviewed and, in any event, (Redacted) (Redacted). It was an operation that was run from Bangui by the CCO in Bangui, and this is what I said yesterday, and I thank you, Counsel.

MR BADIBANGA: (Interpretation) Court usher, please can we go to page 0002?

Q. Now, when I ask for a document to be displayed, I wait for a few seconds so that you can look at it and then we would move to the part that we want to deal with. So I'm asking the usher to now go down or scroll down to the second part of the text.

I will read the last sentence, beginning with "By the way":

"By the way, we noted that Commander Moustapha was very tribalistic and unjust, so much so that no soldier of the ammunitions battalion was arrested, yet it would appear that it was his brothers, his brother soldiers, who systematically pillaged and raped the Central African people. May justice be done."

Witness, you testified that you were never aware of anything except rumours that were never confirmed, but when a soldier of your troops says that the soldiers of the ammunitions battalion systematically pillaged and raped the Central African people, could that be taken here and now as relevant information?

A. Thank you, Counsel. And once again, who is the person answering the question? This is someone who has been arrested, who is involved and who is defending himself. So look at this text carefully, Counsel, the text that we are looking at.

You must note that a commander, when a commander is prosecuting operations, he may want to move from one point to another. How does this happen? He has a command post, a main command post, and he needs to go to the front, for example, or go forward to see the battalion ahead of him. What does he do? He does a jump, going with his S2 and his S3 to see what is happening, and he doesn't take orders from the person who is in front of him.

Now, when an S2 is involved, and rather than remain or stay with his commander, and goes out to do something, and is then arrested along with other persons, can you say or would you say that this officer is a good officer, a reliable officer, whose statements can be true? I don't think so. So this was someone who is -- who was attempting to defend himself, and these clearly were the reasons for which they were arrested. Clearly.

Now, therefore, how can you say that to your commander, when you yourself have been arrested?

Q. When you say that when someone is arrested, all they can do is lie in their defence, is that what you refer to as irrefutable presumptions?

A. What does that "irrefutable presumption" phrase mean, Counsel?

Q. Well, I thought that this was an expression you knew because you have used it in some of the documents in this case, but if that doesn't mean anything to you, then we will talk about it.

A. Well, Counsel, I think this points out to you clearly (Redacted) (Redacted).

MR BADIBANGA: (Interpretation) Maybe the Defence will explain these issues to the Chamber, but we received these documents from the Defence and we are questioning you on the basis of these documents.

Your Honour, can we go into private session?

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

*(Private session at 10.21 a.m.) Reclassified as Open session

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

MR BADIBANGA: (Interpretation)

Q. Witness, yesterday you explained that the troops that went to the Central African Republic, or the brigade that went to the Central African Republic, was normally constituted including the S2, S3 and so on and so forth and that all these normal units were part of the brigade that went to the Central African Republic; is that correct?

A. Yes, Counsel.

Q. (Redacted)

(Redacted)

(Redacted)

A. Counsel, there are three types of branches in the army. You have units that are under orders; then you have units that are under operational control; and then you have units that are under operational control.

See, that brigade was under the orders of the Central African authorities, (Redacted) (Redacted) They were under the authorities of the Central African authorities under the CCO, (Redacted).

Q. (Redacted)

(Redacted)

A. Thank you, Counsel. As the crow flies.

THE INTERPRETER: The interpreters did not get the first part of Counsel's question. Counsel, can you repeat your question?

THE WITNESS: (Interpretation) Yes, (Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

MR BADIBANGA: (Interpretation) I have been told that maybe there was a translation issue, but we have no problem with the French transcript regarding the question. But if there is no difficulty I will proceed, except I am instructed otherwise, particularly with regard to the part of the question that was not heard.

THE INTERPRETER: The interpreters did not hear the whole question, your Honour.

MR BADIBANGA: (Interpretation)

Q. For the purpose of clarity of the record, when (Redacted)

(Redacted)

(Redacted) That's the correction.

But in any event, the witness answered the question and I will proceed now.

Witness, (Redacted)

(Redacted)?

A. Counsel, could you put your question properly? If it's a tactical question, I may be able to understand you and give you an answer.

Q. I'm sorry, but, you see, there are very few people with military training in this courtroom, so maybe we do not use tactical, strategic or operational terms, and so on and so forth, but we try to say things and put questions in a common and ordinary language that can be understood.

So this is my question: When troops are operating somewhere, say in the Congo, for example, if the troops are at the Basankusu front-line, (Redacted)

(Redacted)

(Redacted)

A. Thank you, Counsel. In any event, the answer I can give you can only be in terms of a combat drill. What happens is that when a unit is given a mission X, for example, to defend this building, quite naturally, the commander receiving that mission has within his unit what is referred to as a reconnaissance unit, which has a number of soldiers who may infiltrate enemy lines in order to find out what is happening on that side.

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

Q. Yes, you did provide those explanations yesterday, and you talked about the G2 -- or the S2 and the S3 and the G2 and the G3 collaborating, and I think we understood that. But my question was more specific.

Now, where the troops are found, the population may be hostile or ready to co-operate with the troops, (Redacted)

(Redacted)

A. Yes, the state of mind of the population is important because it is important for the commander to know what the (Redacted)

(Redacted)

(Redacted) In some cases you may avoid -- you may have to avoid physical contact between your troops and civilians and what have you, so (Redacted)

(Redacted).

Q. Now, this appreciation or assessment of the state of mind, does this fall within the

(Redacted)?

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

A. Now, Counsel, we have to draw a parallel between an operation unfolding in the Congo and an operation or this operation unfolding in Bangui. If we talk about this operation in Bangui, my response would be as follows: The units which went to Bangui was under the orders of the Central Africans. The commander of this brigade was operating in liaison with the Central African officers, and his logistic and all of his equipment had been provided by the Central Africans. So when a problem arose, he would then refer the problem to the Central Africans.

You should not forget, Counsel, that those Congolese who left could not know that the enemy was present. This was a joint operation. They could not know that if they were to cross here, you would go to such-and-such a place, or if you crossed over there you would go to another place. They needed people by their side to tell them that this is the way to go. This is the road forward.

So, to our knowledge, where we were at the time, we did not hear any specific information to do with these allegations; and secondly, when an operation of this type is unfolding within a secteur, within a certain area of the country under our control, the commander who is in position, well, that's his job. He isn't in charge for nothing. And when rumours of such things come forward, and they are persistent in nature, well, of

course the commander will then provide an explanation because he will be requested to do so.

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted) Did I understand you correctly?

A. Counsel, I will once again come back to this for us to be able to observe that there

were three soldiers answering questions put to them (Redacted). These are individuals who were arrested and it would seem that their statements are all in line with each other, with a view to ridding themselves of guilt.

Now, they each repeat the same thing; notably, that the commander did this, or that it was the brother of the commander that did that, or the brothers of the commander that did this or that. Now, whatever the case may be, this case file did not remain without any reaction, of course. This was -- there was a reaction within the higher rankings. They asked for further clarification, and an investigation was conducted.

The minister, the National Secretary of Defence, I recall, went to Zongo, and there was another person from the Ministry of Justice who went to Sibut. So what else could have been done? They went there, they went to try and check the information, and as a result in terms of strategy, well, it was followed.

Q. So according to your testimony, the High Command, and I'm talking here generally speaking, the High Command of the ALC heard soldiers saying that one of the officers was involved with his officers in excesses, and the answer of the High Command of the ALC was to write this letter; is that what you're saying to us?

A. No, Counsel, that is not what I said. I did not say that -- well, I'm answering your question. I'm saying to you that the allegations that were levelled and repeated in this case file, well, what was the aim of these allegations? There was an attempt made to establish the truth, and the truth is that those accusing are in fact those who committed these acts themselves and who were punished for this.

And of course there was an investigation conducted, the information was verified, and it went before a court martial. But of course, whether you ask me to go into detail as to whether (Redacted), et cetera, of course basic tasks were undertaken and the court martial decided that those who were incriminated here

were indeed the guilty parties. That's what I was saying, Counsel.

Q. What I was simply trying to ascertain, Witness, what was (Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

unless of course you say the opposite to us now?

A. I do not understand your mental gymnastics, Counsel. What I'm trying to say here is that this was work undertaken in Bangui, and the commander present in Bangui drafted a report which then gave rise to the situation highlighted in the document, notably the arrest of those involved, and they were then sent to trial.

I believe that is the situation.

MR BADIBANGA: (Interpretation) We shall return to open session in order to wrap up this issue, please, Madam President.

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

(Open session at 10.43 a.m.)

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

MR BADIBANGA: (Interpretation) Courtroom officer, could we please look at page 0043 and have it called up on screen? Thank you.

Q. Mr Witness, now the various documents that we have seen represent the various stages of the procedure. There were the initial interviews. According to the case file, these were the first interviews after the individuals were arrested and then subsequently there were the interviews conducted in order to conduct the investigation at a later stage. There was the transmission or the transmittal of the -- or the referral of the case file, and then we are here talking about the actual hearing at Gbadolite, and this is an extract

thereof.

I might read to you from page 0041, but I'd like to draw your attention to the fact that this is a hearing before the court martial.

Now, if this is not an issue, I look -- I'm looking at the Defence team now, I would then move to the page of interest. I would like to read the various excerpts to you, those that are of interest to me.

You can see that at the top of the page that Willy Bomengo is appearing before the Court and the question is as follows:

"Question: How is it that a certain amount of money, €60, was found on your person? Answer: On the Sunday, 26 October 2002, I crossed over to Bangui and on the Monday we continued with the attack. As regards the money found on my person following the looting which occurred at the residence of the Central African Minister of Defence, a lot of goods and possessions had been taken away. In view of the fact that everybody, notably the civilians and the various soldiers who were out in the field, well, the commander had asked me to research and to recuperate all the possessions wherever they might be. This is how I came to recuperate many possessions that were then returned to the Central African authorities at the time, and I then received from Tura and Ekutsu respectively the sums of €50 and €10. The battalion commander had suggested to me that I keep this money for -- as a form of reward for the work undertaken.

On the following day, whilst progressing towards PK12, I brought back three jeeps with a view to taking away the recuperated goods, and they were handed over to the Central African colonel.

In prosecuting you -- in prosecuting me on the subject of the pistol, I think that this is not really an issue in view of the fact that I received these two pistols at the front, I did not loot them, and it is in bad faith that Colonel Moustapha, who took a pistol from me and

€60 and my CDs and my perfume, he is the individual who caused me these problems. However, no soldier from the battalion has been questioned on the subject. I contend, and I continue to contend, that I did not loot in the sense that I did not -- that I only spent four days in Bangui."

Now, Mr Witness, Mr Bomengo, in being questioned before the court martial, gives a kind of chronology. He says that he crossed on 26 October. He says that on Monday they continued the attack, which means to say that he was there. He was there on the following day, on the Monday. He says that there was looting at the Central African Ministry of Defence residence; that is to say that this event must have occurred during this time frame.

He goes on to explain that on the following day, the day after the Monday, he then continued on to PK12, and he brought back three jeeps, and finally he finishes by saying in chronological terms that he only spent four days in Bangui.

You said at an earlier stage, or in fact since yesterday you have been saying, that when one is accused one tries to lie in order to get off, but of course you know that lies are rarely consistent and rarely stand up to the adversarial system.

Now, on arriving on 26 October and spending only four days in Bangui, that individual only spent four days there. That makes 30 October. Now, yesterday we talked about the day of the arrest, which was 30 October. Of course, yes, this is in keeping, but when this individual was arrested on 30 October he must have already have committed certain acts and he can only have committed them between the 26th and the 30th, logically speaking.

So I would like to once again return to this question, because it seems to be important to me. Can we agree together that the troops, or some of the soldiers, had already made the crossing on 26 October, that they remained in the territory? You might not be aware of

the movements of every soldier. Some of them however did remain within the territory, and some of them did and were able to commit certain crimes and were arrested on 30 October?

A. Yes, thank you, Counsel. I believe - and I shall repeat myself - that this gentleman who was arrested, Willy Bomengo, and who is testifying here, can only be consistent in what he says and of course he is trying to get off. He is trying to rid himself of any guilt. Willy Bomengo says that he crossed over. He said that he was conducting operations. He said that he was there for four days. Well, what wave was he in? Which wave of soldiers was he part of that crossed over? He's talking about another battalion, not his own. So he might be trying to get off in what he says, he might be trying to save his skin, and I know that the company that went there could see how urgent the situation was and on the 26th it returned. This is not Willy Bomengo's company.

Q. But if he wanted to save his skin, Mr Witness, would it not have been easier for him to say that he had arrived on the 26th and that he then left immediately and returned on the 30th and therefore did not commit any crime whatsoever? Would that not have been easier for him?

PRESIDING JUDGE STEINER: Mr Haynes?

MR HAYNES: We've been listening to this now for the best part of two hours and it's turned into an argument. This is not actually an examination of a witness at all. It's a series of comments by Mr Badibanga, and I note in passing that what passed for the last question went on for three-and-a-half pages of transcript.

PRESIDING JUDGE STEINER: Maître Badibanga?

MR BADIBANGA: (Interpretation) Thank you, Madam President. Firstly, on a friendly tone to my learned friend, I believe that I can choose to spend two hours on the question of the presence of MLC troops in the CAR and ascertaining over

two or three hours what happened in 2006, 2007 and 2008. As we heard lengthily from the Defence during its examination, well I believe that this is an important question for the Chamber and I believe that the Chamber is well aware of that. It is important for this witness to give us an affirmation to something which might be contained and contradict what was said in a statement.

A number of things were raised, notably the date. Also the types of crimes committed, the fact that there was information within the MLC on the subject of these crimes, the fact that some divisions received this information, all of this is part of the element of impunity allowed within the MLC. The fact that a commander is aware of these crimes. I think that in broaching this issue we have touched upon many points with the witness, and I do not think that we have been wasting any time.

Whatever the case may be, I have finished with this issue and I shall move on.

PRESIDING JUDGE STEINER: Yes.

MR HAYNES: I shall say no more.

PRESIDING JUDGE STEINER: Mr Haynes, I hope next time you wait for me to give you the floor before you answer on something.

MR HAYNES: I do apologise, but I had an eye on the clock and I know that with these two hour sessions the tape is important.

PRESIDING JUDGE STEINER: Don't worry about the clock, Mr Haynes. There is a Presiding Judge paying attention to that.

Maître Badibanga, if you are going to change topic, should we start now, or it's better if we just suspend a little bit earlier?

MR BADIBANGA: (Interpretation) That was just what I was going to suggest to you, Madam President, notably that we stop now and come back after the break. Thank you.

PRESIDING JUDGE STEINER: Mr Witness - Mr Witness - we'll have our break, a coffee

break, half-an-hour. It's almost 11 o'clock. We will suspend and resume at 11.30.

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

*(Closed session at 10.57 a.m.) Reclassified as Open session

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

(The witness stands down)

THE COURT OFFICER: All rise.

(Recess taken at 10.57 a.m.)

*(Upon resuming in closed session at 11.37 a.m.) Reclassified as Open session

THE COURT USHER: All rise.

Please be seated.

PRESIDING JUDGE STEINER: Welcome back. Could, please, court usher bring the witness in.

(The witness enters the courtroom)

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

(Open session at 11.40 a.m.)

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

PRESIDING JUDGE STEINER: Thank you.

Mr Witness, welcome back.

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

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

THE WITNESS: (Interpretation) Yes, your Honour.

PRESIDING JUDGE STEINER: Then I give the floor back to Maître Badibanga.

MR BADIBANGA: (Interpretation) Thank you, your Honour.

Q. Witness, just before the break we were talking about the time when the troops

intervened in the Central African Republic. Could you tell us which -- exactly which company passed over first, crossed the river first?

A. The force of the brigade, well, that could not be known by me. It was the commanders themselves who knew which company. That really was not my area of responsibility, Counsel.

Q. Well, during the break, the interpreters sent a message asking us to kindly wait five seconds.

Now, when I put a question to you, since it's in French, you understand immediately and you tend to reply immediately. I have the impression that your English is quite good, but since we're speaking in French we really do need to make this effort. We'll have to slow down so that the interpreters and court reporters can do their work.

I understand what you said, namely, that a brigade -- you may not have been aware of all the details, but in the particular case at hand, this particular intervention, and in light of what you've been saying since Monday, I had the impression that you might actually know which battalion it -- rather, which company it was. So you really do not know the name of that company or the commander of that company?

A. No, Counsel. I follow the hierarchy within the army, and when a battalion leaves, it's up to the commander to lead and the commander's the one who decides which group goes ahead first and which group is held back in reserve. That's tactics.

Q. Perhaps I've misunderstood or I don't remember something quite correctly, but didn't you say it wasn't the company of one particular commander? Didn't you say something to that effect yesterday?

A. No. Earlier I said that the company that had crossed over on the 26th to establish initial contact and prepare for the cross over, the brigade that was to cross over on the 29th and then 30th, that was a company that did not belong to Bomengo. He was not

part of that company. That's what I said, and that's what I maintain today.

Q. Well, that's my question. So you don't know which company it was, but you knew that Willy Bomengo was not part of the company?

A. An S2 is not the S2 of a company. He is within a brigade or a battalion. That's how I knew that Bomengo could not have been part of that company. It was a deduction I made.

Q. Since the commander of the brigade organises matters as he wishes, could the commander include Mr Bomengo amongst the initial group of soldiers who crossed over?

A. That -- yes, that would be possible.

Q. So when you challenge his testimony, rather the statement that he gave to the judicial police officer who was leading the investigation, you were satisfied by that statement, but in actual fact you don't really know?

A. No, Counsel, it's not -- it's not a matter of challenging whether he crossed over or not. I was answering the question relating to the date that had been shown in his statement.

MR BADIBANGA: (Interpretation) Your Honour, could we briefly go into private session?

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

*(Private session at 11.47 a.m.) Reclassified as Open session

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

MR BADIBANGA: (Interpretation)

Q. Witness, I'd like to read out two parts of the transcript of 19 November, namely this Monday, transcript 270. Transcript 270, French version, page 32, line 24 and on, and I'll be continuing on to page 33, line 7. And in English this corresponds to page 29, line 21, and continues on to page 30, line 5.

This is the question that Defence counsel put to you, Witness:

(Redacted)
(Redacted)
(Redacted)
(Redacted)
(Redacted)
(Redacted) "And after that?" And you said this, "After that I think the order was implemented, but that's all. (Redacted)
(Redacted)
(Redacted)
And the second passage I'm going to read out to you also comes from that same transcript, transcript 270, the same date, page 53, from page 14 to page 28. And in the English version, it is page 48, line 9 onwards.
Now, in reply to a question from the Defence you said, "No, on 25 October we learned that the rebellion had broken out in Bangui." And the question, "What about the 26th?" Your answer was this, "Oh, yes, the 26th of October. The 26th of October I do remember.
(Redacted)
(Redacted)
(Redacted)
(Redacted)
(Redacted)
(Redacted)
(Redacted)
(Redacted)
(Redacted)
THE INTERPRETER: Correction: (Redacted)

MR BADIBANGA: (Interpretation)

Q. Witness, do you remember saying that?

A. Yes, Counsel.

Q. And you stand by that statement? Those replies are true and accurate?

A. Well, if I have to repeat, so that I'm properly understood, let me repeat: In October 2002 we learned that the rebellion had begun in Bangui. I said the 26th, and (Redacted)
(Redacted)
(Redacted)
(Redacted)
(Redacted)
(Redacted)
On the 26th, the company passed over and came back on the 26th and (Redacted)
(Redacted)
(Redacted)
(Redacted)
(Redacted)

Q. So when you decided to have this discussion on 26 October, and I repeat what you're saying, your words, (Redacted)
(Redacted)
(Redacted)
(Redacted)
(Redacted)
(Redacted)

Q. Let me repeat the question I put to you ten minutes ago. What was the name of that company from Zongo that crossed over and established contact?

A. Well, a company doesn't have a name, Counsel. A company doesn't have a name. It was a company that crossed over.

Q. All the time I've been working on this file I've heard mention made of first company, second company. They are not names? Aren't those names or a way of describing a company within an army?

A. Well, when you say "first company," it's -- that's in relation to the battalion within which it is. Second company is the same thing within the battalion. And when the order is given to the commander and company X crosses, (Redacted)

(Redacted)

Q. No, (Redacted), but I'm saying (Redacted). Now, if you don't know what units were where, I think (Redacted) (Redacted). I think you can reply. Let us give an -- take an example. First company of the 3rd Battalion, the 7th Brigade, so let me put the question to you again: Do you know the name of the company that left, and you can give us the entire list, if you wish?

A. Counsel, I repeat: (Redacted)

(Redacted)

Myself, it was said that a company was to cross over, and it was the G3 who was supposed to co-ordinate. Not even the G3, the commanders, who would decide which company would cross over.

Q. Witness, we are going to go back into open session now. We are going to continue with this particular topic. We have completely understood that (Redacted)

(Redacted)

(Redacted)

(Redacted)

Q. In a few moments, when we actually talk about this in open session, we'll talk about (Redacted) (Redacted) (Redacted) Is that agreeable to you?

A. Yes.

Q. (Redacted) (Redacted) (Redacted) (Redacted) (Redacted) Are we in agreement?

A. Agreed, Counsel.

Q. Perhaps one last thing before we go into open session. And now you've been saying that you don't really know which company, (Redacted) (Redacted). Is that what I heard, that (Redacted)?

A. Counsel, (Redacted) (Redacted) However - however - in terms of the operations the G3, and in the organisation of the army even the sector commanders, can't take the place of other commanders to give orders to battalions. I explained all the ins and outs yesterday. So the G2 cannot, or the G3 cannot, know all the details as to where the various units or a brigade have been established, or what positions they've taken in a sector. The actual deployment of all the units, well, that depends on the reality of the terrain and the tactical assessment by the General Staff.

Q. What you say there is very interesting, Mr Witness. (Redacted) (Redacted)

(Redacted) but I did understand when you responded to a question put to you by the Defence that (Redacted)

(Redacted) So

you know a certain number of things as to who was present in (Redacted), because you even provided us with names, but when talking about your own troops you do not know. Is that what you want us to understand?

A. No, Counsel. We need to make a distinction between various things here. This is not how we think in military terms. The army is organised in such a manner that I can only do what is required of me in my position. It had organised in such a manner that I can be aware of the fact that Sector A is located in such-and-such a place, for example. There are various types of maps and within the General Staff we can see the overall picture, but with regard to the various -- the unit itself, it can only see the situation on a smaller scale with regard to the limits of its operational capacity. This is logical and this is how we think in the military.

MR BADIBANGA: (Interpretation) I believe that each and every one of us will have their own understanding of what they say and draw their own conclusions.

I would like to return to open session, please, and (Redacted)

(Redacted).

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

(Open session at 12.03 p.m.)

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

MR BADIBANGA: (Interpretation)

Q. Mr Witness, was the crossing over the Ubangi River done at night-time, or was it done during the day?

A. I believe that it took two days, it took from the 29th to the 30th, and those who

remained to the rear, well, it included them and they continued with a view to joining their units that were already in place there.

Q. And was the crossing completed before sundown, or after the sun had set?

A. I do not know in detail. I do not recall. I do not know whether the Ubangi River was flooded at the time or not, but as to, well, the limits of the time frame now, from the 29th to the 30th, as for the organisation in detail of the crossing I really do not know honestly.

Q. And what time did this first unit, whose name you cannot recall unfortunately -- what time did this unit cross over on the 26th?

A. The company?

Q. Well, we know that it's a company. Yes.

A. Thank you, Counsel. Well, you know, in managing certain situations, or files, there are two types of scheduling in tactical terms. There is what we call parallel scheduling, where you say that a certain order has been given for action and the General Chief of Staff will call you and say, "Here, ABC is happening and in view of the urgency of the situation I have decided that this, that and the other should be done. G3 should do the following and this should be discussed," and then there is what is discussed after the meeting and you will give them the go-ahead.

Now, in this case this was a parallel scheduling situation, notably he co-ordinated -- well, as to whether he co-ordinated the situation at his level or not, whether he receives an order, well, he might have learnt that such-and-such happened in Bangui and that the Zongo -- that company over in Zongo is going to cross over. (Redacted) (Redacted) It might have happened before 1400 hours. I do not know.

THE INTERPRETER: Message from the interpreter: Could the witness be requested to slow down when speaking? Thank you.

MR BADIBANGA: (Interpretation)

Q. I have just been told that in view of the interesting nature of the discussions we're being rather carried away, so we need to slow down, we need to wait five seconds and one second more for us.

A. I'm very sorry.

Q. Mr Witness, to date I believe that we can agree that you speak excellent French, so I do not believe that there is any problem expressing yourself and I'm going to read to you what you said. This was the excerpt that I mentioned to you on page 32 at an earlier stage, "If I remember correctly, the General Staff convened a meeting with a view to planning, or at least giving operational directives to the unit that was to cross over into the Central African Republic." That is what happened at the first meeting. We are in open session now. Shall we just say that this is what happened during the first meeting? "Planning, giving operational directives to the unit that was due to cross, not to the unit that had already crossed over." This is what you said.

Now, (Redacted)

and I'm going to say to you -- read to you what you said subsequently at page 54, "(Redacted) (Redacted) the G3 co-ordinated or continued to

co-ordinate the cross over operation for the company with others - other individuals - in attendance. If I remember correctly, they gave orders to Zongo for the company to make the crossing and I believe that it then crossed over."

I do not believe that there is any confusion possible whatsoever here, Mr Witness. It is crystal clear there were a number of people in attendance at a meeting and a statement was made afterwards, unless of course you want to change your statement?

A. No, I do not want to change my statement, Counsel. (Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted) I did not say that I had changed my statement. This is my way of explaining to you in detail what happened, because any military issue gives rise to a number of measures with a view to finding a solution. That's what I'm telling you. Yes, it is true that the company made the crossing. The company crossed over. I am not denying the fact that the company crossed. That's not what I said.

Q. It is clear, Mr Witness, that you said that a company crossed and you said that a company crossed after having received the order to do so. This order and the operational directives were discussed during a meeting that was convened, an operational meeting.

Now, if this meeting was convened at 1600 hours and the order was to then be given to the soldiers, I presume that one needs a minimum amount of time for this to be done. So my question was whether you thought it feasible -- if a meeting is held at 1600 hours, and however long it takes, whether you thought that after this meeting it was feasible to give orders, to give operational directives, for the troop to cross over and to return? And, for your information, the sun goes down between 6 and 6.15 in the Central African Republic.

A. I apologise. Well, this is how things unfold, Counsel. In a meeting of this type, well, I'm telling you, as I said, there is no democracy within the army. How do things happen? An order is supposed to be given to such-and-such a unit, so it is sent to the Chief of General Staff of the Armed Forces and also to the commander of such-and-such a battalion, accompanied with the file number, and this is a warning order. "Stop. For those in receipt of this message. Stop," in that a company should be moved in order to undertake such-and-such a mission at such-and-such -- in such-and-such an area and then

return and report back, and this is signed. And I believe that in this case the commander might say that commander such-and-such was waiting for the message, or waiting for the order, at his two-way communication system. He waits for it, he receives it, he gives an order and it is put into action. That is how things occur in our military world.

Q. Mr Witness, please correct me if I am mistaken. You say that, "On 25 October we heard the news that there had been an attempted coup d'état. On 26 October a meeting was convened, and then there was a cross over, and whether during or after there was -- there was a cross over on the 26 October. There was a second meeting held on 27 October." Do you not see or do you not believe that there is an essential link missing in this chronology of events and that you might be lacking a piece of information here?

A. Could you recall me -- could you remind me of this?

Q. I was expecting somebody with your level of knowledge to not omit to provide the essential piece of information. On one hand, we hear that there is a coup d'état, an attempted coup d'état, and then, on the other hand, we hear that troops are sent, and in-between somewhere the decision must have been taken for them to be sent, and you did not, on one occasion, mention who it was who took the decision to send the troops to the Central African Republic and when this decision was taken.

A. (Redacted)

(Redacted)

(Redacted)

Q. So on 26 October, when the first company made the crossing, no order had been given -- I apologise, no decision had been made with regard to engagement? I'm talking here about the decision to engage, for the MLC to engage in a conflict, or a war. This decision dates from 27 October, does it not?

A. The decision to engage, Counsel, is taken at a strategic level. As I told you, General

Amuli, who was the Chief of General Staff, would report to Mr Jean-Pierre Bemba, who was the commander-in-chief. So the President of the Republic is the Commander-in-Chief of the Armed Forces, like in any other country, and they, I can't say what -- well, to my knowledge, I then started -- what happened, happened, and then I started to play my role.

Q. And who did have the capacity to engage the troops, the MLC troops, in this situation, according to the statutes, according to the internal regulations, according to the structure? Who was in a position to decide that our soldiers or their soldiers would go into the CAR in order to take up battle?

A. In terms of engagement, this power was held by the Chief of General Staff hand-in-hand with the Commander-in-Chief of the army. It was at that level.

Q. You said that in our countries, the President of the State is the Commander-in-Chief of the Armed Forces, or the supreme commander; is that correct?

A. Yes.

Q. Is it in this country the commander-in-chief who decides to engage his forces or is it in fact a decision taken at the level of the Chief of General Staff?

A. The Chief of General Staff, who represented us, well, they would also hold their meetings at a superior level and they also had -- and as the head of the army and the commander-in-chief, well, there were meetings held at that level, and there were also the national secretary who held meetings, et cetera. So I don't know.

Q. I'm not asking you to speak about a meeting where you were not in attendance; what I'm asking you is to tell me who had the power to do this, whether it was the commander-in-chief, whether it was the Chief of General Staff, or whether it was, as you just said, the General Secretary. Who was it who had the power to engage troops in the Central African Republic?

A. I received orders from the Chief of General Staff myself.

Q. Mr Witness, you are of course at liberty not to answer the question I'm putting to you. However, I should remind you that you are under oath, that you are at trial, that you have -- and I believe that you have come to contribute to the judicial process here. You said that your answer that you received orders from the Chief of General Staff has nothing to do with the question I put to you.

My question is as follows: Who had the power to commit MLC troops in the conflict in the Central African Republic? And I even went on, on the basis of your statements, to give you the option between three people. Could you please answer that question?

A. As I said, Counsel, this was a question of strategy and this is made up -- the strategy is made up of the Chief of General Staff and the head of the ALC, the Commander-in-Chief of the ALC.

MR BADIBANGA: (Interpretation) Madam President, with your leave -- I'm sorry, we are in open session, are we not?

Could the court officer please call up on the screen document 0017-0363.

PRESIDING JUDGE STEINER: Maître Badibanga, could you help us by saying which number in the list of evidence?

MR BADIBANGA: (Interpretation) Yes. This is letter -- the letter to General Cissé, Representative of the Secretary-General.

I'm going to change references here, Madam President. I apologise. The reference I've just provided you with is the reference for a public version. We did have a redacted version and a public version, but I do believe that we can use that contained on the list of Defence documents. That's the fifth document on the list of Defence documents, bearing reference CAR-DEF-0001-0076.

Q. Mr Witness, as you can see, that this document has as heading "Movement for the

Liberation of Congo" and this documented is dated from 4 January 2003, and it is addressed to General Cissé, Special Representative for the Secretary-General of the United Nations in the Central African Republic, in Bangui. Might I just read an excerpt to you thereof?

A. "At the behest of His Excellency, Mr Ange-Félix Patassé, President-Elect of the Central African Republic, the MLC troops have intervened in this country from 27 October 2002, with a view to protecting the institutions under threat of destabilisation subsequent to an attempted coup d'état and to save the President-Elect and members of his family who found themselves in a dangerous situation."

MR BADIBANGA: (Interpretation) Could you please show us the next page and the signature at the bottom of the page, courtroom officer? Thank you.

Q. Mr Witness, you have seen the signature at the bottom of the document, have you not?

A. Yes, Counsel.

Q. If I return to the paragraph that you just read to us, Mr Jean-Pierre Bemba, President of the MLC, Commander-in-Chief of the ALC, says as follows: "The MLC troops intervened in this country from 27 October 2002." It would seem to me that you said to Mr Haynes at a certain moment in time that on 27 October there were no MLC soldiers upon the territory. Can you confirm this fact?

A. Yes, I can confirm, Counsel. Maybe I should add some details, with your leave. I should say that in the planning system in such a case the scheduling took a certain time to complete, and it is free to him to give a certain date when he thought that the point of departure for the troops was 27 October. This was the day where, for him, to his mind, the orders or his intentions were expressed. This takes time. It doesn't -- it isn't a knee-jerk reaction, it takes time for these orders to become reality and for them to become

orders as such, and then enforced. This takes a certain amount of time. I'm not laying blame at anyone's door. It is quite normal for him to have said it is the 27th, but the beginning of operations was not that date.

Q. So when Mr Bemba says that the troops of the -- the MLC troops intervened in this country, he is providing us with an erroneous piece of information, in fact, providing an erroneous piece of information to the Special Representative for the Secretary-General; is that what you're saying?

A. Well, he's here, he's present, you might put the question to him. What I'm saying is that when the intentions of the chief are expressed, well, to my mind this is an order, and he expressed his intentions on that very day. However, we needed a certain amount of time to put this into play. I'm not saying that he lied. He voiced his intentions, but the time that it took for us to actually put this into -- translate this into action, well, it took us a certain amount of time. That's what I said. I said that from the 29th to the 30th, this is when the Congolese soldiers made the crossing.

Q. Witness, do you know the Latin expression in tempore non suspecto? Do you understand that?

A. No, Counsel, please kindly explain that, would you?

Q. Well, this expression means the following: At a time when there is no risk, no fear, one speaks freely or one says something or does something freely because one thinks that there may be no consequences flowing from what one has done or said.

Now, in the case at hand, when Mr Bemba wrote in January 2003 that the troops that intervened in -- on 27 October 2003, the matter of a date was not in contention, it was not an issue, so he spoke freely, in tempore non suspecto, but the case is different today because there are suspicions around these issues. And so when you talk around the 27th or the 30th, that changes something. So do you understand what I'm driving at, using

that expression?

PRESIDING JUDGE STEINER: Mr Haynes?

MR HAYNES: That's a submission for the end of the case and it's not anything this witness can sensibly comment on.

PRESIDING JUDGE STEINER: Comments, Maître Badibanga?

MR BADIBANGA: (Interpretation) Well, in reality, I was only dealing with the witness's lack of understanding of the expression, so I was going to clarify that in order to go on to put my question. So I was not making any final arguments or submissions, I was just trying to enable the witness to understand what I meant by my question.

PRESIDING JUDGE STEINER: You can proceed.

MR BADIBANGA: (Interpretation)

Q. The Defence witness has pointed out that we spent a lot of time on the documents that we have been looking at since yesterday and today. Now I want to -- I have just put the question to you as to whether you can assert that what is said 15 days after the events is false, and what you are saying ten years later is correct. So I put the question to you again: On the very specific language used by Mr Bemba, Mr Bemba did not say that "I had this intention when I wrote on the 27th -- or when I wrote on 27 October." It is the President of the MLC who stated that the troops intervened on that date, and I think that as someone who held an office with some measure of responsibility he knew what those words were to mean, and that's why I referred to in tempore non suspecto.

Now, in 2003 we are given -- in 2002 we are provided a date, and today you are saying something else. What do we believe? Are you denying what was stated at that time?

A. Thank you, Counsel. I have a very simple answer to offer to your question. Regarding the first part, as to those who were involved in the case and who were arrested, don't you know the principle, or should I say the state of mind of someone who is arrested

and who makes exculpatory statements of that nature? You see, when somebody is arrested because of alleged offences and appears before an officer who interviews him, I wonder whether we should have more trust or confidence in his statement than otherwise?

Now, coming to the letter before us, I repeat that he is here. And I also state that if in his mind he took the day of the meeting as the starting point, that is the second meeting, to his mind was the starting point, that is not a bad idea, but then I go on to say that the planning and the execution of the operation was something else, and it is only normal for things to happen that way.

At the end of a meeting at which we met, he gave an opinion. At the end of that meeting, we then went forward to execute what had happened, what had transpired, and so the rest followed over time, as I have already stated.

Q. That is your testimony, Mr Witness. You are free and you are responsible for your statements, particularly relating to what someone has said, especially when we may think that they are telling the truth, but as a judicial police officer I am sure that we are all, and you are familiar with the concept of the presumption of innocence.

Court usher, please would you display CAR-DEF-0001-0152? This would be Mr Bemba's letter to the representative of the FIDH. And I'll tell you in a moment, Madam President, what document that is on the list of documents. It will be document number 38.

Mr Witness, this is a letter, you cannot see the letterhead, but it is from the MLC, from the President, dated 20 February 2003, to Mr Kaba, President of the FIDH in Paris. I would like to ask the court usher to scroll down so that the witness can read paragraphs 2 and 3. There we have it now.

Could you please read those two paragraphs for us, Mr Witness?

A. "On 30 October 2002" --

Q. Please, sorry, go back to the previous paragraph, paragraph 2 and 3, please.

A. "For your information, I would like to advise that as soon as I was informed by radio of the alleged involvement of some soldiers of the ALC in human rights violations, I immediately called for a commission of inquiry to cross-check the truth relating to the facts and to identify the ALC soldiers involved in the said acts of breach and to make -- and to bring them to book. On 30 October 2002, under the leadership of Lieutenant-Colonel Mondonga and Captain Augustin Gbendo a team of five officers of the ALC went to Bangui. On 28 November 2002, a report on the investigation revealed that several elements of the ALC had been involved in looting, and a report was submitted to the General Staff of the ALC. From the investigations, eight troops of the ALC were court-martialled for pillaging."

Q. So we see here that Mr Bemba says that as soon as he became aware by radio of the involvement of some troops in acts of violation of human rights he immediately commissioned a commission of inquiry to cross-check the facts and to identify the troops that were involved in such violations.

Then on 30 October a team made up of five officers, led by Lieutenant Mondonga, went to Bangui. And right here it is not then a matter of an intention, the words are very clear. As soon as he became aware of it, he promptly ordered a commission of inquiry. And on 30 October a team went to Bangui.

Now, the team that went to Bangui, did it cross over at the same time as the troops that went to Bangui, since it is your assertion that the first troops went to Bangui on the 29th and the 30th? Did that group then go along with those troops?

A. Counsel, I have no clear recollection. I believe that Colonel Mondonga is in a better position to provide an answer to that question.

Q. Do you want us to revisit that file from Colonel Mondonga, which we spent quite

some time on? Do you want us to go back to that document and put it on the screen to jog your memory?

A. Yes, why not? I have no objection to that.

Q. Mr Witness, maybe you have lost sight of that information, but there is a file, which we dwelt upon at length here, from Lieutenant-Colonel GL Mondonga, dated 27 November 2002, to the Commander-in-Chief of the ALC -- rather, to the Chief of Staff of the ALC. That is for the information of the Chief of Staff of the ALC. We have looked at this document at length, and I think to save the Court's time, I'm not going to ask that we look at the entire document again, but we found your name in that document. So can we proceed?

A. Yes.

Q. If Mr Mondonga went to Bangui on 30 October with a delegation, upon instructions from Mr Bemba, it must be that the crimes were committed before 30 October by soldiers who were on the ground, otherwise, one would not understand how things happened over time, or the chronology of events?

A. Not quite, Counsel. Not quite. Not absolutely. A short while ago I told you that all units are not at the same place at the same time all the time. There are some units that are located in different areas. Some are in front. Some are elsewhere.

Now, if at the time of the crossing over of the very first units the commander was unable to control his men, then things may happen. Now, he may have learnt by radio that something had happened and he may have promptly decided to dispatch a team to investigate. That is a possibility, isn't it?

Q. Mr Witness, you told Mr Haynes that they came back on the 26th and that there was no one on the 27th and that the next team that went out was on the 29th. My question therefore is going by Mr Bemba's letter, there are only two possible options: Either

Mr Bemba knew ahead of time that his soldiers were going to commit crimes and therefore pre-emptively sent an investigation team, or Mr Bemba heard over radio that some crimes had been committed and he then dispatched that commission after he had learnt that the crimes had been committed. It is either one, or the other. It's not possible to have both. I don't see any other option.

Now, can you explain to the Court what really transpired and what is your opinion on the documents that I have placed before you?

A. Counsel, this document before me was written at the strategic level. The person who is in the court can answer at that level. What I have told the Court is the chronology of what I know, and I hope that this is clear enough and I hope that it is enough.

Q. The one who wrote this letter called you to appear as a witness, and so I can put these questions to you because for now you are the witness and you are the one testifying as to what you know indeed.

In summary, therefore, can you tell the Court in a few words what happened? The commission arrived on 30 October. Did it go according to you because it was already aware of allegations that crimes had been committed during the days before, or did it arrive at the same time when the crimes were being committed? What is your position?

A. What is the date on Colonel Mondonga's report? Could you please refer to the date on Colonel Mondonga's report?

Q. Are you referring to the letter that you have just read?

A. No, I think that after Colonel Mondonga conducted the investigation he must have submitted or filed a report. That's what I'm talking about.

MR BADIBANGA: (Interpretation) Apologies from Counsel to the interpreters. We are not observing the five-second rule. I'm sorry about that.

Q. Now, Witness, at paragraph 3 of the letter signed by Mr Jean-Pierre Bemba, you

read that on 28 November 2002 the report made mention of the involvement of several ALC troops and that the said report was filed or submitted to the General Staff. That is what you read.

Now, I would like to ask the court usher to again show us the first page; the first page of document CAR-DEF-0002-0001.

PRESIDING JUDGE STEINER: Maître Badibanga, if you allow me, before you go to the document, just to seek a -- or put a follow-up question, because definitely there is a problem in chronology here, Mr Witness.

On page 67, line 18, you say, "What I have told the Court is the chronology that I know and I hope that it is enough." My question is: Is that possible, that you didn't know that there were troops of the MLC in Central African Republic before the 30th?

THE WITNESS: (Interpretation) Thank you, Presiding Judge. The chronology that I have provided is as follows: On the 26th, following orders from the Chief of General Staff, a company did a round-trip to Bangui to make arrangements for the cross over. On the 27th, there was a strategic meeting and all the senior authorities met to hear the instructions of the commander-in-chief. During that meeting, there were discussions on sending the brigade to Bangui. On the 29th and the 30th, the brigade was to cross over. That is the chronology that I have presented to the Court.

Now, I then note that the chronology of events as outlined in this letter, in relation to the effective presence of the ALC troops in Bangui, to my mind all I can say is that it was between the 29th and the 30th.

Now, I know that there were no other troops apart from those who crossed over on the 29th and the 30th, your Honour. That is what I know and that is my answer, your Honour.

PRESIDING JUDGE STEINER: Thank you.

Maître Badibanga?

MR BADIBANGA: (Interpretation) Court usher, I see that we still have this document on the screen, but please just hold on before we move to the next document. Or rather in any event I didn't know that you were ready, but now that we have it we'll return to the other document in a few minutes.

Now, can you display it in such a way that the witness can see the full page? I want him to look at the signature. Now, there it is.

Q. Mr Witness, can you tell us the date on that report?

A. 27 November 2002.

Q. Can you read the subject of the letter?

A. "Transmission of the file on pillaging."

Q. Please read item 1, paragraph 1.

A. "I hereby transmit for your due diligence the attached fake -- file on pillaging charges against Lieutenant Willy Bomengo, et al."

Q. Does this dovetail with Mr Bemba's report when he states that the investigation report was forwarded to the ALC headquarters on 28 November?

A. I see the date here, 27 November 2002, the date of the investigation, and the report is forwarded to the Chief of General Staff of the ALC.

Q. Do you want to read who or who appears at the item "Info"?

A. Commander-in-chief ALC.

Q. Who is the commander-in-chief of the ALC?

A. Mr Jean-Pierre Bemba.

MR BADIBANGA: (Interpretation) I'm sorry, court usher. Please could we go back to the previous document, CAR-DEF-0001-0152, and please go to page 2; that is page 153 of that document? That is fine. Please scroll down so that the witness can see the

signature, although I think I did show him the signature a while -- a short while back.

Q. Mr Witness, you can see that this document is signed by Mr Jean-Pierre Bemba. Is that the case?

A. Yes, I can see that.

Q. I want to read the third paragraph from below to you, "Having become aware of the serious accusations against me in your report on war crimes in the Central African Republic, I unfortunately must tell you that you didn't deem it necessary to contact the MLC in order to become aware of information that would have enabled you to work with full impartiality. I therefore wanted to clarify you about some of the actions of the MLC and myself as of 30 October 2002 in response to the abuses that were denounced in the media."

Do we agree that this last sentence points to or certifies that Mr Bemba is stating that he acted as of 30 October 2002 in response to the abuses and acts of violence?

A. Counsel, I think it would be better for you to put that question directly to Mr Bemba.

MR BADIBANGA: (Interpretation) Court usher, please would you kindly display document CAR-DEF-0001-0078, 0078, "Statistics on criminality during the 2001/2003 period"? It's a document that appears at number 1 on the Defence list of documents and it's a public document.

THE INTERPRETER: Correction from the interpreters: Document number 6 on the Defence list of documents.

MR BADIBANGA: (Interpretation) Madam President, it might be better to go into private session.

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

*(Private session at 12.59 p.m.) Reclassified as Open session

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

MR BADIBANGA: (Interpretation) Now, I believe that this document cannot be viewed from outside the courtroom. Could we cross-check, court usher?

THE COURT OFFICER: The document cannot be viewed outside the courtroom, but you stated the document was public, so once we go to public session, it will be viewed outside the courtroom.

MR BADIBANGA: (Interpretation) Thank you very much. I'm just being doubly careful here.

Q. Witness, I think that the Defence already displayed this document to you, and you recognised it; isn't that so?

A. Yes, Counsel.

Q. This covers the document from -- the period from 2001 to 2003, and it seems to start in January 2001. Did (Redacted) also draw up these statistics for the previous period of time, namely, before 2001? Were similar statistics drawn up for that period of time?

(Redacted)

Q. Unless I'm mistaken, the most recent date is 6 January 2003. Now, did these statistics continue after that period? Were they still compiled?

A. Well, if I remember correctly, the various -- there was integration of -- when the various armies came together. All of that came under the command of the FARDC, so it didn't continue in this form. How should I put it? We were unified.

MR BADIBANGA: (Interpretation) Could we now see page 0083? Perfect. Thank you very much.

Q. Witness, I was saying that the last entry is from 6 January 2003. Actually, two entries. The last two entries here on this chart are dated 6 January, and it's the second last one that is of -- and there is a number 049, that's in the first column.

Second column, 6 January 2003.

The third column provides the name of the soldier in question, Daka Kongbo. The next column provides his rank, Chief Warrant Officer, and then the fifth column we see the offence that he's been charged with, namely rape, and in the next column we see which company he belonged to, the Yakoma company, and finally the last column the sentence, three years of imprisonment.

I'll spare you the tiresome task of going through five pages, the five or six pages of this document. If I'm allowed and if the Defence does not object, we can cut right to the chase.

Now, this seems to be the only case of rape in your statistics for a two-year period, from 2001 to 2003. Does this correspond to actually what happened in the field?

A. Counsel, as I said yesterday, this is a document that relates to the administration of prisons and this is an inventory. To my knowledge, that's what this document is, unless something else occurred, but I believe -- well, this is not an exhaustive list like -- well, there may have been human error. (Redacted)

Q. You mentioned the Code of Conduct. What sentence is provided for in the case of rape, if a soldier commits the offence of rape?

A. Counsel, I no longer know. It was a long time ago. The Code of Conduct? You see, those parameters also depend on the person who has conducted the investigation, the person who heard the case, just like here. It was not up to us; it's the justice system that determines that, not us.

Q. Far from it for me to blame you or assign any responsibility to you. I was asking you what knowledge you had about the MLC and how it operated.

A. Left and right.

Q. No, no, no. The sentences that were provided for.

A. No, Counsel. All the same --

THE INTERPRETER: Inaudible.

THE WITNESS: (Interpretation) -- it was ten years ago and I no longer have the document. I've seen it here on the screen. I've really just seen it on the screen. I recognise the style and the font, but the content I've forgotten.

MR BADIBANGA: (Interpretation)

Q. Would it be helpful -- I beg your pardon. Would it surprise you if I told you that the Code of Conduct provides for the death penalty in the case of rape? Does that seem like a likely assertion, or not?

A. I don't know. You've read it. But I've forgotten. I don't know. I'm not a judge.

Q. Very well. Just so that you can understand this particular document, this is an inventory, or a list, of the various guilty findings during the period - convictions rather - during the period of time; is that correct?

A. Yes, Counsel.

Q. And these are just decisions taken by military courts. This list has nothing to do with civilian courts; is that correct?

A. I would say that the court martial did not look at these condemned people. (Redacted) (Redacted).

Q. I just want to be specific. This has to do with military courts, not civil courts; is that correct?

A. Yes, the civil courts, that was under the prosecutor and the central prison. They had their own business or their own matters to attend to.

MR BADIBANGA: (Interpretation) Thank you. I no longer require this document. It can be taken off the screen, your Honour.

Q. You just mentioned someone, a person who was handling civil --

A. I remember Nyako Konya, Prosecutor of the Republic at one point in time. There

were others as well.

Q. Now, this person, was he the prosecutor before the MLC set up operations in Gbadolite or was he the prosecutor only once the MLC had arrived?

A. He was the prosecutor even before we arrived. He was one of the authorities that we found there when we came.

Q. And did he remain in his position as prosecutor up until the point (Redacted) (Redacted)

A. I don't know, Counsel. I believe he remained in that position. I believe he did remain there.

Q. Since we are in private session, I'll take the opportunity to ask you a few questions about some people so that this information can be looked at quite freely within the courtroom.

Now, during the operations in the Central African Republic, it would appear that there was a commander who passed away. Did you hear any talk about that?

A. Yes. I've forgotten that person's name. The name, yes, I've forgotten the name. I do -- well, I've forgotten the name, Counsel.

Q. If I were to put it to you that the first name was René?

A. Yes, yes, René, but I've forgotten his surname, but it was René, yes.

Q. What about a Mr -- a Monseigneur Ombongo? Does that ring a bell?

A. No, Counsel, my memory is poor. No. Perhaps -- I've forgotten.

Q. Do you know who was the bishop at that place when the MLC was occupying the Équateur area?

A. He was the monseigneur where, in Basankusu or some other place? Because there were bishops in the area.

Q. Unfortunately, I can't give testimony here, so I'll have to ask you the question to see

whether anything rings a bell.

A. No.

THE INTERPRETER: Message from the interpreter: The name of the bishop mentioned was Monseigneur Mbongo.

MR BADIBANGA: (Interpretation)

Q. Witness, perhaps you heard something in the press, well, accusations that the MLC had engaged in acts of violence, abuses, even cannibalism. Does that ring a bell?

A. In the Congo? In the Central African Republic?

Q. Well, if you think it was in the Congo, say "the Congo." If you think it was in the CAR, just say "the CAR."

A. I do remember that for rather lowly political reasons there was some talk about a road, saying that we had eaten pygmies, and after an investigation was conducted it was shown that that was false. I do remember that. The Mambasa road.

Q. When did that investigation take place, which revealed that the information was false? Do you remember the month, the year?

A. I believe it was the government in Kinshasa that did that investigation. 2004/2005, people went there, and some communities, some international organisations, were involved. I'm not entirely sure of the name, but -- correction, the year, but it might have been one of those years.

PRESIDING JUDGE STEINER: We are still in private session.

MR BADIBANGA: (Interpretation) Thank you. Yes, we can go into open session. I was distracted.

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

(Open session at 1.16 p.m.)

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

MR BADIBANGA: (Interpretation)

Q. Witness, you were talking about the accusations regarding the MLC and cannibalism. More specifically, could you tell us what period of time these accusations related to?

A. I don't remember exactly, Counsel. I said that, but I think it was between 2004 -- around 2003 or 2004, during the operations of Mambasa. Accusations were made that we had eaten pygmies, things like that. People went to determine, and it was determined that the whole story had been dreamt up.

Q. If you don't mind, we'll take five minutes now. We'll be very systematic about approaching this, and it's my fault, I tackled this issue in the wrong order. Let us begin with these accusations made regarding the MLC, not the investigation thereafter, but the accusations. Do you remember more or less when those accusations were made? And you can situate it in relation to the conflict we are talking about in the CAR in 2000 --

A. The question was?

Q. The question is: When, or at what time, were such accusations made, saying that the MLC was involved in cannibalism? When was the MLC accused of cannibalism? Was it 2001, 2002, 2003 or later?

A. In the Congo?

Q. Yes.

A. 2003 or 2004.

Q. Which military operation -- rather, during which military operation were these accusations of cannibalism made?

A. It was during the operations in the east, at Mambasa.

Q. When did those military operations in the east of the country take place around Mambasa?

A. The date, no, I don't remember.
Q. Well, you said that there was a subsequent investigation that showed that it was a set-up, that it had all been --
A. I said that a group of people from Kinshasa, a team of people, along with people from the international community went. Many people went there, and the determination was that it was a very -- it was sort of dirty -- a case of dirty politics. It was all set up.
Q. When did this investigation take place? Had the transition already occurred, or was the MLC still rebelling during the time of this investigation, showing that it was all political dirty tricks?
A. I think it was during the one-plus-four period when -- that time when the groups were being brought together. And actually there was even a priest there, and I believe he was the one who helped determine what had happened, if I recall. I don't recall exactly, but I do remember that in a general way.
Q. Just very briefly, what do you mean by the "one-plus-four period"?
A. Well, when we all came together, the Republic became a single Republic, and there was a president -- and a president of the republic emerged, and there were -- so there was the one president and four vice-presidents, one-plus-four, and the first one had to do with political matters, the second one financial and economic matters, the third, the fourth.
Q. Do you remember when the one-plus-four regime began?
A. 2003, I think, but I don't recall the exact date, but I believe -- I've forgotten.
Q. Well, this is -- this information is actually in the public domain. It was in January 2003. Witness, I think what's clear here is -- you're saying that the investigation that concluded that this was political dirty tricks occurred when the transition period had already begun; is that correct?
A. Yes, Counsel.

Q. So let us suppose someone comes before this Court and says that late in 2002, or early 2003, that person already knew that these accusations of cannibalism were false because he had seen a report that had said that those facts were false. If someone said that, following the timeline you've given us, well, that doesn't add up, does it?

A. I beg your pardon? I haven't really grasped your question.

Q. Yes, I was asking you the question and thinking at the same time. Now, let us say a person comes before this Chamber, and this person had access, had access to the investigation report, late in 2002, or early 2003, that would impossible because you said that the investigation was done when the MLC had already entered the one-plus-four arrangement?

A. Well, I couldn't make any comment on that question, which is very general, which was general in nature.

Q. Yes, you are correct, Witness.

MR BADIBANGA: (Interpretation) Your Honour, could we please call up document 7 on the Prosecution's list? And this is CAR-OTP-0069-0303 and this is a public document.

PRESIDING JUDGE STEINER: Do we have time for that, Maître Badibanga?

MR BADIBANGA: (Interpretation) We think we can deal with this in just a few minutes. Thank you.

Q. Would you occasionally look at the official site of the MLC? Did you ever look at the website?

A. You're telling me that there's a website? I don't know. I've just learned of such a website.

MR BADIBANGA: (Interpretation) Court officer, could we please scroll down a little bit to the bottom half of the page and could you blow up the image so that we can see it more clearly?

Q. Witness, are you aware that Mr Bemba sent a message to the people of the Congo recently?

A. No.

MR BADIBANGA: (Interpretation) Court officer, could we please move on to the next page? Could you please zoom in so that we could look at the signature?

Q. This letter is dated 12 November 2012, about ten days ago actually, and it's been signed by Mr Bemba. Does this ring a bell? Did you hear anything about this letter?

A. I was in the aeroplane. I was on my way here.

MR BADIBANGA: (Interpretation) Your Honour, if you don't mind?

PRESIDING JUDGE STEINER: Thank you, Maître Badibanga.

Mr Witness, it's enough for today. You are entitled to take some rest. We will adjourn and resume tomorrow morning at 9 o'clock.

I thank very much Prosecution team, the legal representatives of victims, Defence team, Mr Jean-Pierre Bemba Gombo. I thank very much our interpreters, court reporters.

I will ask, please, the court officer, to turn into closed session for the witness to be taken outside the courtroom. In the meantime, we will adjourn and resume tomorrow morning at 9 sharp.

*(Closed session at 1.29 p.m.) Reclassified as Open session

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

(The witness stands down)

THE COURT OFFICER: All rise.

*(The hearing ends in closed session at 1.30 p.m.) Reclassified as Open session

RECLASSIFICATION REPORT

Pursuant to Trial Chamber III 's Orders, ICC-01/05-01/08-2223 and ICC-01/05-01/08-3038, the version of the transcript with its redactions becomes Public