

Trial Hearing
Witness: CAR-D04-PPPP-0049

(Open Session)

ICC-01/05-01/08

1 International Criminal Court
2 Trial Chamber III - Courtroom 1
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08
5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and Judge Kuniko Ozaki
6 Trial Hearing
7 Thursday, 22 November 2012
8 (The hearing starts in open session at 9.04 a.m.)
9 THE COURT USHER: All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 THE COURT OFFICER: Good morning, your Honours, Madam President. We are
13 in open session.
14 PRESIDING JUDGE STEINER: Good morning.
15 Could, please, the court officer call the case.
16 THE COURT OFFICER: Situation in the Central African Republic, in the case of The
17 Prosecutor versus Jean-Pierre Bemba Gombo, case reference ICC-01/05-01/08.
18 PRESIDING JUDGE STEINER: Good morning and I welcome the Prosecution team,
19 the legal representatives of victims, Defence team, Mr Jean-Pierre Bemba Gombo.
20 Good morning our interpreters and court reporters.
21 We will continue - and I hope conclude - today the testimony of Witness D-49.
22 Before I order the witness to be brought into the courtroom, the Chamber has a short
23 oral decision to be issued. It's an oral decision on the use of documents during
24 questioning witnesses.
25 The Chamber has noticed that on several occasions, in the context of their questioning

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1 of witnesses, the parties have been using documents which are exact duplicates of
2 items which have already been admitted into evidence, although under different ERN
3 numbers.

4 For example, during the questioning of Witness D-49, the Prosecution referred to a
5 document bearing the ERN number CAR-DEF-0001-0076. The same document is
6 already registered under the ERN number CAR-OTP-0017-0363, and was admitted
7 into evidence by the Chamber's "Decision on the Prosecution's Application for
8 Admission of Materials into Evidence Pursuant to Article 64(9) of the Rome Statute"
9 of 6 September 2012 (Decision 2299, paragraphs 48 to 52).

10 Similarly, and also during the questioning of Witness D-0049, the Defence and the
11 Prosecution used document CAR-DEF-0001-0078. The same document is registered
12 under ERN numbers CAR-OTP-0017-0349 and CAR-OTP-0017-0351 and was also
13 admitted into evidence by Decision 2299 (paragraphs 43 to 52).

14 The Chamber acknowledges that during their questioning of witnesses the parties
15 and participants may use, as appropriate, any of the documents which have been
16 previously disclosed and that the mere use of a document does not imply submission
17 or admission as evidence. Nevertheless, in order to ensure the expeditiousness and
18 best management of the proceedings, pursuant to Articles 64(2) and 64(8)(b) of the
19 Rome Statute the Chamber orders the parties and participants to ensure that, in case
20 one item is registered under different ERN numbers and at least one of them has been
21 admitted into evidence, the document used for the questioning of the witness
22 corresponds to the item bearing the number that has already been admitted into
23 evidence.

24 I ask, please, now court officer to turn into closed session in order for the witness to
25 be taken into the courtroom -- to be brought into the courtroom.

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- 1 (Closed session at 9.10 a.m.) * Reclassified as Open session
- 2 THE COURT OFFICER: We are in closed session, Madam President.
- 3 (The witness enters the courtroom)
- 4 WITNESS: CAR-D04-PPPP-0049 (On former oath)
- 5 (The witness speaks French)
- 6 PRESIDING JUDGE STEINER: We can turn into open session, please.
- 7 (Open session at 9.11 a.m.)
- 8 THE COURT OFFICER: We are in open session, Madam President.
- 9 PRESIDING JUDGE STEINER: Good morning, Mr Witness.
- 10 THE WITNESS: (Interpretation) Good morning, Madam President.
- 11 PRESIDING JUDGE STEINER: We hope you had a restful night and that you are
- 12 feeling well and ready to continue with your testimony that we are sure will be
- 13 concluded today?
- 14 THE WITNESS: (Interpretation) I thank you, Madam President.
- 15 PRESIDING JUDGE STEINER: Mr Witness, I need to remind you that you are still
- 16 under oath. Do you understand that, sir?
- 17 THE WITNESS: (Interpretation) Yes, I do, Madam President.
- 18 PRESIDING JUDGE STEINER: And for the last time, I hope, remind you about the
- 19 ground rules, that you are expected to speak slower than normal, to give the five
- 20 seconds before you start giving an answer to any question put to you and finally to be
- 21 very careful with information that could lead to your identification. We know you
- 22 are already familiar with these rules, so I'm sure you are able to follow them.
- 23 THE WITNESS: (Interpretation) Thank you, your Honour.
- 24 PRESIDING JUDGE STEINER: I'll give back the floor to Maître Badibanga to
- 25 continue with Prosecution's examination.

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1 MR BADIBANGA: (Interpretation) Good morning, Madam President. Good
2 morning, your Honours.

3 QUESTIONED BY MR BADIBANGA: (Interpretation) (Continuing)

4 Q. Good morning, Witness.

5 A. Good morning, Counsel.

6 Q. Yes, I do hope that you were able to rest, and I believe that you will in principle
7 be able to rest after today because we will have completed our examination.

8 A. Thank you.

9 MR BADIBANGA: (Interpretation) Madam President, could we go into private
10 session please?

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

12 (Private session at 9.13 a.m.) * Reclassified as Open session

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

14 MR BADIBANGA: (Interpretation)

15 Q. Mr Witness, on the first day, 19 November, you were interviewed on your
16 professional background and you gave information that I would like to revisit briefly
17 with a view to seeking clarification. Could you please remind us which occupation
18 you held, or took up, (Redacted)

19 (Redacted)

20 (Redacted)

21 Q. And subsequently, after having occupied this position, to what position or post
22 were you appointed?

23 (Redacted)

24 (Redacted)

25 Q. Is there a difference between (Redacted)

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1 (Redacted)

2 A. In principle, in (Redacted), well, it was a (Redacted); whereas, in (Redacted) one had

3 to (Redacted)

4 (Redacted) So this means that (Redacted)

5 (Redacted) if you like.

6 Q. And subsequently to which position were you appointed? I apologise, I

7 should have waited for five seconds. So which occupation, or which post, were you

8 appointed to?

9 A. (Redacted)

10 (Redacted)

11 Q. And subsequently?

12 A. (Redacted)

13 Q. And you were then appointed to (Redacted)

14 (Redacted) is that correct?

15 A. Yes.

16 Q. Now, with regard to the (Redacted)

17 (Redacted), are these institutions civilian or military in nature?

18 A. (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 A. He was the (Redacted)
- 2 Q. And who (Redacted)
- 3 A. I believe it was (Redacted)
- 4 Q. And what was (Redacted)
- 5 A. He was (Redacted)
- 6 Q. In the organisational chart of the MLC, who was directly (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 A. (Redacted)
- 10 Q. And what was the name of the Secretary-General?
- 11 A. Olivier Kamitatu.
- 12 Q. (Redacted)
- 13 A. (Redacted)
- 14 Q. (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 Q. (Redacted)
- 25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 THE INTERPRETER: Without observing a pause. Message from the interpreter:

7 Could a pause please be observed. Could the witness please be reminded.

8 MR BADIBANGA: (Interpretation)

9 Q. I've been told that you are not waiting the five seconds before providing us with
10 an answer.

11 A. I apologise.

12 Q. Now, in (Redacted)

13 (Redacted)

14 A. (Redacted)

15 Q. Now, in the context of the general operations of the MLC, was there a level at
16 which (Redacted)

17 (Redacted) and, if so, at what level did this occur?

18 A. I do not believe that there (Redacted) as you say,

19 this information, notably that hailing from the (Redacted) and that from the

20 (Redacted) I believe that each and every person receiving

21 information, notably the Chief of General Staff receiving military information, would

22 then compile a report thereon and the Secretary-General receiving information from

23 other services would also draft a report.

24 Q. Who did the Chief of General Staff report to?

25 A. He would report to Mr Jean-Pierre Bemba, who was his hierarchical superior.

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1 Q. And who did the Secretary-General report to?

2 A. He would also report to Mr Jean-Pierre Bemba.

3 Q. (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 A. Well, this was not -- he did not like people to lack respect for the hierarchical
8 system. He wanted it to go via the correct people, if my memory serves me
9 correctly.

10 Q. Witness, on any occasion, (Redacted)

11 (Redacted)

12 A. Well, I don't recall. Whatever the case may be, this was ten or 12 years ago. I
13 do not recall. This is a long time ago.

14 Q. Well, Mr Witness, you do remember ten years after the date, the precise date,
15 where the troops -- when the troops crossed over and where the communications
16 systems centre was located in Gbadolite. I believe that, (Redacted)
17 you will remember (Redacted) I believe
18 that is the kind of thing that one would remember.

19 A. Well, not automatically, Counsel. You know, one can forget things. There
20 has been a lot of water under the bridge, and I have forgotten.

21 Q. So your answer is that you have forgotten (Redacted)

22 (Redacted)

23 A. As I said, he would always go (Redacted)

24 and if my memory serves me correctly, it was always through my hierarchical

25 superior that we would receive orders to be implemented. That's what I remember,

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1 more or less.

2 Q. Of course we all know how rigorous the military is in its operations, but please
3 help me to shed light on the matter. (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 Q. And your (Redacted) means that

8 (Redacted) in view of

9 the (Redacted) that you (Redacted) to; am I mistaken?

10 A. Well, maybe, yes. That's right.

11 Q. So what you're telling us is that (Redacted)

12 (Redacted)

13 (Redacted) is

14 that so?

15 A. Counsel, well, there's one thing that I should perhaps explain to you: (Redacted)

16 (Redacted) and the

17 state -- well, in actual fact, the -- how should I put this? The objectives, from a
18 strategic point of view, that we were aiming for, what were they?

19 Well, that the enemy facing us, the war that we were waging, that was in the

20 operations. That was the -- that was the top priority. Everything else was of

21 secondary importance. Do you see what I mean? And as long as the operations

22 that we were conducting were the top priority, I believe that -- I think it was quite

23 clear that we were -- we were not engaging in espionage, or anything like that. So,

24 you see, that was the situation.

25 Q. I'm not so sure I've understood much from your reply, but I think we'll move on

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1 to the next topic. Witness, who appointed you to this position, (Redacted)

2 (Redacted)

3 A. Well, naturally, it was the president, but -- but when the appointment occurred,
4 well, I don't know. When the appointment -- when I was appointed, the general
5 secretary was informed, the national secretary responsible for defence --

6 THE INTERPRETER: Inaudible.

7 THE WITNESS: (Interpretation) -- the head of staff, so you see I was designated to
8 carry out those duties. Everyone was informed, all the units were informed that I'd
9 just been appointed so, you see, that's how it unfolded.

10 MR BADIBANGA: (Interpretation)

11 Q. Well, well Witness, I was saying that I understood nothing from your previous
12 reply, and once again I find myself utterly confused. Who appointed you to this
13 position? And all morning long I've been asking you very short questions and your
14 replies have been quite short, and when I asked you who appointed you all of a
15 sudden you need to explain that other people were informed, the Secretary-General
16 was informed, the head of General Staff was informed. What does that have to do
17 with the question? I didn't ask you who had been informed. Do you need -- do
18 you need to involve some other people in this reply?

19 A. Well, Counsel, you're asking for more specific information. If my answer was
20 not sufficient I'm sorry, but I'm trying to give you some details so that you can
21 understand.

22 Q. So you said that the Secretary-General was informed, so this helps me
23 understand who appointed you? I asked you who appointed you, knowing that
24 other people had been informed. That's helps us understand who appointed you?

25 A. Perhaps --

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1 PRESIDING JUDGE STEINER: Maître Kilolo.

2 MR KILOLO: (Interpretation) Your Honour, I just wish to say that this way of
3 dealing with the witness is really not entirely fair insofar as he's already explained,
4 he's answered the question, he's provided additional detail to help you understand
5 the entire context. And now to begin to insist and ask him to explain himself
6 regarding the details that he is spontaneously providing in response to the questions
7 put to him, I don't think this is really very fair and we are wasting time.

8 PRESIDING JUDGE STEINER: Maître Badibanga.

9 MR BADIBANGA: (Interpretation) Your Honour, I think my role is to shed light
10 on this testimony that the witness is providing for the benefit of the Chamber, and
11 perhaps I will cut directly to the chase. And the witness is very intelligent, so
12 I think -- we've seen ever since the beginning of the cross-examination that the
13 witness seems to be restricting his knowledge (Redacted) and he
14 seems to be very reticent to provide information about Mr Bemba. So each time he
15 answers in this manner we probe further, and we try to determine what's going on
16 here.

17 Now two days ago the witness told us that Mr Bemba was a civilian, and the military
18 men were running the show, and now we are probing, trying to find out what the
19 role of Mr Bemba was. We asked him if Mr Bemba was the commander-in-chief,
20 and today the witness tells us that (Redacted) He
21 never spoke to Mr Bemba.

22 When I asked him who appointed him, he says Mr Bemba, but other people were
23 present. So I think, your Honour, that I'm actually saving some time, because we are
24 really getting to the heart of the matter.

25 PRESIDING JUDGE STEINER: You can proceed, Maître.

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1 MR BADIBANGA: (Interpretation)

2 Q. Witness, could you please explain to us why, when I've asked you who
3 appointed you, you are asking, or you -- rather you are telling me who was informed
4 or who received a carbon copy, so to speak?

5 A. Thank you, Counsel. Well, yet this is the truth that I'm telling you, since
6 I believe I gave an oath here before the Court that I would tell the truth, and when I
7 say that the person who appointed me -- and when that person appointed me the
8 person I mentioned, that (Redacted)

9 (Redacted) and that it was not -- and it was not a secret. And within the system of
10 managing the army, each person played his particular role.

11 (Redacted) That's normal. And when it
12 comes to the implementation of our missions, we reported to our direct leaders, our
13 direct chiefs. This is what I'm telling you.

14 Q. Let us conclude. In short, the person who appointed you, you don't want to
15 tell us who appointed you (Redacted)

16 PRESIDING JUDGE STEINER: Yes, Maître Kilolo.

17 MR KILOLO: (Interpretation) Your Honour, don't you think that -- don't you
18 think that the witness has already answered this question and we find ourselves in
19 some sort of game, a game that -- a rather mean-spirited game?

20 PRESIDING JUDGE STEINER: Maître Kilolo, in your previous intervention, you
21 said that we should not waste time, and it takes more time for these interventions
22 than for -- than allowing the witness just to answer the question, even if it is a
23 repetition, I must confess. The question had been already answered, but there is no
24 prejudice for the Defence if the question is put again. And, Maître Badibanga, if we
25 could avoid direct repetitive questions to the witness, it would be better for sure.

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1 MR BADIBANGA: (Interpretation) Thank you, your Honour. In actual fact, it
2 was -- it really was a way of my finishing with this line of questioning. I was
3 expecting the witness to say Mr Bemba, and I thought this would be useful to have a
4 very clear -- in order to have a very clear transcript. And, well, I don't -- I, despite
5 the relevance or the lack of relevance of points made by the Defence, I think we
6 should avoid words like "mean-spirited." I think we are starting to go beyond a
7 certain threshold and we want to avoid this sort of thing in this courtroom. I thank
8 you.

9 Q. Now, Witness, you said that you also were engaged in (Redacted) but
10 I really didn't hear any explanation. You really didn't have an opportunity to
11 explain this (Redacted)

12 A. Well, (Redacted) Counsel, means that we were (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted)

17 MR BADIBANGA: (Interpretation) Your Honour, we can go into open session, if
18 you wish.

19 PRESIDING JUDGE STEINER: Court officer, please turn into open session.
20 (Open session at 9.43 a.m.)

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

22 MR BADIBANGA: (Interpretation) Your Honour, I would like to ask if a video
23 could be played, the video that we mentioned two days ago, and this is
24 CAR-OTP-0068-0002, from minute 11:52 to 12:36. Those are the time stamps.

25 THE COURT OFFICER: Madam President, if I may, just for the record this video

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1 will be shown to the witness and there will be no interpretation and no transcription
2 of the words that are going to be said because the speed of the video will not allow to
3 reveal an accurate interpretation. And I imagine transcripts of the video in English
4 and in French will be distributed. Thank you.

5 MR BADIBANGA: (Interpretation) Your Honour, I believe that you wanted the
6 interpreters not to translate during the video, so we have prepared a transcript of the
7 content and I will provide it to the Registry and then in turn the court usher will be
8 able to distribute it to parties and participants.

9 PRESIDING JUDGE STEINER: Maître Badibanga, could you please in the meantime
10 declare the ERN number of the transcripts for the record?

11 MR BADIBANGA: (Interpretation) Yes, your Honour. CAR-OTP-0066-0318, and
12 in the English version we have -- I beg your pardon, that's the first transcript. And
13 then we have 0066-0336, then 0066-0340. That is the reference number for the
14 English translation.

15 THE COURT OFFICER: The video excerpt will be played.

16 (Video excerpt played)

17 MR BADIBANGA: (Interpretation) There is a second passage from time stamp
18 41:25 to time stamp 42:36. I was told that you didn't -- no? Very well, we'll leave it
19 at that.

20 Q. Witness --

21 PRESIDING JUDGE STEINER: Sorry.

22 Mr Haynes?

23 MR HAYNES: Yes, I just wonder out of fairness to the witness whether
24 Mr Badibanga can tell us the date of the film clip we've just watched?

25 MR BADIBANGA: (Interpretation) Your Honour, at this particular stage in the

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1 proceedings the information we have is that the video was recorded in 2000 or 2001.
2 We could certainly provide a more specific date upon cross-check. The information
3 was found on the internet, but I would just like to ask the witness:

4 Q. You told us, Witness, that Mr Bemba did not have any radio equipment at his
5 home. Do you recognise the images that we saw in the room that he was in? And
6 please be careful, we're in open session. Say nothing that will identify yourself.

7 A. Yes, I recognise.

8 Q. And what is this location?

9 A. It's the residence.

10 Q. Whose residence?

11 A. His residence; the residence of Jean-Pierre Bemba.

12 Q. Did you notice the kind of clothing that Mr Bemba was wearing?

13 A. Yes.

14 Q. Could you tell us what sort of clothing? Do you remember?

15 A. Everyone, the ministers, the Chief of Defence Staff, and he, they all wore
16 military attire.

17 Q. We saw Mr Bemba speaking into some sort of device. Could you tell us what
18 kind of device it was, if you were able to visually identify it?

19 A. I believe it's a phonie equipment that he had asked for, that had been procured
20 for some communications that he was engaged in.

21 Q. Did he make some kind of request for communications equipment?

22 A. Counsel, generally speaking he didn't have communications equipment with
23 him. The CTE, the radio transmission centre, that's where the equipment was. He
24 could use it there, or rather it could be used there, but the equipment could be set up
25 at his request and then the equipment would be put back. Sometimes I -- but I never

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1 saw him with such equipment.

2 Q. Let me make sure I've understood this. So that is why you conclude he must
3 have asked for someone to bring the equipment to where he was so he could engage
4 in this communication? Is that what you're saying?

5 A. Counsel, the way that radio equipment works - and perhaps we've just seen
6 this - well, you see, this is how it works. The operator -- it is the operator who has
7 control of the -- or operates the equipment. The head of transmission would
8 regularly exchange the codes, and at any point in time when the operator used -- was
9 not -- he would -- if the message was coded, he would have to use the code, if the
10 message was not sent out uncoded, and you have to remember that the enemy was
11 not stupid. They were trying to listen to our communications. They were trying to
12 listen in on us. So why would he have this equipment always by his side? That
13 would have an unfavourable outcome on our operation. So I don't think he
14 mastered all the frequencies; the frequencies that the experts were familiar with.

15 Q. Now, when he was speaking over the radio, what language was he speaking?

16 A. I haven't understood. I think it was Lingala, something like that.

17 Q. Were you able to identify the person he was speaking to?

18 A. No, no.

19 MR BADIBANGA: (Interpretation) I no longer require this document, your
20 Honour.

21 Court officer, would you be so kind as to display document CAR -- this is document
22 36 on the Defence list, CAR-D04-0002-1514? If that document could please be
23 displayed on the screen and if we could go to page 1571, 1-5-7-1, if we could please
24 have that page displayed?

25 Q. Witness, while the document is being put up on the screen, I'll just let you know

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1 what this is all about. This is a page from the log-book that has already been shown
2 to you. The Defence showed you the cover, I believe, of the document and a few
3 pages from that particular document, so the document will be up on the screen in a
4 few moments.

5 At page 1571, what I'm interested in here is the message at the bottom of the page on
6 the left. Witness, do you think you could read out from, "The operational
7 commander Nia-Nia road reports that ..."?

8 A. "Operational commander along the Nia-Nia road reports the presence of the
9 enemy in Balise 40 kilometres from our position. Stop. Their intentions ...", namely
10 the enemy's intentions, "... is to attack us. Ask if Charlie Mike can agree to the -- can
11 allow that the enemy attack in Balise and occupy this position to drive off the enemy.
12 Stop."

13 Q. Can you tell us what "Charlie Mike" means?

14 A. No, I'm reading -- no, actually it reads "Chairman."

15 Q. Let us observe the five-second rule. Well, the reason I asked is a short while
16 ago you said "Charlie Mike." But, now, who is "Chairman"?

17 A. "Chairman" was the name of the president.

18 Q. When you say "president," are you referring to Jean-Pierre Bemba?

19 A. Yes. I'm sorry. Yes.

20 Q. Do you, like me, understand that this message states that the commander on the
21 Nia-Nia road section is asking for authorisation from Mr Bemba to attack the enemy?
22 Is that your understanding?

23 A. Counsel, this type of commander must go back to the military academy in order
24 to learn how these types of messages are drafted. Let me insist once more that, in
25 any event, who was this message sent to?

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1 Furthermore, if you look closely at this message, a commander on the ground, who
2 sees the enemy in front of him and turns around to ask for permission from a person
3 who is 100 kilometres away, asks for permission to attack, is that a normal
4 commander, would you say?

5 Secondly, that order -- now he, as a commander, his superior, who is supposed to
6 help him accomplish his mission, where is his superior? So this message
7 here -- I think it's a ridiculous type of message. It's not in the normal format for
8 these types of messages.

9 Q. I have been appearing before this Court since November, about ten years now,
10 and I know how the Court works. When the Presiding Judge tells us that she hopes
11 that we will be done with our examination today, it is indeed her way of advising me
12 to move forward so that we can conclude our examination today, and that's why I'm
13 asking you, please, to answer my question simply so that we can conclude this
14 examination, but if you are going to answer in a convoluted manner, that can only
15 make things more difficult for everybody.

16 Now, can we understand from this sentence that the commander is asking the
17 Chairman for permission to attack? That is a simple question I asked, and I was
18 expecting an answer to that question and to that question only.

19 PRESIDING JUDGE STEINER: Mr Kilolo.

20 MR KILOLO: (Interpretation) Madam President, I think that this is a more or less
21 leading question, quite leading, because it already embeds an answer and therefore
22 invites the witness to answer in the same manner, and I think this is not fair. He has
23 read out a document to the witness, and he's now saying, "Can we conclude from
24 having read this document that the commander is asking Mr Jean-Pierre Bemba
25 authorisation to attack?"

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1 Now, why don't you put a simple open question to the witness, such as "How do you
2 interpret this message," and that would work.

3 PRESIDING JUDGE STEINER: Maître Badibanga.

4 MR BADIBANGA: (Interpretation) It is for Mr Kilolo to conduct his own
5 examination the way he chooses to, but I think that there are very few questions that
6 can flow from this excerpt, and the witness could simply have said "No." So my
7 question is simple: Could we understand that he is asking for permission from the
8 Chairman to attack? Maybe the witness could simply have said "No" or "Yes," and
9 I don't think that it is an unfair question, and by putting it the way I did, I am
10 shortening my examination. And so if I said, "Could you please interpret this
11 excerpt," then I will open the door to all types of things.

12 PRESIDING JUDGE STEINER: Yes, it's true, Maître Kilolo, that when sometimes
13 questions were put to witnesses how they interpret something, the Defence objected
14 on the basis that the Prosecution was asking for the witness's opinion on something.
15 So I don't think, in this case, the question is unfair and I think it can be put to the
16 witness just to confirm the reading of the text exactly, without giving his opinion.

17 MR BADIBANGA: (Interpretation)

18 Q. Witness, we shall talk about the jurisdiction, so to speak, of the Nia-Nia road
19 commander, but I simply want to find out from you whether it is your understanding
20 that that commander is asking for permission from Mr Bemba to attack.

21 A. Who is that commander asking for authorisation from? In principle, this
22 commander would have asked for the authorisation from his chief, from his chief,
23 and then the chief would have responded accordingly. So this is not drafted
24 properly. The commander does not require an opinion directly the way we are
25 interpreting it. It must be, for example, a request to the Chief of General Staff, who

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1 would then respond, but when he refers to "Chairman" here, you must note that the
2 Chairman has never given any orders to this commander. So there is a contradiction
3 there when the request is drafted in this manner.

4 Q. Can we then proceed on the assumption that if Mr Bemba were to receive such
5 a message, he would not respond to it because it wouldn't have been processed
6 properly? Is that the case?

7 A. In any event, the Chief of General Staff, who is in charge of the logistics and
8 operations and who has a General Staff with him, is in a position to analyse and
9 determine what reaction to give to this type of message. That is my position.

10 Q. Let me also put to you that for the questions coming up I do not want you to tell
11 us what may have or may not have happened in theory or in principle, but let's talk
12 about what happened in reality. In theory, maybe the commander would have been
13 expected to work in such-and-such away, but we're relying here on a document that
14 was provided by Defence and it is a reflection of reality, and so we are looking at how
15 the MLC functioned in reality and in practical terms.

16 So I would like the court usher to now go to page 1574, 15-74, and I would like us to
17 look at the message to the top right corner of the page.

18 Witness, would you please kindly read out that message.

19 A. "Flash. From: Charlie Mike. To: Commander Axe Nia-Nia, number 098.
20 Please give me size of enemy and matériel before deciding on the attack."

21 Q. Mr Witness, I want to read an excerpt of your answer at page 24, French version,
22 line 9, your Honour.

23 "Question: Who would the commander have sent this message to, Counsel?

24 Answer: To his boss. His boss would have then reported.

25 Question: Well, my understanding is that the commander does not seek a direct

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1 answer. He sends a request to the Chief of General Staff, for example, who, in
2 reacting, may ask whether Chairman -- by the way, Chairman never gave any orders
3 to that commander - to that commander - so there is some contradiction when the
4 message is couched in these terms."

5 PRESIDING JUDGE STEINER: Yes, Maître.

6 MR KILOLO: (Interpretation) To be fair to the witness, our learned colleagues
7 opposite should, I believe, provide him with all the information, including, for
8 example, who the enemy being referred to in this message is, because it might have a
9 bearing on the way we proceed because we may be talking about a foreign enemy or
10 about a new combat, and then the information can be provided in that way.

11 PRESIDING JUDGE STEINER: Maître Kilolo, are you trying to lead the witness? If
12 you're trying, please I would ask - kindly ask - you to stop doing that.

13 Maître Badibanga, you can repeat the question.

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

15 Q. Witness, I have read back to you an excerpt of your testimony made under oath
16 in this court - you do recall that you are under oath - and you said that Mr Bemba was
17 not issuing orders to his commanders.

18 Let me read the message that you have just read, again. "From: Chairman," and
19 you told us that "Chairman" is Mr Bemba, "To: Commander Axe Nia-Nia. Please
20 provide size of enemy and enemy equipment before deciding to attack."

21 Do you stand by your previous answer, or can you provide further explanations to
22 the Chamber as to whether or not Mr Bemba could give orders?

23 A. I stand by my answer. I stand by my position. Now, the context in which the
24 message is given, and we read here "Flash," flash is the level of the message. Flash is
25 not an ordinary, everyday occurrence, and I put that in brackets, but let me proceed.

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1 What was the context of this message? When he received the message, did he
2 convene a meeting of his General Staff? I don't know, because that was his
3 prerogative. I was not the one to answer to this message, and so if you asked him,
4 he would be in a position to tell you how he proceeded. Did he do it
5 single-handedly? Was this message sent by operators? I see some codes there
6 below, so this is not -- it's not possible to determine whether it is the commander or
7 the Chief of General Staff or whether he acted single-handedly, and so on and so forth.
8 That's the answer I can provide to your question.

9 MR BADIBANGA: (Interpretation) Court officer, could we go to page 1-5-7-5,
10 1575, and again the message to the top right part of the page.

11 Q. Witness, would you kindly read that message?

12 A. "From: Lieutenant-Colonel Freddy. To: Charlie Mike. Info: Chief
13 General Staff. Reference number 06EFN0 (indiscernible). I wish to inform you,
14 referring to message number 098, that your information on the size of the enemy is
15 estimated at 2BN. Stop. And they are now scattered. Stop. And seem to have
16 withdrawn to Mambasa with their 107 millimetre cannon. Stop. Mortar 60
17 millimetres. Stop. Defensive position. Stop. And please be advised that their
18 order of operation ...", and that's it. "Operational base like Zone B. Stop.
19 Objective to attack and conquer Bafwasende, Isiro. Stop. Have all measures to
20 block their action. Stop. Troop morale is high. Stop." That's it.

21 Q. Who is this message sent to, Mr Witness?

22 A. Please could we scroll down so that I can see the person to whom the
23 message -- or scroll up, rather, so that I can see to whom the message is sent; that is
24 the recipient of the message?

25 Q. Please scroll up.

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1 A. I see it is to -- it is from Lieutenant-Colonel Freddy to Chairman, as you can see
2 at the top of the page.

3 Q. When he says "... referring to your message number 98 ...", do you remember
4 that this is the message we have just looked at before turning to this one?

5 A. Yes, Counsel.

6 Q. Is that the "flash" message in which Mr Bemba was asking for the size and the
7 equipment of the enemy? Is that correct?

8 A. Counsel, let me give you my tactical assessment of these things. You see, what
9 we are doing here, this exercise here is one that requires that we must note that
10 "flash," as we understood it, if a flash is sent -- in fact, if you were to look at all the
11 messages that have been sent, a flash message does not mean that the person who
12 issues the flash actually processes or conducts all the operations. Flash messages are
13 sent when a major event occurs, and in such circumstances the doors are not closed
14 and the assessment of the answer to be provided by the person to whom the message
15 is sent depends on a context and that context is not contained in the message, it
16 doesn't appear in this message, and so the context that was prevailing at the time of
17 the drafting of that message may be something else that needs to look -- to be looked
18 into.

19 MR BADIBANGA: (Interpretation) Court usher, would you please go to page 1577
20 and to the left segment of the page.

21 Q. Witness, there are three messages, several messages to the left of the page, three
22 of them, but I would like you to read the last message, the last six lines, that is "From:
23 Chairman." Would you please kindly read out that message?

24 A. "From: Chairman. To: Axe Nia-Nia from 102/CC/COMDT/2002. Please
25 communicate distance between your position and Mambasa."

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1 Q. Witness, the size of the enemy and the equipment available to the enemy and
2 the distance between two positions, is such information what you would refer to as
3 tactical, operational or strategic? What level would you place that type of
4 information at?

5 A. Thank you, Counsel. These are tactical and operational pieces of information.

6 MR BADIBANGA: (Interpretation) Court usher, please could you go to page 1569
7 and I would like us to look at the message to the left of the bottom section of the page.

8 THE INTERPRETER: Correction from the interpreter: Page 1579.

9 MR BADIBANGA: (Interpretation) I don't know if we're looking at the same page,
10 but I think it's page 1579 and that's correct now. Yes, that is fine.

11 Q. Witness, would you please kindly read the message to the bottom left of the
12 page?

13 A. Still "From: Colonel Ngalimo. To: Chairman. Info: Chief of General
14 Staff, ALC, Sector Commander, Isiro, number -- I refer to your TG number 102 and
15 inform you distance between Epulu, our position, and Mambasa is 75 kilometres.
16 Stop. Highest esteem. Full stop."

17 Q. Before reading the message you said, "Still the same colonel or commander."
18 Now, in a previous message you said, "The same Colonel Ngalimo, and in a previous
19 message it was -- reference was made to Colonel Freddy. Are we to understand that
20 Freddy and Ngalimo are one and the same person?

21 A. Yes.

22 MR BADIBANGA: (Interpretation) Please can we go to page 1580 and look at the
23 message to the top left of the page.

24 Q. Witness, would you kindly read this message?

25 A. "From: Charlie Mike," or "Charlie Chairman. " "To: Ngalimo, number 104.

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1 Don't move. No progress to Bafwasende and Banalia. Be ready to move towards
2 Mambasa."

3 Q. Witness, when I showed you the first message in this series of messages, you
4 gave us a lengthy explanation as to the abnormal manner in which this commander
5 was proceeding, which was not within the norms. Now, with what we have seen so
6 far, it would appear that Mr Bemba did not have any difficulty communicating with
7 that commander. Do you answer -- do you agree with me?

8 A. Counsel, my answer is that the context in which those messages were drafted
9 must be discussed. Was he there? Was he alone? Did he send this message by
10 himself? I see here there's an out and a transmission office number, so I believe that
11 his Chief of General Staff must have been involved. That is my answer, because he
12 was not commanding.

13 MR BADIBANGA: (Interpretation) Court officer, can we turn to document 1628
14 and display it on the screen. Thank you. Page 1628, message to the top right of the
15 page.

16 Q. Witness, before we proceed to read that message, now from the messages that
17 we have seen is Mr Bemba involved in the operations, in the exchanges of messages,
18 with the commander within the context of the operations? Could that be said to be
19 the understanding of the exchanges between himself and Mr Ngalimo?

20 A. No. No, Counsel. Let me provide further explanations. You see, the
21 conduct of the operations is not reflected in detail in these brief exchanges. It is
22 someone else who was commanding and co-ordinating. It's the Chief of General
23 Staff, but it doesn't appear here. The message is only a small aspect of the big
24 picture, because that big picture does not describe what happened from point A to
25 point B and to point C and point D. That is not reflected, Counsel.

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1 Q. Witness, please kindly read the message on the screen.

2 A. "Extremely urgent. From: Brigade Commander, Echo Brigade Commander.

3 To: Charlie Mike. Info: Chief of General Staff ALC, 24 -- 25 1450 Alpha.

4 Honour to salute you and to inform you about -- reference our chat. I believe that if

5 ship can come and. Stop. I believe that the vessel can come and. Stop. Imese,

6 the operation shall arm ... " --

7 THE INTERPRETER: Your Honour, if the witness could be asked to repeat and read

8 slowly, that would assist the interpreters.

9 MR BADIBANGA: (Interpretation)

10 Q. I'm sorry to ask you to repeat the exercise, Mr Witness, but you were very

11 speedy in reading the message and the interpreters found it very difficult to follow.

12 They have to interpret live, if you like, in real-time, so please proceed but slowly.

13 A. "Very urgent. 25 1450 Alpha. On the 25th, at 1450 hours, Alpha. From:

14 Commander of the Echo Brigade. To: Chairman. For information to the Chief of

15 General Staff of the ALC. Number 209/General Staff Command/E Brigade/2002.

16 Stop. Honour to salute you and to inform you. Stop. Referring to our discussion.

17 Stop. I believe that if the boat could come and load my troops in Imese. Stop.

18 The operation would be -- or will be pointless. Stop. Therefore, I would like for the

19 troops to continue on foot to Dongo. Stop. And request 100 litres of petrol to be

20 placed at my disposal for their follow-on journey. Stop. So that the enemy does

21 not in our absence make the most of the situation whilst the ALC is in a state of

22 maximum alert. Stop. I would be thankful for your decision."

23 Q. Mr Witness, could you please remind us who the commander of the Echo

24 Brigade was?

25 A. General Moustapha.

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1 Q. Does this message have anything to do with the Open Sky or Ciel Ouvert
2 Operation in the Central African Republic?

3 A. No, I do not see how.

4 Q. Could you please tell us the date at the bottom of the document, beginning with
5 "In."

6 A. "In 25 October 2002."

7 Q. According to this message, where are the troops located, the troops that the boat
8 is due to come and pick up?

9 A. The troops are in Imese.

10 Q. Did you not tell us that, in the previous days, that one of the units that went to
11 the Central African Republic was based in Imese?

12 A. I shall repeat, Counsel: On 25 October we were not yet in the know as to the
13 fact --

14 Q. I apologise for interrupting you, Mr Witness. The question is whether you
15 said that there was some troops that came from Imese that went to the Central
16 African Republic?

17 A. Yes.

18 Q. So on 25 October we have a message from Colonel Moustapha saying
19 that -- I think that if the boat could come and embark my troops in Imese, the
20 operation would be without any value or pointless." Now, does this have anything
21 to do with the operation in the Central African Republic?

22 A. Could you please put this question to General Moustapha, Counsel?

23 Q. Now, what does it mean when it says that the operation would be without any
24 value, valueless or pointless? What does it mean?

25 A. I do not know. This is not military language, as such.

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1 Q. Now, it seems to me that there are a number of things that do not respect
2 military standards in this raft of messages.

3 A. You cannot blame the operators, those drafting the messages, you know, in
4 terms of probability.

5 MR BADIBANGA: (Interpretation) Court usher, could you please show us page
6 1629. And it will be the message in the top right-hand corner that would be of
7 interest to us.

8 Q. Mr Witness, could you please read out this brief excerpt in the top right-hand
9 corner?

10 A. "The equipment, E Brigade, for E Brigade, is ready." I can't see or read,
11 because there are some numbers or figures over some writing here. Here we're
12 talking about mortars, or shells, 60 millimetre shells, 82 millimetres, three in number,
13 107 millimetre barrel, one in number, and I continue reading for the rest, "For the
14 Echo Brigade, 120 millimetre shells, one in number, barrel 107 millimetres, one in
15 number, and 14, one in number."

16 Q. Now, Mr Witness, does the title say that equipment for the Echo Brigade is
17 ready for the Bangui operation?

18 A. Well, this doesn't mean anything. Is this an inventory for the units? Is
19 this -- is it something for the logistics division? I -- I don't know.

20 Q. Things are becoming rather difficult, are they not, Mr Witness, if you cannot
21 shed any light and help us to read things that seem quite clear? This is difficult, so I
22 shall have to put something to you, a hypothesis. Can we believe, therefore, that
23 this is an inventory, this message is an inventory of equipment that is at the ready
24 within the Echo Brigade to be put into operation for the Bangui operation?

25 A. I am not a G3. I did not command this brigade. It was only that commander

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1 who would be in a position to answer this question.

2 Q. Well, I thought that any military man, or any person of any level of
3 responsibility within the ALC, could understand this message and could help us to
4 understand it, to decipher it. I believe that you could help us to understand military
5 messages of this ilk?

6 A. Well, this is where the argument lies, Counsel. You do not understand the
7 contents of this message, and the message is far from the process or context
8 surrounding the drafting of such a message or the sentence of such a message. That
9 is the problem here.

10 MR BADIBANGA: (Interpretation) Court usher, could we have page 1631, please.
11 Thank you.

12 Q. We are talking here about the message to the left, that's the second message on
13 the left-hand side, beginning with the word "Urgent," and this word is circled on the
14 page. Now, here, it is quite difficult to read the message here. I think it's a lot
15 clearer actually on the screen than it is in hard copy, Mr Witness, so please read it to
16 us.

17 A. "Commander. From: Sector Commander Gemena/Zongo, sector commander.
18 To: the Chief of General Staff of the ALC. For information to the Chairman,
19 number 001/General Staff Command/Sud-Ubangi sector/route or road/2002. I have
20 the honour to transmit to you the situation as of 26 October 2002. There the situation
21 is calm, unless anything arises. The situation, the military situation, has crossed
22 over on the Bangui side. Stop. Under the command of Captain René Abongo.
23 Stop. The military units have fulfilled their requested conditions, or requirements,
24 for combatants. Stop. The -- we have the power and the will to fight. Stop. The
25 morale of the authorities and the company in Zongo has been mobilised. We -- they

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1 have provided security personnel. Stop. Other situation and miscellaneous
2 nothing to report. The morale of those in charge and the troops is good. Stop."

3 Q. Could you please read that which is written next to "In" at the bottom of the
4 page?

5 A. "The 26th of October 2002."

6 Q. Now, I put a number of questions to you as to the company that went to the
7 CAR and that he headed up. Now, after having read this message, is your memory
8 jogged in any manner?

9 A. Yes, indeed, Counsel, it has jogged my memory.

10 Q. Now as a non-military man that I am, I have understood that a company is part
11 of a battalion, which is part of a brigade. Do you know which brigade this company
12 belonged to?

13 A. I believe it was part of Gemena/Zongo secteur. It is written here in the
14 message.

15 Q. Yes, I did understand the secteur, but I wanted to know in terms of the
16 battalion?

17 A. No, I do not know which battalion it's talking about.

18 PRESIDING JUDGE STEINER: Maître Badibanga, if you allow me. In relation to
19 this same communication, in the top of the communication, where it's written
20 "urgent," at the side there are some numbers. Could you please explain what these
21 numbers mean? The very top of the message.

22 THE WITNESS: (Interpretation) Yes, thank you, Madam President. Indeed, on
23 the 26th at 6.30; that is 26 October at 6.30.

24 PRESIDING JUDGE STEINER: Thank you.

25 MR BADIBANGA: (Interpretation)

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1 Q. Mr Witness, is that 6.30 in the morning, or the afternoon?

2 A. I think it's 6.30 in the morning.

3 MR BADIBANGA: (Interpretation) Court usher, could you please call up page
4 1632 on the screen, and we're talking about the message to the left-hand side of the
5 page.

6 Madam President, the quality of the document is very bad indeed. I would not like
7 to ask the witness to read this, so I'm going to try to read this document and, if we
8 agree, then we shall continue; otherwise, we'll see how we can manage the situation.

9 Now, Mr Witness, the message says, "From: Commander Gemena to C/M. For
10 information to the Chief of General Staff," and then we have a number. "I'm
11 transmitting to you weapons," and there's something between "I am transmitting" and
12 "weapons." I think it says "lot," a batch. "Stop. To arrive on 27 October," and the
13 word "rotation" followed by a number of figures, "14.5 millimetres, 43 cannons," and
14 then "ammunition," followed by a figure featuring millimetres.

15 On the next line we can't read the beginning of the sentence, but it would seem that
16 there's ammunition, 7.62 millimetres by batch, and then there's "a case of grenades."

17 It becomes somewhat more legible here. "Everything can be stored in the ACC
18 Zongo depot and information to the Chairman" -- "waiting for instructions from the
19 Chairman," correction. This is what is of interest to us: "In 27 October 2002 at the
20 Zongo depot, whilst waiting the intervention from the Chairman."

21 Now, in October 2002, was there a military operation in the Zongo region, apart from
22 that occurring in Bangui?

23 A. Well, the sector was in the Zongo area. Well, the sector headquarters is based
24 in Gemena; Gemena. The Zongo-Imese road, this is what we call here the advanced
25 depot, which supports those in presence, those located there, because the operation to

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1 conquer Kinshasa had not yet come to an end, and it was in parallel with the Bangui
2 operation, so of course one does have a depot, or a warehouse. This is quite normal
3 in terms of organisation, and the person who is in charge of logistics will be able to
4 shed light on the matter. I am not a logistician, unfortunately.

5 MR BADIBANGA: (Interpretation) Court usher, could we have page 1637 shown
6 on the screen, please. And the message of interest to us is in the bottom left-hand
7 corner.

8 Q. Now, Mr Witness, you have already seen and read this message, which was
9 presented to you by the Defence. This is a message from the Bangui operations
10 commander, addressed to the Chief of Staff, and he was in cc'd, wherein he informs
11 him of his arrival, saying that there was a co-ordination meeting and that the
12 operation was beginning at 1300 hours. Do you recall?

13 A. Yes, I do.

14 Q. I would like to revisit this message, because there was an excerpt that you were
15 not able to read. You said that it was not visible or legible on the screen. I'm
16 talking here, of course, of the clarification sought under the control of the
17 Defence and the Chamber. I'm going to read this to you.

18 Now, it says, "We have been abandoned by the nationals."

19 And then we move on to the next page, and maybe the court usher could show this to
20 us, that is the right-hand side of the page.

21 "No co-ordination with the Libyans. Lack of communication means for
22 inter-operational communication."

23 Now, were you aware of this information, notably, that they were abandoned by the
24 nationals, and, if so, how could we interpret this piece of information?

25 A. No. The answer is no, unfortunately.

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1 MR BADIBANGA: (Interpretation) Court usher, we have finished with this first
2 document. I'd like us to move on to the second log-book, please.

3 That is document 37 on the list of Defence documents, Madam President, first page,
4 reference CAR-D04-0002-1641.

5 Now, could the court usher please show on the screen, or call up on the screen, page
6 1648. This is the message to the middle of the right-hand side of the page. This is
7 the message that is of interest to me.

8 Q. Witness, would you please read this brief message to us?

9 A. "Extremely urgent. From: Colonel Moustapha. To: Chief of General Staff
10 of the ALC. "Information," or "cc" to "The Chairman, Commander Place Dongo,
11 023/General Staff Operations/CAR/2002. Honour to salute you and to inform you
12 that the balloons and other possessions for the Simba Battalion are already in Dongo,
13 but we are lacking fuel to take them there. Sector commander requests supplies in
14 order to reach destination. I would be obliged to receive a decision from you. In
15 22 December 2002."

16 Q. And what date in 2002?

17 A. Well, that's the date, in 22 December 2002, at 10 o'clock, followed by "Alpha."

18 Q. You didn't say "22nd," you said "in December." That's why I asked you. Now,
19 Mr Witness, to your knowledge or in your opinion why is it so important to talk
20 about the balloons or other things? Can you help us to understand this message?

21 A. Well, I don't know. I believe that when talking about balloons, we're talking
22 about second class. We're talking about uniformed soldiers, I believe, or category 2.
23 I'm not a logistician.

24 Q. And on this date of 22 December 2002, was Colonel Moustapha in the CAR, in
25 Congo, or elsewhere?

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1 A. I no longer recall, Counsel. I do not know. I no longer recall.

2 Q. You know at what date the troops returned from the Central African Republic,
3 do you not?

4 A. Well, I've forgotten once again. Well, they didn't come back. They just
5 scattered, you know. I've forgotten again.

6 Q. So you remember the arrival date better, the arrival of the troops in the Central
7 African Republic, that is?

8 A. Yes, because (Redacted). As for their return, it was an entire
9 catastrophe.

10 Q. So it was 15 March 2003, Mr Witness. Now here, in the month of
11 December 2002, in this message, request is being made for supplies to the General
12 Staff of the ALC; is that correct? Colonel Moustapha is requesting for supplies, am I
13 understanding correctly here?

14 MR KILOLO: (Interpretation) Madam President, I really do believe that there is a
15 problem in this line of questioning. Mr Badibanga is actually testifying himself.
16 He is saying that the MLC soldiers returned to the Congolese territory on
17 15 March 2003 and then goes on to interpret the message that is shown on our screens.
18 He is providing the answer himself by saying, "Should we consider therefore that
19 Colonel Moustapha has provided logistical support to the General Staff of the ALC in
20 Gbadolite?" Then he puts this to the witness. Now, I believe that this means of
21 proceeding is not at all correct or acceptable.

22 PRESIDING JUDGE STEINER: We have to go to our break now. I will give
23 opportunity for Maître Badibanga maybe to rephrase the question after the break.
24 Mr Witness, we'll have our half-an-hour break, to give you some rest and allow you
25 to have a nice cup of tea or cup of coffee.

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- 1 It's 11 o'clock. We'll be back at 11.30.
- 2 I ask, please, court officer to turn into closed session for the witness to be taken
- 3 outside the courtroom. In the meantime, we will suspend and resume at 11.30.
- 4 (Closed session at 11.00 a.m.) * Reclassified as Open session
- 5 THE COURT OFFICER: We are in closed session, Madam President.
- 6 (The witness stands down)
- 7 THE COURT OFFICER: All rise.
- 8 (Recess taken at 11.00 a.m.)
- 9 (Upon resuming in closed session at 11.35 a.m.) * Reclassified as Open session
- 10 THE COURT USHER: All rise.
- 11 Please be seated.
- 12 PRESIDING JUDGE STEINER: Welcome back.
- 13 Could, please, court usher bring the witness in.
- 14 (The witness enters the courtroom)
- 15 PRESIDING JUDGE STEINER: We can turn into open session, please.
- 16 (Open session at 11.37 a.m.)
- 17 THE COURT OFFICER: We are in open session, Madam President.
- 18 PRESIDING JUDGE STEINER: Thank you.
- 19 Mr Witness, welcome back.
- 20 THE WITNESS: (Interpretation) Thank you, your Honour.
- 21 PRESIDING JUDGE STEINER: Are you ready to continue with your testimony, sir?
- 22 THE WITNESS: (Interpretation) Yes, your Honour.
- 23 PRESIDING JUDGE STEINER: Maître Badibanga.
- 24 MR BADIBANGA: (Interpretation) Thank you, Madam President.
- 25 Your Honour, before the break, I was about to react to Mr Kilolo's remarks. All I can

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1 say in that connection is that, although we have faced several difficulties coming to an
2 agreement with the Defence on the agreed facts, facts about which we agree that there
3 is no contention, then it would seem to me that we are all agreed that the events
4 started in October 2002 and ended in March 2003, which is the framework within
5 which Mr Bemba is being prosecuted, and this is an established fact. So stating to
6 the witness that the troops left on 15 March does not amount to testimony on my part.
7 It is simply an established fact.

8 Now, if the witness were to offer another date for the withdrawal of the MLC from
9 the CAR, maybe he would share that idea with parties and participants. All I tried
10 to do was to jog his memory in order to enable him to answer the question that had
11 been put to him.

12 Q. Mr Witness, before that interruption --

13 PRESIDING JUDGE STEINER: Maybe we could just complete -- ask the witness to
14 complete his last answer, when he said that he remembered the date of the beginning,
15 but not the date of the end, because the return, it was an entire catastrophe. This is
16 on page 45, 5. Maybe you could explain what you meant by saying that the return, it
17 was an entire catastrophe?

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

19 What I wanted to say is that, like the case would be with other operations which start
20 and end according to a specific programme or a drill which involve a hand over and
21 take-over between the incoming and exiting troops, what I can say is that this type of
22 hand over/take-over did not happen in this case. The commander crossed over with
23 part of his men. Others were surprised when Bangui was captured and each
24 commander therefore had to organise his men in order to find their way back to the
25 Congo using the options that were possible and open to them. That was the thrust

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1 of my answer; namely, that it was -- the withdrawal was not organised. It was not a
2 mission that came to an end in an organised manner as usually would be the case.
3 That's what I meant to say, your Honour.

4 MR BADIBANGA: (Interpretation) Thank you, Madam President.

5 Q. Witness, taking the cue from the Presiding Judge, the withdrawal of MLC
6 troops from the CAR, was it pursuant to a decision taken to determine that our troops
7 will withdraw on such-and-such a day, or was it because the troops had been
8 defeated in military terms, or maybe because of another reason? In short, how did
9 the withdrawal occur?

10 A. Thank you, Counsel. The troops withdrew at the behest of the MLC
11 authorities, if I am not mistaken, who had contacted the CEAC asking for the troops
12 to withdraw from Bangui, but then they were surprised by the attack by Bozizé's men,
13 who had somehow anticipated that the plan was going to be implemented. That is
14 my understanding.

15 Q. With the -- within the context of the consultations within the CEAC, what was
16 the expected date of withdrawal? Do you know?

17 A. No, Counsel. In fact, I don't know. Really I don't know.

18 Q. According to your testimony, when the Bozizé soldiers entered Bangui, they
19 acted in anticipation of that date. Does this mean that the MLC troops withdrew
20 before the date; is that correct?

21 A. The date on which the MLC was expected to disengaged -- to disengage, rather,
22 was somehow should I say precipitated? Or I don't know what expression to use.
23 The organised withdrawal of the MLC troops did not take place and, in the meantime,
24 Bangui was captured while the troops were still at -- while some of the troops were
25 still at the front line and while others and their commander had crossed over already.

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1 That's what I meant to say.

2 Q. Throughout the Open Sky operation in the Central African Republic,
3 throughout the duration of that operation what monitoring or follow-up did the
4 General Staff in Gbadolite have over the troops that were in the Central African
5 Republic?

6 A. Counsel, these troops had been placed under the orders of the Central African
7 authorities. There was no more monitoring to be done in so far as those troops were
8 placed under the Central African authorities. No monitoring. Well, what may
9 have happened would have been small messages here and there asking about the
10 morale of the troops and what have you. Apart from that, I don't think there was
11 anything else. That's it.

12 Q. Witness, when you lend or give your troops as you have just said, is there no
13 minimum follow-up to determine what their position is, their conditions, where they
14 are located, their exposure to the enemies and what have you? Is it not the
15 prerogatives of a responsible General Staff to do that type of monitoring?

16 A. Counsel, let me repeat: The operations were conducted by the commander
17 operating in Bangui, as the case was, and the solutions are found either through some
18 joint discussions or what have you on the ground, but from time to time - and this is
19 possible - messages can be sent to the General Staff to present the state of mind of the
20 troops. To that extent I agree, but it doesn't mean that the troops are being
21 commanded in that way.

22 Q. Now, relating to the message I showed you before the break, that occasional
23 follow-up you referred to, would it include supplies to the troops?

24 A. Counsel, the truth and reality are that the operation was under the logistical
25 support of the Central African authorities, so much so that it was not even necessary

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1 to send any further logistics across to the Central African Republic. That is what
2 I know and that is what I am telling the Court.

3 MR BADIBANGA: (Interpretation) Could we display page 1654, court usher, still
4 document 37 of Defence list of documents, first page CAR-D04-0002-1641. Please,
5 what I would like displayed is page 1654, the message to the left -- to the top left of
6 the page.

7 Q. Witness, would you please kindly read out that message?

8 A. "Urgent. 24 0845 A. From: Co-ordination Ops Bangui. To: Chief of
9 General Staff ALC. Info: Chairman. Number: Secret, number
10 019/OPS/MJDK/2002. Sitrep 22 to 23 December 2002. General situation calm.
11 Stop. Enemy situation. Stop. Idem situation friend. Stop. Commander ..." I
12 don't see clearly, "... René in Bossembélé. Stop. Colonel Moustapha in Damara.
13 Stop. Regular company in Damara. Stop. Situation all clear. Morale troops
14 diverse this Monday, 23 October. Stop. Movement Colonel Moustapha and
15 co-ordination ops Bangui for Bossembélé. Stop. In order to co-ordinate future
16 action on Bozoum. Other reports will follow. Stop. 24 December '02. 0950A.
17 RT MRT." "Repeat MRT."

18 Q. What does "Repeat MRT" mean?

19 A. It is the transmission code; the code of the operator who has abbreviated his
20 name. It may be Martin or something else.

21 Q. In the references you read "Secret 019." What does that mean, "Secret 019?"
22 What does "Secret" stand for?

23 A. Counsel, it is a code that is the level of classification or confidentiality of the
24 message. It's either secret, confidential and so on and so forth. It's the level of
25 confidentiality.

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1 Q. What is the date of this message, Witness?

2 A. 24 December 2002.

3 Q. Is it your understanding, Witness, that on 24 December 2002 the troops in
4 Bangui had informed the General Staff of the position of a number officials of the
5 ALC?

6 A. Well, Counsel, look at the source. "From: Co-ordination Operation Bangui."
7 Now, my understanding is that the co-ordination includes the Congolese and the
8 Central African parts who were involved in a joint operation, so these were Central
9 Africans and Congolese who were at the battle-front and who were providing reports,
10 and so I see here that the co-ordination had transmitted the information to the Chief
11 of General Staff and what I said was that from time to time such information was
12 passed across.

13 Q. Let me repeat my question. So the information was about the position of the
14 various officials, Commander René, Colonel Moustapha and so on and so forth?

15 A. Counsel, the content of military messages cannot be dictated by me, nor by you.
16 It is determined by the events as they occur on the ground. If the author deems it
17 necessary to provide information on this context and this information, why do you
18 want to blame him? He is simply doing his job because he thinks that this is what
19 needs to be done.

20 Q. Witness, we are not trying to shift blame to anyone or do any such thing. We
21 are simply analysing the evidence before us. We have this document and we
22 understand that you have expertise that can enable us to understand some of this
23 data. It is for this reason only that these questions are being put to you. So let me
24 again revisit what I was saying that this is a message from Bangui to Gbadolite and
25 the picture painted here is one of the location at which some ALC officials are located;

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1 is that correct?

2 A. Yes, that is correct, and I can say so from what I see before me.

3 MR BADIBANGA: (Interpretation) Court usher, could we please go to page 1657,
4 to the bottom right of the page.

5 Q. Witness, before we look at this message, now the kind of information we have
6 just looked at showing the exact location of some units and some MLC officials in
7 Bangui, was it a frequent occurrence during the operations or were these types of
8 reports forwarded frequently during the operations?

9 A. Well, it did happen, but the frequency would depend on the position of the
10 commander and the training they had. There is no single model for doing these
11 messages. The experience on one road would be different from another and there is
12 no standard format for the messages. So one commander could say, "Take this out"
13 and yet another would say, "I need this information in the message."

14 Q. Was there a minimum amount of information irrespective of the style of the
15 commander that the General Staff expected to receive? Now, was each commander
16 expected to provide a minimum amount of information to the headquarters?

17 A. Yes. Yes, Counsel. Yes.

18 Q. What was the minimum amount of information to be provided to the General
19 Staff?

20 A. There has to be an introduction, greetings, then the friendly situation, the
21 enemy situation, other information, logistics, administrative issues, morale of the
22 troops, such information.

23 Q. Witness, would you please kindly read the message that is now before you on
24 the screen?

25 A. Thank you. I read, "From: Commander Sector South Ubangi. To: Chief of

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1 Staff ALC. Info: Chairman. Number: 3391 -- 339/EM/South Sector Ubangi/2002.

2 To inform you. Stop. In message 009/PDE/CMR/2002 Major Rugaza, Commander
3 of the E Brigade ad interim, has sent a team to Bozene for recruitment. Are you
4 aware of this? 20 December 2002. 1605."

5 Q. Could you please tell us what the letters "Commander Brigade E AI" mean?

6 A. This means the commander of the brigade who is standing in, if you like, as a
7 commander of the brigade; of the Brigade E. He's ad interim.

8 Q. And where is Bozene located, in which country?

9 A. A few kilometres away from Gemena, that is to -- that is in the South Ubangi
10 sector.

11 Q. And is that to be found in the CAR?

12 A. Yes.

13 Q. Correction, is that to be found in the DRC?

14 A. Yes.

15 Q. And do you know why Major Rugaza was recruiting?

16 A. Counsel, I'd like to remind you once again that the MLC was still fighting with
17 its objective in mind, notably that of protecting the limits of its borders and repelling
18 the enemy as far afield as possible. Operations were ongoing and it is quite normal,
19 I would presume, that such recruitment be undertaken. I think that there was a
20 recruitment centre somewhere, a training centre, rather, in Boadembele (phon),
21 somewhere like that.

22 Q. Mr Witness, now on 25 October 2002 did the Echo Brigade have any need for
23 extra resources in terms of manpower?

24 A. Counsel, well, if it needs any further support in terms of manpower, it is not the
25 commander himself who goes to recruit and train. This type of planning is

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1 conducted within the General Staff itself. They designate the recruitment or training
2 centre to be used for the recruited soldiers.

3 Q. Yes, that's in theory, but practically speaking I can see that it is said here in the
4 message that Major Rugaza is recruiting. He is ad interim commander for the Echo
5 Brigade, and my question to you is as to whether the Echo Brigade required any
6 further manpower? I'm basing this question on the message, not on the theory.

7 A. No, no.

8 Q. Have you ever heard people speak about sending further troops into the CAR
9 in January 2003, in early January 2003?

10 A. No, I've never heard speak of that.

11 Q. Do you know where the 5th Battalion was located in January 2003, the 5th
12 Battalion of the ALC, that is?

13 A. Well, the G3 would be in a position to answer such a question. Well, his job
14 was actually bringing the forces into play, the deployment, if you like, of the forces.

15 MR BADIBANGA: (Interpretation) Madam President, I just wanted us -- to ask us
16 to move on to the next page. I apologise.

17 Court usher, could we please move on the page 1658.

18 I was wondering whether we should go into private session or not. That is why I
19 addressed my sentence to you, but we are in open session for the time being and we
20 shall remain so.

21 Yes, I'd like us to look at the message to the top right-hand corner, please.

22 Q. Mr Witness, could you please read the message to us.

23 A. "Extremely urgent. 25 1400 Alpha.

24 From: Colonel Moustapha.

25 To: Chief of General Staff ALC.

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1 Info: Chairman.

2 Level of security: File number 024/Commander of General Staff/Bangui

3 Operations/ ..." and I think it says "S2" at the end of the sentence. "I have an honour

4 to salute you. Stop. To inform you. Stop. Urgent operations. Stop. Request

5 phonie communication system and a Kenwood microphone. Stop. In order to

6 facilitate co-ordination between the various units and. Stop. Hope at the first

7 possible opportunity to have your intervention, which would be of some relief to us.

8 Stop.

9 In 25 December 2002."

10 Q. I believe that the word you could not read is "espère," "hope," that is "Hope that

11 you will be able to intervene at your first possible opportunity."

12 Now, Witness, who is Colonel Moustapha requesting the phonie from on

13 25 December 2002?

14 A. He is requesting this from the Chief of General Staff of the ALC.

15 Q. And where is the headquarters for the ALC at that moment in time?

16 A. I do not know, but I believe that it must have been in Gbadolite.

17 Q. Is there any specific reason why this equipment should not be part of the

18 supplies that you put down to the Central African Republic? Is there any reason

19 why Gbadolite should be furnishing these supplies in this context?

20 A. Counsel, I can't really answer that question. The commander, when

21 conducting his operations, in the light of certain issues that arise, he might not have

22 found a solution to the co-ordination issues in Bangui. So did he request from his

23 General Staff? Did he request anything? That might be the case. I am just

24 thinking aloud here. The commander himself can give us the reason why he

25 requested this equipment elsewhere from the place where it was in fact located, or

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1 from the area.

2 MR BADIBANGA: (Interpretation) Court officer, could we please look at page
3 1665 on the screen. It will be the message to the bottom left-hand corner of the
4 screen that will be of interest to us.

5 Q. Witness, could you please read the message to us. This is page 1665. I
6 believe we might have to turn the document the other way up.

7 MR HAYNES: I think we have 1655 on the screen.

8 MR BADIBANGA: (Interpretation)

9 Q. So it is indeed 65 and it's the message to the left that we would like you to read
10 to us, please, Mr Witness.

11 A. "Urgent. 28", at I believe, "940 Alpha.

12 From: Co-ordination operations Bangui.

13 To: Chief of General Staff ALC.

14 Info: Chairman. Number: 022/Commander General Staff/co-ordination/Bangui
15 operation/2002.

16 Sitrep of 26 to 27 December 2002. Stop. General situation calm. Stop. Enemy
17 situation. Stop. Idem identical. Stop. Friendly situation. Stop. 28th Battalion
18 in Bossembélé of which one company in Bozoum. Stop. Poudrier Battalion B in
19 Damara. Stop. Logistical situation. Stop. Nothing to report. Morale of troops
20 and authorities good. The co-ordination truck for operations had an accident. Stop.
21 On returning from Bozoum on Thursday the 26th, at 1400, Alpha, December 2002.
22 Stop. State of affairs. Stop. Not much damage in terms of equipment or damage
23 to individuals. Stop. Return to Damara this Friday, 27th".

24 THE INTERPRETER: The interpreter was not able to finish interpreting the excerpt
25 because we moved away from it. Thank you.

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1 THE WITNESS: (Interpretation) "Colonel Moustapha in 28 December 2002, 1540
2 Alpha," and to go up the page to where, the bit the interpreter did not catch, "From:
3 Colonel Moustapha and OPS co-ordination. Nothing more to receive in terms of
4 orders from you."

5 MR BADIBANGA: (Interpretation) I would like to request -- I would like to
6 apologise to the interpreters in the English booth. I think that they managed to catch
7 up with the English interpretation.

8 Q. Now, Witness, at an earlier stage we saw a message from 24 December, giving a
9 position. Now, here we have a message from 28 December which also grants or
10 gives the positions of the various battalions and companies. Was this something
11 that occurred on a regular basis?

12 A. The truth be told, Counsel, I wouldn't be able to say this for sure. Two
13 messages here talked about the positions of the units present. It is the co-ordinator
14 in Bangui who was sending the message out. That's a normal state of affairs. This
15 is what I can see.

16 MR BADIBANGA: (Interpretation) Madam President, might we move into private
17 session briefly, please?

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

19 (Private session at 12.15 p.m.) * Reclassified as Open session

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

21 MR BADIBANGA: (Interpretation)

22 Q. Witness, I requested that we move into private session because I wanted to
23 explore a number of aspects of your responsibility. I asked of you this morning
24 whether (Redacted)

25 (Redacted) is that correct?

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1 A. Yes.

2 Q. Now, the General Staff that (Redacted) was made up of three -- of six
3 people; the General Chief of Staff, the G1, 2, 3, 4 and 5; is that correct?

4 A. Yes.

5 Q. And that is the highest body within the ALC, is it not?

6 A. That is correct.

7 Q. Mr Witness, if (Redacted)

8 (Redacted) how could you explain to us that for an entire series of matters (Redacted)

9 (Redacted) that you say that it was the G4 who would have known, or the G4 or the G3,

10 (Redacted)

11 (Redacted)

12 A. Counsel, well, thank you. In view of the fact that this -- the troops were under
13 the order of the Central Africans, and in view of the fact that the operations were
14 being conducted in full view and that joint operations were ongoing, and that they
15 were finding a solution to their problem, well, the General Staff in Gbadolite, well, he
16 had other fish to fry. What do you expect him to do?

17 Q. Mr Witness, you gave me the same type of response when I presented the
18 message from 25 October from Colonel Moustapha requesting a boat in order to
19 move his troops from Imese and (Redacted)
20 (Redacted) then?

21 A. No, Counsel. What is true is that if the message is addressed to the Chief of
22 General Staff, who was of the opinion that he processed it in the appropriate manner,
23 and timely manner, (Redacted)? Every message
24 should have what we call the annotations from the commander. (Redacted)
25 (Redacted) Well,

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1 this -- you know, a lot of time has gone by.

2 Q. I asked you with a specific intent in mind whether you were (Redacted)

3 (Redacted) so either you

4 were (Redacted) and you (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted) How should we understand your role?

8 A. Counsel, no. You know, when you are (Redacted) and when

9 you are a commander, well, these are two distinct positions.

10 What is the different here? The commander is the chief. He is the one who decides

11 what his men do or don't do. So what does this mean in effect? The commander

12 receiving, for example, a telegram, telegram X, might -- and especially if this is

13 operational in nature, and I would point out to you that this is operational in nature

14 this message, the General Staff, well, when confusion arises, each person has their

15 own responsibility. What should the head of office 3 or division 3 or 2 or 4 do?

16 What is their duty? That is the crux of the matter.

17 Q. In order to do your job as the (Redacted) was it necessary for

18 you to know the (Redacted) Was it necessary for

19 you to know (Redacted)? Was all of this

20 information -- well, did you have to know (Redacted)? Was all

21 this information something that you needed (Redacted)

22 (Redacted)?

23 A. Counsel, well, knowing this kind of information specifically is

24 difficult -- different from knowing it, you know, knowing what's happening (Redacted)

25 (Redacted) You can't stand in or replace the commander, the person who is in

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1 charge of this. Being a (Redacted) does not mean that you are the person

2 who is in the know, generally. No, that's not the case.

3 Q. So I shall revisit the message that we showed you earlier. That was 1657,

4 Madam President, and this was when it was said that (Redacted)

5 (Redacted)

6 (Redacted)

7 THE INTERPRETER: Message from the English interpreter: Due to the speed, the
8 interpreter could not catch the full question.

9 THE WITNESS: (Interpretation) This is an isolated fact, but in bringing this to the
10 attention of the Chief of General Staff, this did not occur yesterday, you know. The
11 most important thing is whether the General Chief of Staff was made aware of this?

12 Did he receive this message? Yes. And what did he do with it and when

13 did -- where did he -- to which service or division or office did he send it on to? I

14 cannot remember precisely now what happened. There must have been a response
15 to this piece of information.

16 MR BADIBANGA: (Interpretation)

17 Q. I am being reminded in a friendly manner that we need to slow down.

18 Mr Witness, please let me judge the relevance of the questions I am putting to you

19 and -- because I'm the one putting them to you and then the Chamber will ascertain

20 the relevance of the information you provide. So please, your role is to answer the

21 question as such. My question is not what was done with this message. My

22 question is whether you, (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 A. I do not recall. That is my answer.

2 Q. Of course, memory is selective. Now, you remember the 26th or the 29th, but
3 (Redacted)

4 A. Well, what do you want me to say to that, Counsel? I said -- well, I told you
5 that what I did I will recognise that fact, but as to what went on without me I can't tell
6 you. So why are we sort of, you know, going round and round in circles here?

7 Q. Yes, you are right, Mr Witness. I do apologise.

8 MR KILOLO: (Interpretation) I believe that Mr Badibanga is right to apologise
9 here, because we believe that he should stop commenting on what the witness does
10 or does not recall. I think he should just content himself with putting questions to
11 the witness and that there is a minimum amount of respect due.

12 PRESIDING JUDGE STEINER: Maître Badibanga, continue with your questioning,
13 avoiding side comments in relation to your impressions on the kind of answer given.

14 MR BADIBANGA: (Interpretation) Yes, of course, Madam President. I would
15 just like to underscore the fact in response to my learned friend that we can draw to
16 the witness's attention contradictions in his statement. If, for example, there is a date
17 and an hour and then there is no memory, of course we can draw up this
18 contradiction and I think that that is my role in the examination -- cross-examination.

19 Q. Now, Mr Witness, I will make the most of our being in private session to
20 present a document to you, 1636 is the number of the page, and I would like to
21 apologise to the court usher. We are in fact returning to the very first log-book
22 which has as reference CAR-D04-0002-1514, and it is page 1638 that is of interest to
23 us.

24 PRESIDING JUDGE STEINER: 36 or 38?

25 MR BADIBANGA: (Interpretation) 36, Madam President. 36. So I'm looking

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1 here at the message to the left-hand side of the page in the middle.

2 Q. Could you please read -- oh, I apologise. It is not this message. Have we got
3 the page on the screen? Not quite yet. I apologise. It's 1636, 1-6-3-6. So this is
4 the message to be found to the left. Now, Witness, could you please read this
5 message to us? This message is in French.

6 A. "Extremely urgent. From: Chief of General Staff ALC. To: Commander of
7 all ALC sectors. All ALC brigade commanders. Info: Chairman. Number:
8 233/389/EMG - G2/2002. Please send to us as soon as possible. Stop. The name of
9 all intelligence personnel working in your various sectors with the following details.
10 Stop. Name, rank, specialism, unit, location. Stop. None of them must be missing
11 in the table. Stop. Furthermore. Stop. Would like to indicate. Stop. That
12 now a numbering system according to the T2 production; that is to say the
13 production of official reports and secret reports. Stop. Are applicable to the G2.
14 Stop. Which will be in the DECA. Will immediately be put to one side. Stop. To
15 be implemented. Stop. ACK. Stop. Stop."

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 Q. We're in closed -- private session, (Redacted)

23 A. (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 A. Well, if I read this, Counsel, I believe that quite simply it was a way to assess the
3 performance of our men in the field, the men of office 2 who were in the field, so it
4 was to encourage them to -- it was encouraging them to do their work properly
5 within the strict framework of their mission; namely --

6 THE INTERPRETER: Inaudible.

7 MR BADIBANGA: (Interpretation)

8 Q. Witness, in this message (Redacted) those below the threshold shall be
9 dismissed. (Redacted)

10 A. Counsel, all of this happened an awful long time ago. I no longer remember
11 (Redacted) but you see each day through the commander they were
12 supposed to send an intelligence summary to the headquarters. (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 Now, if I remember, we really didn't have a lot of men (Redacted)

19 (Redacted) so this was a way -- this was a way of encouraging them to do their work.

20 So I think that's what this must be all about.

21 Q. Witness, well, I don't want to be scolded by Mr Kilolo once again, (Redacted)

22 (Redacted) Now, for other messages I can accept that you don't

23 remember, (Redacted) Now, you came here to give

24 testimony. I would imagine that you cast your memory back and thought about the

25 events. (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. Witness, this message is intended for all commanders within the ALC,
10 including brigade commanders; is that correct?

11 A. The way it's worded here? Yes.

12 Q. And (Redacted) or rather -- rather this is
13 an order that you gave on that date.

14 A. Yes, I can see the date.

15 Q. Because at least we do know one thing that in the military world you have to
16 follow orders, so I suppose that after this order was issued (Redacted)
17 (Redacted)

18 A. Thank you. That's not mentioned in this report. (Redacted)
19 (Redacted) This is an administrative sort of
20 thing.

21 Q. Now, since the message is right here in front of you, it's for everyone except for
22 Echo Brigade. Is the Echo Brigade exempted?

23 A. But the Echo Brigade is not mentioned. No particular brigade was mentioned.

24 Q. Witness, (Redacted)?

25 A. (Redacted)

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1 Q. Where is it in the message that it's specified that it's for brigades in the DRC?

2 A. Counsel, the brigades that were there, that were operational in the sector, the
3 sector of our authority that received this message, in any event be that as it may --

4 Q. I'll move on to the next message on the same page. Could you please read the
5 following message, if you could be so kind, Witness.

6 I'm sorry. Court officer, could you please show us first the bottom of the previous
7 page so we can see the beginning of the message and then we'll move on to the top of
8 the next page.

9 If you could read this out, Witness.

10 A. "Extremely urgent. 28 October. From: Chief General Staff ALC. To: All
11 Commanders Sector South Ubangi. Info: Chairman. Number: 237/289/ --"

12 Q. You're reading out the other -- no, it's the next message. Two lines at the very
13 bottom, and then the following text on the following page. Let me make things
14 easier for you. I'll read out the lines that were on the left-hand side of page,
15 "Extremely urgent. From: Chief of the ALC GS. All Commanders South Ubangi."
16 And then if we move on to the right-hand page, court usher, if you could. There we
17 are.

18 Witness, if you could please read the rest of the message to us?

19 A. "Info: Chairman. Number 234/390/General Staff - G2/2002. Please clarify
20 this information according to which Mr Bienvenu Yale in charge of supplies allegedly
21 stabbed a man something to do with a motorcycle and please clear this up ASAP and
22 arrest Yale and ensure that he is put on trial, et cetera, et cetera, 30 October 2002."

23 Q. Well, what does it mean when a message ends this way, "Implement"?

24 A. Well, that's military language when you give an order and you want it to be
25 implemented, carried out, in the spirit of the message.

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1 Q. Do you remember the circumstances surrounding this particular event, this
2 Mr Bienvenu Yale?

3 A. I no longer recall, but I do see that this is a smart man because, well, you know,
4 this happened a long time ago, but I can see, (Redacted)
5 (Redacted). I believe it must have been something like that, yes. Bienvenu had been
6 arrested for stabbing someone, something along those lines.

7 Q. Well, (Redacted)

8 Now, it says that he was the person in charge of the supplies office, (Redacted)
9 (Redacted)

10 A. Yes. The G2, I said this, the G2 is also a general sort of -- a generalist.
11 He's -- he's also, correction, an OPJ, a judicial police officer, and so he has to pass on
12 these matters to the appropriate authorities, as this message indicates.

13 MR BADIBANGA: (Interpretation) Court usher, if we could go to the second
14 log-book, please, and the reference is CAR-D04-0004-1641, 16 --

15 THE INTERPRETER: The English interpreter regrets but the reference numbers are
16 being read at great speed.

17 MR BADIBANGA: (No interpretation)

18 PRESIDING JUDGE STEINER: Court officer, please turn into open session.
19 (Open session at 12.45 p.m.)

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

21 PRESIDING JUDGE STEINER: Maître, could you please repeat the ERN number?

22 MR BADIBANGA: (Interpretation) 1676. 1-6-7-6. CAR-D04-0002-1641, I'll
23 repeat once again so it will be clear on the transcript.

24 Now, if we could look at the message at the very bottom,
25 we'll see that it begins there,

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1 and once the witness has read the first three lines, we'll have to move on to the next
2 page, page 1677.

3 Q. Witness, could you please read this out.

4 A. "Extremely urgent. 17 1430 Alpha.

5 From: Head of General Staff ALC.

6 To: The National Secretary Responsible for Finance and Budget in Zongo.

7 Info: Chairman.

8 Number: 0033/General Staff - ALC/Combat/2002.

9 Upon the instructions of the Chairman, please buy for us and send to Gbado."

10 Q. No, that's the previous message. I'm very sorry.

11 If the court usher could move on to the next page, page 1677, and we'll resume on the
12 left-hand side of the page at the top. There we are.

13 Witness, could you please read this out?

14 A. I don't even see the heading.

15 Q. Well, that's what you just read out on the following page. You just read that
16 out:

17 "From: The Head of the GS.

18 To: The Head of Budget and Finance, Zongo.

19 Info: Chairman, also copies to operational commanders Bangui," and then the
20 message begins if you could please read this out?

21 A. Very well. "Number: 0034/General Staff ALC/Command/2003. Tomorrow
22 the helicopter will be going from Zongo to Bangui to transport salt upon the orders of
23 the chairman. Purchase 60 litres of acid already prepared for the sector. Stop.
24 This direction. This is necessary. Co-operation.
25 7 January 2003".

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1 MR BADIBANGA: (Interpretation) Thank you, interpreters, for managing to keep
2 up.

3 Q. Witness, now do you know which helicopter this is talking about here, this
4 message?

5 A. I don't know. We have to be more specific which helicopter. I suppose -- I
6 suppose the person who received the message would have known which helicopter it
7 was.

8 Q. Do you know whether the MLC had a helicopter?

9 A. Yes. Yes, we had a helicopter. It might have been one helicopter, or another
10 one.

11 Q. Now, do you know whether the helicopter travelled to Bangui often?

12 A. Well, actually, Counsel, there were some transactions that were done, or deals,
13 as we can see here. This is a logistics matter, but I really couldn't tell you how many
14 times, but we can see here that, yes, the helicopter went back and forth.

15 Q. Now, be it for logistics or other reasons, do you have some idea about this
16 helicopter going back and forth between the DRC and the CAR?

17 A. Well, we would buy fuel there in Bangui. It was normal. We would buy fuel
18 and some basic commodities in Bangui.

19 Q. Witness, now, the transportation of salt and the purchase of acid, would you
20 say that's an operational sort of thing, or is -- would it be at some other kind of level?

21 A. I'm not sure what you're insinuating, Counsel, but the salt and the need; the
22 need. The unit, the operational sector of Zongo, is asking for salt for the soldiers
23 who have to cook with it to maintain morale, so it's operational and tactical because
24 logistics supports. So, really, that's the very nerves of the war.

25 Q. This sort of decision, or the decision to send some salt or to purchase some acid,

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1 is this one of the responsibilities of the commander-in-chief, or is that sort of thing
2 dealt with at lower levels?

3 A. The message is being sent to the National Secretary of Finance and Budget,
4 Counsel, and -- and, you see, the national secretary is like the minister, so he was the
5 one who handled such things at the level of the cabinet. It would be normal for the
6 political branch of government that held the purse strings to decide upon such things.
7 It's normal.

8 MR BADIBANGA: (Interpretation) Court usher, could we please now look at page
9 1680, the top of the page, on the right-hand side, if you could.

10 Q. Mr Witness, could you read this for us?

11 A. "Urgent. 29th 11 a.m. Alpha.

12 From: Co-ordinator Bangui OPS.

13 To: Head GS ALC.

14 Information: Charlie Mike.

15 Number: 023/Commander/Co-ordin/CAR OPS/2002.

16 Sitrep from 27 to 28 December 2002. Stop. General situation calm. Stop. Enemy
17 situation. Stop. Same thing. Stop. Situation of friendly troops. Stop. 28
18 Battalion in Bossembélé. Stop. Including one company in Lac Bozoum. Stop.
19 Poudrier Battalion B," et cetera, et cetera.

20 "Morale of officers and rank and file good. Stop. Various. Stop. A Libyan
21 officer has returned to Libya this Saturday, 28 December 2002, as well as CEMAC
22 soldiers to be deployed to ensure the security of the office of the President of the CAR.
23 Stop. Remains. Stop."

24 THE INTERPRETER: Correction from the interpreter: "Respectfully submitted."

25 MR BADIBANGA: (Interpretation)

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1 Q. What is the relevance here for Gbadolite to have this information about this
2 Libyan officer?

3 A. Counsel, the co-ordination -- rather, the co-ordinator of this operation, the
4 message, this is not Gbadolite that's asking. That's where the message is being
5 written and it's not saying, "Listen, you need to write in this way or in that way," no.

6 Q. I was asking you about the relevance, Witness. Would it be important for the
7 General Staff of the ALC to have this idea or this knowledge about the presence of
8 these troops, this Libyan officer leaving, the CEMAC soldiers being deployed? Is
9 this important back in Bozoum (sic)?

10 A. As tacticians, yes.

11 Q. Because the General Staff is supposed to prepare tactics?

12 A. No. I'm saying as people in charge of tactics, yes. You see, Counsel, in any
13 event there were no orders forbidding or for -- there was nothing keeping us from
14 receiving information from time to time that would allow us to have some idea of
15 what was going on over there. We didn't ask for the information, but he sent it. So
16 it was sent and it allowed us to monitor or keep abreast of what was going on. The
17 one Libyan officer left. It was relevant.

18 MR BADIBANGA: (Interpretation) Mr Courtroom Usher, if we could please look
19 at page 1687 now, and this time the message on the left-hand side of the page.

20 Q. Witness, could you please read out this message that we see on the left side of
21 the page here?

22 A. "Extremely urgent. 31, 1452, Alpha. From: Co-ordinator Bangui ops. To:
23 Head of General Staff ALC. Information: Chairman. Number:
24 025/Co-ordinator/Ops CAR/2002. I'm honoured to extend greetings and inform you.
25 After cross-checking information according to which. Stop. The Kolingba military

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1 refugees at Bokilio site, some of them are fleeing to go back to Congo-Brazza where
2 they -- where they are expected to reorganise themselves to take Mongoumba, then
3 Bangui. Information to be confirmed. About the Congolese in Bétou not in
4 agreement to give them free passage. They be put on a boat. Many FACA in
5 Mongoumba are awaiting for this convoy to align themselves with them. Stop.
6 Then recently seen this boat going by. FACA soldiers shooting in direction of
7 Batanga. What's more, seen recently Damara and surroundings. Population
8 towards Bangui and the bush. Finally, high levels of attackers in Dumbia. Stop.
9 In Possel. Stop. In Djoukou and in Palambo. Stop. Where they are preparing
10 for future action upon Bangui. So the enemy is thinking of taking Bangui and at the
11 same time from Mongoumba to the west and Palambo to the east of Bangui.
12 Respectfully submitted. Stop."

13 Q. Witness, we saw a number of messages providing information on the positions
14 of the ALC, the position of the 28th Battalion, position of Commander Moustapha
15 and so on and so forth. Now, this message appears to be talking about the enemy
16 positions or about something that is being prepared. Was this information
17 processed or dealt with in Gbadolite?

18 A. No. In principle Gbadolite was simply informed and it is Bangui that was the
19 co-ordination centre and clearly Bangui dealt with this type of information. In any
20 event, we were far away and what could we do from that distance?

21 Q. You could have given advice. It does happen, but was this kind of information
22 asked for or requested from Gbadolite or by Gbadolite?

23 A. Thank you. Once again, Counsel, I have already said that the content of a
24 message is never requested for by the recipient. It is the person who dispatches the
25 message who tells the story of his experience and that is how it happens.

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1 MR BADIBANGA: (Interpretation) Well, we will find out. Court usher please,
2 page 1702. On the printed version we were not able to see the number, but I think
3 the electronic version should show us the page number 1702, the message to the left
4 of the page. 1702 and the message to the left beginning at the middle of the page.
5 Perfect.

6 Q. Witness, would you please kindly read that message?

7 A. "From: Chief of General Staff ALC. To: Ops Commander Cordon Ops
8 Bangui. Info: Chairman. Acknowledgement of receipt, 7 January 03 of your
9 receipt number ALC of 16 December 2002. Situation report of 15, or rather
10 01215 December 2002."

11 Q. Please, slow down.

12 A. "Please upon receipt of this message provide as soon as possible specifics on the
13 enemy as follows: 1) Strength of the enemy and position. Stop. Possible
14 intentions. Stop. Possible source of internal and external reinforcement. Stop.
15 Tactics used. Stop. And finally, please scrupulously respect as we recall
16 instructions that follow; namely, vigilance towards civilian population of the Central
17 African Republic which or who may be hiding or who may clearly be hiding
18 mutineers in their homes. Strictly forbidden to allow individual movements and
19 prohibited from frequent drinking places."

20 MR BADIBANGA: (Interpretation) Court officer, would you now please move to
21 the right of the page.

22 THE WITNESS: (Interpretation) "Drinking places and hotels. Strictly forbidden to
23 have Central African girlfriends. Total respect for the principle of concentration of
24 forces and strict implementation. Stop. 12 January 2003."

25 MR BADIBANGA: (Interpretation)

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1 Q. Witness, what did you say about implementation?

2 A. Comply with execution.

3 Q. Is this a formula that you would use when giving orders?

4 A. Yes.

5 Q. Witness, earlier on and before this Court you testified that the General Staff did
6 not need and did not ask for this type of information. Now, I would like to ask the
7 court usher to go to the left of the page and we will see that this message was from
8 the Chief of Staff of the ALC and it is addressed to the co-ordinators of the operations
9 in Bangui, rather, to the commanders and the co-ordinators in Bangui, and it reads as
10 follows: "As soon as you receive this message, please provide as soon as possible the
11 following specifics regarding the enemy." Is it still your position before this Court
12 that the General Staff of the MLC never asked the troops in Bangui to provide it with
13 information on the position of enemy troops?

14 A. Thank you, Counsel. I am discovering all of this here with you. The number
15 here says "command," but it doesn't say that the entire General Staff was consulted.
16 So the commander may have received information from Bangui and may then have
17 sent this kind of message. This is possible. It is possible. I did not say that
18 absolutely -- in fact, what I said is what I know. Now, the letter here is from the
19 commander and so it is that commander who can provide answers on those specifics.

20 Q. We must observe the five-second rule and speak slowly because we have court
21 reporters who are transcribing what we have -- what we are saying, so everything
22 that we have said since we began this morning has been transcribed to the letter
23 almost, and you said that the person who sends a message can define its content, but
24 that it is not a request or is not in response to a request from the General Staff. Now,
25 the question again is: You in Gbadolite, the General Staff or the headquarters never

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1 asked for and never asked the troops to provide information on the situation of the
2 enemies in the Central African Republic; is that the case?

3 A. Counsel, when you say "Chief of General" or "the General Staff," who are you
4 referring to? Who are you referring to? You see, here it says, "Chief of General
5 Staff ALC. From ..." Now, that message has a specific number which is the
6 number of the commander and the commander also has an office, the Chief of
7 General Staff has an office and may assess the situation according to information
8 available to him and can therefore react in a specific way. There is never -- there is
9 not necessarily need to convene everybody before acting and, if he wants to act, he
10 can go ahead and do so as the case may be.

11 Q. Was Mr Bemba aware of this letter, Mr Witness?

12 A. I don't know. I can see on the document that he was informed, so I can only
13 assume that as the paper indicates he was informed.

14 Q. In addition to the four items requested regarding the enemy, there is also a
15 request or at least an order for a number of instructions to be respected. Do you
16 know why the operations commanders were being asked to be vigilant and attentive
17 to -- towards Central African people who were clearly hiding mutineers in their
18 homes?

19 A. I've already explained that this means that the president in power at the time, or
20 rather the rebellion which had taken hold of Bangui led by Bozizé, who was the Chief
21 of General Staff of the army of the country, you see that raises a problem or problems
22 of loyalty. Some were loyal to Patassé, while others were loyal to Bozizé, so in a
23 tactical or practical assessment of the situation you must be very careful when you
24 are in a country or on a terrain where the people are not friendly, where they are
25 hostile, so this is what can also be reported as part of the operations.

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1 PRESIDING JUDGE STEINER: Maître Badibanga, if you allow me just to put a

2 follow-up question before it gets lost here in the transcript.

3 Court officer, please turn into private session briefly.

4 (Private session at 1.15 p.m.) * Reclassified as Open session

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

6 PRESIDING JUDGE STEINER: Mr Witness, I don't have here the reference for the

7 parties but I can give it in due time, but I remember you saying more than once that it

8 was not for (Redacted)

9 (Redacted)

10 (Redacted)

11 THE WITNESS: (Interpretation) Yes, your Honour, that's correct.

12 PRESIDING JUDGE STEINER: In this case, what the Chief of General Staff is

13 requesting is exactly the possible specifics on the enemy as follows: "Strength of the

14 enemy and position. Stop. Possible intentions. Stop." Although this

15 information is sent to the -- this request is sent to the co-ordination of the operations

16 in Bangui, (Redacted)

17 (Redacted)

18 THE WITNESS: (Interpretation) Thank you, Madam President. In principle that

19 is correct, but the operation here is one that was conducted in another territory, not in

20 the area under our control. It was happening outside of our country.

21 So I could not -- (Redacted)

22 (Redacted) And, you see, this was a joint operation which in a nutshell was

23 summarised in these types of communication between the commander and the Chief

24 of General Staff, who would then provide these types of general principles and focus

25 on a number of problems that were raised. This is my understanding. I think so.

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1 PRESIDING JUDGE STEINER: I must confess that I have difficulties in
2 understanding why the Chef of -- the Chief of General Staff would ask information
3 about the position of the enemy (Redacted)
4 (Redacted)
5 (Redacted)
6 (Redacted)
7 (Redacted)

8 THE WITNESS: (Interpretation) Thank you, your Honour. I am sorry to have to
9 repeat myself, but this operation, as I have already stated, was taking place outside
10 our territory. I have also already said that the operation was being conducted under
11 the orders, or our troops had been placed under the orders, of the Central African
12 authorities. So when troops are under such orders, then all the problems that arise
13 are dealt with at the place where the units are found.
14 Now, when an issue is raised outside, it must be because the Joint General Staff in
15 Bangui deemed it necessary to inform the Chief of General Staff, who then answered
16 according to the content that we can see in the letter. So there must have been some
17 exchanges involving the Chief of General Staff, as far as I understand.

18 PRESIDING JUDGE STEINER: I'm sorry if I insist, but I don't think you answer to
19 my doubt, or you clarify my doubt (Redacted) General Amuli, or
20 any other at that time, is giving an order to be informed about the position of the
21 enemy, is giving an order. If he received this information, to whom he gave the
22 information, or he kept the information to him and did nothing about that?

23 THE WITNESS: (Interpretation) Your Honour, when he receives such information,
24 or such an order, or such information, the message as couched in principle, yes, (Redacted)
25 (Redacted)

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1 in these types of operations these were things that were not happening in our country.

2 It was a joint operation in Bangui, so the need for information was dealt with in

3 Bangui and I do not believe that -- or he did not believe that it was necessary to share

4 that information (Redacted)

5 PRESIDING JUDGE STEINER: But with whom he had shared the information, if it

6 is -- (Redacted), with whom he would share this information? This is my

7 question. If he needs an information, it's to pass the information to someone. (Redacted)

8 (Redacted) With Mr Bemba directly,

9 with other G? This is my question.

10 THE WITNESS: (Interpretation) Maybe with G3, who was in charge of the

11 operations, or in charge of operations, or if need be he may have also reported to

12 Mr Bemba. That is possible.

13 PRESIDING JUDGE STEINER: Thank you.

14 We can go back into open session, please.

15 MR BADIBANGA: (Interpretation) Could we remain in private session?

16 PRESIDING JUDGE STEINER: Yes, of course, Maître Badibanga.

17 MR BADIBANGA: (Interpretation)

18 Q. Witness, I was dealing with other aspects of this message while we were in

19 open session, but now that we are in private session let me address this part. And

20 the Presiding Judge has already touched on a number of aspects, but I want to insist

21 on this question. You have just answered the Presiding Judge and in relation to

22 what General Amuli does with the information he receives, but let's go one step

23 forward.

24 (Redacted)

25 Why was this information? Why was it needed in Gbadolite? And I'm

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1 dealing with this upstream; that is upstream in relation to the request.

2 A. When you say, "Who needed the information?", the answer is very simple. It is
3 the person who has written the message. And why? Well, can I continue?

4 Q. We know that the request came from General Amuli. My question is the
5 following: General Amuli is not an individual who receives this information for
6 himself. This is an operation that involves the MLC and he is acting I assume in the
7 interests of the MLC. So when I asked you the question "Who needs this
8 information?", that is why I want to find out from you why this information was
9 useful to the structure or the General Staff of the MLC and not because Mr Amuli had
10 asked the question.

11 A. Yes, that is an important point, but as I said in my previous answer, in spite of
12 our intervention in Bangui, the government in Kinshasa and the composition of the
13 troops fighting against us in Bangui also (Redacted)
14 and so that would have made it possible (Redacted) to know what was happening on the
15 ground. That's normal.

16 MR BADIBANGA: (Interpretation) Madam President, I'm really quite sorry. I
17 wanted to conclude my examination today. You must understand the importance of
18 the questions I was going to ask -- I'm asking rather, and we will need a little more
19 time tomorrow. If things work well with the witness, I will need about half-an-hour
20 tomorrow morning. Thank you.

21 PRESIDING JUDGE STEINER: Thank you, Maître. Court officer, please turn into
22 open session.

23 (Open session at 1.26 p.m.)

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

25 PRESIDING JUDGE STEINER: Thank you.

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1 Mr Witness, it's time for us to stop in order for you to take some rest. It has been
2 four hours of testimony. We know that it's quite tiring, so we will adjourn for today
3 and resume tomorrow morning, again with the hope that tomorrow morning you will
4 be released from your obligations as a witness. We hope we manage to conclude by
5 tomorrow.

6 I thank very much the Prosecution team, the legal representatives of victims, Defence
7 team, Mr Jean-Pierre Bemba Gombo. I thank very much our interpreters and court
8 reporters, apologising even on myself for overlapping speakers.

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

12 (Closed session at 1.28 p.m.) * Reclassified as Open session

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

14 (The witness stands down)

15 THE COURT OFFICER: All rise.

16 (The hearing ends in closed session at 1.28 p.m.) * Reclassified as Open session

17 RECLASSIFICATION REPORT

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

19 ICC-01/05-01/08-3038, the version of the transcript with its redactions becomes Public