

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 International Criminal Court

2 Trial Chamber III - Courtroom 2

3 Situation: Central African Republic

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

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

6 Trial Hearing

7 Thursday, 15 September 2011

8 (The hearing starts in open session at 9.02 a.m.)

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

10 Please be seated.

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

12 in open session.

13 PRESIDING JUDGE STEINER: Good morning. Could, please, the court officer call

14 the case.

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

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

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

18 welcome Prosecution team, legal representatives of victims, Defence team,

19 Mr Jean-Pierre Bemba Gombo. Good morning to our interpreters and court

20 reporters.

21 We will continue this morning with the questioning of Witness 33, reminding the

22 parties and participants that we'll have today two sessions of two hours each, so from

23 9 to 1.30.

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

25 into the courtroom.

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- 1 (Closed session at 9.05 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-OTP-PPPP-0033 (On former oath)
- 5 (The witness speaks French)
- 6 PRESIDING JUDGE STEINER: Can we turn into open session, please.
- 7 (Open session at 9.06 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, your Honour.
- 11 PRESIDING JUDGE STEINER: Welcome back to this courtroom. Are you ready to
- 12 continue with your testimony?
- 13 THE WITNESS: (Interpretation) Yes, your Honour, I'm ready.
- 14 PRESIDING JUDGE STEINER: Today, Mr Witness, we'll have two sessions of two
- 15 hours each, with a half-an-hour break. If you feel tired, or you need a break before
- 16 that, just let us know because we can anticipate the break, if need be. We will
- 17 adjourn at 1.30 and then you have the whole afternoon to take some rest. I hope that
- 18 is fine with you.
- 19 THE WITNESS: (Interpretation) That is fine with me. Thank you.
- 20 PRESIDING JUDGE STEINER: Mr Witness, I need to remind you that you are still
- 21 under oath. Do you understand that?
- 22 THE WITNESS: (Interpretation) Yes, I do understand.
- 23 PRESIDING JUDGE STEINER: I'm not going to repeat myself, but just remind you
- 24 about protective measures in order for you not to disclose information in open session
- 25 that could lead to your identification. If need be, we go into private session. Fine

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1 with you?

2 THE WITNESS: (Interpretation) Thank you, that is fine with me.

3 PRESIDING JUDGE STEINER: Before I give the floor to the Defence, yesterday you
4 mentioned that you wanted to clarify two points in relation to two documents that
5 were presented to you by Defence in the previous day, meaning on Tuesday.

6 Mr Haynes, would you like yourself to reintroduce those documents for the witness's
7 clarifications, or you want the Chamber to do it?

8 MR HAYNES: I've considered this and I think the latter course would be preferable,
9 in the circumstances.

10 PRESIDING JUDGE STEINER: So, therefore, I'm not sure, but I presume they are
11 documents 15 and 16 of the Defence list of documents. Therefore, first I ask the
12 court officer to display -- it's a confidential document, document CAR-DEF-0001-0167.
13 It's document 15 of the Defence list of evidence -- of documents.

14 MR HAYNES: Your Honour, I think it's actually a public document, but --

15 PRESIDING JUDGE STEINER: The court officer will check the information for me.

16 THE COURT OFFICER: Document CAR-DEF-0001-0167 is available on the screens
17 and it's a public document.

18 PRESIDING JUDGE STEINER: Mr Witness, is this the document that you want to
19 give clarifications to the Chamber?

20 THE WITNESS: (Interpretation) Can I see the entire document to the end, please?

21 Yes, there are two documents I referred to. There is this one, of course, and

22 Mr Haynes put a question to me as to whether I ever heard mention of a war council
23 during that period and I said to him briefly that, yes, I had heard mention of it, but
24 that I did not quite understand the context in which it was -- well, I had heard
25 mention of it. Then later on I recalled - I remembered - something and I want to

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1 provide a more exhaustive answer to Counsel on that question. Then there is the
2 other document, which deals with the appointment of magistrates by the
3 secretary-general, Olivier Kamitatu.

4 PRESIDING JUDGE STEINER: Let me ask, then, the court officer to display
5 document 16 of the Defence list of documents, document CAR-DEF-0001-0106, and I
6 would like the witness to confirm that this is the document the witness is referring to.

7 THE COURT OFFICER: The document, your Honour, is available on your screen
8 and it's document CAR-DEF-0001-0106. It's a public document, too.

9 PRESIDING JUDGE STEINER: It's this document, Mr Witness?

10 THE WITNESS: (Interpretation) Yes, your Honour.

11 Now, let me start by addressing this document and then we can go back to the second
12 document. The question that was put to me was to find out who appointed
13 magistrates within the Movement for the Liberation of the Congo. In my answer I
14 said that in the absence of the Supreme Council for the Magistracy, which was
15 responsible for proposing appointments, promotions and dismissal of magistrates,
16 and at the end I said that it was the national secretary in charge of justice for the MLC
17 who in the absence of that organ would make proposals and then the appointment
18 would be made by the president, but this document completely contradicts what I
19 said and I am fully in agreement with the contradiction. However, I must say that
20 there was no instrument, no text, that I was aware of, no legal instrument of the
21 Movement for the Liberation of the Congo, authorising the secretary-general to have
22 such powers.

23 In my answer to the question, therefore, I only alluded to the ordinary manner of
24 proceeding within a government and I also referred to the Congolese law, which
25 stipulates that the Supreme Council for the Magistracy shall propose nominations to

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1 the President, who will then appoint. And since I was not aware of any instrument
2 extending those powers to the secretary-general and giving him the ability to perform
3 such functions, my answer therefore simply focused on the instruments that I was
4 aware of.

5 Let me further add that if memory does not fail me, given that we discussed this issue
6 extensively at the universities and in these circles of jurists and lawyers in February
7 2008 in Kinshasa, at that time the MLC issued an official communiqué - that is in
8 February 2008 - took a stance and deemed it illegal that magistrates should be
9 appointed by presidential order.

10 It was the MLC's position that such would be prejudicial to the supreme magistracy,
11 and argued that Article 52 and 182 or, rather, in Article 82 of the Congolese
12 constitution guarantee the independent -- Article 82 guarantees the independence of
13 the magistracy and Article 152 creates the national council for the magistracy which
14 proposes appointments, promotions and dismissal of magistrates.

15 Therefore, my argument is that what the MLC deemed to be legal at the time of the
16 revolution is now being purported to be illegal. So if today it is deemed that in the
17 absence of the Supreme Council for the Magistracy the president of the republic and
18 the government represented at the time by the Prime Minister, Antoine Gizenga, if
19 they find that that action was illegal, then it must be concluded that any actions
20 undertaken by the secretary-general on behalf of the entire MLC were also illegal,
21 illegal, indeed and that is why I want to confirm that the principles of separation of
22 powers was thus breached. Those are the comments I wanted to make on this
23 document.

24 We can now move on to the second document.

25 PRESIDING JUDGE STEINER: Court officer, please turn to document 15.

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1 THE COURT OFFICER: Madam President, the document CAR-DEF-0001-0167 is
2 available on the screens and it's a public document.

3 THE WITNESS: (Interpretation) Mr Haynes put a question to me, wondering
4 whether I had ever heard mention of a war council. My answer to him was specific
5 and I told him that I didn't want to go into any details because I did not have a full
6 mastery of the concept of the war council within the context in which it was being
7 discussed. I said so because I did not remember a number of events, but later on I
8 recalled that a war council had actually met. It met after the Sun City 2 negotiations.
9 It met in the face of threats against the MLC from the territory under Mbusa
10 Nyamwisi's control, the president of the RCD-K/ML.

11 At that time information had been received whereby President Mbusa of the
12 RCD-K/ML had allegedly become the ally of Joseph Kabila's army with a view to
13 destabilising us from the territory that was under RCD-K/ML control. At that time
14 therefore the issue was to defend ourselves, and that is where the Mambassa
15 operation was designed, and we needed some kind of cover, given that the
16 Inter-Congolese dialogue agreement had been signed, which would lead to the
17 transition in Kinshasa.

18 Under those circumstances, it was therefore not possible to launch such an operation
19 without an official cover to demonstrate to the world that we were acting within the
20 standards and the norms, legal and otherwise. That is why the war council was set
21 up, in order to have the opportunity to conduct the Mambassa operation towards
22 Isiro.

23 The commander of the operation at the time was Colonel Ngalimu, as well as the
24 current General Bule who was on the Isiro axis. The operation was successfully
25 conducted, so much so that the issue of cannibalism was raised, and although this

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1 was not true one can understand that it was political warfare, so to speak. So the
2 issue of cannibalism was raised in order to tarnish the image of the movement. That
3 is why at that time the war council met in order to address that specific issue, as far as
4 I know.

5 So I am not aware of any other meeting of the council as alleged to have held on
6 26 March 2003. What I know is that the war council met before the Mambassa
7 operation, which took place around December 2002, around December 2002. Those
8 are the clarifications I wanted to bring to the attention of the Court relating to the
9 question by Mr Haynes on a war council meeting allegedly purported to have held in
10 Gbadolite.

11 I will conclude by saying the following: In the course of my testimony here, I
12 said -- in fact, I specified that the judge or president of the court or tribunal which
13 performed the exceptional jurisdiction of a military court, I had said that he received
14 orders from the commander-in-chief himself. Why did I say so? I'll explain to you
15 why I did say so.

16 I said so because I believed that a judge cannot be a judge and a party to his own case.
17 The person who was appointed president of the military tribunal, General Bule, who
18 dealt with the Mambassa issue, had been part of the extensive operation to dislodge
19 government forces in association with Mbusa Nyamwisi's forces. He had been part
20 of that operation on the Isiro axis. In any event, he is the one who led the operations
21 on the Isiro axis. How then could he be appointed subsequently to be the presiding
22 officer or the presiding judge at that trial?

23 So he was a judge and party to his own case. He had been under the orders of the
24 president and then he was subsequently appointed to be the presiding judge of the
25 same court. My conclusion therefore is that this was whatever it was, given that he

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1 was still under the president's orders.

2 Well, this is all I wanted to say and in relation to this point, and that will be it.

3 PRESIDING JUDGE STEINER: Thank you, Mr Witness. Mr Haynes, now you have
4 the floor.

5 QUESTIONED BY MR HAYNES: (Continuing)

6 Q. Well, thank you for that. Was February 2008 a significant month for you in
7 your life?

8 A. This was very important for me. I remembered these things because this issue,
9 this topic, had been extensively discussed within the -- and I don't want to specifically
10 name the university for fear of being identified, but this issue was discussed in
11 debates within the university and in legal circles, and a significant part of the
12 members of the legal circles thought that the operation was illegal.

13 Q. So nothing else of significance happened to you in your life in February 2008?

14 A. February 2008, I am only referring to an event or a fact, and I don't see how that
15 would relate to my entire life in 2008. What is the relevance of your question?

16 Q. Well, you've told us repeatedly throughout your evidence that you're not very
17 good with dates and yet you remember this conference as being February 2008.
18 Why is that?

19 A. Mr Haynes, I think that I have also provided you with other dates previously
20 that were accurate, so don't tell me that all the dates I mentioned here were wrong.
21 Maybe I will remember my date of birth some day, too. Maybe I could also
22 remember the date on which my father died. I could also remember the date on
23 which -- and by the way, I did not provide all the details, I simply referred to a month.
24 I didn't tell you that I knew a day. I said that it was in the month of February and
25 I'm not -- I don't know the day, I do not remember the day. Please cross-check

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1 whether there was no official communication on this matter within the MLC. Please,
2 do cross-check.

3 Q. Help us. What does Article 50 of the Congolese constitution say?

4 A. I will not engage in those polemics. I'm not sure that you standing there can
5 even quote all the constitutional articles that you may be aware of, so I would rather
6 not go down that road.

7 Q. Well, let's try one a bit nearer the beginning. Article 5, what does that say?

8 A. I have told you that I will not go down that road with you. It is polemics and I
9 think that I have the right not to answer that question, don't I? I will not answer that
10 question.

11 Q. Well, I'm going to put it one other way: Do you know or do you not know
12 what Article 5 of the Congolese constitution says?

13 A. I'm sorry, I cannot answer that question.

14 Q. So how come is it, on the fourth day of your evidence, you come to court and
15 you can cite in detail what Articles 82 and Articles 152 say?

16 A. I told you quite clearly here, and it's not the first time, that I am trying to recall
17 certain things. That's obvious. It's not just that matter. As proof, I have just
18 provided you with details about what I could remember about the council of war, so
19 it's not just that issue and, naturally, eventually there'll be other things that I might
20 recall and that I will be able to tell you about in detail. These things may come back
21 to me at any point in time.

22 Q. Did somebody tell you what they said?

23 A. Tell me what who said?

24 Q. Articles 82 and Articles 152 of the Congolese constitution?

25 A. But since I have told you that I personally at the time -- could we move into

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- 1 private session because I have to provide some details that concern me now?
- 2 PRESIDING JUDGE STEINER: Court officer, please turn into private session.
- 3 (Private session at 9.32 a.m.) * Reclassified as Open session
- 4 THE COURT OFFICER: We are in private session, Madam President.
- 5 THE WITNESS: (Interpretation) (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted). So these are things that can come back to me at
- 19 any point in time, these -- this is how it was done.
- 20 On the television there were legal experts who spoke about such matters. This took
- 21 up an entire week. It was a significant event in Kinshasa. Who wasn't aware of it?
- 22 So it's quite normal that I should remember these few articles. It's quite normal. I
- 23 can't know all the articles of the constitution by heart. Don't ask me about that. I'm
- 24 not a computer or something of that kind.
- 25 You are an eminent legal expert, I just have an insignificant diploma, a first level

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1 diploma, and now I'm continuing my second level studies and I'm here amongst
2 eminent lawyers, but you can't tell me that you can recite all the articles contained in a
3 given constitution. I don't think you can do that. I don't believe so.

4 Q. Do you have a personal cell phone here with you in The Hague?

5 A. (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. Well, we'll leave it there for now. Now, I want to go back to a few things you
14 said yesterday, and in particular to --

15 PRESIDING JUDGE STEINER: Maître, should we stay in private session?

16 MR HAYNES: Your Honour, no, and thank you very much for reminding me.

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

18 (Open session at 9.36 a.m.)

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

20 MR HAYNES: Thank you.

21 Q. And forgive me, I haven't said good morning to you. Good morning.

22 A. Good morning, Maître. It's always a pleasure.

23 Q. The transgressions of the Lusaka agreement were committed by government
24 troops, both under the presidency of Kabila the father and Kabila the son, weren't
25 they?

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1 A. Well, yes, in fact, but I have to point out that with regard to this issue there were
2 also complaints from the Kabila government and it was said that we too committed
3 breaches of the agreement. This should be borne in mind too, so they also said that
4 there were breaches or transgressions. I don't know because I wasn't part of the
5 monitoring committee of the Lusaka agreement. I wasn't part of all of that. But
6 complaints were made on all sides, on our side and on their side as well.

7 Q. I'm not going to disagree with you about that but there was during the
8 monitoring period an atmosphere of distrust between the government and the MLC
9 going both ways, wasn't there?

10 A. Yes, of course.

11 Q. And just to clarify something you said to me yesterday, Kabila the son's
12 assumption of the presidency after his father's assassination was completely
13 unconstitutional and, in your view, illegitimate?

14 A. I'll repeat what I said. I think I said the following: I said that I wasn't going to
15 claim that it was legal, that's what I said, I believe. I believe I'm repeating my words.
16 I said that I didn't consider it to be legal because, in my opinion, he didn't assume
17 power through democratic means at the time.

18 Q. Bangui was an important rear base for the MLC, wasn't it?

19 A. Absolutely.

20 Q. And in 2001, the MLC had supported President Patassé by intervening
21 militarily when his government was threatened by Kolingba; that's right, isn't it?

22 A. Affirmative.

23 Q. And I may be wrong, but I get the impression you didn't oppose that military
24 intervention?

25 A. Well, what makes you think that? Because when I speak about the

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1 intervention, so far, when I've spoken about the intervention in the CAR, I've never
2 said whether it was the Kolingba putsch operation or whether it was the operation
3 against Bozizé's' rebellion, so I didn't mention that. I spoke about it in general terms.
4 I spoke about an intervention outside my country and I spoke about this intervention
5 in very general terms.

6 Q. Well, were you or were you not in favour of the Kolingba intervention?

7 A. I think that this is the third time I'll be repeating this when I say that I never
8 supported any interventions from the outside because we had our previously
9 established objectives that were to be attained, and that is what I was in favour of,
10 personally.

11 Q. Given the mood of distrust you have described, what basis did you have not to
12 fear that the Chadians in the Central African Republic were hostile to MLC interests?

13 A. I think I have answered that question. I answered it yesterday, I believe. I
14 said that the objectives had changed, the Chadians' objectives had changed, the
15 Chadians who could have been considered to be mercenaries. A mercenary acts for
16 benefit, to be paid. Mercenaries are paid to carry out a mission. Once the mission
17 has been completed, then he embarks on another mission, so I wonder why such a
18 mercenary would then try to attack the enemy of another mission that he had already
19 accomplished. I don't see why the objectives had changed. Why would he
20 necessarily think -- why should one necessarily think that the Chadians would always
21 be hostile to us because now, the framework they were in was a different one. The
22 context, the situation they were in, was different.

23 Q. But do you agree that having intervened in 2001, it was logical to intervene
24 again in 2002?

25 A. I'll repeat what I have said. There is no logic there if -- to claim that when they

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1 intervened in the Congolese territory previously, they then had other reasons to
2 intervene in the DRC with other objectives that no longer tallied with the objectives
3 that they previously followed.

4 Q. It was in the MLC's interest to protect its rear base, wasn't it?

5 A. Well, look, I think it was the interest of the MLC to desire - not to intervene, but
6 to desire - to wish for Patassé's power to remain in place. These are different ways of
7 putting it. So I think they wanted his position to remain there. You could want to
8 intervene. You can close the border, for example. Many countries, when the
9 neighbouring countries have problems, well, they won't necessarily intervene. The
10 first decision that a State will take -- if the neighbour is destabilised, the first decision
11 that a State will take will be to close the border; the entire border, I believe.

12 Q. Given the urgency of the situation in Bangui, the only practical solution was for
13 a force to come from the DRC, wasn't it?

14 A. It depends on who finds the situation urgent. It depends on the person who is
15 threatened, but as for the neighbours, well, can this be a matter of urgency for
16 everyone? I know nothing about that.

17 Q. The troops which went to the Central African Republic you've told us came
18 from Libenge; is that correct?

19 A. In fact, they crossed Ubangi.

20 Q. Yes, but before they crossed from Zongo to Bangui, they had to march from
21 Libenge, didn't they?

22 A. Look, I said that the means that our troops used from the beginning of the war,
23 the means they used to reach places was, well, to go there on foot. That's what I said.
24 So I thought that in the case of the troops that intervened in Bangui they must have
25 gone there in the same way, but if you have information according to which they

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1 went there by lorry, or by other means, I don't know. I wasn't part of the General
2 Staff that planned the operations and so on and so forth. I'm just telling you about
3 the means that were previously used to reach certain places and they went to places
4 on foot, but if you have new information about this issue, well, I myself know nothing
5 about this.

6 Q. Can you help us as to how far Libenge is from Zongo?

7 A. I couldn't give you the exact distance in numbers, but I know that Libenge and
8 Zongo must be almost contiguous stretches of territory, well, with a border.

9 Q. Well, would you agree with me that the distance between Libenge and Zongo is
10 about 125 kilometres?

11 A. I'll answer by asking you something. Do you know that the AFDL conquered
12 all the territory of the Congo by going there on foot? That's a reality. So I wouldn't
13 be surprised if the MLC troops walked the distance of 125 kilometres. I wouldn't be
14 surprised by that. If you have any information that contradicts this, well, I know
15 nothing about that.

16 Q. Thank you. Now, I know you have very limited military experience, but that
17 sort of distance would take some days to march, wouldn't it?

18 A. I personally never had to walk for more than 50 kilometres, so I couldn't answer
19 that question. You should ask those who had to walk such a distance and they will
20 tell you how long it takes to walk from Libenge to Zongo.

21 Q. And again with due deference to your military experience, do you understand
22 why a platoon of a hundred men would have been sent to Bangui before a brigade
23 was asked to cross the River Ubangi?

24 A. Do you think that, when there is a military operation, one can have at one's
25 disposal all one's troops and send them to war? In strategic terms, this is not

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1 something that is done. One has troops on the basis of what one knows about the
2 enemy. If they have a platoon, you have a company. If they have a company, you
3 have a battalion. You deploy a battalion. That's how things work in the army.

4 Q. Okay, well let me suggest to you what the reason would have been, and that is
5 to make sure that it was safe for the brigade to cross the river. It's called securing a
6 bridge-head. Have you heard of that?

7 A. This question should be put to the commander-in-chief, or the General Staff.
8 They both certainly prepared the operations. They're in the best position to answer
9 that question, because I wasn't involved in the preparation of the operation and so I
10 can't tell you why they started by deploying a company first of all, or a battalion.
11 These are strategic issues, so this question should be put to those who developed this
12 strategy.

13 Q. And just to clarify the answer you've just given me, the General Staff were
14 involved in the preparation of this operation, were they?

15 A. I'll repeat what I said and I will be precise. I said the following: I said that the
16 commander-in-chief, as part of his duties, had to define the general policies to be
17 pursued in operations. The commander-in-chief also had the duty of establishing
18 agreements and ratifying agreements with external partners, and I said that the
19 statutes gave him such possibilities. I also claimed that the option of sending troops
20 in was an option that was chosen by the commander-in-chief, but now, when we're
21 dealing with preparations, troop deployment, strategy and so on and so forth, he
22 couldn't do such things on his own. I said that. This is a very complex procedure
23 that has to be followed. There was a General Staff that was present and that was
24 certainly involved with him when it came to carrying out operations, that is what I
25 said, or they certainly involved him too when it came to carrying out operations.

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1 MR HAYNES: Thank you very much. Can we now please, Madam President, go
2 into private session?

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

4 (Private session at 9.55 a.m.) * Reclassified as Open session

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

6 MR HAYNES: Thank you.

7 Q. As succinctly as you can, can you describe the function and responsibilities of
8 the Bureau de Sécurité Intérieure?

9 A. In brief, I said that the Bureau for Internal Security had to glean information that
10 concerned political matters, economic matters, socio-cultural matters, and in
11 particular it had to glean information that might threaten the movement, pose a threat
12 to the security of the movement, and so this information was information that (Redacted)
13 (Redacted). It had to be exploited, it had to be used, analysed, so that they
14 could – the information could be transformed. (Redacted) the person in charge of this body,
15 had to relay this information to ever who had -- to whoever had the right to be
16 provided with that information; in this particular case to His Excellency, my former
17 president, Mr Jean-Pierre Bemba.

18 Q. Was it a civilian or a military organ?

19 A. It's a civilian organ that could use troops who would be sent into the field,
20 seconded.

21 Q. And what for you is the difference between a civilian and a military organ?

22 A. A military organ naturally concerns itself with military issues and a civilian
23 organ concerns itself with civilian issues, but in a body, for example -- well, in the
24 army, for example, within certain army structures you can find civilians, and
25 similarly in a civilian organ you can find members of the military. This is also

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1 viable.

2 Q. And what is the difference between a security and an intelligence organ?

3 A. You know, the term "security" is a very broad term and covers a lot of various
4 aspects. Even the army is covered by the term "security." Intelligence is also
5 covered by security. Intelligence is a limited field, but it's part of security. That's
6 what I mean.

7 Q. And what is the significance of the fact that the organ (Redacted) of was an
8 internal security organ?

9 A. It would be sufficient for you to read the decision creating the Bureau of
10 Internal Security (Redacted) In that document it clearly states that (Redacted)
11 (Redacted)
12 (Redacted), so there's nothing to be debated there. Everything was
13 quite well-established. Everything was clear in that decision (Redacted)
14 (Redacted), in that decision according to which this bureau was to be established, so
15 there is nothing to debate, everything was clear.

16 Q. What was the BSF?

17 A. BSF means Bureau for Security on the Borders, and that was set up when the
18 MLC merged with the RCD-K/ML and other parties, including the RCD-L of Roger
19 Lumbala and that was when the BSF was set up, but before the FLC there was just of
20 the BSC, which also covered the area of responsibility of the BSF?

21 Q. And what was the area of responsibility of the BSF as distinct from the BSI?

22 A. The main role of the BSF was a migration service, whereas the BSI was in charge
23 of collecting information, as I have just said, within the country. It was a political,
24 economic, social and cultural information, whereas the BSF worked as an
25 immigration department.

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1 Q. And what was the difference between the BSI and the BRM, in terms of
2 responsibility and function?

3 A. The BRM had to look after military intelligence, and the BRM was part of the
4 General Staff, the armed forces, whereas the BSC dealt with civilian intelligence and
5 was directly under the authority of the national president of the movement. That's
6 the difference.

7 Q. Thank you. Can we deal briefly (Redacted) because
8 quite a lot was made of it. (Redacted)
9 do you agree with that?

10 A. Affirmative.

11 Q. And I don't want to unnecessarily bring documents on to the screen, but we
12 know from the documents that Mr Badibanga showed you that (Redacted)
13 (Redacted) the service was created. Do you agree with that?

14 A. Affirmative.

15 Q. And you told us (Redacted) is that right?

16 A. Affirmative.

17 Q. As you told us, at that time you had no graduate qualifications in any subject; is
18 that right?

19 A. I'll say this: You like to come back to my qualifications so I shall be even
20 clearer. At that time I had a state diploma, and (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted) third year, the third year, the war broke out, the AFDL, and so I had to

25 leave (Redacted), run away from the war and go to (Redacted) where there was still quite

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- 1 a number of (Redacted)
- 2 That's it. I think I was clear about that. That's it.
- 3 Q. At the time of (Redacted)
- 4 A. (Redacted)
- 5 Q. And the same is true about (Redacted)
- 6 (Redacted) wasn't it?
- 7 A. Indeed, (Redacted); three.
- 8 Q. And the sum total of (Redacted)
- 9 (Redacted); is that right?
- 10 A. That's quite right, yes.
- 11 Q. Do you know who advised the president to (Redacted)?
- 12 A. (Redacted)
- 13 (Redacted) How could I know that?
- 14 Q. But (Redacted)
- 15 (Redacted), was it?
- 16 A. (Redacted)
- 17 (Redacted) I didn't know about any texts at all of the MLC.
- 18 I didn't know anything. (Redacted)
- 19 (Redacted) so I didn't know anything
- 20 about what was really going on, about legal texts or documents that ran the
- 21 movement. I didn't know anything about it.
- 22 Q. But were you at that time (Redacted)
- 23 A. Mr Haynes, I think I'm going to come back to the same answer. When I said
- 24 that I didn't know anything at the time, I didn't even know that there was a conseil
- 25 politico-militaire. I didn't know anything. I didn't even know anything about the

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- 1 bodies. I didn't know anything about it. (Redacted)
- 2 (Redacted) That's what I was waiting
- 3 for. That's all.
- 4 Q. Very well. (Redacted) came from the president himself, didn't
- 5 it?
- 6 A. Affirmative.
- 7 Q. And I imagine (Redacted)
- 8 A. Mr Haynes, (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted) of course it was.
- 12 Q. But although the order was signed by him, it would have been typed up in
- 13 Colombie, the centre of operations of the secretary-general; that's right, isn't it?
- 14 A. I can tell you I didn't know anything about the process which led to (Redacted)
- 15 (Redacted). I didn't know anything; nothing, nothing, nothing at all.
- 16 Q. Very well. Given as it were the extent of (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted) but important, service?
- 20 A. Do you realise that when (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 Q. But the Chief of General Staff was (Redacted) anyway, wasn't

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1 he?

2 A. Not necessarily.

3 Q. I am intrigued as to what exactly (Redacted) in the first four
4 weeks of the creation of a new agency. Can you help us?

5 A. I was clear about that. I said that (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. But wasn't this the period of setting up the agency?

17 A. You're asking me what, about what period, excuse me?

18 Q. Well, you agree with me that the four weeks (Redacted)

19 (Redacted) time was spent setting it

20 up, wasn't it?

21 A. I'll say this, sir: Now, the positions or duties which (Redacted)

22 (Redacted)

23 (Redacted), there'd been troops, there'd

24 been troops conducting operations, and there was already a set-up there. The BRM,

25 the Bureau for Military Intelligence, was the name given afterwards, but these were

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1 the operations which were done by the GD before. That was already known. That
2 was clear.

3 Q. (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 Q. (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 PRESIDING JUDGE STEINER: Mr Haynes, now I am getting confused. For you,
17 this is a reason? I don't know, maybe the meaning of "reason" is not really clear, that
18 the decision was taken by the commander-in-chief that decided it was appropriate to
19 change over is something, but reason for the decision taken by the
20 commander-in-chief? The witness is saying that he doesn't know the reason.

21 MR HAYNES: Well, it's perhaps a matter of comment so I'll move on.

22 Q. So the extent of (Redacted)

23 (Redacted); do you agree with that?

24 A. Look, I wouldn't say that (Redacted)

25 (Redacted) are only those few weeks you're referring to. I consider that (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted) That's my way of seeing things.

4 Q. (Redacted)

5 (Redacted)

6 (Redacted)

7 MR HAYNES: Just to underline that point, we're going to look at our first document

8 of the day, so we've done quite well. It's Defence document 27, please. This is a

9 confidential document, but we are in private session in any event.

10 THE COURT OFFICER: Document CAR-OTP-0009-0180 is available on your screens

11 and it's a confidential document.

12 MR HAYNES:

13 Q. Can you just tell us what this document is?

14 A. I remember this document very well. It was done at the request of the general

15 secretariat and all the information on the (Redacted) and senior staff are -- no, no, no.

16 Sorry, I confused it with another list. There is another list. The level of the general

17 secretariat, and I think this must be a (Redacted), I think. Yes, yes,

18 that must be a (Redacted) with (Redacted), with the level of academic qualifications.

19 Q. And how are they divided up in this list?

20 A. They're ranked according to their qualifications.

21 Q. And perhaps you can help us as to this: Are they ranked, as it were, from the

22 most qualified downwards or the least qualified upwards?

23 A. Are you trying to get me to put names to the qualifications?

24 Q. No, just would you have regarded somebody who was licencié in a subject as

25 better or less well qualified than somebody who was gradué?

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1 A. I'll say this: We mustn't get things confused. When you give me this list, you
2 seem to be saying that the higher qualification, the person with the higher
3 qualification is more competent than the person with the lower qualification. That's
4 a completely wrong assessment, because there are a lot of people who are graduates
5 or even less who had greater skills (Redacted) than those who had degrees.
6 There were senior staff with higher levels of study, but who were removed from the
7 positions because of misconduct and inefficient management (Redacted). So I
8 would say that, (Redacted), it's not necessarily the academic qualifications which
9 are the first criterion.

10 Q. And what sort of information would these people have been providing (Redacted)
11 (Redacted)

12 A. First, I'd like to tell you this: The qualifications which you see here in specific
13 areas were not necessarily the areas where they were working, not necessarily, and in
14 fact not even very often. Some had done training sessions, training (Redacted),
15 and so they were not working in the area of their academic qualifications, so they
16 (Redacted). It could be political, economic, social, cultural, and there were
17 others who did not provide information but they worked in special analysis units to
18 analyse the (Redacted) So they did analysis. That's something
19 different.

20 Q. Thank you very much. Can we just go over the page for a few moments,
21 please. And did that represent the total number (Redacted) on the territory
22 controlled by the MLC, the figure 304?

23 A. (Redacted) yes, but the number could go up or down,
24 depending on needs but at the time (Redacted), well, I don't know when (Redacted)
25 (Redacted) but that could change at any point in time.

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1 Q. I'll agree with you about that because we're going to have a look at another
2 document, but the real point of my question was, these are all (Redacted) in the territory
3 controlled by the movement?

4 A. (Redacted), yes.

5 MR HAYNES: Thank you. Now can we have a look, please, at Defence document
6 65.

7 THE COURT OFFICER: Document CAR-D04-0002-1444 is available on your screens
8 and it's a confidential document.

9 MR HAYNES:

10 Q. (Redacted)

11 A. (Redacted)

12 (Redacted)

13 Q. (Redacted)

14 (Redacted)

15 A. (Redacted).

16 Q. (Redacted)

17 (Redacted),

18 (Redacted)

19 Q. (Redacted)

20 A. (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 A. (Redacted)

6 Q. (Redacted)

7 A. (Redacted)

8 Q. (Redacted)

9 (Redacted)

10 A. (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 A. No, please listen. These people had received -- they had just completed

25 ideological training; that is on the ideology of the movement. You may also want to

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1 know that at all levels - and I think I said this before in the course of my
2 testimony - (Redacted) people at all levels who understood our philosophy, who
3 supported the movement, and that was the main criterion for those whom (Redacted)
4 already on the spot. So this training was provided, it was important and necessary
5 and they were equipped with new knowledge about the MLC. That is why (Redacted)
6 (Redacted) that henceforth
7 they were our men on our side defending the cause of the movement. Therefore it
8 was only normal for them to be deployed on the ground, knowing that they would be
9 defending the interests of the movement.

10 Q. Okay. I just want to come to the right-hand column of those under the (Redacted) list.
11 Those, the affectations nouvelles, is the post they were going to be assigned to; am I
12 understanding that correctly?

13 A. That is correct. (Redacted)
14 (Redacted) For example, where a chief of
15 post misbehaved, a commander might (Redacted)
16 (Redacted) which were operating on the
17 territory, (Redacted) administrators who may complain about the conduct of a chief
18 of BSC post here and there who may have misbehaved and so on and so forth - and
19 then the chief would issue orders (Redacted)
20 (Redacted) That is how (Redacted)
21 (Redacted) So I cannot tell you at what time any such
22 transfers or redeployment of (Redacted) may have been made, so I cannot provide you
23 with any further details than that.

24 Q. And the location of the posts to which they were to be assigned are all within
25 the territory controlled by the MLC, are they?

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1 A. Absolutely.

2 Q. Thank you. Well, we can now take this document from the screen, please.

3 Did (Redacted) of that sort in the Central African Republic, or were they
4 differently appointed?

5 A. Let me tell you that in matters (Redacted)

6 (Redacted)

7 (Redacted) They were not appointed, because they could not have been

8 appointed by anyone. In most of those situations these were people involved in

9 their own businesses and activities who may have been economic operators, or

10 involved in whatever business they were involved in, and they would be known as

11 (Redacted)

12 Q. Thank you. And I suppose they hadn't been through any sort of training to see
13 whether they had the philosophy of the movement?

14 A. You see, (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted). That is the process (Redacted).

25 Q. Approximately how many people are we talking about in the Central African

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1 Republic?

2 A. (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted) They may be business persons

6 (Redacted). They may work between Kinshasa, Brazzaville and Central

7 Africa, Équateur and Gbadolite and what have you. (Redacted)

8 (Redacted) Others would even be

9 businessmen involved in trading between Bangui and Gbadolite, and others between

10 Bangui and Zongo and so on and so forth. So it is very difficult to provide an exact

11 number (Redacted). That is a very difficult thing to

12 do.

13 Q. (Redacted)

14 A. Yes, yes. (Redacted)

15 (Redacted)

16 (Redacted) Now, without the

17 assistance of that (Redacted)

18 (Redacted)

19 Q. Any others?

20 A. You know, several situations occurred where -- and in fact, there was one

21 situation in which a collaborator asked to (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 bound to pay them. You see, in the Équateur province, what happened was that the
2 inhabitants supported our movement and (Redacted)
3 (Redacted)

4 These were people who voluntarily, (Redacted), they
5 voluntarily agreed to provide (Redacted) information.

6 Q. I'm sorry if it is my fault and the question was not clear enough, but what I was
7 asking you was other than the man you of told us about (Redacted) any other
8 Central African (Redacted)

9 A. I have just told you that there was another one who wanted to pay his homage
10 (Redacted), so to speak.

11 Q. So there were two that (Redacted)

12 A. I cannot remember and put an exact number to it. Counsel, you're asking me
13 to perform a very difficult exercise, for example, asking me how many times (Redacted)
14 (Redacted)

15 (Redacted) It is difficult for me to say, Counsel.

16 Q. Did you know in what part of the country these (Redacted) lived?

17 A. I just said a short while ago that some of them lived in Gbadolite and shuttled
18 between Gbadolite and Bangui. Others lived in the Central African Republic and
19 would bring back goods into Congo and then return to the Central African Republic.
20 And there were others still who lived in Gbadolite and who would travel as far as
21 Kinshasa, businessmen, conducting their trade.

22 Q. How often (Redacted) in the Central
23 African Republic?

24 A. It all depended on the circumstances and the situations as they arose. I cannot
25 tell you that it was once or twice or thrice or four times. It all depend on the

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1 prevailing circumstances. Sometimes (Redacted) the presence. And
2 should I say this, even well ahead of the intervention of the Central African Republic,
3 (Redacted) the presence of a Congolese delegation which was here, and
4 so it all depended. It was all circumstantial.

5 Q. Well, was it a weekly event, a monthly event, or less frequent than that?

6 A. Whenever there was an action or a situation (Redacted) on a
7 weekly basis, then they would do so. Now, if the situation didn't require weekly
8 monitoring, then they would do it on a daily basis or they would do so depending on
9 the circumstances.

10 Q. And by what process did (Redacted)

11 A. I have already stated here that (Redacted)

12 (Redacted), for example, that

13 such-and-such a person is bringing a goat and so on and so forth, and that was one
14 method.

15 The other method would also have been (Redacted)

16 (Redacted) who, at his level working as a post, had a reduced number of staff
17 relating to the general directorate but who was able to conduct some analysis. And
18 the (Redacted) was a qualified officer, trained in Uganda, (Redacted)
19 (Redacted) in Uganda, and so there was no difficulty at that post.

20 Q. Well, I'm glad you mentioned that because that is Papy Bokoula, isn't it?

21 A. Papy Bokoula was (Redacted), not only him but a strain of other
22 persons, about eight or seven officers who were trained on behalf of the MLC for
23 (Redacted) in Uganda. Papy Bokoula was one of those officers who, to
24 my mind, was very well qualified.

25 Q. Thank you. It probably goes without saying, (Redacted)

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1 (Redacted)

2 A. Yes, of course. (Redacted)

3 However, (Redacted), he had a weakness, a very -- should I say strong

4 weakness for strong drink, alcohol, and so (Redacted)

5 (Redacted)

6 Q. Well, I'm sure he wasn't alone in that, but (Redacted)

7 (Redacted)

8 A. You know, (Redacted), when (Redacted)

9 (Redacted) If he was kept on his post, it must be because

10 he did his job well.

11 Q. Let me put two particular hypotheses to you. (Redacted)

12 (Redacted)

13 (Redacted)

14 A. Why would I do such a thing?

15 Q. Shall I take that as a "no"?

16 A. I would not do such a thing. And, by the way, since I made my statement (Redacted)

17 (Redacted) Papy Bokoula. I don't know where he is. I know nothing about his

18 whereabouts, nothing, absolutely nothing.

19 Q. And from what you know of him, do you think if he was asked to give

20 information to a judicial inquiry he would have given false information?

21 A. It would depend on what the motivation was at that time, so I am not in his

22 shoes and I do not know whether he would agree with it or not. I don't know

23 whether he would be motivated if he received some money to give a false statement.

24 I know nothing about that. It would all depend on his choice or his personality, and

25 I cannot speak on his behalf. I cannot be specific as to how he would respond. It

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1 would depend on his motivation and his personality at the time such a proposal may
2 have been made to him.

3 Q. You gave us at the start of this section of your evidence a general description of
4 the (Redacted). I just want to have a look at a short passage from your
5 interview and see if you can expand upon it for us.

6 PRESIDING JUDGE STEINER: Maître -- Mr Haynes, I'm sorry to interrupt you.

7 When we have a two-hour session, we have an additional problem with the tape and
8 I'm informed that we have only three minutes on the tape.

9 MR HAYNES: Then we'll go to the break.

10 PRESIDING JUDGE STEINER: I think maybe it's better, in order not to cut your
11 question in the middle.

12 Court officer, please turn into open session.

13 (Open session at 10.57 a.m.)

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

15 PRESIDING JUDGE STEINER: Mr Witness, we'll have a half-an-hour break. You
16 can take some coffee or tea and some rest. It's almost 11 o'clock. We will resume at
17 11.30. I ask, please, the court officer to turn into closed session for the witness to be
18 taken outside the courtroom. In the meantime, we are going to suspend and resume
19 at 11.30.

20 (Closed session at 10.58 a.m.) * Reclassified as Open session

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

22 (The witness stands down)

23 THE COURT OFFICER: All rise.

24 (Recess taken at 10.59 a.m.)

25 (Upon resuming in closed session at 11.31 a.m.) * Reclassified as Open session

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- 1 THE COURT USHER: All rise. Please be seated.
- 2 PRESIDING JUDGE STEINER: Welcome back. Could, please, the court usher
- 3 bring the witness in.
- 4 (The witness enters the courtroom)
- 5 PRESIDING JUDGE STEINER: Can we turn into open session, please.
- 6 (Open session at 11.34 a.m.)
- 7 THE COURT OFFICER: We are in open session, Madam President.
- 8 PRESIDING JUDGE STEINER: Thank you.
- 9 Mr Witness, welcome back.
- 10 THE WITNESS: (Interpretation) Thank you.
- 11 PRESIDING JUDGE STEINER: Are you ready to continue with your testimony?
- 12 THE WITNESS: (Interpretation) Yes, absolutely, your Honour.
- 13 PRESIDING JUDGE STEINER: Mr Haynes, you have the floor.
- 14 MR HAYNES: Thank you, your Honour.
- 15 Q. And welcome back, Mr Witness.
- 16 A. Good day, Maître.
- 17 Q. You were describing to us just before the break -- I am very sorry, I am going to
- 18 pause there and go no further. Could we please go into private session?
- 19 PRESIDING JUDGE STEINER: Court officer, please.
- 20 (Private session at 11.35 a.m.) * Reclassified as Open session
- 21 THE COURT OFFICER: We are in private session, Madam President.
- 22 MR HAYNES:
- 23 Q. You were describing to us before the break about (Redacted)
- 24 (Redacted); do you recall?
- 25 A. Yes, I do. Yes.

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1 Q. And you have also told us about (Redacted) preventing damage
2 being caused to the economic market by President Kabila flooding it with currency.

3 Do you recall that?

4 A. Yes, affirmative.

5 Q. It's a small clarification, but was that something which happened on one
6 occasion, or was it a repetitive problem?

7 A. If I remember this correctly, I believe that this happened on two occasions. I
8 believe so. I believe (Redacted)

9 (Redacted)

10 Q. And in what areas of the territory were they doing that?

11 A. This was mainly done in Gbadolite.

12 Q. And from where were (Redacted) arriving in the territory?

13 A. (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)
2 (Redacted)
3 (Redacted) The commander-in-chief then issued an
4 order (Redacted)
5 (Redacted)
6 (Redacted)
7 (Redacted)
8 (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted)
16 well, I believe that there was a commission that was created within the parliament
17 and free access was granted to the population of Équateur in the territory under the
18 control of the DRC.
19 They were rather given the possibility of complaining and this guy actually filed a
20 complaint against the MLC. He filed this complaint with this parliamentary
21 commission. He said that his money had been taken unfairly, unjustly, and as of
22 that moment he said that his business was no longer functioning. That is an example
23 I can provide you with, with regard to the manner in which this operation unfolded.
24 Q. Thank you. You said from your memory there were two occasions: The first
25 was in Gbadolite. Do you remember where the second one was?

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1 A. The second one, I don't believe (Redacted) in that operation.

2 I think it must have been another point of entry that was concerned. I don't clearly

3 remember the second operation, but I am now telling you about this operation

4 because (Redacted)

5 (Redacted) but I do believe that there

6 was also a second occasion and -- well, I would have to try and recall this event. I do

7 apologise.

8 Q. No need to apologise but, so far as you recall, neither of those operations

9 relating to the flooding of the market with currency involved the use of (Redacted) in

10 the Central African Republic; is that right?

11 A. Well, I told you a minute ago that (Redacted) were Congolese, not

12 Central Africans. They were Congolese. They were Congolese who were involved

13 in their business between Kinshasa, Bangui, Brazzaville and Kinshasa or, rather,

14 Gbadolite and there were others who had business that they carried out between

15 Bangui and Zongo and there were others at different locations, so that was the

16 situation. I can't tell you all the details and say that such-and-such a person was

17 doing such-and-such a thing. (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted) So it's a very complex procedure.

22 Q. Very well. Now can we come (Redacted)

23 events in the Central African Republic involving the MLC. I want to be clear: (Redacted)

24 (Redacted)

25 A. (Redacted).

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1 Q. And when in terms of the operation in the Central African Republic (Redacted)
2 (Redacted)

3 A. At different points in time in the course of the operation. I'll tell you one thing:
4 You shouldn't think that (Redacted) the misconduct of our troops.
5 (Redacted) courage of our troops. (Redacted)
6 the logistics, the supplies sold by officers that would be found with civilians. Those
7 sort of things (Redacted).

8 It's not as if there were just negative (Redacted), no, and they -- the individuals who
9 (Redacted), well, it's as if they supported our troops. They were
10 content because they showed courage beyond our borders, so for them it was a matter
11 of pride, something of that kind. It was a matter of pride because you are abroad
12 and you are told that there are troops from your country who are there and you don't
13 want them to be routed, so that was the situation, but whenever there were cases
14 about which people could complain, well, this would also be (Redacted) by
15 them.

16 True, (Redacted) and they weren't in the field where there
17 were hostilities, so I don't know how they could obtain this information, but that was
18 the situation.

19 Q. Well, you've answered quite a lot of my subsequent questions in that about the
20 source of information. How many (Redacted), do you say, (Redacted)
21 crimes had been committed by the MLC troops?

22 A. Well, (Redacted) such situations I think (Redacted). If
23 I remember this correctly, (Redacted) towards the end of the operations.
24 It was then that (Redacted) referring to such situations, (Redacted)
25 stated that the troops weren't conducting themselves well, or were no longer

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1 conducting themselves well, so certain details would be provided.

2 It was said that there were civilians who would complain. They said that they had
3 been the victims of looting. There were others who complained about having lost
4 family members, and so (Redacted)

5 Q. Who did?

6 A. When you say "Who?" I don't understand, Maître.

7 Q. (Redacted)

8 A. Maître, I said quite clearly a while ago (Redacted) two sources of information:

9 One concerns (Redacted) and (Redacted) another source which was (Redacted).

10 It was the head of (Redacted) in Zongo. So this was information that arrived from
11 various sources. You know, when (Redacted), you

12 (Redacted)

13 (Redacted)

14 The information, for example, that arrived from the (Redacted), if Papy Bokoula cast
15 doubt on it today, well, I would be surprised by the fact, but this -- but official
16 information also mentioned looting.

17 It mentioned the fleeing of the Yakoma Central Africans who had taken refuge in our
18 territory. It also mentioned, or these reports also mentioned, things going out of
19 control over there and so on and so forth, so to ask me now today at what point of
20 time Papy Bokoula did such-and-such a thing or when (Redacted) did this or
21 that, well, it's a very difficult exercise and that's all the more the case because we
22 couldn't imagine that one day we'd be before the ICC testifying about all of this, so
23 this is something that happened, it's the past, we have to turn the page, that's it. I'm
24 making an effort. I'm trying to recall these events. I can't provide you with all the
25 information, all the details, so this is very complicated.

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1 Q. Very well, but let's be clear. (Redacted) Papy

2 Bokoula, or was it not?

3 A. Maître, I apologise, but we are going back to the same issues. I have said that
4 the (Redacted) was Papy Bokoula. That's what I said.

5 Q. And (Redacted) the commission of
6 crimes by the MLC?

7 A. I would rather not speak about Papy Bokoula. I would rather speak about the
8 (Redacted) from (Redacted). I've just
9 mentioned (Redacted). I mentioned -- well, it didn't come
10 from (Redacted). The large lorries that Mustapha had crossing over, it didn't
11 come from (Redacted) from the CAR. It came from the (Redacted). That
12 information came from the (Redacted).

13 The Yakoma population, the Central African Yakoma population that fled, well, that's
14 information that came from Papy Bokoula, the information according to which crimes
15 had allegedly been committed over there. Well, (Redacted)
16 Papy Bokoula too from the (Redacted). That's where (Redacted)
17 (Redacted) who would also refer to what the victims had said.

18 They referred to what the victims had said. The victims said, "Well, look, the troops
19 have done this, they've done that, they've done such-and-such a thing," so this is the
20 information (Redacted). I don't know what else I could tell you about this.

21 Q. Did Papy Bokoula (Redacted) alleged looting.

22 A. I've just spoken about the large lorries. How did I find out about that since
23 I was in Gbadolite? If there's anyone else who can say that there weren't large lorries
24 that crossed over, that crossed Ubangi from Mustapha as has been said, well, later (Redacted)
25 (Redacted) the (Redacted) on this occasion and (Redacted)

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1 these lorries were being used to transport goods from Libenge. (Redacted)

2 (Redacted)

3 Q. Thank you. Now, can you be more precise when you say (Redacted)

4 (Redacted) towards the end of the operation? How long before the end of the

5 operation was it to the best of your recollection?

6 A. Look, I couldn't tell you exactly. It's very difficult.

7 Q. Well, how long before the cars appeared in the Coca-Cola warehouse?

8 A. I'd have to try and remember that. I don't know exactly when. I know it was

9 during the period -- well, the vehicles that arrived at the Coca-Cola place, well, this

10 came -- these are looted goods that came from Bangui, but when it arrived in

11 Gbadolite, well, to be quite frank I can't remember when that was exactly, but I

12 believe that or rather I'm certain that this occurred towards the end of the operations.

13 Q. Thank you. And it would follow, wouldn't it, that it wasn't until after (Redacted)

14 (Redacted) he information that (Redacted) to the president?

15 A. Look, I don't want to answer that, because the chronology of events that

16 concerns the (Redacted)

17 (Redacted) and all of that, well, it's not easy, you know? So I can't answer

18 that question. I can't give you a precise answer.

19 Q. Well, (Redacted) crimes in the Central

20 African Republic (Redacted)

21 A. Then how would (Redacted) such information if (Redacted) it from

22 (Redacted) I wonder? I don't know. How would (Redacted)

23 all that information? Perhaps with regard to strategy, well, on one occasion (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 Q. Did (Redacted) according to you?

4 A. Mainly on the situation in Bangui?

5 Q. Crimes in Bangui.

6 A. I think I have already said that the situation in Bangui wasn't referred to in all

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 If (Redacted) there was looting allegedly committed by troops who had taken

15 televisions and this and that, well, when (Redacted) such information (Redacted)

16 (Redacted). Whenever there was a situation (Redacted)

17 (Redacted). As for the number of occasions on which (Redacted), I can't

18 remember, but whenever there was a situation (Redacted)

19 (Redacted)

20 Q. Well, perhaps we better have a look at what you said during the course of your

21 interview in 2008. For your benefit, we'll put onto the screen document number 4

22 and the last four digits of the ERN for the witness should be 0053. For those of us

23 following it in English, the last four digits of document number 1 are 1107.

24 PRESIDING JUDGE STEINER: Mr Haynes, I think we need the first number. Do

25 you have it, please?

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1 MR HAYNES: Yes, the full number of the English document is CAR-OTP-0055-1075
2 and the full ERN of the French document is CAR-OTP-0009-0022.

3 PRESIDING JUDGE STEINER: Mr Haynes, I would suggest the court officer to
4 display the French version for the witness.

5 MR HAYNES: That's what I intended to do and we can follow in English.

6 THE COURT OFFICER: Document CAR-OTP-0009-0022, first redacted version, is
7 available on your screens and it's a confidential document.

8 MR HAYNES: For the witness, could the French version be moved to ERN last four
9 digits 0053? For those following in English, I'm going to direct the witness to the
10 question and answer "When (Redacted) rapes had taken
11 place and when (Redacted)

12 Q. Sir, can you see in the middle of the page a question that begins "Quand
13 (Redacted)

14 A. Do you want me to read it?

15 Q. It's not necessary. We are following it in English. Could you read it to
16 yourself?

17 A. I've read it.

18 Q. Firstly, when you said to Mr Badibanga "I called there after our last interview,"
19 what were you referring to?

20 A. When Mr Badibanga, who was leading a team from the Office of the Prosecutor
21 turned up in (Redacted) so that I could make my statement, we had to spend three or
22 four days, if I remember correctly, if I am not mistaken I think it was three or four
23 days, so when I said I had called there since the last meeting, it was the day I had to
24 make the statement, that meeting, because he asked me if I could establish contact
25 with the office there and get knowledge of these documents and perhaps have the

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1 document with me and that's why I said I called. I called (Redacted) I
2 even gave the name to Mr Badibanga at the time. I called (Redacted)
3 (Redacted) to ask if it was possible for him to find me a document or any report which
4 referred to the situation in Bangui. So that's the reference there. That's why I talk
5 about "the last time."

6 Q. Well, we might have to think about this a little. You were interviewed by
7 Mr Badibanga in (Redacted) over the course of three days. Do you recall that?

8 A. I can't remember if it took three or four or more days, but it took quite a number
9 of days to make the statement. I didn't give the statement in one day, no.

10 Q. But those three days, which we know were in April 2008, were not your first
11 meeting with Mr Badibanga, were they?

12 A. I may perhaps be mistaken on the date. Well, first I want to say this: The
13 very first meeting with Badibanga, who was also accompanied by another team, was
14 not the first time for me to make a statement. It was to ask me whether I might agree
15 to testify, and at that time I told Mr Badibanga that I didn't want to get too involved
16 in this story, but all I wanted to do was to give you all the evidence or elements you
17 might need so that you could go away with it and just leave me alone. I didn't want
18 to be individually involved.

19 Then afterwards, I changed my mind, because Mr Badibanga said to me "If you just
20 give us the evidence and you're not involved, then there's no point in doing it. We
21 might as well drop it. You either choose to drop it all, or you become involved; do
22 you understand?" So in the end I gave my approval. I said "Okay, I want to do it."
23 So that was the first time we met and at that time it wasn't a question of making a
24 statement. Then another appointment was made. They left. You see, they'd left
25 for I don't know how many days and then some time later he called me and he said,

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1 "Are you still in agreement with the idea of making a statement and, if you agree to
2 making the statement, we have to agree on the place and a date for your statement to
3 be made?" So that's how things happened, and I agreed and I said, "Okay, I'll give
4 you my approval. There's no problem" and there was absolutely no pressure. It
5 was of my own free will.

6 Q. Thank you. At the meeting at which you were unwilling, can you tell us where
7 that took place?

8 A. I think it must have been in a public place, in a (Redacted)
9 That's where we arranged to meet. I got in my car, I went to the place. I met
10 Mr Badibanga who was with a team of two or three people, I think. Yes.

11 Q. Well, thank you for that precision, but I really was just asking which town.
12 Was it in (Redacted)?

13 A. Yes. Yes, indeed. It was in (Redacted).

14 Q. And in what month was it?

15 A. Counsel, it would be difficult to give you any exact answer to that to say exactly
16 what month it was. It would be difficult, Counsel. I'm sorry.

17 Q. Well, let me see if I can help you. You told us first thing this morning about a
18 (Redacted) you went to in February 2008. Was it before or after the (Redacted)
19 (Redacted)

20 A. No, this is what I have said earlier. It's not easy to work out the chronological
21 order of these events which happened so long ago. It's not easy. It's not easy.
22 And when I talk about the (Redacted), I don't know what level you see that as. It
23 was a (Redacted) which was held at the (Redacted),
24 (Redacted) It wasn't
25 a (Redacted)

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1 (Redacted)

2 (Redacted) It was a whole event. It went on for a week.

3 Q. Well, let's try it another way. How many weeks or months was the first
4 meeting before the series of meetings in which you gave your statement?

5 A. I couldn't give you an accurate answer, Counsel. I'm sorry.

6 Q. Can we be satisfied that it was in 2008, the first meeting?

7 A. Counsel, I need to recollect the memory of these events, which really occurred
8 and you're well aware of that, so if you have the date, if you have the date on the
9 document, that's the date when I met Mr Badibanga. I don't want to confirm
10 something which may later prove not to be that. I said to you earlier that I have
11 difficulty in establishing the chronological order as you are requesting it.

12 Q. Well, all I can help you with is that the first of your interviews which were
13 recorded was on (Redacted) April 2008. Does that help you remember when the first of your
14 interviews was when you talked about finding a document?

15 A. Well, if that's the date on the document saying that's the date when I met
16 Mr Badibanga, then that's it.

17 Q. Yes, but that was when you met Mr Badibanga for the second time. I want to
18 know when the meeting (Redacted) was.

19 A. I cannot give you that detail, I'm sorry.

20 Q. What did you go and ask (Redacted) to find for you?

21 A. I have already answered that question. It was a matter of finding the reports
22 with references to the situations that had occurred or may have occurred in Bangui.

23 Q. Well, just please re-read the question and answer you've looked at and the
24 following question and answer. Why did you refer in the interview to that
25 document in the singular, rather than the plural?

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1 A. Well, when you talk about the reports, the reports of a situation, you can get
2 that in a number of documents. It's not necessarily a single document. I didn't talk
3 about a document. I talked about a report. A report can be in a number of
4 documents.

5 Q. But were you asking the (Redacted) to look for one document, or more than one
6 document?

7 A. I had asked for any document which may have dealt with the matter in Bangui
8 to be forwarded to me, if possible. If there was one, two or three, that's what I asked
9 to be forwarded to me, and I contacted (Redacted) who said that it would be
10 difficult for him because he was no longer in charge of the documentary records and
11 that he would have to ask approval from the head of the office and I didn't know him.
12 (Redacted)

13 (Redacted)

14 Q. So the long and the short of it is no luck finding it; is that right?

15 A. It's not that they didn't find it, but they didn't look for it.

16 Q. Did you transfer all of the (Redacted) of the (Redacted) to the (Redacted) when (Redacted)
17 (Redacted)

18 A. I'll talk about the way we worked. When I left Gbadolite to go to Kinshasa, at
19 that time they hadn't yet set up the new (Redacted). That department was set
20 up in 2006, and 2006 when they started setting up a new system throughout the
21 territory that was under MLC and RCD control. And that was set up by the
22 (Redacted) himself. (Redacted)

23 (Redacted)

24 (Redacted)

25 Not the decree that (Redacted), but there was another decree which (Redacted)

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1 them. They were called REDOC, the directors in the provinces, and there was a
2 director for each province and they in turn set up the system in the territory which
3 was under their control.

4 Usually, this was done on the basis of a proposal. A proposal was made to the
5 general direction which then gave approval and then they were set up and that had
6 started in 2006 and went on from then.

7 Then in 2008 when they -- when it came to asking for this document for (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted) And so I asked the (Redacted), who said "No, no, no, I'm no longer

14 there and I can't do it," and I told Mr Badibanga that.

15 I said, "I don't think I can go any further than this, because otherwise I might suffer
16 repercussions. I know how the (Redacted) works and I would like to stop at this point."

17 I said that to him, and he said, "Okay, well, if you know that there are going to be
18 repercussions for you then drop it." And I said "Okay," and I dropped it.

19 Q. Very well, we may come back to that a little later on. So in order to understand
20 what (Redacted), we have no document to refer to. We
21 have to rely on your memory. Did (Redacted) specify the crimes alleged to
22 have been committed?

23 A. Earlier, I spoke about cars which had been seen. This was not fiction.
24 Vehicles had been seen. I told you stories about TV sets that were seen. This was
25 not an invented story. I told you about (Redacted) there were

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1 Central Africans who had reported on members of their families being murdered by
2 troops, or they said by Banyamulengue who had killed members of their families.

3 So I think you should have an idea of the crimes (Redacted). It's clear.

4 Q. Did (Redacted) specify when and where they were committed?

5 A. To be honest, sometimes they mentioned the place. Other times they didn't.

6 Sometimes they did. They'd say, for example, (Redacted) that, for example, "I was in

7 contact with a Central African who said that his family had apparently been victims

8 of a massacre at a certain site." Well, I can't remember it very well now. I don't

9 know Central African Republic. I've never been to Bangui. It would be very

10 difficult for me to do this. These were names that were (Redacted) of the territory

11 and (Redacted). That's it.

12 Q. Did (Redacted) specify which battalions of the MLC were alleged to be

13 responsible?

14 A. (Redacted) did not give details of a specific battalion. (Redacted) mentioned

15 Banyamulengue. That's what they said. They said they were Banyamulengue.

16 Everybody thought that the units sent to Bangui were only Banyamulengue, but I

17 knew that that was not the case, but they said they were Banyamulengue who had

18 done it. Each time there was a (Redacted) it was the Banyamulengue, but on

19 the side of Zongo there was more subtle interpretation about the Banyamulengue and

20 around Zongo it was just (Redacted) our troops.

21 Q. Thank you. This might seem an obvious question, but I take it therefore that

22 (Redacted) did not name either the battalion commanders concerned or any

23 individual soldiers alleged to be guilty of crimes?

24 A. With the exception of General Mustapha, whose name was cited for the trucks

25 that crossed over, there weren't any others mentioned. Now, (Redacted) didn't even

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1 know the troops. I said earlier that their reports were based on statements they
2 heard from Central African citizens, so they didn't know the soldiers. They didn't
3 know them by name.

4 Q. Thank you. And (Redacted), according to your recollection, (Redacted) the report,
5 a man called Mondonga was sent to the Central African Republic to investigate
6 matters; do you agree?

7 A. Yes, I think I said that on one occasion I think that Colonel Mondonga was
8 carrying out investigations there and if I remember correctly there was even a
9 helicopter which was made available by His Excellency, the President, Jean-Pierre
10 Bemba, that was there to take investigators to Bangui. I can't remember exactly
11 when. I know there was a journalist from RFI, Gabriel Khan, or a name like that, so
12 there were investigations like that that were to be carried out, but I can't remember all
13 the people who were involved in those investigations, but I remember that there was
14 a helicopter that went off to do an investigation there and there was also a senior
15 officer who was sent out to conduct an investigation of the troops and I think that was
16 Mondonga, unless I'm mistaken.

17 Q. Do you agree that (Redacted) didn't provide much of a basis for an
18 investigation?

19 A. I cannot agree with you. You see, (Redacted) there is no small
20 information, there is no major information, because what might appear to be
21 insignificant could end up becoming extremely significant. So (Redacted) there is
22 no small information. Therefore, all information that (Redacted) when (Redacted)
23 (Redacted) became important.

24 Q. But if (Redacted) was the basis, where (Redacted) to investigate?

25 A. I never said, ever, that investigations were conducted on the basis of (Redacted).

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1 I never said that. I never made that argument. All I said is that (Redacted). Any
2 information that (Redacted) was forwarded to the commander-in-chief. Now,
3 whatever motivated the commander-in-chief to conduct investigations is only for him
4 to say. Maybe he had additional information that helped him to come to that
5 conclusion, not necessarily only (Redacted) information.

6 Q. Thank you. Can we just -- can I just ask you about what (Redacted) gave
7 (Redacted) to understand about the situation in the Central African Republic generally?
8 Did it reveal (Redacted) the identity of the Chief of Staff of the FACA?

9 A. I have already told you in this courtroom that the situation in Bangui, from an
10 operational and structural point of view, was one that did not (Redacted) neither
11 directly nor indirectly, so any information (Redacted) on any meetings
12 between (Redacted) officials and Central African officials and the manner in which
13 operations were conducted was simply information gleaned through secondary
14 sources.
15 I therefore am not in a position now to give you an exact structure or set-up of which
16 the -- of the commission in Bangui, so I can only provide you answers with things that
17 I know that I master. I cannot answer about issues that I know nothing of.

18 Q. Well, (Redacted) what other forces were fighting
19 alongside the MLC in support of President Patassé?

20 A. I believe that I have already answered that question, when you asked me
21 whether I knew that Libyan troops had intervened in Bangui, and I told you that it
22 was being talked about, that people talked about it, and when I said that it simply
23 meant that, as I have just stated, that it was information (Redacted) through
24 secondary sources.

25 Q. Did (Redacted) secondary sources (Redacted) the militia units

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1 being used by President Patassé?

2 A. No, no, no, no, no. The situation in Bangui, as I told you a short while ago, you

3 see, that was (Redacted). The little information

4 that (Redacted). Now,

5 the chief now had access to other channels (Redacted) and other means of

6 cross-checking to determine whether the information (Redacted) was

7 accurate, or incorrect. In the case in point, (Redacted)

8 (Redacted)

9 (Redacted). Yes, that is what I did. That is all I did, and (Redacted)

10 (Redacted) as such, no, no. So I am not in a position to

11 provide you with any details. If you need details, then you must contact those who

12 were (Redacted) involved in the operation.

13 Now, to prove my point, I do not even know the Central African territory. I have

14 never been there. I know nothing of it and that is as much as I can say. So all what

15 (Redacted) at the time was to (Redacted)

16 (Redacted) and that is it.

17 Q. Thank you. I mean, just give us some idea: What did one of these (Redacted)

18 (Redacted) look like? Was it half a page of writing?

19 A. It would all have depended on the nature of the (Redacted) that (Redacted). It

20 could be one page, a half a page, depending on the information (Redacted).

21 MR HAYNES: Very well. Okay, we're going to have a look at another document

22 now and it is document number 9 in the Defence list, please.

23 THE COURT OFFICER: Document CAR-DEF-0002-0001 is available on your screens.

24 It's a public document, but it would not be broadcasted outside because we are in

25 private session.

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1 MR HAYNES:

2 Q. Now, do you know when the operation in the Central African Republic came to
3 an end?

4 A. If I remember properly, I believe that the operations ended in March 2003.

5 Q. Right. Did you know Colonel Mondonga, or Lieutenant-Colonel Mondonga?

6 A. Affirmative. Yes, I know him. (Redacted)

7 (Redacted)

8 Q. And what are his given names? Do they begin with "J" and "R"?

9 A. That is correct; Jean-Romain Mondonga. That is correct. Those are his
10 initials.

11 Q. Do you recognise the name Willy Bomengo?

12 A. I do not know him personally. I do not know him.

13 Q. You were living in (Redacted), weren't you?

14 A. Absolutely, yes.

15 Q. And were you aware of the trial of soldiers from the MLC for offences
16 committed in the Central African Republic?

17 A. Yes, indeed, there was a trial. In fact two, I may say. Two: One trial on
18 Mambassa and the other case was on the Central African Republic. I do not clearly
19 remember the times at which those trials took place, but it was I believe in early 2003,
20 in February 2003, or thereabouts I believe.

21 Q. Well, let's have a little look. Can we go over one page, please? What sort of
22 document is this? Can you help us?

23 A. This is a record of an interview.

24 Q. And about what, without reading it all out aloud, please?

25 A. I see that it is written "Following the rumours about the looting that took place

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1 in Bangui".

2 Q. And the person being interviewed is Willy Bomengo?

3 A. Yes, that is correct. It is Willy Bomengo.

4 Q. Can we go over two more pages, please, and can it be blown-up a little bit so
5 that the poor witness has a chance to read it? Is this a similar document involving
6 somebody else? This is a similar document involving somebody else, isn't it? It's
7 another interview of somebody called Mbokane Zabo?

8 A. Yes, absolutely. Yes.

9 Q. And we won't go through all of them, but we'll just go over just one more page,
10 please. Again, a similar document involving somebody called Ikwa Tonton?

11 A. Yes, that is correct.

12 Q. Were you aware that Mr Mondonga had in fact gone to the Central African
13 Republic and arrested several soldiers within two or three weeks of the
14 commencement of the operation?

15 A. I believe that I already said so even before you put the question to me. I said
16 that I remembered that Colonel Mondonga had conducted operations in Bangui.
17 Hadn't I said so?

18 Q. Well, in part, yes, but you also said that he went there after (Redacted)
19 (Redacted) at the end of the operation in March 2003, do you recall?

20 A. No, no, Counsel, I never said that. I said that I had trouble reconstructing the
21 chronological order and those are the words I used. Then you asked me (Redacted)
22 (Redacted) were used, and I said "Whenever a situation arose and (Redacted)
23 (Redacted) the (Redacted)," and then I went on to say that I felt that the reports on the
24 looting, including the large lorry, that those reports (Redacted) towards the end of
25 the operations. That is what I said, Counsel, and I am being consistent with my

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1 testimony, I hope.

2 Q. Do you know what happened to these people that were arrested by
3 Mr Mondonga?

4 A. No, I know nothing of it.

5 Q. Why not?

6 A. Did I have to?

7 Q. Do you want to reconsider your evidence about the timing of (Redacted), or its
8 position in the time-line with Mr Mondonga's inquiry?

9 A. Absolutely nothing. I don't have anything to amend. No modification. I
10 said indeed that Mondonga had gone to Bangui and I said that I did not know when
11 he went to Bangui. I said so to the Court even before you put the question to me. I
12 also testified that (Redacted) reports at various times (Redacted)
13 (Redacted), so I have no change, nothing to change in my testimony,
14 nothing whatsoever.

15 Q. Well, I might just ask you for your comments on something you said during
16 your police interview. For the witness, it's document 4, please, at page 0054. For
17 those of us following in English, it's document 1 at page 1108.

18 THE COURT OFFICER: Document CAR-OTP-0009-0022, first redacted version, at
19 page 0054 is available on your screens.

20 MR HAYNES: Can we go down the page a little bit?

21 Q. Can you read the question and answer beginning (Redacted)
22 (Redacted) just to yourself?

23 A. Yes, I have read it.

24 Q. Do you agree that you told Mr Badibanga in April 2008 that Romain Mondonga
25 was sent to Bangui to investigate a long time later?

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1 A. Yes, and it is referred to much later. It says much later on. It could have been
2 in two months, like it could have been in four months, so I don't know whether you
3 have a clear definition of what "later on" would have meant. "Later on" meant after
4 an event has occurred and "later on" could be one day, two days or three days
5 depending on who makes such a statement.

6 Q. Very well. Just to complete this aspect of the evidence, can we have a look at
7 Defence document number 80, please?

8 THE COURT OFFICER: I'm sorry, Counsel, if I may your Honour, could you repeat
9 the number --

10 MR HAYNES: Yes.

11 THE COURT OFFICER: -- that you have made reference to?

12 MR HAYNES: It's 80, CAR-OTP-0017-0358.

13 THE COURT OFFICER: The document CAR-OTP-0017-0358 is available on your
14 screens and it's a public document.

15 MR HAYNES:

16 Q. So far as you were aware, were the trials of those arrested as a result of
17 Mr Mondonga's investigation conducted publicly?

18 A. That's a martial court, yes, so that must have been the case.

19 Q. And do you see the date at the top of that document?

20 A. Yes, at top you see 12 December 2002.

21 Q. Were you aware of the court martials taking place at the time?

22 A. Yes, certainly, and I already said that there was a trial on Bangui and another
23 one on Mambassa. The only issue is that I also said that I had trouble giving you an
24 exact date as to when these trials took place.

25 Q. Do you now accept that the trial in relation to Bangui did not take place in 2003?

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1 A. Right from the beginning I said that I felt that, or I thought that. That's how I
2 started my answer that "I think that the trial must have started in early 2003," and that
3 is not too far off from the bracket. I may have been mistaken as to the date, but I said
4 it before. You forced me. You forced me to give an approximate date whereas I
5 was not ready to do so because it was not clear to my mind what the exact date would
6 have been.

7 Q. Well, let's see if this document refreshes your memory as to what happened to
8 the various people tried. Do you remember that these soldiers received sentences of
9 12 months' imprisonment and nine months' imprisonment?

10 A. I believe that I already said here that for the two trials, Mambassa and Bangui,
11 some junior officers were convicted to a number of months in prison, while others
12 were given long-term prison sentences, but I went on to say that I did not monitor
13 those trials closely, so I also made every effort to provide to the Court information
14 that I may have gleaned here and there, but when I was answering your question I
15 told you clearly that I was not in a position to give you details as to the convictions, as
16 to the list, as to the number of soldiers who were tried and convicted, because that
17 was not a matter (Redacted).

18 You seem to give the impression that during that period (Redacted)
19 (Redacted) and therefore could not focus
20 exclusively on the Bangui or Mambassa trials, for example.

21 MR HAYNES: Just to make the link, can we go to the second page of this document,
22 please?

23 PRESIDING JUDGE STEINER: Mr Haynes, I am sorry to interrupt you. Maybe we
24 have a problem in the transcript and I wanted to check with you page 71, lines 18, 19,
25 20. You are making reference to page 54 of document CAR-OTP-0009-0054 and you

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- 1 say, your question: "Do you agree that you told Mr Badibanga in April 2008 that
2 Romain Mondonga was sent to Bangui to investigate a long time later?" Is
3 that -- was that your question, because maybe there is a translation problem. In the
4 document you mentioned it is said by the witness that he has no precision
5 information and then he says, and I repeat in the French, "(speaks French)," that he
6 knew "(speaks French)" that Colonel Mondonga was sent to Bangui to investigate.
7 The colonel was sent later, a long time later. I think there's a problem here that
8 maybe -- or you misquote the transcript or the statement or the translation is not
9 correct.
- 10 MR HAYNES: It seems to me that the witness has answered the question and
11 cleared up any possible mistake in translation there might have been.
- 12 PRESIDING JUDGE STEINER: Just I didn't want the witness to be confused about,
13 if he receives a misquotation of what he said in his written statements.
- 14 MR HAYNES: Well, he --
- 15 PRESIDING JUDGE STEINER: Just for the sake then of the transcript, what the
16 witness said on page 0009 and 0054, at least in the French version, is that only "bien
17 plus tard" he knew that Colonel Mondonga "(speaks French)."
- 18 THE INTERPRETER: "Colonel Mondonga was sent to Bangui to investigate the
19 violence".
- 20 PRESIDING JUDGE STEINER: No, because you said that there was a contradiction
21 and may be it was not a contradiction, but just a confusion in relation to the
22 translation. Sorry to interrupt in that respect.
- 23 Maître Badibanga, please.
- 24 MR BADIBANGA: (Interpretation) Thank you, your Honour. I don't want to
25 interfere in the cross-examination of my learned friend, but I would like to correct

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1 something for the sake of the transcript's clarity. I would like to clear up a
2 misunderstanding. On a number of occasions the witness was told with regard to
3 this matter "You answered Mr Badibanga." I would just like to clarify this. He
4 answered Madam (Redacted) not Mr Badibanga, and I will explain this.
5 If we have a look at this statement it says, CAR-OTP-00922 page 025, it says there I
6 explained to the witness that I was leading a team for the OTP and that the questions
7 were put -- would be put to him by (Redacted). I just wanted this to be clear
8 so that the transcript is precise. If you want me to read out the relevant passage, I
9 said "We have with us (Redacted) and (Redacted) in the room. Both of them
10 are also OTP investigators" and I was speaking about the interpreter who I won't
11 mention here. "During the course of this interview (Redacted) will put most of the
12 questions to you", et cetera, et cetera. So in fact I introduced the interview but
13 then it was another investigator who took over, but since my learned friend has
14 insisted on the fact that it was Mr Badibanga on a number of occasions I thought that
15 it would be best to clear this matter up. Thank you.

16 PRESIDING JUDGE STEINER: Thank you, Maître Badibanga. Mr Haynes, you can
17 continue, please.

18 MR HAYNES: I can continue, but I ought to flag up a concern. Mr Badibanga is
19 either here as counsel, or he's here as a witness. He can't be both. And if these sort
20 of interventions are going to be made on the basis of his knowledge of what went on
21 in this interview, it may create a substantial difficulty in the future. I don't see that
22 this is particularly troublesome at the moment, but I did foresee this difficulty, but
23 I had specific instructions not to raise it, but counsel is counsel and witnesses are
24 witnesses. I'll carry on.

25 PRESIDING JUDGE STEINER: Ms Kneuer first.

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1 MS KNEUER: Thank you, Madam President, your Honours. I significantly
2 disagree with Defence counsel. Mr Badibanga by no -- at no time testified here. He
3 simply assisted your Honours in clarifying the transcript. That's the only thing he
4 did.

5 PRESIDING JUDGE STEINER: You can proceed, Mr Haynes. The information
6 mentioned by Maître Badibanga is in the beginning of the written statement of the
7 witness, so there is no need for a testimony when it is recorded in the witness
8 statement, but you can continue, Mr Haynes.

9 MR HAYNES: Thank you.

10 Q. I think a little while ago we were just looking at the second page of document 80,
11 and there we see some of the names in the procès-verbal we were looking at a little
12 while ago, particularly Willy Bomengo convicted. What was he convicted of?

13 A. I see that it says that he was prosecuted for aggravated theft of 60 euros, of a
14 bottle of perfume, three compact discs, two mobile phones and he was also
15 prosecuted for having violated instructions issued. That concerns Bomengo Willy.

16 Q. I appreciate that you have difficulty putting things into chronological order and
17 giving precise dates to things, but was it your recollection that the investigations into
18 offences in Bangui were instigated within two or three weeks of the troops entering,
19 and the soldiers tried and convicted within six or seven weeks of the soldiers entering
20 the Central African Republic?

21 A. I'll tell you something, Maître. I, (Redacted), can't say whether as of the date
22 that this court martial was held nothing no longer happened in Bangui. I can't say
23 that. It's possible that after the investigation was launched, well, there is such a
24 possibility there too. After the investigation carried out by Mondonga, other crimes
25 may have been committed with regard to the troops that we had in territory under

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1 the MLC control.

2 In Lisala, for example, when it was necessary to convict a soldier who had killed a
3 civilian, well, weren't there such crimes that were subsequently committed? Yes,
4 there were such crimes.

5 So this doesn't mean that once we have these individuals who have been punished
6 nothing else occurred. There's no guarantee. What can prove that nothing
7 happened after this?

8 Q. Were you aware of any other inquiry taking place into allegations of looting?

9 A. I spoke about a helicopter that the president had made available for journalists,
10 accompanied by an officer, I think. I don't know. Don't hold it against me if I'm
11 mistaken, but I think that it must have been Thomas Luaka who was to be part of this
12 expedition together with Gabriel Kahn, a journalist, so I can't remember this exactly,
13 but there was a helicopter that was made available by the president so that these
14 people could go to Bangui and launch an investigation there.

15 Q. Do you know who General Bule was?

16 A. Yes, General Bule played different roles within the MLC. He was a G3 for
17 some time. He was the governor of the province for a certain period of time as well.
18 He was also the president of the tribunal that put soldiers on trial, the soldiers who
19 were being prosecuted for crimes committed in Bangui and in Mambassa.

20 Q. And were you aware whether General Bule presided over any inquiry into
21 looting in the Central African Republic?

22 A. I have just said that I no longer remember who the officers were who went on
23 this expedition in the helicopter. It is possible that General Bule was also part of that
24 delegation, but I don't know anything about that. I no longer remember this.

25 Q. And do you or don't you remember an inquiry being conducted in Zongo into

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1 allegations of looting?

2 A. No, I don't remember. I can't remember everything that happened in Bangui.

3 I have just told you that and I will continue repeating myself so that this is quite clear

4 once and for all. I answer your questions about things that I know. There are other

5 things that happened that I may not be aware of. There is such a possibility, but I'm

6 telling you about what I know. In this case I don't know anything about Zongo and

7 all of that.

8 Q. Well, let me see if I can refresh your memory. Can we have a look, please, at

9 Defence document number 8?

10 THE COURT OFFICER: Document CAR-DEF-0001-0155 is available on your screens.

11 It's a public document.

12 MR HAYNES:

13 Q. Who's Paul Musafiri?

14 A. Paul Musafiri was a former member of the MLC, a national secretary, a former

15 MLC senior official.

16 Q. And what was his secretariat?

17 A. He was in charge of the national secretariat responsible for justice.

18 Q. And to whom is this letter addressed?

19 A. It is naturally addressed to the national secretariat for Musafiri, to the general

20 secretary for Musafiri.

21 Q. Do the names Jean Kamba and Pascal Zanzu mean anything to you?

22 A. Jean Kamba not really, but Pascal Zanzu I think he was a presiding judge.

23 I think he was a presiding judge for a certain period of time, if I'm not mistaken, but if

24 I have to answer that question, well, I think I have already provided you with a

25 sufficient amount of information showing that I didn't believe in the independence of

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1 the judiciary and I've provided you with information about that matter.

2 So that doesn't prove anything, especially since all the investigations that were
3 launched had as their objective polishing the image of the movement. It was a
4 matter of polishing the movement's image, so this means nothing to me.

5 Q. Can we go over to the next page, please? I'm afraid I'm going to ask you to
6 read something. We've not got long to go. Would you read the introductory
7 paragraph of this document, please?

8 A. "In order to carry out the order of the national president of the MLC,
9 investigative commission went to Zongo in order to verify the accusations of looting
10 attributed to ALC troops operating in the CAR."

11 Q. Thank you. And would you just go down to the next section and tell us how
12 the commission of inquiry was composed; who was on it?

13 A. First it says, or it mentions "His Excellency, Mr Paul Musafiri, National
14 Secretary for Justice, and the guard of seals. Then it mentions Mr Pascal Zanzu, the
15 President of the Tribunal de Grande Instance, the High Court in Gbadolite. Then
16 there is Jean Kamba Tujibikile, Prosecutor of the Republic at the Tribunal de Grande
17 Instance or the High Court in Gbadolite. Mr Mongapa, ALC colonel and officer.
18 Then there is Mr Egide Kongoli, ALC, G2.

19 Q. And if we go down to Section II, Roman numerals II, that explains why the
20 commission of inquiry was set up, doesn't it?

21 A. Should I read this out, or should I just familiarise myself with it?

22 Q. Yes, just familiarise yourself with it.

23 A. Yes, I have had a look at it. It's correct.

24 Q. And why was the commission of inquiry set up?

25 A. Well, this commission of inquiry was set up to determine what the truth was in

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1 relation to the accusations made on the RFI radio that concerned looting and rape, so
2 this confirms what I was saying a while ago. It's quite normal. First it was
3 established by MLC members themselves. It included a president of a tribunal, a
4 prosecutor of the republic who was supposed to be favourable to us, so as far as I'm
5 concerned I personally cast doubt on the credibility of these investigations and of this
6 procedure.

7 Q. Thank you. Now can we go and have a look at some of the witnesses that the
8 commission of inquiry heard from? Who's (Redacted)?

9 A. (Redacted) who resides at (Redacted)
10 (Redacted)

11 Q. We see (Redacted) is that right?

12 A. Exactly.

13 Q. And (Redacted). What are (Redacted)?

14 A. I can't see the name here.

15 Q. I'm very sorry, we need to go over the page.

16 A. Yes, I can see the name (Redacted), yes.

17 Q. Thank you. We'll miss out a couple. (Redacted), did you know him?

18 A. I can see that (Redacted), but I personally did not know him.

19 Q. But you did know Papy Bokoula?

20 A. Yes, of course, I know Papy Bokoula (Redacted) He was the head of (Redacted)
21 That's clear.

22 Q. And can we go to the bottom of this page, and I'm afraid I am going to ask you
23 to read a little bit for us. Can you see the last paragraph that begins "A la même
24 date"? Could you read that out for us until we can go over the page and read a little
25 bit of the next page?

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1 A. "On the same date, Mr Papy Bokoula, the head of the main BSI post, dismissed
2 all the accusations and affirmed that it was impossible that the goods looted could be
3 taken across the Ubangi River for the following reasons."

4 PRESIDING JUDGE STEINER: Mr Haynes, I'm sorry.

5 MR HAYNES: The tape is running out.

6 PRESIDING JUDGE STEINER: It's the tape.

7 MR HAYNES: Yes, I knew.

8 PRESIDING JUDGE STEINER: We have two-and-a-half minutes, so I need to --

9 MR HAYNES: Well, we'll stop then.

10 PRESIDING JUDGE STEINER: Thank you very much. I'm sorry. Mr Witness, we
11 will adjourn for today. We thank you very much. We hope you have time to take
12 some rest. We will resume tomorrow. Tomorrow will be the opposite. We'll have
13 a hearing only in the afternoon, starting at 2.30 in the afternoon.

14 I thank very much the Prosecution team, legal representatives of victims, the Defence
15 team, Mr Jean-Pierre Bemba Gombo. Thank you very much interpreters and court
16 reporters. I ask, please, the court officer to turn into closed session.

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

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

19 (The witness stands down)

20 THE COURT OFFICER: All rise.

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

22 RECLASSIFICATION REPORT

23 Pursuant to Trial Chamber III 's Second Order, ICC-01/05-01/08-2223, dated 4 June
24 2012, and the instructions in the email dated 24 September 2013, the version of the
25 transcript with its redactions becomes Public