

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

6 Judge Kuniko Ozaki

7 Trial Hearing

8 Friday, 16 September 2011

9 (The hearing starts in open session at 2.33 p.m.)

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

11 Please be seated.

12 PRESIDING JUDGE STEINER: Could, please, court officer call the case.

13 THE COURT OFFICER: Good afternoon, Madam President, your Honours. This is

14 the situation in the Central African Republic, in the case of The Prosecutor versus

15 Jean-Pierre Bemba Gombo, case number ICC-01/05-01/08. Thank you, your Honour.

16 PRESIDING JUDGE STEINER: Thank you very much. Good afternoon and

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

18 Mr Jean-Pierre Bemba Gombo. Good afternoon to our interpreters and court

19 reporters. We will continue today with the questioning of Witness 33 by Defence.

20 Before we bring the witness into the courtroom, the Bench wants to address parties

21 and participants, especially Maître Douzima and the Defence. First, on

22 9 September 2011, the Chamber issued a decision regarding the reclassification of a

23 document, and I'm referring to decision 1727-Conf. In paragraphs 13 and 14 of the

24 decision, the Chamber instructed the legal representatives of victims and the

25 Defence to undertake a number of measures in relation to such document.

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1 Court officer, please could you turn briefly into private session.

2 *(Private session at 2.36 p.m.) Reclassified as Open session

3 THE COURT OFFICER: Madam President, your Honours, we are now in private
4 session. Thank you.

5 PRESIDING JUDGE STEINER: In private session, just remind the parties that we
6 are talking about the letter authored by Witness 169. One of the measures requested
7 in the decision 1727-Conf was, and I quote, "To provide the Chamber with a list of all
8 persons both inside and outside their teams to whom, first, the letter or a copy thereof
9 has been provided or, second, the contents of the letter have been disclosed."

10 Could we turn, please, into open session.

11 (Open session at 2.37 p.m.)

12 THE COURT OFFICER: Madam President, your Honours, we're back in open
13 session. Thank you.

14 PRESIDING JUDGE STEINER: Proceeding. The deadline for providing the
15 information requested by the Chamber was 5 p.m. yesterday. Maître Zarambaud
16 filed his list yesterday, it's filing 1752-Conf-Exp. The Chamber has not seen the
17 filing from Ms Douzima or by the Defence. So my question is this, and I will
18 address Maître Douzima first: Where is your response and why was the deadline
19 set down by the Chamber not complied with? You have the floor, Maître Douzima.

20 MS DOUZIMA-LAWSON: (Interpretation) Your Honour, with your approval,
21 may I have a few moments to consult my colleagues?

22 (Legal representatives of victims confer)

23 MS DOUZIMA-LAWSON: (Interpretation) Your Honour, I have just been
24 informed by my case manager that this is a letter -- well, the case manager thought
25 that this was only addressed to Mr Zarambaud who was in charge of the

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1 correspondence and that I was not concerned and was not to answer it, and I hadn't
2 been given this information as it was done to other parties. I only discovered that
3 after. If I had received it under normal channels, if I'd had this information, I would
4 have responded as I have for other cases.

5 PRESIDING JUDGE STEINER: Maître Douzima, I would ask Maître Douzima to file
6 its information in relation to this document and whether any access to these
7 documents has been given to anyone. You file it by Monday, 12 o'clock, whatever
8 information you have.

9 I pose the same question to the Defence.

10 MR LIRISS: (Interpretation) I'm embarrassed, but it's my own personal fault. The
11 document was prepared and I should have checked it but you have noted that I was
12 not present at the hearing yesterday; I was feeling very poorly. Quite obviously, the
13 answer is here, and if you can give us a time from now until tomorrow or Monday we
14 can give you that answer. It's a very short answer and I could already give you the
15 names of the people. It's just the counsels here, no one else. But if you would like
16 the answer in writing, as it should be as specified by the decision, we can do that.
17 But, once again, it was a case of force majeure, and I would like to apologise.

18 PRESIDING JUDGE STEINER: Thank you, Maître Liriss, so I will ask, I will give
19 also by Monday, 12 o'clock, for the Defence to make a proper filing with the answer
20 to the questions asked by the Chamber. Monday, 12 o'clock.

21 I just call the attention of the parties and participants to this issue, not because of the
22 subject matter but because it's not the first time, it's not the first occasion in recent
23 memory, where deadlines set by the Chamber have been missed.

24 As the Chamber noted in its order on the reclassification of documents issued
25 yesterday, filing 1751, Maître Douzima and the Defence again missed the deadline for

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1 informing the Chamber of their positions on the reclassification of their observations
2 on the accused's request for provisional release to the Democratic Republic of Congo.
3 See paragraphs 7 and 8 of order 1571.

4 More specifically, the Defence did not inform the Chamber of the Defence's position
5 in relation to the Defence's reply. The Chamber understand the demands on the
6 parties and participants and realises that, from time to time, things slip through the
7 gaps but it is unacceptable for deadlines set by the Chamber to be overlooked or for
8 orders not to be complied with.

9 If the parties or participants believe that they are unable to comply with a deadline
10 set by the Chamber, the Regulations of the Court provide the remedy. Here I am
11 referring to the procedure set out in Regulation 35 regarding the variation of time
12 limits. This is the process to be followed if deadlines cannot be met.
13 It's equally unacceptable that the Chamber is required to spend valuable hearing time
14 on procedural issues, such as this one. I trust that this has removed any doubt as to
15 whether the Chamber's deadlines are optional.

16 I was informed that Mr Badibanga would like to address the Chamber and for that
17 I think we should go into private session; is that correct?

18 MR BADIBANGA: (Interpretation) Yes, indeed, your Honour. It would be
19 appropriate to be in private session.

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

21 *(Private session at 2.46 p.m.) Reclassified as Open session

22 THE COURT OFFICER: Madam President, your Honours, we're now in private
23 session. Thank you.

24 PRESIDING JUDGE STEINER: Maître.

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

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1 would simply like to have the Court's approval to establish contact with a witness.

2 This is witness number 178, who has given testimony here and who is under the

3 supervision of the unit of victims and witnesses.

4 It seems there are some difficulties in management of the witness and this may

5 change the protection and protective measures implemented for the witness, and in

6 consultation with the VWU the Office of the Prosecutor has offered some mediation

7 so the dialogue can be established and that a good solution for both the witness and

8 the efficient administration of the Court can be done. For this we need to have your

9 approval to meet the witness in the coming days and, if circumstances require it, in

10 the days or weeks to come. That was the purpose of our request.

11 (Trial Chamber confers)

12 PRESIDING JUDGE STEINER: Has the Defence anything to say about the current

13 request?

14 MR LIRISS: (Interpretation) Yes, indeed, your Honour. As we don't know the

15 reason for establishing contact with a witness who has already testified, honestly we

16 can't see what we should say here. If the Prosecution could cast light on this for us,

17 or for the Court, giving us the reasons for meeting the witness, then we could give an

18 informed opinion on this.

19 PRESIDING JUDGE STEINER: Maître Liriss, as is the practice of this Chamber,

20 when any of the parties raise any issue related to security or safety of a witness, the

21 Chamber is inclined to believe that the party is doing that in good faith.

22 The Chamber therefore will authorise Maître Badibanga that, in consultation with

23 VWU to meet the witness. The witness has already testified and should have been

24 even back home. The Prosecution can meet together with the VWU, or in

25 consultation with the VWU, the witness, and as soon as possible the Prosecution will

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1 provide the Chamber with a report. According to the report, the Chamber will
2 decide on the amount of information that can be disclosed without breaking with the
3 confidentiality that is needed, Maître Liriss, when we talk about security of witnesses.
4 The same treatment, as I have mentioned before, will be granted to Defence witnesses
5 if need be.

6 So we will now turn then on the continuation of the testimony of Witness 33, and for
7 that purpose I ask, please, the court officer to turn into closed session and the court
8 usher to bring the witness in.

9 *(Closed session at 2.51 p.m.) Reclassified as Open session

10 THE COURT OFFICER: Madam President, your Honours, for the record we are
11 now in closed session. Thank you.

12 (The witness enters the courtroom)

13 WITNESS: CAR-OTP-PPPP-0033 (On former oath)

14 (The witness speaks French)

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

16 (Open session at 2.52 p.m.)

17 THE COURT OFFICER: Madam President, your Honours, we're back in open
18 session.

19 PRESIDING JUDGE STEINER: Good afternoon, Mr Witness.

20 THE WITNESS: (Interpretation) Good afternoon, your Honour.

21 PRESIDING JUDGE STEINER: Are you feeling well and ready to continue with
22 your testimony?

23 THE WITNESS: (Interpretation) Yes, indeed I'm ready.

24 PRESIDING JUDGE STEINER: Before we start, Mr Witness, I need to remind you
25 that you are still under oath. Do you understand that?

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1 THE WITNESS: (Interpretation) Yes, indeed I understand it.

2 PRESIDING JUDGE STEINER: I also would like to remind you about your

3 protective measures. If need be, whenever you need to release any information that

4 could lead to your identification, please just inform the Bench and we will turn into

5 private session. Is that fine with you?

6 THE WITNESS: (Interpretation) Yes, I understand that.

7 PRESIDING JUDGE STEINER: At the same time, and since we are going to have

8 two sessions of two hours each, in case you feel tired or distressed and you need a

9 break, just let us know. Mr Haynes, you have the floor.

10 MR HAYNES: Thank you, your Honour, and good afternoon.

11 QUESTIONED BY MR HAYNES: (Continuing)

12 Q. And good afternoon to you, sir.

13 A. Good afternoon, Counsel.

14 MR HAYNES: Your Honour, can we go straightaway into private session, please?

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

16 *(Private session at 2.55 p.m.) Reclassified as Open session

17 THE COURT OFFICER: Madam President, we're in private session.

18 MR HAYNES:

19 Q. Sir, I just want to deal with one very discrete point with you. Did you know a
20 man called (Redacted)?

21 A. Counsel, with your approval, yesterday you asked a question and I didn't have
22 time to answer it. The Presiding Judge closed the session. I would just like to point
23 out that I did not have time to answer that question at the end of the session.

24 Now, for the question which I've just been asked, I know or I used to know (Redacted)

25 (Redacted). He is deceased now.

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1 Q. The only thing I wanted to ask you about that man was do you know where he
2 died and where he was buried?

3 A. (Redacted) died in Kinshasa and he's also buried in Kinshasa.

4 Q. And were you present at his funeral?

5 A. No. No, I couldn't attend because at the time I was in Gbadolite.

6 Q. Very well. Well, don't worry, because we're now going to go back to the
7 question you didn't have time to answer yesterday, and for that purpose can we go
8 back to Defence document number 8 and the third page of that document, please?

9 THE COURT OFFICER: Your Honours, for the record the document number of this
10 specific document is CAR-DEF-0001-0155. Thank you, your Honours.

11 MR HAYNES: Can we go to the bottom of the page, please?

12 Q. Now, sir, I don't think yesterday I actually asked you any questions about this
13 document. I simply asked you to read some of it for us and I think you had read the
14 paragraph beginning "A la même date" and ending "pour des raisons suivantes". Do
15 you remember?

16 A. Yes. Yes, affirmative.

17 Q. Now, if you would be so very kind, would you read the next four
18 subparagraphs, that's one at the bottom of that page and three at the top of the next
19 page, nice and clearly so that they can be translated for those who speak English?

20 A. "As soon as these alleged lootings were announced over the foreign radios, a
21 joint committee comprising soldiers from the forces armée centrafricaines and the
22 ALC was established in order to recuperate all of the looted goods by both the
23 Congolese and Central African soldiers in the neighbourhood located between PK12
24 and the headquarters of the national -- of the headquarters of the National Assembly,
25 the site of the clashes." End of paragraph.

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1 Q. Can we go over the page now, please.

2 A. "This committee had retrieved the looted goods and returned them to those
3 individuals who alleged to have been looted. Also, in addition, part of the looted
4 effects were sold on location in Bangui by the Central African looters. A monitoring
5 system was set up in Bangui by the naval force and it was up and running night and
6 day. This naval force would systematically search soldiers coming from the front on
7 their way to Zongo. See "F," the interview notes on page 6."

8 Q. Thank you. And just for a very small point, can we go back to the page we
9 started on and go towards the bottom and expand it a little for the witness. Yes.
10 The only other question I want to ask you about that, the first paragraph you read for
11 us yesterday, began "A la meme date." Do you remember?

12 A. Yes, indeed, I do remember that.

13 Q. And if you go to the paragraph above that, we see the date 28 December 2002?

14 A. Yes, I can see that, indeed.

15 Q. So we can assume, therefore, that Mr Bokoula appeared before the commission
16 on 28 December 2002. Now, it appears, therefore, that this commission discovered
17 something that's consistent with what you've told us, namely, that (Redacted) organisation
18 had no information about looting at that time, namely, the end of December 2002.
19 Would you agree with that?

20 A. I am not in agreement with that. I would like to react, with your leave. What
21 I'd like to say is as follows: I would like to confine the situation somewhat, in its
22 entirety. You know, His Excellency, President Jean-Pierre Bemba, as I've already
23 said here previously, had a number of qualities. I said that he was a charismatic
24 individual, he had the charisma of a military chief for a rebel group with a specific
25 organisation, as it had, but I'm sorry to say that President Jean-Pierre Bemba was not

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1 a State man at all. President Jean-Pierre Bemba behaved like a despot. He instilled
2 fear in his entire entourage. I can give you an example of this in support of my
3 comments.

4 On one occasion, (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 And why was this? Well, it was all because (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 And I remember what the (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)
2 (Redacted)
3 (Redacted) This is quite incredible. So when
4 you present me with a document of this type, talking about a commission that was
5 headed up by an MLC leader, where all the cards are already on the table, where we
6 all know what the position is, do you think that within the MLC at that moment in
7 time you can say or do anything contrary to the philosophy of the president? Well,
8 no. I cast doubt upon the entire document.
9 This was for the movement. And even at the time, (Redacted)
10 (Redacted)
11 (Redacted) So I
12 really am doubting the contents of this document.
13 At that moment in time, you know, (Redacted)
14 (Redacted) what was going on in Bangui at the time, because
15 I remember that there were even Congolese people, they were Congolese nationals,
16 who were living in the Central African Republic and were -- who were obliged to flee,
17 who had to go back to Congo.
18 And why was this? Quite simply, because they were the object of reprisals on the
19 part of Central Africans, these Congolese. And I remember that at the time, or
20 previously, it was the ASR that had organised the return of the Congolese and they
21 had sought refuge within the Congolese embassy, these Congolese individuals.
22 They were taken by the ASR, and an Italian organisation got involved, "COOPI" I
23 believe it was called. COOPI. These two organisations brought the Congolese back
24 where they -- to where they sought refuge, because they were fleeing the violent acts.
25 They were of the opinion that their brothers were being killed, that their goods were

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1 being looted, and throughout these operations there were Congolese people who
2 were fleeing, who were going home.

3 I didn't need to know or to (Redacted) to know what was
4 going on on the other side of the border because the Congolese would tell us. So
5 this document really doesn't mean anything to me, and I cast doubt upon this
6 document.

7 Q. Well, let's take it step-by-step. Do you still say that the first (Redacted)
8 (Redacted) about looting was at the end of the operation when the soldiers came back
9 complaining they hadn't been paid?

10 A. Ever since the beginning of my testimony here I have always said that the first
11 (Redacted), I said the
12 following, I said that -- and I shall repeat myself, I said that (Redacted)
13 according to the circumstances. Sometimes (Redacted) to say that
14 logistical things had been -- logistics had been problematic.
15 On other occasions (Redacted) saying that individuals had been looted. Or (Redacted)
16 (Redacted) that soldiers, ALC soldiers, had been seen with televisions,
17 with radios, you know, (Redacted)
18 (Redacted) that's what I said. I did not say any more than that.

19 Q. Well, there's a record of what you've said. We'll leave that there.
20 (Redacted) that a system had been set up in the Central African
21 Republic firstly to search soldiers who were leaving the country?

22 A. I believe I told you that the situation in the CAR, well, that I did not follow that
23 situation in (Redacted) as to
24 how, for example, the commission had been set up, et cetera.
25 I told you that (Redacted) on Bangui as (Redacted), and not on a daily

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1 basis. (Redacted) other (Redacted) that were equally
2 important for (Redacted)
3 (Redacted) the situation in Bangui. And what is more, Bangui was not part of (Redacted)
4 (Redacted) on
5 military operations, as far as I'm concerned.
6 So everything that (Redacted) in this regard was an add-on, if you like. (Redacted)
7 (Redacted) the situation in Bangui. There
8 was an intelligence department - a military intelligence department - that was
9 supposed to do that, but in view of the fact that (Redacted)
10 (Redacted)
11 (Redacted) that there were other channels that would
12 provide information, for example, the BRM. There were other channels of
13 information.
14 I'm just telling you the information that I gleaned. I can't tell you any more than that.
15 You can't, for example, ask me how the commission was set up, how things unfolded
16 and where they encountered resistance and where they came to a full stop, or where
17 they decided to withdraw. I have no idea. I did not take part in organising
18 operations and I will not be able to provide you with any information in this regard.
19 Q. Sir, I thought the question was quite simple. I'll see if you want to answer it by
20 asking it again. Did you have information that a system had been set up in the
21 Central African Republic to stop and search soldiers who were leaving the country
22 back to Zongo?
23 A. I have absolutely no idea.
24 Q. Does that mean you don't know whether you had that information or not, or
25 you didn't have that information?

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1 A. I know nothing about that situation. I know nothing.

2 Q. Did you have information that a commission had been set up in the Central
3 African Republic between the armed forces of that country and the MLC to restore
4 goods to their rightful owners?

5 A. The only commission I heard speak of is the commission in charge of operations.
6 I made mention of this in my statement. That is the only commission I heard about
7 and I heard it by hearsay. (Redacted)

8 saying that things unfolded in such-and-such a manner and that there is a
9 commission here, there and everywhere that does this, that and the other. I received
10 this information in a superficial manner. I was told that there was a commission
11 taking charge of logistics to establish the various combat zones, axes, and that is the
12 kind of information that I gleaned. As to a controlled commission, or a monitoring
13 or supervisory commission, I have absolutely no idea.

14 Q. (Redacted) Papy

15 Bokoula, that goods were being stolen by Central Africans and sold in Bangui?

16 A. I know nothing of that.

17 Q. Did you know that Papy Bokoula had given evidence to this commission?

18 A. Well, listen, you have just showed me a document stating that Papy Bokoula
19 testified before a commission. I am telling you that I do not ascribe much credibility
20 to this document, because I know the system as it works within my country. Fear
21 was instilled, you know, and what is more a small-scale outpost chief in such a town
22 was going to do what he was told. (Redacted)

23 (Redacted) because (Redacted)

24 (Redacted)

25 Q. I'm sorry, but I'm not quite sure what you're saying about this document when

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1 you say you doubt it. What do you mean by that?

2 A. What I mean is that this document was indeed drafted, it was signed and it
3 followed all the rules and regulations in terms of drafting, but what I'm saying is that
4 this individual might need to testify before the Bench as to what happened, because it
5 is not entirely clear.

6 Q. Well, we'll come to an aspect of that in a short while, but can we go back to the
7 first page of the document and can we just take it down a little way further, please?

8 Thank you, that's perfect. The covering letter to this document, to the report, is sent
9 by the National Secretary for Justice to the Secretary-General, Olivier Kamitatu. Do
10 you agree with that?

11 A. Yes, of course.

12 Q. So this is an internal report; you agree with that?

13 A. Of course.

14 Q. And from what you're telling us, you didn't know about it; is that right?

15 A. The existence of what exactly?

16 Q. The report of the commission of inquiry.

17 A. (Redacted)

18 (Redacted) and I'm saying that any

19 (Redacted) at the time, well, it is extremely probable that it was a done

20 deal, if you like, that everything was well prepared beforehand, because people

21 wanted to save the image of the movement. I don't know how many times I need to

22 repeat myself. These very same individuals, such as Secretary-General Mr Kamitatu

23 or Mr Paul Musafiri, would need to come here and testify before this very

24 Chamber saying that, "Yes, we did it in such a manner. We did this willingly," and

25 I think that there would be many a surprise if these people came to testify here. I'm

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1 sure of that.

2 Q. Well, please try. Did you, or did you not, know about this commission of
3 inquiry?

4 A. Whatever the case may be, I do not recall. I no longer recall.

5 Q. I mean, this wasn't a (Redacted), was it?

6 A. I do not know. I can no longer recall. Even with regard to this document,
7 you know, I just don't remember. There were many documents, and you can't
8 expect me to remember every document (Redacted)
9 (Redacted). You can't expect me to know all these documents. This is an
10 extremely difficult exercise that you are expecting of me.

11 Q. I just want to be clear. Do you accept that a commission of inquiry did take
12 place at the end of December 2002 in Zongo?

13 A. In view of the fact that I have just cast my eyes over these documents, that
14 means that there was a commission of inquiry, but I don't recall. Well, if you tell me
15 there was then there was, but I don't remember. It's quite clear.

16 Q. Well, it's not that I tell you there was. Let's -- just to seal this up, let's have a
17 look at another document. This is Defence document number 90, and we'll need to
18 look at page 1653. That's the last four digits of the ERN. And to make it easier for
19 the witness, because it's not easy to read on the screen, I've got a colour hard
20 photocopy.

21 THE COURT OFFICER: Madam President, your Honours, for the record this is
22 document number CAR-D04-0002-1641 and it's a public document. Thank you.

23 THE INTERPRETER: Message from the English booth: The interpreters would be
24 delighted to have a copy. Thank you.

25 MR HAYNES: Absolutely. I wonder if this could be placed in front of the witness?

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1 It's really rather easier to read than the document on the screen.

2 Q. Do you recognise that book?

3 A. No, no. I can see that this must be a book from the army General Staff,

4 I believe, but -- well, I don't know. I do not recognise it. I don't know. I do not
5 recognise it, but I can see that there are messages written in this book.

6 Q. Do you remember a couple of days ago you told us that, (Redacted)

7 (Redacted)? Do you not

8 recognise it as that book?

9 A. Well, if you put the question to me as to the book or register that they held, the
10 register was not in such a format. In fact, it had a cardboard cover to it. It was -- it
11 was hardback. That's what I seem to remember. It didn't look like this.

12 Q. That's because that is a colour photocopy. The original does have a blue
13 hardback cover. Do you remember it being a blue book?

14 A. I no longer recall the colour. I do remember that it was hardback and that it
15 was much larger than this.

16 Q. Thank you very much. Now, I'm interested in the entry on the page in the
17 bottom right-hand corner. You might have difficulty reading it all out, but read it
18 through and see if you can confirm to me that that shows that General Bule travelled
19 with the Minister of Justice to Zongo on 24 December 2002? See if you can find that.

20 THE INTERPRETER: Message from the English booth: The interpreters have not
21 yet received a copy of the document. Thank you.

22 THE COURT OFFICER: Madam President, your Honours, for the record we only
23 have the electronic copy of this document which is currently on our screen. Thank
24 you.

25 THE WITNESS: (Interpretation) The last message, there's a reference of the

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1 national secretary returning, National Secretary for Justice and his team. That's the
2 very last message. That's what I can see there.

3 MR HAYNES:

4 Q. Thank you. So do you accept that this inquiry actually took place at the end of
5 December 2002?

6 A. I don't know how many times I'll have to repeat what I've said. You're giving
7 me this message like this, and I myself cannot confirm the authenticity of this
8 message. Did it really exist in the past, anything like that? And now you're asking
9 me to accept this? This seems to me to be a very easy way of doing things, you just
10 show me a message that anybody could write at any time. I don't know. It's just
11 too easy to recognise a message like this, and what's more it's in handwriting.
12 I don't know. It's just too easy.

13 Q. I see. So are you suggesting that the book of messages has been forged and the
14 document recording the commission of inquiry is not genuine? Is that your
15 evidence?

16 MS KNEUER: Madam President, the Prosecution was quite patient this afternoon,
17 but it's quite a misrepresentation of what the witness said. The witness made a
18 point that this document is not shown to him in its original version. Defence
19 counsel testified it looks like X,Y and Z. The witness said the document -- he's
20 unable to authenticate this document and the Defence counsel wants him to speculate.
21 That is his testimony.

22 PRESIDING JUDGE STEINER: Ms Kneuer, I fully agree with the Prosecution. The
23 question that, "So are you suggesting that the book of messages ...", first the witness
24 has not confirmed that this page shown to him is part of the famous book of messages
25 and, second, the witness didn't say that it has been forged and the document is not

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1 genuine. So there is a kind of a twist in the Defence conclusions.

2 You can proceed, Mr Haynes. This question is not allowed --

3 MR HAYNES: Thank you, your Honour.

4 PRESIDING JUDGE STEINER: -- at least in the way it was put.

5 MR HAYNES: Thank you, your Honour.

6 Q. So it appears, doesn't it, that Colonel Mondonga went to the Central African
7 Republic in December 2002? Do you remember the documents we looked at
8 yesterday?

9 A. You showed me a document suggesting that and you even showed me my
10 statement, and in my statement I said, "Later, I found out that Mondonga had gone
11 there. Later." It wasn't at the time that Mondonga went there. It wasn't in
12 real-time that I knew that Mondonga had gone off at the date you've just mentioned.
13 I said clearly in my statement that I found that out later. I found out later that he
14 had apparently gone there and that I couldn't confirm it because this is
15 information -- as I have just said, this is information where I wasn't involved in any
16 way whatsoever in the operations in Bangui. I got some information on the
17 operations, but I got these second-hand in conversation with officers. For example,
18 they could have said, "You know, Mondonga went off by himself over there to do this,
19 or that." That's how I got information on operational matters; the few bits of
20 information I had.

21 So if you have more information on the operations, then I think you have to
22 double-check them with qualified people who were involved in the operations and
23 who could deny this, but I cannot deny that there was a commission, or wasn't a
24 commission, or whatever. I was called here to answer questions about events that I
25 am meant to be acquainted with and which I had mentioned ahead of that. Now, if

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1 you're asking me questions about things which are not in my statement, you're
2 putting me in a very difficult position.

3 Q. Well, we can't keep going around in the same circle. You've seen the
4 documents. What I'm asking you is whether you now accept, having seen the
5 documents relating to Mr Mondonga's inquiry and the documents relating to
6 Mr Musafiri's inquiry, whether not one but two investigations took place into
7 allegations of looting in December 2002?

8 A. I cannot refute this and I cannot confirm it either, because I don't know how
9 these documents were drawn up. I was not involved in the preparation of these
10 documents, and at the moment I would prefer not to comment on these documents at
11 all. I cannot deny what's in them, or confirm anything.

12 Q. Thank you. Well, we can have that document back from you now and perhaps
13 a little later we can ask you to look at the original. Do you recall whether the trials
14 of those arrested for crimes in Ituri were before or after the trials of those arrested in
15 Bangui?

16 A. I think I've answered this question. I've answered it once when Mr Badibanga
17 asked me a question about it. What I would like to say is as follows: I also said
18 here that I found it difficult to establish the chronological order of the events as they
19 occurred, but I think it was the same court, which means with the same judge. It
20 was General Bule and I'm quite certain about that, but there were different trials.
21 There was one trial for Bangui and another for Mambasa.

22 For Mambasa I can remember things reasonably well, because there was a great
23 outcry about the situation there and I think the Mambasa trial occurred between
24 February and March, I think. The Central African trial occurred I think if I
25 remember correctly, if I am not mistaken and perhaps I am mistaken, but I think the

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1 trial -- just a minute. I think the trial was in the month of December, because I'm
2 thinking about the MLC delegation which went to Pretoria, and I think this matter
3 was also discussed and that the Congolese government didn't really believe in this
4 and had to send off lawyers even to defend the accused; to defend the people
5 charged. And if I remember correctly, I'm trying to remember all this, but I think it
6 was in December. I think so.

7 MR HAYNES: Thank you very much. Now, I'm going to try with her Honour's
8 permission to step back into public session now, but if you do find that any answer
9 you want to give gives away what job you were doing at the time, for example, then
10 please tell us, will you?

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

12 (Open session at 3.41 p.m.)

13 THE COURT OFFICER: Madam President, your Honours, we are back in open
14 session. Thank you.

15 MR HAYNES: Thank you.

16 Q. Do you recall that the Ituri trials were held publicly?

17 A. I wasn't involved in the trials, I heard about them, so personally I can say that
18 happened in Gbadolite. I think it was a room in the hotel. What's the name of the
19 hotel? It was in a room at the hotel. I've forgotten the name of the hotel. It was a
20 public hearing I think, but I was not involved.

21 Q. Okay. Maybe you were aware of this, that Avocats Sans Frontières attended to
22 monitor the trials; do you remember that?

23 A. Which trial, Mambasa or Central African Republic?

24 Q. We have moved on from the Central African Republic now. Now we're
25 talking about Mambasa.

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1 A. I don't know anything about that. I don't know who was involved, but I know
2 it was General Bule who was the presiding judge.

3 Q. And you've told us something about this, but it was in fact the Mambasa trials
4 where a request was made for Defence lawyers to come from Kinshasa. Do you
5 recall that?

6 A. Yes, yes, I think so. I think so. You know, you are asking me to talk about
7 events that happened tens of years ago. It can come back to me sometimes and other
8 times it doesn't come back. And before I came here, I didn't prepare myself as if I
9 were going off to battle, and I didn't go looking for all the details or whatever for that.
10 I didn't prepare myself that way, but you obviously did that because you are
11 defending your client and you have more evidence than I do. That's quite obvious.

12 Q. Thank you. Do you recall any of the sentences that were passed upon those
13 tried for the crimes in Ituri?

14 A. I think for the Ituri trial, the Mambasa trial, I think there were junior officers
15 who got sentences of a few months and, if I'm not mistaken, I think there were also
16 prison sentences, non-parole sentences for one person charged in Mambasa, if I'm not
17 mistaken. I also remember Colonel Ngalimu. Colonel Ngalimu was also found
18 guilty but I don't know what the sentence was, how many months, I don't remember
19 it very well.

20 Q. Very well. Well, we'll leave that to one side for now. Of course you have no
21 military combat experience but can we briefly go back to the question of the structure
22 of the army. A sector is both a large operational army unit but also a geographical
23 area; do you agree with that?

24 A. Yes, indeed.

25 Q. And, generally speak, tactical army units like brigades and battalions have what

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1 are called areas of responsibility, don't they?

2 A. Of course, of course.

3 Q. But within the standard army structure there are specialist units, sabotage
4 platoons, intervention platoons, that sort of thing?

5 A. Affirmative, they exist. Yes, there are special units, they exist in other armies
6 around the world.

7 MR HAYNES: And I think for -- out of an abundance of caution, this question
8 better be put in private session, please, your Honour.

9 PRESIDING JUDGE STEINER: Court officer, please.

10 *(Private session at 3.48 p.m.) Reclassified as Open session

11 THE COURT OFFICER: Madam President, your Honours, we are in private session.

12 MR HAYNES: Thank you.

13 Q. At some stage during these conflicts did you find yourself in (Redacted)
14 (Redacted)?

15 A. At what time, Counsel?

16 Q. Well, it might be easiest if I show you something you said in interview about
17 (Redacted), or does that jog your memory enough without me showing
18 you your interview? Do you remember (Redacted)?

19 A. Yes, yes, indeed.

20 Q. (Redacted)

21 A. Not just the MLC battalion but there was also a Ugandan unit.

22 Q. Did the MLC battalion have a commander?

23 A. Yes, yes, indeed, but I can't remember about that now.

24 Q. Well, you can't remember his name but did you meet him?

25 A. Well, in any case, I have to think about that. I can't remember any more.

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1 Q. And was that one of these special sorts of battalions that go on special missions?

2 A. Well, first of all, as far as I know, there were never -- well, if there were I didn't
3 know about it, but the Army for the Liberation of the Congo there was never any
4 special unit but I know there were units that were sent off to carry out a certain
5 mission or a certain exercise at a certain point, but they were special units with
6 specific duties that they had to carry out from the time they were set up until the end
7 of transition. If there were, I didn't hear about them.

8 PRESIDING JUDGE STEINER: Mr Haynes, may I ask you, please, the reference
9 when you say that in the interview the witness mentioned about (Redacted)
10 (Redacted)? Could you please give the reference?

11 MR HAYNES: Your Honour's one step ahead of me because I'm about to put it on
12 the screen.

13 PRESIDING JUDGE STEINER: Thanks.

14 MR HAYNES:

15 Q. But just before I do, do you know where the unit that (Redacted) went
16 after that?

17 A. Look, (Redacted)
18 (Redacted). I didn't know about that but I think it was a unit that came from
19 Butembo. I think it came from Butembo.

20 Q. Well, let me remind you by showing you what you said during the course of
21 your interview. For the witness, document 4 on the Defence list should be put on
22 the screen and he should be shown page 0051. For those of us reading it in English it
23 is document 1 and it's page 1104.

24 THE COURT OFFICER: Madam President, your Honours, for the record this is
25 document number CAR-OTP-0009-0022_R01 and this is a confidential document.

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1 Thank you.

2 MR HAYNES:

3 Q. Sir, what I am asking you about is the questions and answers that immediately
4 follow the break in the interview. Can you see just after "Suspension." In English
5 the interviewer asked you a few clarifications in relation to what you mentioned
6 earlier, when and where -- "Where and when did the 'Effacer le Tableau' battalion
7 commit other abuses?" And you said "They came to (Redacted). They also
8 intervened in Mambasa." And you were then asked "When did this operation in
9 Mambasa take place?" And you said "Just after the dissolution of the FLC. The
10 'Effacer le Tableau' battalion operated at the Équateur front. It was there that they
11 began to operate and prove themselves. After that, they were used anywhere there
12 was a need for intervention because they were effective, they were very strong."
13 Do you remember the unit now that came to (Redacted)?

14 A. I don't think you have it in full, Counsel. In my statement I came back to this
15 because I realised that the team interviewing me hadn't realised what I meant by
16 "Effacer le Tableau," so I came back to it. And if you go through my statement you
17 will find at the end the specification I gave on "Effacer le Tableau," and I'd like to
18 come back to this again so that it's understood once and for all.

19 What I said was that "Effacer le Tableau" was not a battalion or any unit whatever. It
20 was a term which came from the soldiers. I myself went through a training
21 programme. Oh, dear. Are we in private session? Okay.

22 I went through a training programme (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 They were there calling out and rejoicing. They were calling out "Effacer le Tableau."

7 They were rejoicing and calling out "Effacer le Tableau." It was a term used by the

8 soldiers and I gave the details of this in my statement because I realised that we

9 hadn't understood things clearly and so I gave that detail in my statement before;

10 well before, not now.

11 Q. You know what a battalion is, don't you?

12 A. Of course I know what a battalion is.

13 Q. And a battalion has a commander, doesn't it?

14 A. Yes, indeed.

15 Q. And the battalion can be moved as a military unit say from Beni to Mambasa,

16 can't it?

17 A. Yes, yes, of course.

18 Q. Does a cri de guerre have a commander?

19 A. I said that we hadn't understood one another. How many times do I have to

20 say this again? I consider that the explanation I gave after, Counsel, it's what I said

21 before, that's very clear. I gave that explanation because I realised that we hadn't

22 understood the same thing; that we hadn't understood. And I gave the explanation.

23 I said that it was an expression that was used.

24 And I am not the only person to say this in front of the Judges. I'm sure that other

25 officers will say the same thing. This expression, this term, was often used by

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1 soldiers who came from Bumba, from Lisala, and they could be in any of the units
2 and they could be a large number of them in one unit, and that's a term that was
3 well-known.

4 I didn't invent it, and I'm sure if you asked the officers of the ALC who might come
5 here they'll tell you that the term existed and the term was used to say that you had to
6 get rid of everything in your path. That's what it meant. They had to -- they had to
7 clear the decks, or clean the slate. I didn't invent that expression, so ask the officers
8 and if they tell you that the term didn't exist then you can consider that I am a liar.

9 MR HAYNES: Can we go back, please, in this document to page 0049, for the
10 witness, and for those of us following in English to page 1103, one page backwards?

11 PRESIDING JUDGE STEINER: Sorry, what is the page from the French version?

12 MR HAYNES: It's 0049, but it's towards the bottom of the page. The first relevant
13 question is the one that you can see at the very bottom of the page at the moment.

14 Can we take the French page down, please, so the witness can read the relevant part?

15 A bit further. Perfect.

16 Q. Let's read through this together, shall we? You were asked: "Can you
17 describe the aberrant behaviour towards the population?" And you said: "The
18 aberrant behaviour only took place in Bangui. It was deemed to be attributable to
19 this battalion, even in the Congolese territories when they were fighting. This
20 battalion was known as 'Effacer le Tableau'. They were used where there was
21 fragility somewhere. In Congolese territory they also looted, and they did the same
22 in Bangui. Wherever they were involved, they looted and raped. These are the
23 same abuses as those committed in Bangui. Most of them were young people
24 recruited in Bumba. Those who originate from Bumba are known as great warriors,
25 so it is in their culture." You were asked: "This battalion 'Effacer le Tableau', is it

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1 the 28th Battalion?" And you said: "My memory is uncertain, but I know it was the
2 'Effacer le Tableau' battalion that intervened in Bangui. These young people from
3 Bumba were taking drugs and weren't afraid of anything." And you were asked:
4 "When you say 'The 'Effacer le Tableau' battalion committed abuses', are you
5 referring to the second operation in Bangui?" "Yes, yes of course."

6 Can we go over in the French page, please?

7 A. No, no, that's not necessary.

8 Q. And you were asked: "Who was the commander?" And you said: "The
9 brigade commander was Mustapha. However, in a brigade there are three or four
10 battalions and I do not know the name of the 'Effacer le Tableau' battalion
11 commander."

12 Who did you have in mind when you said there was a man who was the commander
13 of the "Effacer le Tableau" battalion whose name you could not remember?

14 A. Well, you know, I don't know whether you are really understanding me. I
15 said at an earlier stage that I realised that we had not -- that the persons putting
16 questions to me had not understood me and vice-versa, because on each occasion that
17 I referred to "Effacer le Tableau" I was referring to youngsters from Bumba who
18 might find themselves in one battalion, or another. That's the explanation that I
19 provided at the end, and for me the term "Effacer le Tableau" is that which can
20 describe those from Bumba who might find themselves in one battalion, or another.
21 So when they asked me who the battalion commander was in Bangui I was referring
22 to the battalion where young people from Bangui could be found, and at the same
23 time that same young individual might find himself in another battalion in Libenge,
24 or Gemena, or in Ituri, or wherever. That's how I came to provide such an
25 explanation at the end. I realise that we no longer were understanding each other.

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1 Every time I referred to "Effacer le Tableau," I was referring to the young people from
2 Bumba and Lisala who might find themselves in different units. There we have it.

3 Q. Well, why did you use the word "battalion" every time you used the phrase
4 "Effacer le Tableau"?

5 A. Well, that's quite easy. The battalion that intervened in Beni, was that not a
6 battalion? And if there were soldiers from Bumba who were part of it, was it not a
7 battalion? And what about the battalion that as part of the brigade intervened in
8 Bangui? Were there not soldiers in their midst who came from Bangui, or from
9 Lisala? That's the battalion I'm talking about. If you talk to me about Beni, I shall
10 talk to you about the battalion from Beni with the presence of soldiers from Bumba,
11 or Lisala. If you talk to me about Bangui - if you talk to me about the battalion in
12 Bangui - I shall talk to you about the battalion where you will find people
13 hailing -- within the battalion hailing from Bunia. It's quite clear.

14 Q. Just one more thing about the passage of this interview we have read. What
15 did you mean when you said, "The aberrant behaviour only occurred in Bangui"?

16 A. I did not say that the aberrant behaviour did not occur in Bangui. I said it did
17 not only occur in Bangui. That's what I said, I believe. I said that the aberrant
18 behaviour did not only occur in Bangui. That's what I said. It also occurred in
19 territory under MLC control, and proof to that effect was that there was a trial held in
20 Ituri where some soldiers were found guilty. There were some junior officers who
21 were found guilty, and that was proof that there had been aberrant behaviour within
22 the Congolese territory. It wasn't me who said that.

23 MR HAYNES: Very well. Now, I want to move on to the last interview that you
24 had, please, and for those following in English this is Defence document 3 and they
25 need to look at page 1180, the last four ERN digits. For the witness, it is Defence

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1 document 6 and he needs to be shown page 0127.

2 THE COURT OFFICER: Madam President, your Honours, for the record this is
3 document CAR-OTP-0055-1153_R01 and it's a confidential document. Thank you,
4 your Honours.

5 MR HAYNES: Unhappily I think we'll need to go briefly back one page in the
6 French, please.

7 THE COURT OFFICER: Just for clarification, your Honours, the French version of
8 this document is number CAR-OTP-0009-0100_R01 and it's also a confidential
9 document. Thank you.

10 MR HAYNES: Can the witness see everything that comes after the break?

11 Q. Now, I don't know whether you remember the last of your recorded interviews
12 but, if I can try and refresh your memory, it was the interview when you provided a
13 large number of (Redacted). Do you remember that?

14 A. Yes. I do believe that it was during that session that I gave some (Redacted),
15 yes.

16 Q. And I just want to look at the first -- well, really the first two questions, rather
17 than answers. The interviewer said: "Before closing this interview, I have one small
18 detail to ask you. It does not relate to the documents you provided to us, but to the
19 statements made on previous days." You said that the battalion 'Effacer le Tableau'
20 had been sent to Mambasa, then to Bangui. Do you remember the date of the events
21 in Mambasa?" And you said: "I can no longer remember the date." And you said:
22 "On the basis of the information that we have, the first operation in Mambasa took
23 place between 12 and 29 October 2002, the second between 29 October and the end of
24 November 2002 ..." --

25 PRESIDING JUDGE STEINER: Sorry, Mr Haynes, you say, "And you said on the

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1 basis of the information we have ..." This is not what the witness said. It's the
2 question put by the interviewer.

3 MR HAYNES: Do you know, your Honour, I really am grateful for you pointing
4 that out to me, because that's the point I want to make, yes.

5 Q. The interviewer said to you, "On the basis of (Redacted), the first
6 operation in Mambasa took place between 12 and 29 October 2002, the second
7 between 29 October and the end of November 2002 and the military operation in
8 Bangui would appear to have commenced towards the end of October 2002, so one
9 might wonder whether the same battalion would be able to conduct the operation in
10 Mambasa and the one in Bangui."

11 Now, before I put any questions to you, can we just go forward one page in the
12 English, and probably two pages in the French. No, that's fine, thank you. And do
13 you see at the very foot of that document it says, "The interview finished at 1511."
14 Now, so that I don't court any controversy, do you remember who was speaking to
15 you at that point in this last interview? Which one of the interviewers?

16 A. The truth be told, I do not recall because there were three of them, and I could
17 not remember who of the three put the question to me on each occasion. It would be
18 very difficult for me.

19 Q. But they did all put questions during the course of your interviews; is that
20 right?

21 A. Yes, of course. There were three of them. There was a lady; there was Maître
22 Badibanga; and there was another individual whose name I no longer recall but I
23 believe that there were three of them, yes.

24 Q. Now, whoever it was, what did you understand that person to be saying to you
25 in those two questions I've just read out?

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1 A. As to the message, well, I don't quite grasp what you mean by that but on the
2 basis of the question put to me I realised that we were misunderstanding each other.
3 I realise that we did not understand what we were saying. I thought they were
4 talking about one battalion that might bear the name "Effacer le Tableau" and I
5 realised that that was the idea that they had in their head whereas I had a completely
6 different idea. Every time I made mention of a battalion, "Effacer le Tableau
7 Battalion," I was talking about the Bumba soldiers who were part of such-and-such a
8 battalion. When we were talking about Ituri, for example, when we were talking
9 about Bangui or when we were talking about another territory, I would refer to that
10 battalion again. So this was an expression that was used to describe many units
11 within the ALC and officers will be able to confirm that to you. I realised that we
12 were not understanding each other and I needed to provide additional clarification,
13 which I did.

14 PRESIDING JUDGE STEINER: Sorry to interrupt you, Mr Haynes. Since you
15 called the attention of the Chamber for these two questions, I would like the witness
16 to read the answer that follows the second question. Could you read, please, for the
17 Chamber the answer that starts by "Je voudrais revenir sur ce sujet."

18 MR HAYNES: Your Honour, he might find it easier if we move the document back
19 on the screen two pages. He's not looking at that page currently.

20 PRESIDING JUDGE STEINER: So, court officer, it's page final 0127, please.

21 THE COURT OFFICER: Your Honour, the page is now on the screen. Thank you.

22 PRESIDING JUDGE STEINER: Can you read it for the Chamber, please, Mr Witness?
23 Starting by "Je voudrais revenir."

24 THE WITNESS: (Interpretation) Yes. "I would like to revisit what I said to you
25 about the -- about the terminology, the "Effacer le Tableau" term. I believe that I had

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1 also told you that I was not sure about the name of the battalion sent to Bangui. I
2 was not sure whether it was the 28th Battalion or another. As for the term "Effacer le
3 Tableau", I corrected myself by saying that this was not the name of a battalion or a
4 brigade, no. This term was used to refer to young people who had been recruited in
5 Bumba. They were the ones who would use this as a war cry. I would not say that
6 it was a war cry as such; it was an expression used. What is true is that this battalion
7 sent to Bangui comprised young people recruited in Bumba. These people from
8 Bumba were also sent to Mambasa and they used that expression. After their
9 recruitment and training they could be found in a number of different sections,
10 battalions or brigades.

11 What is also true is that those individuals recruited in Bumba behaved very badly
12 indeed. As I said to you, they are deemed to be true warriors, who fear nothing, but
13 they behaved very badly indeed."

14 PRESIDING JUDGE STEINER: Thank you. Mr Haynes.

15 MR HAYNES:

16 Q. Now, what was it that in those two questions immediately alerted you to the
17 fact that you had made such a big mistake in your interview three days earlier?

18 A. No, it was not a mistake. I said that there had been a difficulty in
19 communication, in the sense that the person who was interviewing me had a
20 completely different understanding of this from me, when I used the term "Effacer le
21 Tableau", I understood it differently, and I thought he understood it in the same way
22 that I did and it was only in the light of the questions put to me subsequently that I
23 realised that he had a completely different idea to the one that I had of the "Effacer le
24 Tableau". It was not a mistake as such, on my part, no. It was a misunderstanding.
25 That's the term we should use.

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1 MR HAYNES: Can we just drop back one page in the French, for the benefit of the
2 witness, please, your Honour.

3 Q. As you've already told us the principal purpose of this interview was for you to
4 hand over and describe some (Redacted). Can you see the
5 interview was suspended at 1354, and recommenced at 1455, just before these two
6 questions were put? And we've already seen that the interview ended at 1511. Can
7 you help us as to why it was necessary to have a one-hour break just prior to a further
8 15 minute conversation?

9 A. Yes, quite. I shall give you clarification on that point. I believe that it took us
10 three or four days. I was due to return in the morning, and at one moment in time, it
11 was 1 p.m. and I was asked whether we might suspend and have a lunch break. It
12 was even suggested to me that I share a meal with them, and they even suggested
13 that they gave me fuel money, but I believe that Maître Badibanga will recall that I
14 said that I did not need that. This was quite simply a break to allow me to go and
15 have something to eat, to go and rest, and then come back subsequently. This would
16 also allow the team to have some rest.

17 Q. Was that suggestion made while the tape was running?

18 A. Well, I do not know whether the tape was running at the time. I can't know
19 that. There was somebody in charge of the recording while somebody else was
20 putting questions. I cannot remember that detail. This was how things unfolded
21 on a daily basis, when I was giving my statement. I was due to have a one-hour
22 lunch break, I was allowed to leave and then return.

23 Q. Why did you say "effacer," the "Effacer le Tableau Battalion" was in the Central
24 African Republic?

25 A. Well, you're asking me to repeat myself again, because I shall be revisiting the

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1 answers that I've already given to you here. To my mind, I corrected myself by
2 saying that there was no battalion, there was no brigade, there was no sections or
3 platoons by the name "Effacer le Tableau". There was quite simply a problem of
4 communication, and I corrected the situation.

5 Q. Can you remember now whether (Redacted) "Effacer le Tableau" in (Redacted)
6 (Redacted)?

7 A. I could absolutely not (Redacted)

8 (Redacted)

9 (Redacted) Here, questions were put to me on
10 the subject of units, and that's why I provided these answers, and (Redacted)
11 (Redacted)

12 (Redacted)

13 (Redacted)

14 MR HAYNES: Thank you. And that may be time to go to the break.

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

16 (Open session at 4.28 p.m.)

17 THE COURT OFFICER: Madam President, your Honours, we are back in open
18 session, thank you.

19 PRESIDING JUDGE STEINER: Thank you. Mr Witness, we'll have half-an-hour
20 break for you and our interpreters and court reporters to take some rest, have a coffee.

21 It's 4.30. We will resume at 5 o'clock. Court officer, please turn into closed session
22 for the witness to be taken outside the courtroom and in the meantime we will
23 suspend for half-an-hour.

24 *(Closed session at 4.29 p.m.) Reclassified as Open session

25 THE COURT OFFICER: Madam President, your Honours, for the record we are

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- 1 now in closed session. Thank you.
- 2 (The witness stands down)
- 3 THE COURT OFFICER: All rise.
- 4 (Recess taken at 4.30 p.m.)
- 5 *(Upon resuming in closed session at 5.03 p.m.) Reclassified as Open session
- 6 THE COURT USHER: All rise. Please be seated.
- 7 PRESIDING JUDGE STEINER: Welcome back. Could, please, court usher bring
- 8 the witness in.
- 9 (The witness enters the courtroom)
- 10 PRESIDING JUDGE STEINER: Court officer, please, could we turn into open
- 11 session.
- 12 (Open session at 5.06 p.m.)
- 13 THE COURT OFFICER: We are in open session, Madam President.
- 14 PRESIDING JUDGE STEINER: Thank you. Mr Witness, welcome back.
- 15 THE WITNESS: (Interpretation) Good day, your Honour.
- 16 PRESIDING JUDGE STEINER: Can we continue with this last part of today's
- 17 hearing?
- 18 THE WITNESS: (Interpretation) Yes, your Honour.
- 19 PRESIDING JUDGE STEINER: Mr Haynes, you have the floor.
- 20 MR HAYNES: Thank you.
- 21 Q. Welcome back, Mr Witness.
- 22 A. Good day, Maître.
- 23 Q. Sorry if I'm spoiling your Friday evening.
- 24 A. It's for the needs of justice, it's not a problem, Maître.
- 25 Q. Can we move on now, please, to the motor cars you've described to us? Were

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1 all of them held in the warehouse, the Coca-Cola warehouse?

2 A. No. When the cars arrived there was just the Nissan, the white Toyota, the
3 Toyota Corolla, and the Galloper that were left there. As far as the Suzuki is
4 concerned, the one that Bokolombe had, the blue Toyota that Simene had, they took
5 them themselves. I don't know how.

6 Q. And when you say "took them themselves," or you say you don't know how, do
7 you know whether they took them in Zongo when they arrived in the country?

8 A. I don't know myself. I don't know how they had these vehicles, but I know
9 that as far as Bokolombe, the commander Bokolombe is concerned, he was in Bangui.
10 He was on a mission there. (Redacted) he returned (Redacted) with a Suzuki jeep. It
11 wasn't brand new but it was really in a very good state. As for Simene, he returned
12 later with a blue Toyota pick-up but I don't know how he went to Gbadolite with the
13 Toyota, how he took the Toyota to Gbadolite. I don't know how he did that.

14 Q. Okay. Well, you've largely predicted my next question, which is: Were these
15 cars that you were -- have described to us all in good condition?

16 A. Yes. (Redacted) The Galloper --

17 PRESIDING JUDGE STEINER: Let me just -- sorry to interrupt you a little bit.

18 Court officer, turn into private session, please.

19 *(Private session at 5.10 p.m.) Reclassified as Open session

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

21 PRESIDING JUDGE STEINER: You can continue, Mr Witness.

22 THE WITNESS: (Interpretation) I apologise. I got carried away. I apologise.

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 MR HAYNES:

3 Q. Well, I appreciate they were second-hand cars. Obviously, you're telling us
4 they were stolen, so they weren't -- they hadn't come from a showroom, but were
5 they relatively new cars in good condition?

6 A. Yes, they functioned well.

7 Q. I mean, not the sort of cars you'd see being driven by ordinary people around
8 Gbadolite?

9 A. Maître, I don't really know what you're insinuating with that question. All I
10 know is that these were second-hand or old cars. In Gbadolite, there were people
11 who had some second-hand cars that functioned quite well, as did ours.

12 Q. Very well. How long were the cars held at the Coca-Cola shed?

13 A. I don't believe they were held there for very long, perhaps one month or two, if
14 it was a lengthy period of time, but I don't remember.

15 Q. And just to remind us, who controlled the Coca-Cola shed, as it were?

16 A. The G4 was in charge of the warehouse, which was used for logistics, I believe.

17 Q. Thank you. Now, I just want to ask you questions about a couple of the cars.
18 Firstly, the car which General Amuli had, was that a car that went into the Coca-Cola
19 shed or was that a car that came directly to Gbadolite, so far as you could tell?

20 A. If I'm not mistaken, if I recall this correctly, all four vehicles arrived at the same
21 time but, apparently, Amuli received his Nissan a long time before the others, before
22 all the vehicles were distributed. There was blood inside, it had to be cleaned up.

23 Q. What colour was the car?

24 A. It was a white Nissan, with a dual cabin.

25 MR HAYNES: Thank you. I wonder whether we could have a look at document

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1 87, please, from the Defence list? We are in private session anyway, but this is a
2 confidential document.

3 THE COURT OFFICER: Document CAR-OTP-0035-0275 is available on your screens
4 and it's a confidential document.

5 MR HAYNES:

6 Q. Was it a car like that?

7 A. Yes, it was a car like this one. Yes.

8 MR HAYNES: And can we have a quick look, please, at document 88?

9 THE COURT OFFICER: Document CAR-OTP-0035-0282 is available on your screens
10 and it's a confidential document.

11 MR HAYNES: Your Honour, I believe we can be in public session, although the
12 document should not be broadcast.

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

14 (Open session at 5.17 p.m.)

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

16 MR HAYNES:

17 Q. I'm reasonably confident you've just looked at two photographs of the same
18 vehicle. Is there anything about either of those photographs that enables you to say
19 that these actually are photographs of the car given to General Amuli?

20 A. You know, there are several pick-ups of this kind, so I'm not in a position to tell
21 you that that is in fact the car that Amuli had. How would I be able to know that,
22 Maître, on the basis of a photograph? Well, if he was next to it, perhaps I would
23 know about this. If there were a photograph that had been taken at his place, his
24 residence, then I could confirm this, but if I'm shown a photograph like this that was
25 taken I don't know where, well, it wasn't just Amuli who could have had such a

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1 vehicle in all of the Congo, or the Central African Republic. I can't say. It's very
2 difficult.

3 Q. That's a perfectly fair comment, but in any event where did you understand
4 General Amuli's car to have come from?

5 A. I said a while ago that Amuli's car came from Bangui. (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

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

10 *(Private session at 5.20 p.m.) Reclassified as Open session

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

12 PRESIDING JUDGE STEINER: Mr Haynes, we are going to proceed for the time
13 being in private session.

14 MR HAYNES: Well, I just wonder if we could to maybe simplify matters have a
15 look at what you said in interview about General Amuli's car, and for the benefit of
16 the witness we'll need to look at Defence document number 4 at page 0055. For
17 those of us who are following in English, it's Defence document number 1, page 1109.

18 THE COURT OFFICER: Document CAR-OTP-0009-0022, first redacted version, at
19 page 0055 is available on your screens and it's a confidential document.

20 MR HAYNES: For the witness, the page needs to go down just a little bit to capture
21 the last answer currently showing.

22 Q. You don't have to read the whole of the response out. Just read to yourself,
23 will you, the response you gave in interview where you said "The car had a Central
24 African number plate"?

25 A. Yes, it wasn't just Amuli's Nissan. All the other vehicles, before they arrived,

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1 they had Central African number plates and they were taken off before entering the
2 Congo.

3 Q. That's not really the point. The point is that General Amuli's car was stolen
4 from, or taken from, Patassé's enemies, wasn't it?

5 A. (Redacted)

6 (Redacted)

7 (Redacted) So I believe that, as there

8 was blood, it had been taken from the enemy.

9 Q. Yes, thank you. So amongst the six cars you've described to us, one we know
10 was not looted but taken from enemy forces; is that right?

11 A. Yes, to be frank, that is how I understood things at that time.

12 Q. Now, that car was not dissimilar to other cars amongst the group of six, was it,
13 in the sense that it was a civilian four-by-four motor car?

14 A. Yes, it was a four-by-four and it had a certain option -- what's it called? Well,
15 it's an all-terrain vehicle, four-wheel drive.

16 Q. And that was the sort of vehicle being used by Bozizé's rebels to travel from
17 Chad across the Central African Republic, according to your understanding?

18 A. I don't know. I don't know which vehicle Bozizé used. (Redacted)

19 (Redacted), so I know nothing about that. I don't know.

20 Q. Amongst the other vehicles you've described, were there also all-terrain civilian
21 vehicles?

22 A. (Redacted)

23 (Redacted)

24 (Redacted)

25 Q. And the Suzuki?

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- 1 A. The Suzuki - Bokolombe's Suzuki - was also a four-wheel drive.
- 2 Q. Thank you. So there were other four-wheel drives amongst those that came
- 3 back similar to the one that you understood to have been taken from Bozizé's forces?
- 4 A. Yes, there was the four-wheel drive Galloper and then there was the Nissan and
- 5 there was Bokolombe's Suzuki.
- 6 Q. So of the six vehicles, how many were four-wheel drive vehicles?
- 7 A. There were three four-wheel drive vehicles.
- 8 Q. And let's come on to (Redacted), please. (Redacted)
- 9 (Redacted)
- 10 A. Yes, absolutely. When it was (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 Q. (Redacted)
- 14 A. To be quite frank I no longer remember, because (Redacted)
- 15 (Redacted) and so it's difficult to remember.
- 16 Q. (Redacted)
- 17 A. Well, to be quite frank, I can no longer remember. It's difficult. I can't
- 18 remember any more. (Redacted) so it's difficult.
- 19 Q. (Redacted)
- 20 A. (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

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1 Q. Does the name Valentin Nagafi Ndiamo (phon) mean anything to you?

2 A. (Redacted) Valentin Nagifi (phon). He was at the OCC for a certain period of
3 time, before he became a member of the national executive. Prior to that event, he
4 was in the OCC.

5 Q. What is the OCC?

6 A. It's the control office.

7 Q. And what exactly do they control?

8 A. The OCC was responsible for controlling all the goods, for example, that would
9 cross over the border. It would have to make sure that everything was regular, to
10 make sure that the goods weren't spoilt, so this body did that sort of thing.

11 Q. So might he be responsible, for example, for taking possession of a car which
12 crossed from the Central African Republic?

13 A. No, no. I see where you are headed now, because you are referring to the
14 (Redacted)

15 (Redacted) and what happened is that (Redacted)

16 (Redacted)

17 (Redacted)

18 Q. So you see where I'm going. (Redacted)

19 (Redacted) that's right, isn't it?

20 A. Yes, I do remember. (Redacted)

21 (Redacted)

22 (Redacted)

23 Q. (Redacted)

24 A. A very long time ago. I am not able to recollect exactly, but this was a long
25 time ago. In fact, it was even before the Bangui operation; quite some time ago, yes.

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1 Q. (Redacted)

2 A. I told you that this happened a long time ago. Yes, (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. (Redacted)

10 (Redacted)

11 A. No, no, not at all. Not at all. It was not the only one. Shortly

12 thereafter -- you see, what happened is that (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. You have told us that the MLC troops who arrived in Bangui arrived on foot.

17 Do you stand by that?

18 A. I told you the following: That if you have information on the movement of the

19 MLC troops, that is fair and good. You may have that information, but I have

20 referred to the fact that throughout our progression they moved about on foot. Now,

21 if you do have information to the contrary, so be it, but I did not have such

22 information.

23 Q. Do you know how they travelled in the territory of the Central African Republic

24 when they got there?

25 A. No, no, I do not know.

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1 Q. Did you have any information that certain officers were provided with cars by
2 President Patassé?

3 A. Yes. I believe that Bokolombe (Redacted) had received a gift from
4 the president, that the Suzuki was a gift from the president, yes, (Redacted).

5 Q. In particular, did you know that Colonel Mustapha was provided with a blue
6 Galloper?

7 A. I know nothing about that. I know nothing about that.

8 Q. So let's retrace our steps a little bit about these six cars. Three of them were
9 four-by-four vehicles, you agree with that?

10 A. Yes, of course.

11 Q. General Amuli's vehicle had been taken from Bozizé's rebels, you agree with
12 that?

13 A. Yes, (Redacted)

14 (Redacted) I then understood that (Redacted) -- or the other
15 vehicles were looted and his was taken from the enemies, and there was blood in it
16 and it needed to be cleaned up.

17 Q. Bokolombe's car had been given to him by President Patassé?

18 A. (Redacted) it was a gift from the Government of the Central
19 African Republic. And by the way, (Redacted).

20 Q. And one of them was a blue Galloper?

21 A. Yes, there is a blue Galloper on the list which I have just given you.

22 Q. I'm going to add one more piece of information so that you can assess it all and
23 consider your response. Did you know that there was a substantial inquiry into
24 crimes in the Central African Republic conducted by a prosecutor and an
25 investigative magistrate in Bangui in 2003?

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1 A. I learnt of it just like that, yes, that something was done along those lines, yes.

2 Q. And if I told you that that inquiry received no single complaint from a civilian,
3 about the looting of a motor car, would that in addition to the other factors we've just
4 discussed change your view as to the origins of the six cars you've told us about?

5 A. Yes, I agree entirely because I did not receive any information on the four
6 vehicles that they were effectively looted, (Redacted). But I
7 understood, and this was my conclusion from (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 And this is my position in my statement and even in my testimony, but if you are in
12 possession of information that these vehicles were given to -- were given and were
13 given officially, then I'm flexible enough to change my position on this point. Why
14 not?

15 Q. And are you doing so?

16 A. Well, I have no evidence by which to go to determine that the vehicles were not
17 looted. Now, if you were to give me such evidence and such proof, and that it turns
18 out to be true, then of course I will change my opinion. So I need that evidence from
19 you, please.

20 Q. Well, I'm not going to go back over it again, but was it not enough to have
21 Colonel Bokolombe's word that the car he had was a present from President Patassé?

22 A. Well, that is only one of the vehicles, the Suzuki. But then there was the
23 Nissan of Amuli which, by the way, I mention in my statement that it was not looted.
24 I said Amuli's Nissan was not looted (Redacted). He said

25 that his vehicle had not been looted. And there was blood inside the car, with bullet

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1 traces and marks, and it was clear. (Redacted) But as for the other vehicles,
2 I have no other evidence to go by.

3 As for Amuli's car, (Redacted) and I said so in my statement. (Redacted)

4 (Redacted) But as for the other

5 vehicles, I have no further evidence. I simply go by the (Redacted)

6 (Redacted). So I don't know whether my point is clear

7 enough, Counsel?

8 Q. Well, we'll move on, but I don't know, the Chamber might be interested to

9 know why it was you told us the other day that all of these vehicles had been taken

10 from civilians when you knew that one-third of them had not?

11 A. But I was clear enough. I was very specific. I said that Amuli's jeep was not

12 looted. I said so. I even went further to say that Bokolombe and Simene's vehicles

13 were brought back by themselves. I don't know how they obtained the vehicles, but

14 they brought the vehicles back themselves and I was clear enough on those points.

15 Q. Very well. I want to move on to a slightly different topic. You described an

16 aeroplane which came from the Central African Republic and landed in Gbadolite at

17 the end of the conflict, do you remember?

18 A. Did I say at the end of the conflict, or did I simply say that there was a small

19 craft that came? I did not say it came at the end of the conflict. I said there was a

20 small carrier that came in from Bangui. I think that is what I said.

21 Q. Well, let's give you the chance to recall it. How long did it stay in Gbadolite?

22 A. I said that it stayed in Gbadolite briefly. Then I remembered -- I do remember

23 now who was aboard that small carrier. If I am not mistaken that plane brought in

24 President Kolingba, who was fleeing during the first Bangui operation. It had

25 brought in the former President Kolingba - Kolingba - if I am not mistaken.

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1 Q. Well, we may have to come back to this. What I suggest to you is that it did
2 arrive at the end of the second Bangui intervention and it stayed in Gbadolite for
3 some months. Does that not accord with your memory?

4 A. No, I just told you that I just remembered a number of things. You see, when I
5 talked about that aircraft, I was wondering who had been aboard the aircraft and I
6 didn't quite remember. Then, on thinking more deeply, I realised that it must have
7 been President Kolingba, and that was during the first operation which was the coup
8 d'état; the Kolingba coup d'état, or putsch.

9 Q. According to your understanding, to whom did that aeroplane belong?

10 A. I do not know, but I believe that the pilots were Central African.

11 Q. How many aeroplanes were there in the Central African Republic?

12 A. I don't know, Counsel.

13 Q. You didn't have that sort of information?

14 A. How could I have been aware of such information, Counsel?

15 Q. Well, through (Redacted).

16 A. No, no, Counsel. (Redacted)

17 (Redacted). That was not their role. Their role was very specific; (Redacted)

18 (Redacted)

19 (Redacted). That was their job

20 and that was their purpose. (Redacted)

21 (Redacted) or what have you, not at all.

22 MR HAYNES: Well, we will move on. Can we please try a section in public
23 session, your Honour?

24 PRESIDING JUDGE STEINER: Court officer, please.

25 Mr Witness, don't answer any question if you realise that it could lead to your

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1 identification.

2 (Open session at 5.51 p.m.)

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

4 MR HAYNES:

5 Q. Within the MLC, were you aware that there was a function of commissaire
6 politique?

7 A. Yes, the commissaire politique were commonly known as the PC and they were
8 answerable to the G5 of the army.

9 Q. And were you aware of, as it were, the identity of the PC from time to time?

10 A. The PCs were soldiers. They were soldiers; soldiers whose role was to monitor
11 or rather to teach the ideology of the movement to the recruits and to the army at
12 large. So that was their mission; the mission of handing down or transmitting or
13 teaching the ideology of the movement.

14 Q. Thank you. I mean, were you aware that for a period of time the position of
15 commissaire politique was held by Valentin Senga?

16 A. Yes, he was the commissaire politique in Lisala and also briefly when we got to
17 Gbadolite.

18 Q. Was he a soldier?

19 A. Yes, of course. He was a soldier, yes.

20 Q. I mean, I don't want to ask you questions you don't know the answer to, but did
21 the commissaire politique work with both the civilian population and the army?

22 A. If memory does not fail me, I think so. Yes, I think so, but I'm not sure.
23 I don't remember clearly, but I think so, yes. Yes.

24 Q. And, as you've very fairly said, the role of that body was to educate people
25 about the philosophy and the aims of the movement, in simple terms, wasn't it?

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1 A. Yes, but I did not see them working within the population. I do recall that
2 they worked within the army, explaining the ideology of the movement to the army,
3 but I was -- I did not personally see them at work within the population at large.

4 Q. That's very fair of you. Why was it necessary to do this?

5 A. It was necessary for this to be done so that soldiers could understand the
6 history of the creation of the movement and its goals. That is what they explained,
7 and this is different from what may be referred to as a popularisation of a code of
8 conduct. Those are two distinct operations, or activities.

9 Q. What text was used as the commissaire politique's education to the army?

10 A. (Redacted) They provided the political
11 explanation for how things started, the goals of the movement and the political vision
12 of the movement. It had nothing to do with any code of conduct, or what have you,
13 because (Redacted). Now, wherever they got the
14 information from to define the politics that was being taught to the soldiers is
15 something that I have no mastery of, but the whole exercise was focused on giving
16 the political vision to the soldiers.

17 Q. Thank you. What was the purpose of having a code of conduct in the ALC?

18 A. Well, the expression "code of conduct" itself is a code of rules for discipline
19 within the army, isn't it?

20 Q. And why was it necessary to have a code of rules for discipline within the army
21 of the Mouvement pour la Libération du Congo?

22 A. It is so that soldiers should comply with military rules which are laid down in
23 the standard military regulations.

24 Q. And why was that politically important?

25 A. From the political standpoint I may say that I do not understand but, as far as I

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1 know, a code of conduct is very important for an army in order to ensure proper
2 conduct.

3 Q. Okay. What did the code of conduct say about the commission of crimes by
4 soldiers?

5 A. Personally, I did not read of code of conduct from the beginning to the end so
6 I am not in a position to tell you specifically that such an action was punishable by
7 such a sanction, for such misconduct such punishment was applicable, no, I do not
8 know. (Redacted)

9 (Redacted) and that question I believe you can put to those who
10 served as soldiers during that period; that is, the officers.

11 MR HAYNES: We better go into private session.

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

13 *(Private session at 6.01 p.m.) Reclassified as Open session

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

15 MR HAYNES:

16 Q. I'm sorry if I offend you by asking you these questions, it's just that you did
17 offer up quite a lot of opinions about crime and punishment in the army when you
18 were asking -- answering questions earlier on and I thought, therefore, you might feel
19 competent to answer them. But can you help, do you know what the sentence was
20 in the Armée de Libération du Congo for murder?

21 A. Maître, I think that you are mistaken. I never said that I knew what the
22 sentence was for troops who had committed certain blunders. What I said is as
23 follows: I referred to two, two convictions; the conviction in Lisala and the
24 conviction handed down later in Gbadolite. And these are people or, rather, troops
25 who killed and they were given the death penalty. I drew my conclusions on the

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1 basis of those two convictions. As for other crimes, as for knowledge about what
2 happened in the case of other crimes, well, (Redacted) about
3 that.

4 Q. (Redacted)

5 A. (Redacted)

6 (Redacted)

7 Q. (Redacted)

8 A. (Redacted)

9 (Redacted)

10 Q. (Redacted)

11 A. (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. Very well. Many soldiers were punished for transgressions of the code of
15 conduct, weren't they?

16 A. I don't know if one should say "many," but some were punished, yes.

17 Q. Because it was essential for the political success of the movement that the army
18 was properly controlled; do you agree with that?

19 A. Of course. The army has to be closely monitored by high-ranking officers.
20 The troops have to be monitored.

21 Q. (Redacted)

22 (Redacted)

23 (Redacted), isn't it?

24 A. To speak about discipline in the political and military council, well, I don't
25 remember having (Redacted)

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1 (Redacted)

2 (Redacted). No, I don't remember that.

3 Q. See if I can draw your comment on something else, to go back to what we were
4 discussing about the level and the extent of punishment. Can we please have a look
5 at Defence document 76, please.

6 THE COURT OFFICER: Counsel - if I may, Madam President - the reference of
7 document 76 is CAR-DEF-0001-0079; is that correct?

8 MR HAYNES: That is the reference according to the list. I can check with the
9 document, if you just give me one second.

10 PRESIDING JUDGE STEINER: If I may, you are talking CAR-DEF-0001-0078.

11 MR HAYNES: I'm very obliged. Thank you very much.

12 THE COURT OFFICER: The first page of document CAR-DEF-0001-0078 is
13 available on your screens. It's a confidential document.

14 MR HAYNES:

15 Q. Have you ever seen a document like this during (Redacted)
16 (Redacted)?

17 A. No. This is the first time that I've seen this document.

18 Q. Did you know that statistics were kept on the number of soldiers arrested and
19 punished in the MLC?

20 A. I didn't know that. Naturally, this is what they had to do. This is done in all
21 armies, isn't it?

22 Q. And I just want to look at the last page on this document, which is ERN last
23 digits 0082, please.

24 PRESIDING JUDGE STEINER: I think it's 0083, isn't it?

25 MR HAYNES: Bear with me a moment. Your Honour's quite correct. Thank you

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1 very much. And can we go to the bottom of that document to start off with, please,
2 or to the bottom of that page.

3 Q. Is it clear enough for you to see and read?

4 A. Yes, I can read it. Yes, of course.

5 Q. And can you see it's dated 19 February 2003?

6 A. Yes, it says 19 February 2003. I thought it might have an earlier date but in
7 February 2003, well, at that time I think everything was possible because it was
8 necessary to polish the image of the MLC, so everything was possible on that date.
9 So, yes, I can see it.

10 Q. And the document appears to be signed by the G2. Remind us what the G2 is?

11 A. Lieutenant-Colonel Tongoli (phon) Kabila, in the General Staff of the MLC.

12 Q. Yes, but he held the position G2. What was that?

13 A. The G2 is military intelligence.

14 Q. And do you recall him holding that position in February 2003?

15 A. Yes, I think I mentioned this in my statement. I said that the G2, Égide
16 Kongoli, at a certain point in time was a G2. I think I said that in my declaration.

17 Q. So at the end of the Bangui operation it wasn't Colonel Bokolombe?

18 A. I think I even said at one point in time, since I was asked about all the Gs, G1s to
19 G4s, I was asked to provide the names of these people. I said that I would have
20 some difficulty. I might be confused about the order, so I said that. Égide Kongoli
21 may have been the last, that is possible, but at one point in time Bokolombe was also
22 at the BRM. There was such a possibility and I did say that.

23 Q. Thank you. The other reason I wanted you to look at this page in particular, is
24 peine capitale and peine de mort the same thing?

25 A. I don't think that it's the same thing.

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1 Q. Well, help us as to what the difference is, as far as you are concerned?

2 A. In other countries, well, it's the most severe punishment. That's capital
3 punishment. It's the most severe punishment. In other countries you don't have
4 the death penalty and so you can have capital punishment, or you can have prison, a
5 long-term prison sentence, but in any event you are an eminent legal expert. I may
6 have certain difficulties when it comes to understanding certain terms. That's
7 possible, but you have to take me back to the point when I was speaking about capital
8 punishment so that we can see what I was saying when I spoke about this matter and
9 what did I mean when I spoke about it. As an expert - as a legal expert - you might
10 know that I am making a mistake. It's possible, that can happen, but I'm telling you
11 what was on my mind when I said "capital punishment."

12 Q. Okay, I'm not sure I understand. What do you understand peine de mort to
13 be?

14 A. It's the most severe form of punishment.

15 MR HAYNES: Okay, very well. Well, we can take that document from the screen
16 and move on.

17 PRESIDING JUDGE STEINER: Mr Haynes, before the document is taken, I just
18 want a clarification what "CPL" means; the abbreviation "CPL"? In this last page,
19 Mr Witness, for instance number 38, there is a name, a date, a name and then "CPL
20 fusilier." What does that mean, "CPL"?

21 THE WITNESS: (Interpretation) I don't know. I don't know.

22 PRESIDING JUDGE STEINER: Thank you.

23 MR HAYNES: I'm going to try and help.

24 Q. Might it indicate a military rank?

25 A. Ah, yes, of course. It's corporal. Yes, of course.

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1 PRESIDING JUDGE STEINER: Thank you very much.

2 MR HAYNES:

3 Q. Sir, let's move on. After the constitution in April of 2003 was signed, the
4 second phase of the transition began; do you agree with that?

5 A. Yes, of course.

6 Q. And the Democratic Republic of Congo was governed by an interim
7 government?

8 A. Absolutely, Maître.

9 Q. I'm glad. And that was pending elections that were to be held?

10 A. Absolutely, Maître.

11 Q. We are in private session still and the reason why we are is because of the next
12 questions I'm going to ask you. What practical impact did that have on your life?

13 A. I was very happy, because that meant that it was the end of the war and so I
14 was happy.

15 Q. (Redacted)

16 A. No. Well, yes, in fact (Redacted)

17 (Redacted)

18 (Redacted).

19 Q. (Redacted)

20 A. Maître, I'll go back to something. (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted) That is

25 the expression that was used by the boss.

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1 Q. Forgive me if you've told us who the (Redacted)

2 (Redacted)?

3 A. (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 Q. But apart from (Redacted)

8 A. (Redacted)

9 Q. (Redacted)

10 (Redacted)

11 A. Yes, absolutely. They all went there, yes.

12 Q. Including Olivier Kamitatu?

13 A. (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 MR HAYNES: I want you to have a look at another document, please, and see if you

19 can explain to us what, as it were, the under lying story to this document is. It's

20 Defence document 42.

21 THE COURT OFFICER: Document CAR-OTP-0009-0220 is available on your screens

22 and it's a confidential document.

23 MR HAYNES:

24 Q. Now, is this a document that was in your possession?

25 A. Yes, I've had this document in my hands.

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1 Q. Do you recognise what it is?

2 A. It must be the document on the de facto resignation of Olivier Kamitatu. I'm
3 not sure, I haven't really read through it.

4 Q. That's why I asked you that. Would you like the opportunity just to read
5 through it? What I'll suggest is that you read through it and tell us when you want
6 the next page to be shown.

7 A. Can I see the whole document, because now I can only see part of it? And
8 could I see the following page, please? Yes.

9 Q. And you might just want to look at the page after that and to confirm that this is
10 a document (Redacted)? We are in private session.

11 A. Yes, (Redacted), of course.

12 Q. What is the purpose and effect of that document dated 5 December 2005?

13 A. Mainly, without reading through all the things held against him, that he was
14 charged with, well, in general terms, he was accused of having established contact
15 with other political groups at the time, because he believed that it was necessary to
16 form an enlarged body around the MLC.

17 But, according to him, (Redacted), according to him
18 he discussed the matter with his excellency, the president, but they didn't agree on a
19 certain number of issues and in particular they didn't agree on the high authority of
20 this platform, how it would be created, who was going to lead. For Olivier,
21 apparently.

22 Someone else should have been the president of the group, should have had such
23 authority. The president did not agree and, apparently, he -- he continued working
24 in this manner, pursued these goals. The president didn't agree with this and it was
25 necessary to bring him to order. It seems this was done -- or call him to order. But

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1 he didn't want to obey and so we were obliged to dismiss him, to take the necessary
2 measures and to have him removed.

3 Q. What position at that point in time or what positions did Olivier Kamitatu hold?

4 A. He was the general secretary.

5 Q. My fault, bad question. I meant not within the MLC, which we knew about,
6 but within the interim government.

7 A. He was the President of the National Assembly.

8 Q. And what impact did his removal from the MLC have upon his position as
9 President of the National Assembly?

10 A. At the end of it all, he lost. He tried to fight back but he lost in the end.

11 Q. Let me see if I can put to you the position and see if you agree. The President
12 of the National Assembly had to be a member of the MLC under the interim
13 government, didn't it?

14 A. Absolutely correct, according to the distribution of positions. The position of
15 President of the National Assembly indeed was (Redacted).

16 Q. And so once he was no longer a member of the MLC he wasn't qualified to hold
17 that position any more?

18 A. Absolutely, yes. He had to stop sitting in that position.

19 Q. So what did he do?

20 A. He lost that position. He lost that position. He was no longer President of the
21 National Assembly. Later on he created his own party, the A-R-C, ARC. I don't
22 know what ARC stands for but it must have been Alliance for the Renewal of the
23 Congo. "Alliance pour le Renouveau du Congo," if I am not mistaken.

24 Q. And was he given a governmental position?

25 A. Do you mean through his party?

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1 Q. Yes.

2 A. Yes. But that was not during the transition; it was after the 2006 elections he
3 was given the post of a minister.

4 Q. Thank you. You've led nicely into the next question, which is: What's his
5 current position?

6 A. Currently, he is the minister for planning.

7 Q. And is that still under his own party or under, as it were, the government of
8 President Kabila, the son?

9 A. Under the MP, the presidential majority.

10 Q. Thank you. And he lives in Kinshasa, does he?

11 A. Correct, he lives in Kinshasa.

12 Q. And do you know who provided him with his house?

13 A. His current residence?

14 Q. Yes.

15 A. No, no, I have no idea. It must be his house. He must have bought it but I
16 don't know.

17 Q. (Redacted)

18 A. (Redacted)

19 (Redacted)

20 (Redacted)

21 Q. (Redacted)

22 A. (Redacted)

23 Q. (Redacted)

24 (Redacted)

25 A. (Redacted)

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- 3 Q. (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 A. (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 Q. (Redacted)
- 11 A. (Redacted)
- 12 Q. (Redacted)
- 13 (Redacted).
- 14 A. (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 Q. (Redacted)
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- 24 A. (Redacted)
- 25 (Redacted)

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- 11 A. (Redacted)
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- 18 Q. (Redacted)
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- 20 A. (Redacted)
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- 10 (Redacted)
- 11 (Redacted)
- 12 Q. (Redacted)
- 13 A. (Redacted)
- 14 MR HAYNES: (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 THE COURT OFFICER: (Redacted)
- 19 (Redacted)
- 20 MR HAYNES:
- 21 Q. (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 A. (Redacted)

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1 Q. (Redacted)

2 (Redacted)

3 (Redacted)

4 A. (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 PRESIDING JUDGE STEINER: I think it's time for us to adjourn. The Chamber
13 still has a short oral decision to be issued and we have only eight minutes left on the
14 tape.

15 MR HAYNES: Your Honour, it's absolutely convenient as well. So thank you very
16 much.

17 PRESIDING JUDGE STEINER: Mr Haynes, I'm informed, without real precision but
18 that until now Defence has questioned for 11 hours, almost 30. So my question is
19 11 hours, 13 minutes, to be precise now. Has the Defence any estimation to give to
20 the Chamber about how long Defence still intend to question the witness?

21 MR HAYNES: Well, you can probably tell that this has been going as far as I can
22 chronologically, and we are now into 2007 so we are very near the end. I think it
23 will be certainly within the first session on Monday.

24 PRESIDING JUDGE STEINER: Thank you very much.

25 Court officer, please turn into open session.

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1 (Open session at 6.54 p.m.)

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

3 PRESIDING JUDGE STEINER: Mr Witness, thank you very much. It has been
4 another long day. Now you have the whole weekend to rest a little bit, to take some
5 time for yourself. We will adjourn for today and resume on Monday at 2.30 in the
6 afternoon. We wish you a very, very nice weekend.

7 I thank very much Prosecution team, Maître Zarambaud, I can't see Ms Douzima but
8 the same wishes to both legal representatives, the Defence team, Mr Jean-Pierre
9 Bemba Gombo, thank you very much for -- I'm so sorry. It's really late. Thank you
10 very much, Mr Witness. I will turn into closed session in order for you to be taken
11 outside the courtroom.

12 *(Closed session at 6.56 p.m.) Reclassified as Open session

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

14 (The witness stands down)

15 PRESIDING JUDGE STEINER: I apologise to parties and participants for saying
16 goodbye before I read the decision. It's not really a decision, it's just an order for the
17 Defence.

18 The issue relates to the time for the observations to be filed on the Prosecution's
19 request for protective measures for witnesses 15, 32, 36, 44 and 45. I am referring to
20 filing 1743, an application that was initially filed on 13 September on an ex parte basis
21 but a confidential redacted version was filed today, and notified already to the
22 Defence.

23 Witness 32 is the next witness on the schedule and in order to rule on the protective
24 measures, before the Witness 32 takes the stand, the Chamber needs to shorten the
25 time limit for the Defence to file its observations on the Prosecution request.

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1 Pursuant to Regulation 35 of the Regulations of the Court, the Chamber will therefore
2 shorten the time for the Defence to respond to the Prosecution application, in what
3 relates to Witness 32 until Monday, 19 September, 4 o'clock.

4 For purposes of clarity, this amended time limit applies only to the Defence's
5 observations with respect to the request for protective measures for Witness 32. The
6 Defence may respond to the rest of the Prosecution application within the normal
7 time limit set down in the Regulations.

8 Having said that, now I repeat my wishes, that parties and participants have a nice
9 weekend. We will adjourn and resume on Monday, at 2.30 in the afternoon. This
10 hearing is adjourned.

11 THE COURT USHER: All rise.

12 (The hearing ends in closed session at 7.00 p.m.) Reclassified as Open session

13 RECLASSIFICATION REPORT

14 Pursuant to Trial Chamber III 's Orders, ICC-01/05-01/08-2223 and ICC-01/05-01/08-3038,
15 and its instructions in the email dated 24 September 2013, the version of the transcript
16 with its redactions becomes Public.