

Trial Hearing
Witness: CAR-D04-PPPP-0053

(Open Session)

ICC-01/05-01/08

1 International Criminal Court
2 Trial Chamber III - Courtroom 1
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08
5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and Judge Kuniko Ozaki
6 Trial Hearing
7 Tuesday, 21 August 2012
8 (The hearing starts in open session at 9.34 a.m.)
9 THE COURT USHER: All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE STEINER: Good morning and welcome. Could, please, court
13 officer call the case.
14 THE COURT OFFICER: Thank you, Madam President. Situation in the Central African
15 Republic, in the case of The Prosecutor versus Jean-Pierre Bemba Gombo, ICC-01/05-01/08.
16 PRESIDING JUDGE STEINER: Thank you very much. Good morning. I welcome the
17 Prosecution team. I noticed the presence of Maître Badibanga. Good morning legal
18 representatives of victims, Defence team, Mr Jean-Pierre Bemba Gombo. Good morning
19 to our interpreters and court reporters.
20 We will continue this morning with the questioning of Witness D-53, a Defence witness,
21 the questioning by the Prosecution, and I therefore ask, please, court usher to bring the
22 witness in.
23 (The witness enters the courtroom)
24 WITNESS: CAR-D04-PPPP-0053 (On former oath)
25 (The witness speaks French)

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- 1 PRESIDING JUDGE STEINER: Good morning, General Seara, and welcome back.
- 2 THE WITNESS: (Interpretation) Good morning, your Honour.
- 3 PRESIDING JUDGE STEINER: Are you ready to continue with your questioning?
- 4 THE WITNESS: (Interpretation) I'm ready.
- 5 PRESIDING JUDGE STEINER: General, I just want to remind you that you are still
- 6 under oath and, as well, remind you of the pace of your answers, slower than normal, in
- 7 order to allow our interpreters to do their job.
- 8 THE WITNESS: (Interpretation) I will remember that.
- 9 PRESIDING JUDGE STEINER: Thank you very much. Mr Iverson, you have the floor.
- 10 MR IVERSON: Thank you, Madam President. Good morning, your Honours.
- 11 QUESTIONED BY MR IVERSON: (Continuing)
- 12 Q. Good morning, sir.
- 13 A. Good morning, Mr Prosecutor.
- 14 Q. Sir, I would like to continue where we left off Friday afternoon, asking you
- 15 questions about certain individuals to whom you spoke, and for that purpose I think it
- 16 might be easier for you if you have a copy of your report. Would you like to have a copy,
- 17 sir?
- 18 A. Yes, I'd like to have that.
- 19 MR IVERSON: I'll just have the court usher provide him his copy.
- 20 Sir, I believe if you turn to page 9 you'll see the names of the individuals.
- 21 Madam President, can we go into private session briefly, please.
- 22 PRESIDING JUDGE STEINER: Court officer, please turn briefly into private session.
- 23 (Private session at 9.39 a.m.)* Reclassified as Open session
- 24 THE COURT OFFICER: We're in private session, your Honours.
- 25 MR IVERSON:

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12 (Redacted)

13 (Redacted)

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16 (Redacted)

17 (Redacted)

18 Q. So, sir, what I would suggest is, if there's something that you would like to say and
19 you just can't say it in the context that we've developed here, just ask for a private session
20 and we can discuss the matter further in private session. Is that clear, sir?

21 A. Yes, that's perfectly clear.

22 MR IVERSON: Madam President, I'd like to request that we go back into public session.

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

24 (Open session at 9.57 a.m.)

25 THE COURT OFFICER: We are in open session, your Honours.

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1 MR IVERSON:

2 Q. Sir, what did Delta tell you about the 2002/2003 conflict?

3 A. First of all, he confirmed the various transmission equipment that was present at the
4 command post of General Moustapha; namely, equipment taken directly from the CAR
5 authorities, namely walkie-talkies, portable telephones, a radio set that was portable, or
6 that could be set up on a vehicle, and that could be -- that could run on a battery, and a
7 Thuraya set and another Thuraya set --

8 THE INTERPRETER: Inaudible.

9 THE WITNESS: (Interpretation) -- and once the offensive began, heading in the
10 direction of PK12. He also confirmed to me that the transmission unit would send,
11 nearly on a daily basis, a report to the MLC headquarters in Gbadolite, a report - a routine
12 report - by way of the phonie. He also confirmed to me that with his team he would
13 provide ongoing radio contact with the Operational Command Centre of the Central
14 African Republic located at Camp Béal.

15 Now, his path was a bit of an unusual one, and I don't know if I can really speak to this
16 right here, but if he were here he could give far more details than I could.

17 One particular thing about Delta was that (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 Along with two other ALC soldiers, since the rebels were close at hand, he was able to
22 take refuge in a house that belonged to a CAR person, a young man, perhaps 20 years of
23 age, who agreed to hide him. And after a day or two, a four-by-four came by with some
24 Chadian soldiers in front of that house, and they asked everyone to come out of the house.
25 So he came out himself with the other two soldiers from the ALC, and they realised that

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1 they were asking where the owner of the house was. Indeed, the three of them were
2 wearing the uniforms that had been given to them, uniforms of the CAR army, and so the
3 young man came out of the house, and since he was wearing civilian clothing, and had
4 nothing to do with the whole thing, he was shot there, right there, then and there. And
5 then they were shot and tortured, and the two fellow soldiers were executed.
6 As for him, he had been dragged to a tree for execution in the evening but, by some
7 miracle, a Chadian soldier who also had been injured said, "No, keep him as a prisoner."
8 He was then taken towards Camp Béal, and locked up with others who were there, six or
9 seven of them, if I remember correctly, but he's in a better position to provide you with
10 such details. There was also a woman there and a child. This happened in March 2003.
11 (Redacted) He was taken to
12 Port Beach and granted the possibility to cross over the Ubangi to Zongo. Well, I'll not
13 go into any further details because I believe that if he were to testify himself he would
14 provide you with all such details.
15 One other important piece of information he gave me is that when they were in Bossangoa,
16 when they arrived there, they were very well-received by the inhabitants, given that the
17 rebels had committed several acts of violence in that area. The mayor of that town even
18 went to receive General Moustapha, and he told me that they actually participated in the
19 liberation of a group of seminarians who had been locked up over several days by the
20 rebels without food and drink in a house. And according to what they were told, they
21 were then able to release or free those seminarians. That in broad strokes is what I can
22 say about him.
23 Q. Sir, I'd like to ask about the next individual, November. What did November tell
24 you about the 2002/2003 conflict?
25 A. November was (Redacted) that was going towards

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- 1 Damara and Sibut. He confirmed to me that (Redacted) had received reinforcements,
2 including a section of the Central African Armed Forces. That section was mainly
3 equipped with mortars, and was therefore a support unit to his company.
4 He also told me specifically that during the offensive, towards the north, that -- he said
5 that there was a bridge to the southern gate to the city of Sibut or, rather, of Damara, and
6 that because of that bridge, a bridge which was defended by a number of troops, the
7 fighting there was quite intense with an exchange of mortar fire from both sides. He
8 therefore was part of that company that withdrew at some point to PK12, and then again
9 proceeded through another channel without too much difficulty back to the Democratic
10 Republic of the Congo.
- 11 Q. Sir, to what extent did you rely on November's discussion with you in your report?
- 12 A. I'm not sure that I fully understood the first part of the translation of your question.
- 13 Q. To what extent did you rely on November's discussion with you in your report?
- 14 A. November confirmed to me that the ALC units were joint or mixed units, including
15 sections of the Central African Armed Forces, (Redacted)
16 particular case. He also confirmed, on the other hand, that the rebels had committed acts
17 of violence upon -- which they noticed upon their arrival.
18 To that extent, a number of points were thus mentioned, which were included in my
19 report, in the same manner as the information from the previous person, Delta. We must
20 note that Bossangoa is General Bozizé's native town and I'll leave it at that.
- 21 Q. Moving down to Bravo, what did Bravo tell you about the 2002/2003 conflict?
- 22 A. Bravo was assigned to the same company as November. (Redacted)
23 (Redacted) and he told me or, rather, confirmed to me what November had told
24 Me. I put a few more questions to him on the levels of training of the ALC troops (Redacted)
25 (Redacted), and he answered that the people (Redacted)

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1 were well-trained soldiers, who obeyed orders given to them.

2 Q. Sir, do you know what company that was? Do you know to which battalion it
3 belonged?

4 PRESIDING JUDGE STEINER: Court officer, please, before the witness's answer to this
5 question, let's go into private session.

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

7 THE COURT OFFICER: We are in private session, your Honours.

8 THE WITNESS: (Interpretation) (Redacted)

9 (Redacted)

10 (Redacted)

11 MR IVERSON: Madam President, I think it's okay to go into public session at this point.

12 That was the only question I had that narrowed down the number of people we could be
13 talking about.

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

15 (Open session at 10.15 a.m.)

16 THE COURT OFFICER: We are in open session, your Honours.

17 MR IVERSON:

18 Q. Sir, moving down to the next individual, Uniform, what did Uniform tell you about
19 the 2002/2003 conflict?

20 A. Uniform was a lieutenant in the Central African Armed Forces and he chose to join
21 General Bozizé's camp. He was therefore one of the rebels at the time. What
22 characterises him, or what he stands out for, is that he came to our appointment, but
23 refused to talk, or to testify so to speak. He was in exile in a country that wasn't his
24 country, so he feared -- he feared for his own life and for his family. He was already a
25 very frightened man simply for having turned up for our appointment, although during

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1 the appointment he opted not to say anything to me. I therefore respected his point of
2 view, relating to his person and to his family, and acknowledged the fact that what was
3 most important was his security and the security of his family, and so I told him that I
4 didn't hold him -- hold it against him that he opted not to talk to me and then he left.

5 Q. And the next individual, Alpha, what did Alpha tell you about the 2002/2003
6 conflict?

7 A. At the time, Alpha was a member of the MLC, of the ALC. Witnesses --

8 THE INTERPRETER: The witness refers to his position and says that, as they were in
9 charge of -- (Redacted)

10 (Redacted)

11 PRESIDING JUDGE STEINER: Just one moment, please. I'm waiting for the end of the
12 transcript here.

13 THE INTERPRETER: Madam President, the interpreters did not interpret some of what
14 the witness said, because it spoke of the position of the person being discussed.

15 PRESIDING JUDGE STEINER: Could, please, court officer go very briefly into closed
16 session.

17 (Private session at 10.20 a.m.) * Reclassified as Open session

18 THE COURT OFFICER: We are in private session, your Honours.

19 PRESIDING JUDGE STEINER: (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

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20 (Redacted)

21 MR IVERSON: Yes, Madam President.

22 Q. Sir, if I could just ask you the question with regard to Alpha again. So if we could
23 start over with Alpha, if you would, what did he tell you about the 2002/2003 conflict?

24 A. He was not directly involved in the conflict by virtue of his duties, as such.

25 However, he was able to confirm to me that during the period under review he had only

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1 (Redacted)

2 (Redacted) it is the Presidential Security Unit that provided
3 security for Mr Bemba in the Central African Republic. He said that the trip took place in
4 November, end of November 2002, and that they travelled to PK12.

5 Q. And what did Charlie tell you about the conflict?

6 A. As for Charlie, he was a lieutenant in the Central African Armed Forces, but I no
7 longer remember whether it was Charlie or Golf. It must have been one of them who
8 went along with General Bozizé; one of them voluntarily, or rather forcibly, whereby he
9 was threatened with a gun - the muzzle of a gun - pointed at him and at gunpoint he was
10 asked whether he was joining the rebels or not and then he said, "I'm joining you", or, "I'm
11 coming along with you."

12 He confirmed to me that it was difficult to command the Chadian troops who had been
13 distributed to the several units that were working with the Central African soldiers on
14 General Bozizé's side, and that those people had all manner of uniforms, so to speak, and
15 so he went on to say that these Chadians were actually prosecuting their own war, to the
16 extent that they did not obey orders that were given to them.

17 He also confirmed to me that a number of acts of violence had been committed by the
18 rebels, particularly in Bossangoa, and I don't remember whether it was Charlie or Golf
19 who told me that some of those excesses, or acts of violence, were committed following
20 orders as a result of the poor reception granted to the rebel forces by the population, or
21 the people of that area.

22 Q. Sir, to what extent did you rely on what Charlie told you in your report?

23 A. What he told me is included in my report; namely, that it was impossible, practically
24 impossible, to command the Chadian troops and that they were involved in acts of
25 violence, maybe because the only logistics available were ammunitions and fuel, and that

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1 there was nothing to take care of the man, so they had to live off the people and get food
2 whichever way they could, and I think this point is included in my report.

3 Q. Sir, with regard to the statements you reviewed, you regarded them as being
4 accurate; is that right?

5 PRESIDING JUDGE STEINER: Mr Iverson - General, just one moment - do you think
6 now that we can go back into open session or you are still going into details about any of
7 these sources?

8 MR IVERSON: Madam, there's just a few final questions that I would like to ask in
9 private session. Thank you.

10 Q. Sir, with regard to the statements that you reviewed, you considered them as being
11 accurate; is that right?

12 A. I considered that they were correct. They were told with the calm of a soldier, who
13 had viewed everything in the past, and done it in a calm way. The witnesses who I was
14 able to interview myself, they had a way of telling things which made me think they were
15 true.

16 The last witness that I interviewed, Golf, confirmed to me in particular the arrival of
17 reinforcements, a reinforced squadron, a Chadian squadron, which was aimed at
18 reopening up the route to the rebel forces so that they could take over Bangui. This
19 witness at the time was in the Defence regiment, the operational Defence regiment of the
20 territory of the Central African Army Forces.

21 They both left their country, as they were disappointed, because they had hoped that a
22 change of power would have improved the situation but, from their point of view, after
23 the change of power, there was no improvement or no such improvement as they had
24 expected and as such they preferred to emigrate. Despite the very stable status that they
25 had within the country, or, rather, the unstable status that they had in the country into

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1 which they emigrated.

2 Q. Sir, I'd like to ask you a question about the statements you reviewed now. So I'm
3 not referring to the witnesses; I'm referring to the statements. You considered the
4 statements as being accurate; is that a fair statement?

5 A. You're talking about the statements contained in the documents which were
6 provided to me to draft my report; is that what you're talking about? Are we in
7 agreement there?

8 Q. Yes, sir, I'm asking you about the statements of witnesses that you reviewed that
9 you listed in your report. Did you regard those as being accurate?

10 A. I had no reason to doubt them. I don't know under what condition they were taken,
11 but what I do know is that they had official numbers for the Court, so they were
12 documents that did have references, so I had no reason to doubt them; no reason to doubt
13 the content of such documentation, either.

14 PRESIDING JUDGE STEINER: Maître Kilolo?

15 MR KILOLO: (Interpretation) Yes, your Honour. I'm just raising an objection after
16 the expert's already answered but, nevertheless, I'd like to make this comment: It seems
17 to me that the question put is speculative, to the extent that the Office of the Prosecutor is
18 asking the expert to speculate with regards to the truth of statements, that the Office of the
19 Prosecutor had taken itself at the time from its own witnesses.

20 PRESIDING JUDGE STEINER: Mr Iverson.

21 MR IVERSON: Well, Madam President, I think it's clear that I'm not asking the witness
22 to speculate. I'm asking the expert witness how he regarded those statements when he
23 reviewed them.

24 PRESIDING JUDGE STEINER: Please proceed, Mr Iverson.

25 MR IVERSON:

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- 1 Q. Sir, I'd like to read a portion of a statement that you reviewed, and then ask you a
2 question about it, and this is why we're in private session. This is a statement from
3 (Redacted) and the reference is (Redacted) at page (Redacted)
- 4 Sir, the investigator asks, "Did Bemba set up a reporting system in order to monitor what
5 was happening out in the field, and if so what kind of system?" (Redacted) replies,
6 "Operations-wise, from the top downwards and vice-versa, the supreme commander took
7 all of the decisions. He was the operations commander. (Redacted)
8 (Redacted) Bemba talked to the unit commanders on the ground directly. The operators
9 took the communication log-books directly to him. (Redacted)
10 (Redacted)
- 11 (Redacted). Everything came from him; dispatch,
12 ammunition, take a position, pull back, and so on. (Redacted)
- 13 Question with from the investigator, "Was this also the case for the operation in the
14 Central African Republic?" (Redacted) replies, "Especially with central Africa, it was
15 him that dealt with the Central African authorities, and it was him that sent the
16 commanders over there. Particularly there, it was more sensitive because it was a
17 foreign country. Moustapha ran the operation in the CAR. Bemba gave the orders to
18 Moustapha directly. After he'd received an order from Bemba, Moustapha would
19 sometimes inform me about it out of kindness."
- 20 Sir, the question I have is, if you regarded all these statements as being accurate, how did
21 you come to the conclusions that you did?
- 22 A. There you've only read one passage, one part, because in other passages the person
23 concerned says that they saw nothing, heard nothing, did nothing but, in other terms,
24 when you read the other passages, I thought, (Redacted)
25 (Redacted)

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- 13 (Redacted)
- 14 (Redacted)
- 15 I mean, I'm not criticising it but I explained to you why, or at least from my point of view,
- 16 it's not possible from the residence of Mr Bemba, it's not possible to command the forces
- 17 of the ALC which were with General Moustapha in the operation which was carried out
- 18 in the Central African Republic. You can't command these types of operation from your
- 19 lounge, or from a sofa, even with a Thuraya.
- 20 Q. Sir, would it be fair to say that if a statement didn't fit your conclusions you would
- 21 discard it then? Is that what you did for your report?
- 22 A. No. Each statement was to be put against other statements. (Redacted)
- 23 (Redacted)
- 24 (Redacted) What does it mean? It means that people reported to him, and he
- 25 reported to Mr Bemba, and he gave information with regards to the information that he'd

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1 obtained.

2 So when there's a contradiction between different statements, when contradictions arise,
3 then you have to make a decision. You have to try and judge what actually happened.

4 Taking into account my experience, I would consider that (Redacted)
5 (Redacted)

6 Q. So, in order to make the conclusions that you did, you would have to disbelieve
7 (Redacted) is that your position, sir?

8 A. When I have contradictory statements in front of me, I ask myself the question:
9 Taking into account my experience and my competences, (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted) So I

14 considered certainly that there must have been responsibilities that he didn't want to talk
15 about and in fact he seemed to be aware of nothing, and I asked, well, how could he have
16 been aware that Mr Bemba had General Moustapha in the field? And he himself says
17 that (Redacted) He doesn't
18 know where it is. It's written in his statement.

19 Q. Sir, and if someone -- and this is a methodology question, more than anything. If
20 someone contradicted themselves in their own statement, how did you reconcile those
21 contradictions?

22 A. If there are contradictions in the same statement with regards to certain points, as far
23 as I'm concerned I think it takes away credibility from the statement, but the
24 contradictions were more found in other statements; (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted) And so there are contradictions, and among them,

4 well, I went for the point that I thought was nearest to the truth possible and that's the role
5 of an expert. You read documents that you are provided with, you have to give an
6 opinion which is based on your experience and competencies and that's what I did.

7 Q. Sir, would you agree that Mr Bemba must have ordered Colonel Mukiza's brigade to
8 deploy to the CAR?

9 A. I didn't get the first part of your question. Please could you repeat it?

10 Q. Would you agree that Mr Bemba must have ordered Colonel Mukiza's' brigade to
11 deploy to CAR?

12 A. I have a problem with this question, your question. Is it Mr Bemba, did he appoint
13 General Moustapha to command the brigade in the Central African Republic? Is that the
14 question that you are answering -- asking me?

15 Q. I'm asking you whether you agree or not that Mr Bemba must have ordered Colonel
16 Mukiza to deploy to CAR?

17 A. Yes, indeed. Yes. That was part of his prerogative, to appoint the leader of the
18 troops who was going to provide reinforcements in the Central African Republic at the
19 request of President Patassé. That was perfectly under his prerogatives to do so.

20 PRESIDING JUDGE STEINER: Mr Haynes?

21 MR HAYNES: We are still in private session. I don't know if we should be?

22 PRESIDING JUDGE STEINER: Mr Iverson?

23 MR IVERSON: Yes, Madam President. I have a few questions for private session, but
24 they can wait. I'd like to request at this point to go into public session.

25 PRESIDING JUDGE STEINER: Court officer, please turn back into open session, and in

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1 any case, Mr Haynes, in due time the transcript will be -- parts of the transcript will be
2 reclassified.

3 MR HAYNES: Thank you very much.

4 MR IVERSON:

5 Q. Sir, and at the point that the brigade according to you was still --

6 (Open session at 10.51 a.m.)

7 THE COURT OFFICER: We are in open session, your Honours.

8 MR IVERSON:

9 Q. Sir, at the point according to you that the brigade is still in DRC, it is under the
10 command and control of Mr Bemba. Is that a fair assessment of your analysis?

11 A. It wasn't under the command and control; the operational command and control.
12 It wasn't under the operational command and control of Mr Bemba. It was under the
13 orders of the Central African orders. It was under their orders. Nevertheless, it did still
14 belong to the MLC, the ALC, and as a result of that it was normal that a daily report be
15 sent to the staff HQ, with the administrative structure that I mentioned a few days ago.

16 Q. Sir, are you concluding that Echo Brigade under the command of Colonel Mukiza
17 was under the command and control of the CAR authorities while it was still in the DRC?

18 A. No, no, not at all, or perhaps I didn't understand your question. When this brigade
19 was in the Democratic Republic of the Congo, it was under the command of the MLC and
20 it came under the orders given by the Chief of General Staff. Now, when it arrived into
21 the Central African Republic it came under the Central African command, and when it
22 went back to the Democratic Republic of Congo it went back under the MLC. That's my
23 answer.

24 Q. And according to your analysis, was it under the command and control of
25 Mr Bemba, as the commander-in-chief, when the brigade was in DRC?

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1 A. Well, I already answered this question. The brigade was not under the
2 command - not under the operational command - and control of Mr Bemba. When this
3 brigade was in the Central African Republic, it was under the orders of the military
4 authorities in the Central African Republic. Now, the only link that there was between
5 this brigade and Gbadolite was the link which was making a daily report on the situation
6 which corresponded to the administrative links, which joined together any force which is
7 in a foreign or external territory.

8 Q. Sir, I don't know if my question is being lost in translation, or what, but I'm asking
9 about the command and control of the brigade in DRC. Did Mr Bemba, according to
10 your analysis, have command and control, as you define it, in DRC? Nothing to do with
11 CAR, this question. Excuse me, C-A-R.

12 PRESIDING JUDGE STEINER: Yes, Maître Kilolo?

13 MR KILOLO: (Interpretation) Your Honour, you will see whether it's possible for the
14 expert to answer this question, but as it is mandate within the framework of his expertise,
15 I mean it's very clear to answer the questions of who commanded and controlled the MLC
16 contingent in the Central African Republic during the period under litigation here.

17 PRESIDING JUDGE STEINER: Mr Iverson?

18 MR IVERSON: Well, during Mr Kilolo's examination, General Seara discussed and
19 concluded that Mr Bemba had three brigades in the DRC and was running those and was
20 preoccupied with those brigades and other issues, so it appears that he has looked into
21 this issue. That's from transcript 231, page 10, lines 20 to 25.

22 PRESIDING JUDGE STEINER: Please proceed, Mr Iverson.

23 MR IVERSON:

24 Q. Sir, again according to your analysis, was Mr Bemba in command and control of
25 Echo Brigade, Colonel Mukiza's' brigade, Moustapha's brigade, in the Democratic

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1 Republic of the Congo?

2 A. In the Democratic Republic of the Congo in fact I don't really know how the
3 command of the ALC was organised. I remember in the statement of (Redacted) he
4 says that Mr Bemba had no military competence, no military training, so I think we can
5 have confidence in that. If you have no military training, it's difficult to command troops,
6 isn't it? On the other hand, the same (Redacted) recognises that Mr Bemba did go on
7 several occasions to the Democratic Republic of Congo to areas - conflict areas - and on
8 those occasions he did speak to people, but when he showed valour, showing valour is
9 one thing, but that's different from having the capacity and experience and training to
10 command the different operations. Even in the Democratic Republic of the Congo, that's
11 one step further which I don't want to cross.

12 Q. Sir, you conclude that Mr Bemba had no military training; how do you conclude
13 that?

14 A. It was (Redacted) who mentioned the reference. He says it in his statement.
15 So if you trust General Amuli, then so do I. He says very well, that Mr Bemba had no
16 competence or training in the military field.

17 Q. Sir, what is your definition of "command and control"?

18 A. This is a question which I've already answered in my statement, in my testimony,
19 but for me it's no problem to answer that once again. When you have a group which is
20 under command, the authority which commands all of this force has the possibility to do
21 what they want, to give missions, to each of the different troops for the entire duration of
22 the period during which these different troops which constitute the force are under its
23 command.

24 MR IVERSON: Sir, thank you very much. It appears it's time for the break.

25 PRESIDING JUDGE STEINER: General Seara, we are going to our half-an-hour break.

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- 1 It's almost 5 past 11. We'll be back at 11.35.
- 2 I ask, please, court usher to accompany the witness outside the courtroom and in the
- 3 meantime we will suspend and resume at 11.35.
- 4 (The witness stands down)
- 5 THE COURT OFFICER: All rise.
- 6 (Recess taken at 11.02.a.m.)
- 7 (Upon resuming in open session at 11.35 a.m.)
- 8 THE COURT USHER: All rise.
- 9 Please be seated.
- 10 PRESIDING JUDGE STEINER: Welcome back. Could, please, court usher bring the
- 11 witness in.
- 12 (The witness enters the courtroom)
- 13 PRESIDING JUDGE STEINER: Welcome back, General Seara.
- 14 THE WITNESS: (Interpretation) Good morning once again, your Honour.
- 15 PRESIDING JUDGE STEINER: I ask, please, court officer to go very briefly into private
- 16 session.
- 17 (Private session at 11.37 a.m.) * Reclassified as Open session
- 18 THE COURT OFFICER: We are in private session, your Honours.
- 19 PRESIDING JUDGE STEINER: (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 MR IVERSON: Yes, Madam President.
- 25 PRESIDING JUDGE STEINER: Is that fine with you, General?

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1 THE WITNESS: (Interpretation) Certainly.

2 PRESIDING JUDGE STEINER: Can we then go into public session?

3 MR IVERSON: Yes, Madam President, of course. And if, should the need arise, I'll
4 suggest a pseudonym for (Redacted)

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

6 (Open session at 11.39 a.m.)

7 THE COURT OFFICER: We are in open session, your Honours.

8 MR IVERSON:

9 Q. Sir, under your definition of command and control, do you conclude then that
10 Mr Bemba, as commander-in-chief of the ALC, did not have command and control in the
11 DRC?

12 A. No, he did not have command and control. I hadn't finished replying to your last
13 question. I'll try to be as pedagogical as possible. When the commander of a
14 multinational force has contingents under his command, he has the power to provide for a
15 certain structure amongst his troops and entrust them with missions with two exceptions,
16 two responsibilities that remain national in nature; that is to say, the administrative side of
17 things and then the logistics.

18 When this same commander receives forces, when they come under his operational
19 control, he has the authority to give these units missions but he cannot reorganise them,
20 so he has to give a mission to the entire force that has come under his control and, very
21 generally speaking, when this happens, when troops come under another commander's
22 control, it usually is for a limited duration of time in a limited area. If we look to this
23 situation, the ALC detachment, we see that they were placed under the control of -- and
24 that is why the CAR authorities were able to reorganise the forces with the ALC, the
25 forces from the CAR, and even the USP. And once this reorganisation had been done,

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1 they were able to give them missions.

2 Now, if the ALC had been placed under the operational control, they would not have
3 been able to reorganise the ALC forces; they would have had to leave them as they had
4 been sent and give them missions, give missions only to the ALC; namely, Moustapha's
5 brigade would have received missions but only for the entire brigade.

6 In the case of operational control, it would not have been possible to restructure or
7 reorganise, but that was done, and joint units were set up. So the ALC brigade was
8 under CAR command.

9 Q. Sir, I understand that, according to you, the Echo Brigade was under the CAR
10 authorities' command. I'm not asking about that, however. None of your answer was
11 responsive to my question, except for the first portion. So I just want -- I want to -- I
12 understand that I'm asking this question in different ways, but I don't think I've gotten a
13 full answer from you yet, sir.

14 According to your analysis of the documents that you looked at, the individuals you
15 spoke to, did Mr Bemba have command and control over DRC units in DRC?

16 A. In my opinion, Bemba did not have operational control over the brigade that he had
17 provided to the CAR. If you have -- if you have forces under operational command you
18 have to have the control, but we're talking about a foreign country here.

19 Now, you were saying if a contingent in a multinational force, if a national contingent
20 were to come under the --

21 Q. I'm sorry to interrupt you, but again I don't think that you're understanding my
22 question. My question doesn't relate to CAR right now. It relates to the DRC and
23 whether, in your view, Mr Bemba had command authority - command and control - in
24 DRC?

25 A. In the DRC, this org chart, he was the head of the ALC, so he had command and

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1 control of his forces through his Chief of General Staff. I explained several times that a
2 single man cannot command such a large force, including in the DRC. He needs a
3 structure, namely a General Staff, and someone is placed at the General Staff, the Chief of
4 General Staff, to deal with problems within the DRC. In light of the org chart of the ALC,
5 Mr Bemba was indeed the supreme chief of the ALC, and he was there and he had his
6 Chief of Defence Staff to provide assistance.

7 Q. Sir, and before we left for the break, on page 27, lines 14 through line 2 on page 28,
8 you stated that you didn't know the -- how the command of the ALC was organised.
9 Wouldn't that be an issue that -- as a military expert asked to determine command and
10 control issues, wouldn't that be something you should be looking into?

11 A. My mandate was not to issue an opinion about the command of the ALC in the DRC.
12 My mandate was to determine whether Mr Bemba was in a position to command the
13 brigade that had been sent to the Central African Republic between October 2002 and
14 March 2003. The way that the ALC forces were commanded in the DRC, well, you just
15 have to look at the org chart drawn up by the military expert that you asked, *and you
16 will see that in any event, in the military organisation we see that Mr Bemba is placed at
17 the top of the org chart, that's quite certain, but when you are the supreme commander
18 that means you make the decisions and, if you don't have military training or experience,
19 a solution -- solutions have to be prepared by people who are military men. So the
20 General Staff has to work properly in a country where the *head of state is the head of the
21 armed forces and has no military skills. It is his General Staff who suggests solutions; for
22 instance whether a national contingent should be assigned to a particular multinational
23 conflict.

24 It is not because he is a military specialist, it is because the final decision is his to make,
25 since he is the head of the armed forces. So we find ourselves

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1 dealing with the same thing here with Mr Bemba who we see here at the head of the ALC
2 org chart.

3 Q. Sir, on one hand you're saying Mr Bemba is at the head of the organisational chart.
4 On the other hand, you're saying that he doesn't have any military experience and
5 couldn't command. Is that a fair assessment of your -- the previous lines of testimony?

6 A. Well, I've just given you a comparison with a chief of state, a Head of State, and the
7 constitution says that he is the head of the military as well. The chief of state makes these
8 decisions about sending troops overseas and the like, but it is the Chief of General Staff
9 who makes suggestions, and so the leader does not necessarily have to have military
10 training or experience to make these decisions and here we are dealing with the same
11 situation.

12 PRESIDING JUDGE STEINER: Mr Iverson, if you allow me?

13 I think, General, if I may, we are going again into the field of assumptions and not talking
14 about factual information that you had. And you -- for instance in your last answer,
15 when it talks about "Mr Bemba is at the head of the organisational chart," and then you
16 come and say, "But it is of course the Head of State and the constitution says ..." We are
17 not talking about what is in theory, but what happened in the field, even because we are
18 not talking about a chief of state, which Mr Bemba has never been, but the leader or the
19 commander-in-chief of a political party and of an armed group.

20 So could you please try, in order for us to advance, to restrict your answers to what
21 happened in the composition and formation of the ALC, not on what a multinational force
22 from a State would do or would have done, otherwise we are not going to advance.

23 I'm sorry to interrupt you, Mr Iverson, but I noticed that we're going again to theories
24 about where your questions are quite objective in relation to what happened in the field.

25 You can proceed, Mr Iverson.

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1 MR IVERSON: Thank you, Madam President.

2 Q. Sir, what I'm trying to get to is your opinion based on the documents you reviewed,
3 the witnesses you spoke to. In your opinion, was Mr Bemba in command and control of
4 DRC units in the DRC? Nothing to do with CAR, simply restricted to DRC. You said
5 on one hand he was a military -- he didn't have any military experience and on the other
6 he was the head of the organisational chart. I just want a "Yes" or "No." If you can
7 answer that question "Yes" or "No," please do so.

8 A. I didn't focus on the issue of the command of the ALC in the DRC, that was not part
9 of my mandate, so how the other brigades were led I wasn't interested in that. I was
10 interested in how the brigade that was sent to the CAR was commanded. We're talking
11 about events occurring in the DRC, but in my opinion we're --

12 THE INTERPRETER: Inaudible.

13 THE WITNESS: (Interpretation) We're interested what happened in the Central
14 African Republic.

15 If we make a comparison, it is for pedagogical reasons. If you don't want me to make
16 these comparisons, I won't make any more. My answer is clear. I don't know for sure
17 how the ALC was commanded in the DRC. I focused on how the brigade sent to the
18 CAR was commanded, or led.

19 MR IVERSON:

20 Q. Sir, would looking to how the ALC operated in the DRC in a limited scope assist
21 you at all in looking to how the ALC operated in the CAR, do you think as an expert?

22 A. Those are two completely different things. What happened in the DRC had
23 nothing to do with what happened in the CAR. In the CAR, there was a president who
24 asked for reinforcements. He received them and he dealt with the conflict in his own
25 country. I really don't see what you're driving at.

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1 Q. Sir, and when reinforcements were requested, who sent them?

2 A. The reinforcements were requested -- were requested by President Patassé. He
3 asked Mr Bemba and it was Mr Bemba who agreed to send forces. I read that in the
4 documents and it seems to me that he was perfectly entitled to do so. The person who
5 designated Colonel Moustapha to lead the detachment, it also seems to me that it was
6 entirely within his prerogatives. As for the actual implementation in the field, that was
7 no longer within his area of authority once the forces were sent to the CAR.

8 PRESIDING JUDGE STEINER: Mr Iverson, Judge Aluoch wants a clarification.

9 JUDGE ALUOCH: General, I'm seeking a clarification from the answer that you have
10 just given. That's page 36, beginning at line 13, with the question from Mr Iverson when
11 he said, "Sir, and when reinforcements were requested, who sent them?" And your
12 answer was, "The reinforcements were requested by President Patassé. He asked
13 Mr Bemba and it was Mr Bemba who agreed to send forces."

14 The clarification I'm seeking, General, is did Mr Bemba's responsibility end at that stage,
15 when he agreed to send the forces to CAR? I just want you to clarify. Is that when his
16 responsibility ended, according to your evidence?

17 THE WITNESS: (Interpretation) Yes, his responsibility ended there, because the troops
18 that were provided as reinforcements to the Central African Republic went under the
19 command of the CAR, so he no longer had any ability to command them, or have control
20 over those forces, that had been provided to President Patassé as reinforcements.

21 JUDGE ALUOCH: Thank you.

22 MR IVERSON:

23 Q. Sir, would it be an appropriate description, according to you, that Mr Bemba lent
24 Echo Brigade to President Patassé or that he gave -- how would you characterise this
25 detachment that you refer to?

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1 A. I don't know what the terms of the agreement between Mr Patassé and Mr Bemba
2 were. As far as I'm concerned, the forces were sent as reinforcement, and what I
3 understand to have been President Patassé's motivation is that when an assessment of the
4 forces on the ground was done, the balance between his forces and the rebel forces
5 revealed that there was an imbalance in the forces to the disadvantage of the loyalist
6 forces, and it is for that reason that Mr Patassé contacted Mr Bemba asking for
7 reinforcements.

8 Q. Sir, are you aware of any limitations that Mr Bemba or the MLC or the ALC put on
9 the use of the brigade?

10 A. I didn't find anything in the documents I analysed relating to the content of the
11 agreement between Mr Patassé and Mr Bemba. I am therefore not in a position to
12 answer your question.

13 Q. What about -- do you know if there was any -- ever an agreement when the troops
14 would return to the DRC?

15 A. I do not know whether there was any prior agreement on that point. I did not find
16 such information in the documents I looked at. However, what is clear is that the
17 decision to withdraw and to return to the DRC of the ALC forces was a decision made by
18 President Patassé which was then transmitted to Colonel Moustapha.
19 The decision therefore to return home from an operational point of view was taken by the
20 Central African Republic, and I do not know whether there was any prior discussion
21 between President Patassé and Mr Bemba on this point. I did not find any material in
22 the documents that I consulted relating to any contact whatsoever on this specific point
23 between the two persons.

24 Q. Sir, using your past experience in military affairs, could you give the Court an
25 example - any example - where a commander-in-chief essentially lends a large unit such

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1 as a brigade to an ally without limitations on use and without determining when they will
2 return? Any example?

3 A. What can be said is that usually there is a written agreement in such circumstances
4 which defines the status of the force in the foreign country. Apparently, there was no
5 such written document in the case at hand which would have specifically determined the
6 status of the ALC forces in the CAR. The decision was made between two leaders, and
7 so a priori, once a force is sent to a foreign country there is usually an agreement in place
8 which defines the status of the force and which may also include a clause dealing with the
9 duration of the engagement. However, in the instance at hand, there was no such
10 written agreement between the two authorities.

11 Q. Sir, do you know how many soldiers, or forces, Mr Bemba had at his disposal within
12 the ALC in total?

13 A. I did not see any such figure anywhere. However, from the organisational chart,
14 and as far as I can remember, there were four or five brigades which I would personally
15 estimate to be at about 5,000 men, 5,000 troops in total, of the ALC.

16 Q. I'm not sure if that number is correct, but just using that number, 5,000 troops, and
17 say that Mr Bemba sent 1,500 troops to CAR, would you agree that that would be a
18 significant percentage of his total amount of troops?

19 A. Ultimately, it is a significant number. However, the force was not set up in one
20 movement. There was an initial battalion that went across with Colonel Moustapha, and
21 then there was a second, and then there was a third, so the troops or the strength of the
22 forces in the Central African Republic was built up gradually. And, of course, it did
23 represent a significant proportion of the totality of the forces, so if the fact is that there
24 were four or five brigades, then it must have been about one quarter or one-fifth of the
25 ALC forces, I believe.

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1 Q. Wouldn't a commander-in-chief who sends such a significant percentage of his
2 forces to a foreign country, and according to you lends them out to the ally, wouldn't that
3 commander-in-chief want to have some kind of indication when they are going to return,
4 what their limitations are, things of that nature?

5 A. I would say that this is standard practice. There is usually a time frame to it, but
6 not necessarily a duration as such because, you know, when a conflict breaks out you
7 cannot say ahead of time when it is going to end. I did not see any information in any of
8 the documents relating to this specific topic.

9 Q. And, sir, I noticed that you did not come up with an example for the question I
10 posed, where a commander-in-chief essentially lends a brigade to a foreign force with no
11 limitations on use or time. Can you think of an example now?

12 A. I don't have any recent example in mind to offer. You see, currently, when there
13 are multinational operations, all matters relating to the movement of the forces are settled
14 ahead of time, not by the person who decides to dispatch such troops, but by the General
15 Staff, the Ministry of Defence and the Ministry of Foreign Affairs who work together to
16 determine the conditions in which the said forces will operate in the context of a
17 multinational conflict. But there were cases during the Second World War when Europe
18 was disorganised.

19 A number of brigades were set up, or constituted, including forces from several countries
20 which had left those countries that were under German occupation and they were then
21 organised into national brigades within other forces. I am not going to mention any
22 specific countries here.

23 So that may not have reflected the principles that are in place today, but were dealt with
24 according to the prevailing circumstances at the time.

25 Q. Sir, according to your reading of the evidence, what was the relative level of

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1 functioning of the Central African military authorities in October 2002?

2 A. I did not understand part of your question. Would you please kindly repeat the
3 question?

4 Q. Did the Central African authorities have a fully-functioning command structure and
5 military in October 2002?

6 A. Yes, the Operational Command Centre of the Central African Republic was created
7 in 2001 and was able to operate normally or properly in October 2002. A number of
8 competent officers were working at that centre with Colonel Lengbe serving as Chief of
9 Staff. I think he was a competent Chief of Staff before he left or he decided to leave for
10 Cameroon. The Central African Operational Command Centre was not set up at the last
11 minute. It had been in place for more than a year at the time of the events.

12 Q. And did it function well? What's your assessment of that, if the CAR authorities
13 and military functioned well?

14 A. To my mind it functioned well in all areas, including the very difficult and
15 complicated area of logistics. The head of the logistics bureau of the operational centre
16 was interviewed, I read his testimony, and he was of the opinion that the entire logistics
17 sector functioned well, with the ALC coming to find out about logistics on a regular basis.
18 So going by the information from the officers who worked at that Operational Command
19 Centre, there really is no reason to think that the centre didn't function well.

20 Q. Why the need to call on Mr Bemba and the MLC at all?

21 A. Simply because General Bozizé, who was Chief of Staff Joint Services at the time,
22 had left, had broken ranks with the Central African army and taken some of the soldiers
23 along with him, those who remained loyal to him, either out of respect or because of
24 discipline, given that he was the Chief of General Staff Joint Services.

25 In that connection, part of the Central African forces joined him, and that led to a vacuum

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1 in the Central African forces which therefore may have affected the Operational
2 Command Centre. There was a reduction in the number of forces of the Central African
3 Armed Forces, and therefore they were no longer in a position to maintain the rule of law
4 and it is for that reason that President Patassé called for reinforcements.

5 Q. So your testimony is that they functioned well, but not well enough to fulfil the basic
6 task of defending the country?

7 A. One cannot say that they functioned badly, or that it functioned badly. One can
8 say that it had lost part of its team, that is part of those who had decided to join General
9 Bozizé. So it's not a matter of functioning, as much as it is a matter of resources or staff
10 in hand which did not make it possible for President Patassé at that time to ward off the
11 threat from General Bozizé, and it is exactly for that reason that President Patassé called
12 for help from the ALC.

13 Q. And that General Bozizé and his supporters had deserted demonstrates that the
14 CAR authorities couldn't even control their own military force, does it not?

15 A. That question should be put to General Bozizé. He was the commander-in-chief, or
16 rather he was the Chief of General Staff Joint Services.

17 Q. Sir, so you're saying that this would not factor into your analysis as a military expert?
18 The fact that CAR authorities were having difficulty with mass desertion, that doesn't
19 impact your opinion about their ability to control military forces?

20 A. That has no bearing whatsoever on their ability to control military forces. We are
21 dealing here with an internal situation, which is quite peculiar, and I want to say that I did
22 not find any figures anywhere referring to the number of soldiers of the Central African
23 Armed Forces who had chosen to follow General Bozizé. I did not find any figures either
24 on the total number of Central African forces prior to General Bozizé's leaving the country
25 for Chad with part of those forces. So this is not a question of control and command. It

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1 is simply a situation of an insurrection, a coup d'état, and while some soldiers remained
2 loyal to President Patassé others opted to follow General Bozizé. All I can say is that I
3 did not find any figures in any of the documents dealing with the specific figures on this
4 matter.

5 Q. I'd like to refer to your testimony at transcript 229, page 49, line 14, and transcript
6 229, page 50, lines 6 and 7. Sir, if you don't know the facts and figures, how do you
7 conclude that they - the Bozizé forces - were reasonably strong when the Defence asked
8 you? And then also just to follow up with that one, you conclude that the ALC wouldn't
9 have had the strength to face Bozizé forces. Both of those conclusions would require you
10 to know how strong the Bozizé forces were, wouldn't they?

11 A. General Bozizé's last offensive corresponded with the withdrawal of the ALC, so as
12 the situation worsened the ALC forces, which were working alongside forces of the
13 Central African army, they noticed on a daily basis how the Central African forces were
14 deserting them and joining the rebellion, or the rebels, as the situation deteriorated. So it
15 is for that reason that the ALC forces had to withdraw, or were ordered to withdraw.
16 They went from PK12 to Port Beach in that connection, so how many Central African
17 troops did you have to face General Bozizé at the time?
18 You see, the balance of power was in favour of General Bozizé, as compared to what
19 remained of the Central African forces, since the ALC was already retreating towards the
20 Ubangi River. Some of the officers who were on General Bozizé's side testified that an
21 armoured battalion had also joined them from Chad, and that gave them increased
22 mobility which they did not have up until that time. All those events then accounted for
23 the victory of General Bozizé's offensive in March.

24 Q. Sir, so you include that -- you conclude that the balance of power was in favour of
25 General Bozizé and that the severely attrited Central African military was able to assert

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1 control over eight disparate groups that had nothing to do with one another prior to this
2 conflict. Is that your testimony, sir?

3 A. When one looks at how the events unfolded, based on the documents that were
4 provided, one notices that the situation changes upon the decision to withdraw the ALC
5 forces so that they may cross over the Ubangi River and return to the DRC. That is the
6 tipping point, the point at which the order was given for the ALC to return to the other
7 side, and from then on they were no longer assigned a combat mission.

8 You must also note that the offensive from Bangui towards the north, in combined efforts
9 between the USP, the CAR forces, the ALC and all the other forces that joined the loyalists,
10 that offensive was victorious, so to speak, because it forced General Bozizé to retreat
11 towards Chad. At that time, the balance of power was in favour of the loyalists.

12 However, when the decision was taken for ALC to withdraw, the balance of power tilted
13 to Bozizé's side, particularly given that he had received additional reinforcements, and
14 that is a clear explanation of how the situation unfolded on the ground.

15 You see, the decision to disengage and to stop the ALC from fighting in the CAR must
16 have also discouraged some of the Central African forces that had remained loyal to the
17 loyalist forces, who must have come to the conclusion that, "If the ALC was returning to
18 the DRC, we will not be able to hold on for much longer should General Bozizé decide to
19 launch another offensive," and that is it.

20 Q. Sir, I'd like to refer to paragraph 76 in your report. If you could turn to paragraph
21 76 of your report, it might be helpful if you could read along.

22 Sir, at paragraph 76 you conclude that, "In the case which concerns us here, the logistics of
23 the various contingents was completely taken care of by the CAR." Is that a fair English
24 translation of what you wrote?

25 A. I have the French version here, so I can't tell you what the translation that was made

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1 of my text, I can't tell you anything with regards to the translation that was made of my
2 text.

3 Q. Sir, and I realise now that was an impossible question for you to assess my English
4 translation, but I assume that it is correct because I'm reading in English here, you're
5 looking at French and it's being interpreted into French.

6 Sir, my question about this paragraph is: What enabled you to conclude this?

7 A. There you can find it taken, you can find it taken up in various different texts that
8 was submitted, in fact. This is a statement from General Mazi who was the commander,
9 taking into account that the Chief of Staff was ill, so he exercised the function and it was
10 also confirmed by the commander -- I can't remember whose name it was, but of the
11 logistical office, the fourth office of the operational centre of the Central African Republic
12 forces, and so it's not the custom or the rule usually. Normally each contingent keeps
13 responsibility for its logistics and there things were reversed. It was the Central African
14 Republic who completely took care of the logistics for the ALC and this is something we
15 see in lots of different documents; provision of vehicles, transport. I think heavy logistics.
16 Here I'm not just talking about food for example but fuel, munitions, arms, vehicle
17 support, all that was taken care of by the Central African Republic.

18 Q. Sir, did you read -- did you review the log-books, and if so how carefully did you
19 review the log-books?

20 A. I studied them, but given the quantity of messages that there were I can't have an
21 exact memory of a particular date or a particular time. That's all I can say for the
22 moment in that regard.

23 Q. Sir, did you notice any messages about logistics in the log-books?

24 A. I don't have -- I don't remember exactly, but it's possible that there were. It's not
25 just because the Central African Republic had completely taken care of logistics that it was

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1 necessarily perfectly able at all times to deal with the needs that there were. So it could
2 be the fact that in the reports that were made to the General Staff that there were logistical
3 points which might have been mentioned, as they also mentioned reinforcements issues,
4 et cetera.

5 MR IVERSON: Could I ask the court officer to please display CAR-D04-0002-1641 at
6 page 1746, and it is a public document. Could we look at the entry on the top right
7 quadrant of ERN 1746. Is it possible to get a better view of that page?

8 Q. Okay, sir. I understand it's difficult to read on a computer screen. I'd like to read
9 it out, the English translation of this message to you, and then ask you some questions
10 about it.

11 And bear with me, because I'm reading a situation report and so it doesn't read as a
12 normal paragraph; it reads as a radio message, so I'll try to do it justice.

13 "From: Bangui Ops Cordi. To: ALC Chief of General Staff. Info: Colonel
14 Moustapha. Sec: Secret number 018\Cordo\2003."

15 PRESIDING JUDGE STEINER: Mr Iverson, I'm really sorry to interrupt you. I think we
16 don't have a translation of this document. Wouldn't it be more appropriate if maybe
17 Maître Badibanga could help you in reading in the original and then we have the
18 translation provided by the interpreters, not by yourself?

19 MR IVERSON: I think that the translation actually is in eCourt, Madam President, and
20 unfortunately here on my copy the ERN is cut off. The first ERN is CAR-OTP-0066-0036.

21 PRESIDING JUDGE STEINER: You proceed then, Mr Iverson.

22 MR IVERSON: And sorry to make this even more cumbersome than it already is,
23 because I understand it is difficult, the page I actually want to look at is 1726. And
24 I think that I made the mistake, I actually misstated it, it is 1726, not as I stated -- well,
25 whatever else I stated. And it's the last entry on the bottom left quadrant, and then it

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1 continues on to the top right quadrant of ERN 1726. And the English translation of this
2 is at ERN-0053. Okay.

3 Q. Sir, I'm not going to read the top portion, but this is from Colonel Moustapha to the
4 ALC Chief of General Staff with info for the Chairman. "With reference to my message
5 number 9 of 11 January '03. Break. Regarding equipment request again, request from
6 you the following. Break. SMG --" or submachine gun "-- ammunition, 35 cases.
7 Break. LMG, 20 belts. Break. G2, 20 belts and 22 cases. Break. RPG, 40 cases.
8 Break. 60 millimetre mortars, 25 cases plus 20 fuses. Break. 22 millimetre mortars, 40
9 cases plus ten fuses. Break. 14.5 millimetre 20 cases. Break. 12.7 millimetre, 20 cases
10 plus 06 magazines. Break. 107 millimetre, 50 cases plus 20 fuses. Break. LG, 200
11 rounds. Break. Send us at earliest opportunity, 01 microphone for transmission.
12 Break. We have faith in the hierarchy. Out." And this on 20 January 2003.

13 Sir, so my question to you is: Would your conclusion be incorrect if the MLC were
14 supplying logistics since you concluded that only the CAR authorities were handling
15 logistics?

16 A. Logistics was completely taken care of by the Central African Republic. This is
17 what I wrote. That doesn't mean, as I mentioned a moment ago, that at all times the
18 stocks in ammunition of the Central African Republic were sufficient to supply all the
19 forces. So if there was a lack of stock, and if it was necessary to continue fighting, it was
20 necessary that these munitions came from somewhere, and in the case in point Colonel
21 Moustapha is turning towards the General Staff of the ALC and he had already
22 anticipated a long time before because he refers to a message of the 9th, while the message
23 was received on 20 January. There are 11 days between the previous message that he
24 had sent and the message that he's now sending, so he'd already anticipated this. He
25 already knew that the Central African Republic forces weren't going to be able to supply

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1 all the munitions that were needed, and so he turns towards the General Staff of the ALC
2 asking them to provide these materials and that it's urgent.
3 Now, if Colonel Moustapha wanted to continue to fulfil his mission, we're in January 2003,
4 there's the major offensive towards the north. If there weren't munitions, what could he
5 do if the CAR couldn't supply him? What could he do other than asking the General
6 Staff of the ALC? I'd just like to point out here that the transport capacity that Colonel
7 Moustapha had was for transporting personnel, six lorries for a battalion. That
8 represents not much.
9 Now, in order to transport ammunition which is being ordered here, it's not with his own
10 lorries that he could do that. Even if they came by plane at Bangui airport there had to
11 be a convoy from the Central African Republic military or a requisitioned convoy which
12 would get this, assuming it could be delivered, of course, because there's a request, but we
13 don't know whether it was followed up.
14 But whatever the case, Colonel Moustapha could not -- with the logistical means in terms
15 of transport that he had available to him, he could not get so many cases of munitions and
16 take them into the field to distribute them. It's probable that, if such munitions were
17 provided, it was the Central African forces who did so with adequate transport facilities
18 and then these munitions were transported to the forces that way. That is the
19 interpretation that I would give to this message.
20 Q. So, sir, are you guessing here? What evidence do you base this on?
21 A. Well, I'm doing it by the tonnes. I mean, how many -- this quantity of munitions
22 and cases, how many tonnes would that represent? How many people would be needed?
23 Who was going to load it into planes? Who was going to drive these goods? Who was
24 going to ensure the security for this convoy transporting munitions? They had to be
25 provided the -- as troops, they had to be unloaded.

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1 That's logistics for you. It's not quite simply saying, "Well, ammunition. Here, help
2 yourself." Munitions have to go where the forces need them, so there's a whole problem
3 with regards to handling transport of several tonnes of munitions. That could only be
4 done by people who were behind and not people who were at the front, who were
5 fighting. That was perhaps done by the Karakos. You would need months to unload
6 all that, assuming it was delivered in the first place.
7 But here there's a request for that, but there are lots of tonnes of munitions. You have to
8 have -- it has to be handled and it has to be transported and thereafter it has to be
9 unloaded for the forces. You can't just say, "Oh, let's stop fighting. Let's go back to the
10 lorries, because the lorries have just turned up. Let's unload the munitions." The
11 fighting's still going on. People who are fighting in combat, they can't be unloading all
12 the munitions.
13 That's the comment that I would make.

14 Q. Sir, your conclusion in paragraph 76 is incorrect, isn't it?

15 A. No, it's not false. It's not incorrect. It's not false. The logistics was completely
16 taken care of by the Central African forces, but it could be the case that they weren't able
17 to do so. They had to find a solution. Colonel Moustapha finds a solution here. He
18 calls the ALC, but who took care of it? That was the Central Africans. That's not to say
19 there was a problem. We're speaking about munitions, but perhaps there were problems
20 with regards to fuel because providing fuel in a conflict area, a lot of times there aren't
21 many volunteers who want to drive a load of fuel around a conflict area, let's face it.
22 So -- but that doesn't mean that they were in charge of that. During the whole conflict
23 they were the people responsible for that and Colonel Moustapha had to ask for
24 additional munitions to the ALC, but that doesn't mean that whatever the case Colonel
25 Moustapha with his forces and his transport capacity could not himself bring all of these

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1 tonnes of matériels. That had to be Central African Republic logistics, which would be
2 able to provide such munitions in the case that they were indeed delivered.

3 Q. Sir, in the next paragraph in 77 you conclude -- first of all, you conclude that Bangui
4 airport was closed. What enabled you to conclude that?

5 A. Well, at the start of the conflict, Bangui airport was not sufficiently secure to make it
6 possible for aeroplanes to take off and land in the capital. Now, from the moment that
7 the rebel forces at the time went towards the north, well, the airport was opened, but you
8 also have to take into account that the situation in the hinterland was also not very stable.
9 Despite the withdrawal of the rebel forces there were troops in favour of Bozizé who were
10 still in Bangui, but they didn't show themselves, but they could have done. It's not just
11 some kind of bulldozer that pushes everybody up, pushes all the rebels up, no. There
12 were some people who didn't wear uniforms. They were favourable to the rebels, they
13 were in Bangui, but the airport at a certain time it was sufficiently secure to be used, but at
14 other times it might have been used. Sometimes it wasn't, when it wasn't sufficiently
15 secure, but I don't have any details with regards to the periods in which the airport was
16 functioning, nor when it wasn't. I don't have any -- I didn't find that in the documents
17 that were provided to me.

18 Q. Well, why do you overstate the situation in your report? If you don't know when it
19 was closed, why do you just say -- state that it was closed, period? Why don't you
20 qualify that with something else in that sentence?

21 A. Didn't I write it when I wrote it? If you chose a land path or a river to transport
22 arms and munitions while you could have done it by plane, well, why? Because it wasn't
23 possible to land a plane in Bangui. Given the time frames to provide it by road or by
24 river, well, these if they were needed urgently, the time it took by plane was faster. So if
25 there was -- if it went by the road, or by the river, why was this? It was because it must

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1 have been a time when the airport was not secure.

2 Q. Sir, do you know from what time to what time the airport was closed?

3 A. I didn't find anything in the documents that I read on this matter.

4 Q. But from your testimony it's clear that you knew that at some times it was open;
5 correct?

6 A. Of course, there were periods when the airport was sufficiently secure for planes to
7 be able to take off and land there. The proof is that General Amuli came to get the body
8 of Captain René by plane from Gbadolite in order to take it to the Democratic Republic of
9 Congo. That means that during that period flights were possible.

10 Q. Sir, in the next paragraph, paragraph 78, you conclude that the MLC only had a very
11 small number of light, small calibre weapons. What enabled you to conclude that they
12 only had light, small calibre weapons?

13 A. I didn't invent that. I found it in the documents which were provided to me and, if
14 they had been completely equipped, there would be no reason why they should be armed
15 by the Central African Republic under General Bombayake.

16 MR IVERSON: Sir, I realise that it's time for the lunch-break, so at this time I would
17 just pause my questioning and resume it after the lunch-break, if I could, Madam
18 President?

19 PRESIDING JUDGE STEINER: Thank you, Mr Iverson.

20 General Seara, we are going now into our lunch-break. It's 1 o'clock. We'll be back at
21 2.30.

22 I ask, please, court usher to accompany the witness outside the courtroom, and in the
23 meantime we will suspend to resume at 2.30.

24 (The witness stands down)

25 THE COURT OFFICER: All rise.

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- 1 (Recess taken at 1.00 p.m.)
- 2 (Upon resuming in open session at 2.34 p.m.)
- 3 THE COURT USHER: All rise.
- 4 Please be seated.
- 5 PRESIDING JUDGE STEINER: Good afternoon and welcome back.
- 6 We will continue with the questioning of expert witness D-53 and I ask, please, court
- 7 usher to bring the witness in.
- 8 (The witness enters the courtroom)
- 9 PRESIDING JUDGE STEINER: General Seara, welcome back.
- 10 THE WITNESS: (Interpretation) Thank you very much.
- 11 PRESIDING JUDGE STEINER: Are you ready to continue?
- 12 THE WITNESS: (Interpretation) Absolutely.
- 13 PRESIDING JUDGE STEINER: Mr Iverson, you have the floor.
- 14 MR IVERSON: Thank you, Madam President.
- 15 Q. Good afternoon, sir. Sir, I would like very much to finish with your -- with my
- 16 questioning of you this afternoon. It depends on my questions, but it also depends on
- 17 your answers, so I just ask that you be succinct and to the point. Please just listen to my
- 18 question and give your answer in a few sentences, if possible.
- 19 When we broke I was asking you about paragraph 78 of your report. Do you still have
- 20 your report in front of you, sir?
- 21 A. Yes, I have the French version of the report here.
- 22 Q. And, sir, in paragraph 78 you conclude that the MLC had a very small number -- a
- 23 very small number of the MLC had light, small calibre weapons when they arrived in
- 24 CAR; is that right?
- 25 A. Yes, that's what I wrote in my report.

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1 Q. Sir, what's your definition of "light, small calibre weapons"?

2 A. It's the definition provided by the OSCE and NATO; that is to say -- well, you can
3 find the definition very easily. I took part in the preparing of the document on small,
4 light calibre weapons for the OSCE, the traceability of those weapons, control of their
5 manufacturing and everything except aerial weaponry.

6 Q. Sir, this is exactly what I'm talking about. Please just answer the question. You
7 don't have to explain that you wrote a thesis for the OSCE. I'm just asking what's your
8 definition of "light, small calibre weapons"?

9 A. Well, you -- while you want to reduce the amount of time that I have to speak, at the
10 same time you want me to provide definitions from international bodies such as the UN,
11 or if you are looking for such a definition, you have only to refer to it.

12 Q. Sir, you didn't refer to NATO in your report. You didn't refer to OSCE. You just
13 stated, and I'll quote it, "As for the MLC, when it arrived in the CAR its men had to be
14 equipped because only a very small number of them had light, small calibre weapons," so
15 I'm asking you when you concluded that what did you mean by "light, small calibre
16 weapons"?

17 A. By that I mean -- well, the exact definition is to be found in the UN documents.

18 THE INTERPRETER: Interpreter correction: In an earlier reply the English interpreter
19 inadvertently referred to NATO when he should have referred to the UN.

20 MR IVERSON: Okay.

21 Q. And I'm not asking where it's found. I'm just asking what is the definition you
22 used, or what is your definition, if you can just state it in a few lines of plain French?

23 A. They are weapons that are portable - individually portable - that are used
24 individually or collectively. You may not know what a collective weapon is. I can give
25 you a definition of that as well.

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1 Q. Sir, are you talking about a crew-served weapon, like a machine gun, which requires
2 more than one person?

3 A. That's exactly right, a weapon that requires a team of several people -- well, more
4 than one person, to be used.

5 Q. Mortars? Would you consider those to be light, small calibre weapons?

6 A. No, because some mortars are 22 millimetres in calibre up and even larger, more
7 than 100, so you can't put -- more than 120, so you can't put them all in the same category.

8 A 60 millimetre mortar you would need one or two men -- correction, two men, but 120
9 millimetre calibre mortar you would need a whole group, a team, a crew.

10 Q. So at CAR-OTP -- could I ask for a private session briefly, Madam President?

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

12 (Private session at 2.43 p.m.) * Reclassified as Open session

13 THE COURT OFFICER: We're in private session, your Honours.

14 MR IVERSON:

15 Q. (Redacted)

16 (Redacted) he says that the ALC brought weapons, they brought RPGs, machine-guns,
17 mortars, 60 millimetres, 81, 82, 107 millimetres. In order to make the conclusion you
18 made in paragraph 78 you would have had to disregard that information; is that correct?

19 A. Well, if they had such weapons, well, I'm not challenging that if a witness said that,
20 but how many in relation to the total forces? Were there as many weapons as there were
21 men, or did they just bring what was available at the time with a need to later ask for
22 more?

23 MR IVERSON: Madam President, I'd like to ask for a public session now.

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

25 (Open session at 2.45 p.m.)

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1 THE COURT OFFICER: We are in open session, your Honours.

2 MR IVERSON:

3 Q. Sir, in paragraph 82 you conclude "... that nothing distinguished the soldiers of the
4 MLC from the Central African Armed Forces, except for a distinctive sign, rolled-up shirt
5 sleeves, no head-dress and no insignia apparent, for instance, which could be changed
6 whenever necessary to avoid confusion with the rebels and to be recognised by loyalist
7 forces."

8 Sir, my question is this: Have you actually seen any photographs of FACA, or the MLC,
9 in the CAR?

10 A. No, I did not see any photographs, but I have read the documents that were
11 provided to me. The uniform that the USP had as well as the others were identical.
12 (Redacted) even specified that the USP had green beret and the CAR soldier had
13 red berets, whereas the other group did not have any insignia, no signs of rank, so it was
14 on the basis of those statements that I drafted this paragraph.

15 Q. So if you saw pictures of the ALC and FACA and they looked wildly different,
16 would you have to come to a different conclusion?

17 A. I have not seen any photograph, so I can't tell you whether I would come to a
18 different conclusion. I based myself on the documents that I reviewed that were
19 provided to me, the witnesses' statements.

20 MR IVERSON: Madam President, I'd like to show two photographs at the same time. I
21 have printouts for all parties and participants. They are however confidential documents,
22 but I think that the questions can be asked in public session.

23 PRESIDING JUDGE STEINER: You want the photographs to be examined in hard copies
24 instead of being displayed; is that correct?

25 MR IVERSON: Yes, Madam President. I think it would be easier so that the expert can

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1 compare them side by side.

2 PRESIDING JUDGE STEINER: The Defence has any objection?

3 MR HAYNES: Not to the practice, although I'll be interested to see what the question is,
4 but no, I've got no difficulty with the witness being shown two photographs. I'll wait
5 and see what the question that is put is.

6 PRESIDING JUDGE STEINER: Court usher, please bring first the pictures to the Bench.

7 In the meantime, Mr Iverson, if you could -- Mr Iverson, can you please inform the ERN
8 number of the two pictures, even because to the Judges you gave three and not two?

9 MR IVERSON: If I did give three, that was inadvertent. The two photographs -- if there
10 is a third one, it's not relevant to this question. The two photographs are
11 CAR-OTP-0035-0175 and the other one is CAR-OTP-0035-0258.

12 PRESIDING JUDGE STEINER: Mr Iverson.

13 MR IVERSON:

14 Q. Sir, what do you notice about the difference in the wear and appearance of uniforms
15 in these two pictures?

16 A. On 258 - photograph 258 - I can recognise some officers, junior officers -- correction,
17 non-commissioned officers, from the CAR forces, because they are wearing French -- some
18 French insignia and some scarves to the left. They have their stripes, their insignia, so it's
19 quite similar to the uniform of the CAR army forces.

20 Q. And what do you notice about the other photograph, 0175?

21 A. Well, it's quite an assortment of clothes. I don't know where this photograph was
22 taken. The only one who's wearing a uniform is not bearing a weapon. He doesn't have
23 a -- he does have a black beret and the beret - the black beret - is used in the Central
24 African Republic army -- not used, correction. Personally, I would say that 175 is a
25 photograph of rebels under the orders of General Bozizé.

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1 MR IVERSON: Madam President, I don't have any more questions for the expert witness
2 about these photographs and I would ask that the court usher retrieve them and bring
3 them back to the Prosecution table, if he would. Thank you.

4 PRESIDING JUDGE STEINER: Court usher, please.

5 MR IVERSON:

6 Q. Sir, in paragraph 93 of your report you conclude that -- I don't know if this is a
7 misprint or not, but you conclude that, "General Moustapha took the decision at his level
8 to use a Congolese dialect, Lingala, to ensure the secrecy of internal communications
9 amongst the various components of the ALC under his command," and is that due to the
10 fact that Lingala would ensure that the communications were secret?

11 A. No, that's an error on my part. If the Presiding Judge could allow me to make a
12 correction to this paragraph, it was not Lingala. It was Swahili.

13 PRESIDING JUDGE STEINER: I think at the beginning of your testimony you had
14 already informed about this mistake and it is in the record of the case, so it is Swahili and
15 not Lingala.

16 MR IVERSON: Okay. I'm sorry, I wasn't aware.

17 Q. Then I don't have any more questions about that paragraph, sir.

18 Sir, you conclude that the Central African authorities had command and control over all
19 ALC units in the CAR. Would that include the cities of Bozoum, Bossembélé and Sibut?

20 A. The ALC was under the command of the Central African Republic for the duration
21 of the conflict, from the time that the contingent arrived in the CAR until they left the
22 country and went back to the Democratic Republic of the Congo. The only interruption
23 that there might have been would have been there might have been a bit of uncertainty
24 when the operational centre wasn't operating properly and that created some delays at
25 PK12, but all the same the force came under the command of the CAR from the beginning

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1 until the end of the operation.

2 Q. Sir, and according to you, did the Central African authorities have any difficulties
3 asserting command and control over ALC units in Bozoum?

4 A. Well, you have talked about Bozoum. Are you referring to the time Bozoum was
5 captured, or the time the ALC forces were forced to leave Bozoum? Bozoum is a town
6 where there was some fighting to capture it, or to defend it, and then at some point they
7 had to leave Bozoum. So what time frame are you talking about and what are you
8 referring to in terms of the Operational Command Centre having any difficulties in
9 relation to commanding the ALC?

10 Q. I'm really just referring openly, any time, did the Central African authorities have
11 difficulties asserting command and control over ALC units in Bozoum at any time during
12 the conflict?

13 A. I do not see why any special difficulties may have arisen in Bozoum, other than
14 elsewhere. The battalion that was headed for Bozoum, and which captured Bozoum,
15 acted on the orders of the Operational Command Centre and it was following orders from
16 General Moustapha that the battalion was asked to retreat to PK12. So I do not see
17 where that battalion, which was headed for Bozoum, that is the 5th Battalion, I do not see
18 where they may have encountered any particular command difficulties.

19 Q. And, sir, is your understanding that the Central African authorities in Bangui
20 asserting command and control over the ALC units in Bozoum did so via radio
21 communications?

22 A. No, you must clearly understand something. The ALC battalions were under the
23 orders of their brigade commander, Colonel Moustapha. It was out of the question for
24 the operational centre or Operational Command Centre to command each of Colonel
25 Moustapha's battalions. Orders from the operational centre were passed on to

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1 Moustapha and he is the one who commanded his battalions. Otherwise, we would be
2 in a situation of insubordination whereby the Operational Command Centre would be
3 commanding the brigades of the ALC. No, that is not the case. That does not happen.
4 It was Colonel Moustapha who commanded his brigades upon orders from the
5 Operational Command Centre, which he received.

6 Q. And did -- according to you, did Colonel Moustapha command the ALC units in
7 Bozoum with radio communications?

8 A. I think he may have done so by radio since we know also that Colonel Moustapha
9 had a Thuraya, as well as each battalion commander, so he may have been able to reach
10 them by Thuraya. Although it is an open channel of communication which may
11 jeopardise the forces, the priority would have been by radio communication, but failing
12 that the Thuraya may also have been used.

13 MR IVERSON: I'd like to ask the court officer to please display CAR-OTP-0030-0154.
14 It's a public document. It is actually the map of CAR. And I also have a paper copy for
15 the expert witness, because I think that it might be a little bit easier to look at.

16 PRESIDING JUDGE STEINER: Mr Iverson, is it document 9 on the Prosecution list?

17 MR IVERSON: Yes, Madam President, document 9.

18 PRESIDING JUDGE STEINER: Court usher, please give a hard copy to the witness.

19 MR IVERSON:

20 Q. Sir, could I have you look at the map, and at the top of the map there is a scale both
21 in kilometres and in miles. Could I ask you to estimate the distance between -- the
22 straight line distance between Bangui and Bozoum using that scale?

23 A. As the crow flies, 300 kilometres.

24 Q. Okay, and again just an estimate. And could I ask you to look on the map at the
25 city of Mobaye, which is close to where Gbadolite is located. Gbadolite is not on this

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1 map, but just to get an estimate, look at the city of Mobaye and again I ask you to estimate
2 the straight line distance between Mobaye and Bangui?

3 A. I do not see that town or locality on the map. In what direction is it situated?

4 Q. Sir, it is due east of Bangui. If you just follow the east compass from Bangui, you'll
5 see Mobaye?

6 A. Yes, I am there. It is about the same distance, some 300 kilometres.

7 Q. Right. It's about the same distance, right?

8 A. Yes, indeed, more or less.

9 Q. So, sir, in the English transcript at transcript 230, page 19, lines 1 through 8, in the
10 French transcript 230, page 20, lines 20 through 25, and also in your report in paragraph
11 136, you discuss commanding 1,500 people on the ground from a distance of 1,000
12 kilometres would be impossible. Where did you get 1,000 kilometres?

13 A. I was referring to Gbadolite.

14 Q. Well, that's just not accurate, is it?

15 A. The ALC headquarters or General staff was located in Gbadolite and from Gbadolite,
16 which we cannot see on this map, from Gbadolite to Bozoum, what distance would you
17 have?

18 Q. Well, sir, why don't you try to estimate. What's the distance between Mobaye and
19 Bossangoa, based on the scale? Could you do that? Or, yes, Mobaye and Bozoum?

20 A. About 750/800 kilometres.

21 Q. Sir, now you're exaggerating. Try it again, please.

22 A. Would you please provide me with a clearer picture, please?

23 PRESIDING JUDGE STEINER: Maître Kilolo?

24 MR KILOLO: (Interpretation) I really did not want to interrupt my learned colleague
25 opposite, but I think we are now engaging in very leading questions whereby the party

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1 opposite is indeed qualifying the answers provided by the witness when he says he's
2 exaggerating and asking for a specific answer. Now, just for the purposes of fairness to
3 the expert witness, I would like to ask the party opposite to provide the witness with a
4 map that shows Gbadolite so that he may be placed in a position where he can use a
5 document to objectively ascertain the distance between Gbadolite and Bozoum, as the
6 need may be.

7 PRESIDING JUDGE STEINER: Mr Iverson, it appears that in principle the request is fair
8 enough.

9 MR IVERSON: It is a fair request, Madam President. My intent is just to get an
10 estimate here. It's not to get exact straight line distance, but the expert witness did state a
11 thousand kilometres several times, and I just wanted to test that opinion.

12 Q. Sir, so if Colonel Mukiza is in Bangui, or he's in Damara, or he's in Sibut, or he's in
13 Bossembélé, all locations of which there's evidence that Colonel Mukiza was there, and he
14 can communicate with units in Bozoum, say for instance when he's in Bangui, why do you
15 conclude that Gbadolite is not able to communicate?

16 A. One can always find a way to communicate, but if you look at my paragraph 136
17 you would note that you have not read the full paragraph exhaustively. My explanation
18 is that we are far away from the battle-front. We are not aware of the situation on the
19 ground, the topography, the logistics, the position of the enemy and what have you. If
20 you do not have that information, you cannot comfortably command troops on the
21 ground from the comfort of your living room. That is what I'm trying to say.

22 Q. Sir, and if you don't have that information, you can't make the conclusions that you
23 made; right?

24 A. If you are not informed at all of the situation, how can you be part of the action on
25 the ground if don't have the information in real-time about what is happening? You see,

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1 when a conflict is ongoing, there is no breaking for tea or breaking for a meal. It is
2 ongoing action and one has to be able to monitor and follow the situation in real-time, or
3 as close to real-time as possible, to be able to make the necessary decisions that inform
4 commanding.

5 And so when you're not on the ground and you do not have a situation report or a map of
6 the General Staff, fortunately soldiers do not work with the type of map that you have
7 circulated, if you don't have a view of the exact position of the enemy as on the ground
8 and per map then you cannot make decisions as to whether to go left or to go right or to
9 ask for support from another battalion and what have you. That is what commanding
10 entails. It is not just a matter of saying "Let us move forward to Bozoum," or let us move
11 forward to this or that location.

12 Q. Sir, is it true that you concluded that Colonel Mukiza had the ability to assert
13 command and control over ALC units in CAR and at the same time you concluded that
14 Gbadolite was not able to assert command and control over those same units? Are those
15 both true statements?

16 A. Of course, yes. You see, Colonel Moustapha was on the ground engaged in the
17 battle and he had contact with his men and he was able to command his battalions, but
18 from Gbadolite it was not possible to command him because those in Gbadolite did not
19 have the requisite information that enables decisions as to commanding.

20 So there's a distinction to be made between command by Colonel Moustapha on the
21 ground, command of his battalions and command by somebody who may be 800
22 kilometres away and who does not know the details of the situation on the ground. How
23 can such a person command? My position is that when you are not part of the action,
24 when you are 800 kilometres away, it is not possible to command under those
25 circumstances.

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1 Q. And what about 250 to 300 kilometres away?

2 A. Well, it's the same thing. It's the same thing. The leader must be able to have a
3 view of the situation on the ground, must listen to the information from all the battalions
4 which would then report to him on developments on the ground which then, because of
5 the small General Staff that worked with him, he's able to have an instant snapshot of the
6 situation that enables him to make a decision.

7 Now, whether you are 200, 300, 400 or 800 kilometres away from the ground, it is not
8 possible to have full information as to what is happening on the ground and in those
9 circumstances it is impossible to command.

10 Q. So under that rationale that you've stated so categorically, NATO commanders in
11 Brussels could have no command and control of their units in Afghanistan; right?

12 A. You are talking about a war in 2012 with highly sophisticated computerised
13 resources and materials. That is a far cry from what happened in the Central African
14 Republic. Today all you need to do is switch on your computer and you can see any
15 map of the world. Drones that are flying over Afghanistan are controlled from the
16 United States. You see, today we are talking about a conflict that was not so technical.
17 It is a basic rudimentary conflict with more or less sufficient resources, so what are you
18 talking about?

19 Q. Well, sir, what I'm getting at is you've concluded that it would have been impossible
20 for Mr Bemba to assert command and control, and yet he had the means; right? Thuraya?
21 Colonel Moustapha had a Thuraya. Why have you concluded that it's impossible?

22 A. Let me repeat myself. He was not aware in real-time of all the information that one
23 must be aware of in order to be able to command, information such as ongoing friendly
24 activities, ongoing enemy activities, logistical issues, movement on the ground,
25 movements of the population and any other information that informs the commander's

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1 decision.

2 From Gbadolite, he was not in a position to be aware of all those things and therefore
3 could not have direct command over Colonel Moustapha, but Colonel Moustapha was on
4 the ground, he was in contact with his battalions, he was hearing from them. He got
5 summary information from the Central African Operational Command Centre and
6 therefore had all the information required to make decisions as to commanding the troops
7 on the ground. That was the position of Colonel Moustapha.

8 Q. Sir, in paragraph 100 you conclude that in the DRC Mr Bemba had a two-way radio
9 set which he could not operate alone. How did you conclude that, sir?

10 A. The documents I consulted contain information on the staff that worked that radio
11 system, a radio system that operated on an MLC frequency. The radio transmitter which
12 Colonel Moustapha used in the CAR operated on a frequency or frequencies that were
13 assigned to him by the Operations Command Centre of the Central African Republic
14 army.

15 To be able to contact Colonel Moustapha by radio, therefore, from Gbadolite, it would
16 have been necessary to know the frequency to which his radio was set at the specific time
17 at which one wanted to link up with him, that is with Colonel Moustapha, and to find out
18 that frequency it would have been necessary to contact the Central African transmissions
19 centre which would then disclose such a frequency. From that time then and using the
20 right frequency it would have been possible for Colonel Moustapha to be contacted by
21 radio.

22 Therefore, it was not always possible to contact that radio at any time because it was
23 possible for the frequencies to be changed and that is why Gbadolite would have had to
24 contact the Central African transmission centre to be able to get the right frequency to
25 contact Moustapha. However, it was possible for Colonel Moustapha to contact the MLC

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1 frequencies at his own initiative, because that is what he did on a daily basis whenever he
2 reported to the General Staff of the ALC in Gbadolite.

3 MR IVERSON: Could I ask the court officer to please display CAR-OTP-0068-0002 and
4 play the video from minute mark 11.52, 11 minutes and 52 seconds, to 12 minutes and
5 36 seconds. And if you'd like to follow along, your Honours, the French transcript and
6 translation is CAR-OTP-0066-0321. The English translation is CAR-OTP-0066-0340.

7 THE COURT OFFICER: Can you please confirm whether this is a public video?

8 MR IVERSON: It is public. Sorry, I omitted that.

9 PRESIDING JUDGE STEINER: Mr Iverson, just to facilitate our lives, which number is
10 this transcript in the Prosecution's list?

11 MR IVERSON: I'm sorry, I'm all about making people's lives easier, so I'll do my best,
12 Madam President. I don't want to get this wrong, because there are a number of them, so
13 could I just have a few minutes here to figure it out, Madam President?

14 PRESIDING JUDGE STEINER: Maybe 32?

15 MR IVERSON: It is. The French translation is 31. The English translation is 32,
16 Madam President. Sorry about that.

17 THE COURT OFFICER: In order to view the video, please press on "PC1".

18 (Viewing of video excerpt CAR-OTP-0068-0002)

19 MR IVERSON:

20 Q. Sir, does this call into question your conclusion that Mr Bemba could not operate his
21 radio alone?

22 A. I can't speak on that, having seen this video, because we don't know what happened
23 before. We don't know what happens afterwards. What happened before this
24 communication? Did somebody set it up for him, get it working? He had a connection
25 there. What happened before that in order to establish that communication link? We

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1 know nothing about that. That doesn't change my mind.

2 Q. Sir, you also conclude in paragraph 100 that, "Communication might have been
3 impossible because his radio set was not powerful enough." In your testimony with the
4 Defence, transcript 230, page 22, lines 6 through 25, in the English transcript, and I
5 apologise, I'm going to have to come back with the French transcript number, you say that,
6 "I do not have an exhaustive list of the equipment that was in place," referring to the
7 transmission centre in Gbadolite. "I couldn't find that information as to the matériel,
8 equipment and types of antennae that were used." Sir, is your conclusion in paragraph
9 100 just plain wrong?

10 A. No, my conclusion's not wrong. It's not at all wrong, to the extent that we saw that
11 the distances are very significant. With a radio, with a frequency modulation, it would
12 seem impossible to establish a connection. Does it have -- was it an AM radio? I don't
13 know. I don't have any information about that. What antennas were used in order to
14 make this radio work? I have no information about that, but what is possible is the link
15 with the transmission centre in Gbadolite and I suppose that this transmission centre was
16 equipped in such a way that it could receive messages from all the ALC forces who were
17 posted to the -- in the DRC. Apparently they were able to receive messages, which were
18 sent by the officer of the ALC, the transmission officer there, in the Central African
19 Republic.

20 Now, with regards to the radio that Mr Bemba used, I don't know the nomenclature in
21 that regard. I don't know if the Prosecution military expert has been able to come to a
22 conclusion about it, or the antennae that were used. It would seem that communication
23 was possible, but looking at the video it didn't seem very simple. So I keep to my
24 paragraph.

25 Q. So you keep to your paragraph even though you don't know anything about the

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1 equipment or antennae? You still conclude it just wasn't powerful enough, because why?
2 Because you're guessing or estimating? I just don't understand how you can conclude
3 that if you don't know the background information?

4 A. The basic training that I have concerns the type of radios that are used more than ten
5 years ago, because the radios that were around in Mr Bemba's home had been there for
6 several years because he was already linked to all his units in the DRC. They hadn't been
7 put there specially to have a link with those people who had gone to the Central African
8 Republic, so these are radios which might have dated back to 10/15 years and, given the
9 capacity of radios at that time over such long distances, communication wasn't easy and if
10 they were AM then the capacity to establish a link varied in accordance with the
11 meteorological conditions, radio frequency et cetera, and that means that the
12 establishment of a link couldn't be easy and it wouldn't be of good quality.

13 Q. Sir, you stated earlier that you're not an expert in criminology or criminal matters or
14 criminal investigation; is that right?

15 A. Yes, I confirm that.

16 Q. And you weren't asked to conclude anything related to crimes? Am I correct in
17 saying that?

18 A. No.

19 Q. But at least in three paragraphs and maybe others you discuss crimes. For instance,
20 in paragraph 170, "All districts north of Bangui are under rebel control where uncurbed
21 groups hold sway, who kill, rape and pillage the population." Sir, if you are not an
22 expert in these matters and you weren't asked to comment, why comment at all?

23 A. Because the witness that I met, as I said this morning, they said what they had seen
24 when they arrived somewhere, that there were atrocities committed, serious ones, because
25 Bozizé's forces had left Bangui and then they'd gone towards the north. So going to the

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1 same place a second time when the ALC forces were coming for the first time, and so they
2 were able to see a certain number of things and this is what some of the witnesses
3 confirmed, without taking into account other witnesses, who were Bozizé's troops, they
4 confirmed that too, that serious acts of violence were committed on their side.

5 Q. Sir, would you agree that it's important to stay impartial and objective when you're
6 an expert witness for not one of the parties, but for the Court?

7 A. Yes, absolutely.

8 Q. So you're saying that because someone mentioned it you wrote it down. If that was
9 your methodology, then I would submit to you that you probably would have written
10 down other things about other crimes committed by other groups had you looked into the
11 documents. Is that a fair statement, sir?

12 A. I don't know. I don't know. There's talk about documents that I didn't see, but I
13 am aware that in this case there were atrocities that were committed on one side and
14 another. It is not me who says that. In the testimony, General Mazi says that.

15 Q. Sir, and after you are not asked to conclude anything about crimes and you don't
16 have any expertise and someone mentions something, why do you feel the need to
17 conclude only matters related to crimes committed by Bozizé forces? Why mention only
18 the Bozizé forces, if you're going to mention it at all? Does that make you look partial,
19 sir?

20 A. I'd understood that when I was asked to write an expert report within the
21 framework of the trial that's of interest to us, first of all it seemed that atrocities had been
22 committed by the ALC in question and so I understood that there had been atrocities
23 committed by the loyalist forces. It is the existence of the -- this case I think, or at least
24 that's how I understood it to be, so I took note of that and I also saw that when I read the
25 documents, and through the testimony that I took, there was also a mention of atrocities

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1 which were carried out by the rebel party.

2 So going from the principle that this trial took place because of atrocities by the loyalist
3 forces, I considered that it wouldn't show bias or partiality to say that atrocities were
4 committed also by the other party and that's why I wrote it. It's not a matter of being
5 partial. It seemed to me that it was about balance.

6 Q. I see. Sir, in paragraph 139 you conclude that, "The majority of the men of the MLC
7 had a good level of training and preparation. They had confidence in their leaders at all
8 levels, which is a positive factor."

9 What allowed you to conclude that, sir?

10 A. First of all, there's the testimony of the person who was the (Redacted)
11 who gives his estimate. Now, at the time when he was questioned, he considered that 40
12 per cent of the ALC troops were well-trained and informed of the Code of Conduct and
13 discipline.
14 Furthermore, the testimony that I took which we spoke about this morning showed that
15 the troops had initial basic training which was quite long, a bit longer for the specialist,
16 and the discipline Code of Conduct was regularly mentioned during the sessions carried
17 out by the upper levels of a political commissioner, and so the MLC men for the most part
18 had a good level of training as I described. As regards having confidence in their leader,
19 I don't think there was any difficulty there. If not, they would never have followed him
20 into combat. When you don't have confidence in the leader, you don't follow that person
21 into combat.

22 Q. Sir, and military discipline is a part of training, would you agree with that?

23 A. Absolutely.

24 Q. And would you agree that Mr Bemba as the commander-in-chief had the overall
25 responsibility for training the ALC soldiers while they were still in the DRC?

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1 A. I don't really understand the question, but what I can say is that the drafting of the
2 Code of Conduct and establishment of a court-martial, that was Mr Bemba's initiative, so
3 that proves that he gave importance -- he found discipline important.

4 Q. I'm just saying it's a more general proposition. Would you agree that Mr Bemba, as
5 the commander-in-chief, had the overall responsibility for the training of all ALC soldiers
6 in DRC?

7 A. Because he was the person who decided to draft a Code of Conduct for the ALC
8 forces and he decided to set up a court-martial to try people who did not conform with
9 the discipline and committed serious offences, because that was his wish to do so, it can
10 be said that he wished that discipline reigned among the ranks and by consequence it
11 seems to me to be quite normal that he is concerned by the way in this instruction is
12 passed on to the different troops, or staff.

13 Q. Sir, I'm just asking you a simple question. Was Mr Bemba in charge of training?
14 I'm not asking you the quality of the training. It's really a "Yes" or "No" question. Can
15 you answer it? Was Mr Bemba in charge of the training of ALC?

16 A. He wasn't personally in charge of the training of the ALC. He had lower ranking
17 persons who would be responsible. He had shown that he wanted to create a
18 disciplinary system. It wasn't up to him to apply it. It was up to his staff.

19 Q. Sir, once again, with all due respect, you're playing games. You're being evasive.
20 Can you answer the question?

21 PRESIDING JUDGE STEINER: Yes, Mr Haynes?

22 MR HAYNES: That's not a fair observation and in fact it's offensive to the witness. The
23 question that Mr Iverson has repeatedly asked is so general it cannot possibly command a
24 "Yes" or "No" answer. What does he mean by responsibility for training? Does he mean
25 was Mr Bemba personally responsible for going down to the battalions and giving them

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1 tuition on what their responsibilities were in war and in peacetime, or what? I think

2 Mr Iverson's comment is inappropriate.

3 PRESIDING JUDGE STEINER: Mr Iverson, try please to elaborate a little bit more on

4 your question and maybe it's easier for the witness to give the "Yes" or "No" question that

5 you are seeking.

6 MR IVERSON: With all due respect, Madam President, I feel like Mr Haynes is

7 completely wrong and missing the point. It's a very general question, that's true, but it

8 can be answered easily.

9 Q. Is a commander-in-chief in general, not necessarily Mr Bemba, but any

10 commander-in-chief, not responsible for whatever the force under them does or fails to

11 do?

12 A. It depends. That's my answer. It depends on the circumstances, so I wouldn't say

13 "Yes" or "No" to that.

14 Q. Okay. Sir, it's important to train soldiers in international humanitarian law, or the

15 law of war, is that true?

16 A. Yes, it's part of the training that a soldier has to receive.

17 Q. Then you have to train both high-level officers, mid-level officers and low-ranking

18 soldiers; right? Because if the officers don't understand international humanitarian law,

19 the lower ranking soldiers will not either; correct?

20 A. It's true in a modern army, but you have to put yourself at the level of the people.

21 Q. And training in international humanitarian law helps to ensure respect for IHL,

22 prevent violations of IHL; is that true?

23 A. Yes.

24 Q. And training is also the time for imparting the commander's values - the

25 organisational values - on his soldiers; is that right?

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1 A. When you're dealing with simple people, you explain things to them simply. For a
2 lot of people, international law they don't know what that corresponds to.

3 Q. Okay. So it's your job as the commander then to help them to understand, to break
4 it down, put it in terms that they can understand and train them; right?

5 A. If your consideration is at a general level then I would say, yes.

6 Q. Well, ultimately it's just like any other training; right? If a soldier is working on a
7 sophisticated piece of artillery, he or she needs to know how that artillery piece works,
8 and that requires training, and something like an artillery piece could be just as
9 complicated as matters contained in international humanitarian law; is that fair?

10 A. The use of arms -- is called one in the drill, and not necessarily knowing about the
11 rules or the use of arms for example, there are people who don't know how to read and if
12 they can't read they can't read the documents on how to use a particular weapon, but on
13 the other hand through it being explained to them, through it being shown to them, they
14 can become experts in using a particular weapon.

15 Q. And the same is true for knowing IHL; is that correct?

16 A. You have to keep things simple. When you're dealing with people who have a
17 general level which is low, they weren't able to go to school, you have explain things to
18 them simply so that they understand and more importantly so that they put it into
19 practice. If you tell them today "We're going to have a course in international," and if
20 you have 50 per cent of illiterate people in your class, you're going to have difficulties in
21 getting your message across.

22 Q. So, sir, if you're a trying to train illiterate people in IHL, you should just give up, is
23 that the message you're trying to send, sir, or should you try a different method that
24 works?

25 A. I'm repeating. When you're dealing with simple people, you have to teach them

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1 simple things, so you have to put yourself at their level. That doesn't mean you have to
2 give up.

3 MR IVERSON: Thank you, sir.

4 Madam President, I tried my best to finish today, but it appears that I'll have to go into
5 tomorrow's session probably about for half-an-hour or so I predict, but I think at this point
6 it would be a good time to stop.

7 PRESIDING JUDGE STEINER: Thank you, Mr Iverson.

8 General Seara, thank you very much. Another journey come to an end. We will
9 adjourn for today and continue tomorrow morning at 9.30. The Prosecution will finalise
10 your questioning at the beginning of tomorrow's session and then the Chamber
11 authorised legal representatives of victims to put some questions to you. So we wish you
12 have a very restful night.

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

16 I ask, please, court usher to accompany the witness outside the courtroom. In the
17 meantime, we will adjourn and resume tomorrow morning at 9.30.

18 (The witness stands down)

19 THE COURT OFFICER: All rise.

20 (The hearing ends in open session at 4.00 p.m.)

21 CORRECTION REPORT

22 The Court Interpretation and Translation Section has made the following corrections
23 in the transcript:

24 *Page 25 lines 15 to 16

25 "...by the military expert that you asked. In any event,..." Is corrected by "... by the

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1 military expert that you asked, and you will see that in any event,..."

2 *Page 25 lines 20 to 25 and page 26 line 1

3 "... So the General Staff has to work properly in a country where the chief of state is the
4 chief of the armies and has no military skills. It is the Chief of General Staff who suggests
5 solutions; for instance whether a national contingent should be engaged or not in a
6 particular multinational conflict. Just because he is a specialist of military matters, well,
7 just because of that that doesn't mean that he makes the final decision; he is the chief of
8 the armies. So we find our self-dealing with the same thing here. Mr Bemba, who we see
9 here at the head of the ALCorg chart." Is corrected by "... So the General Staff has to work
10 properly in a country where the head of state is the head of the armed forces and has no
11 military skills. It is his General Staff who suggests solutions; for instance whether a
12 national contingent should be assigned to a particular multinational conflict. It is not
13 because he is a military specialist, it is because the final decision is his to make, since he is
14 the head of the armed forces. So we find ourselves dealing with the same thing here with
15 Mr Bemba, who we see here at the head of the ALCorg chart.

16 RECLASSIFICATION REPORT

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

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