

Trial Hearing
Witness: CAR-D04-PPPP-0018

(Closed 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, 11 June 2013

8 *(The hearing starts in closed session at 9.03 a.m.) Reclassified as Open session

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.

13 Could, please, court 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: Good morning and welcome Prosecution team, legal
17 representatives of victims, Defence team, Mr Jean-Pierre Bemba. Good morning our
18 interpreters, our court reporters.

19 We will continue today and hopefully conclude the testimony of Defence Witness 18, and
20 I ask please court usher to bring the witness in.

21 (The witness enters the courtroom)

22 WITNESS: CAR-D04-PPPP-0018 (On former oath)

23 (The witness speaks French)

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

25 (Open session at 9.06 a.m.)

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- 1 THE COURT OFFICER: We are in open session, Madam President.
- 2 PRESIDING JUDGE STEINER: Good morning, Mr Witness.
- 3 THE WITNESS: (Interpretation) Thank you, your Honour.
- 4 PRESIDING JUDGE STEINER: How are you feeling today?
- 5 THE WITNESS: (Interpretation) Quite well. Quite well. Thank you for your
- 6 concern; your concern.
- 7 PRESIDING JUDGE STEINER: Mr Witness, are you ready to continue with your
- 8 testimony?
- 9 THE WITNESS: (Interpretation) Very ready. Very ready, madam.
- 10 PRESIDING JUDGE STEINER: Mr Witness, I have to remind you that you are still under
- 11 oath. Do you understand that, sir?
- 12 THE WITNESS: (Interpretation) I know. I know that very well, madam.
- 13 PRESIDING JUDGE STEINER: I also wanted to remind you about the protective
- 14 measures, so that you'll be very careful in not releasing in public session any information
- 15 that could lead to your identification, and once again to remind you that you are expected
- 16 to speak slower than normal and to give the five seconds in order to facilitate our
- 17 interpreters' and court reporters' job.
- 18 Can we count on you, Mr Witness?
- 19 THE WITNESS: (Interpretation) I will make an effort, your Honour.
- 20 PRESIDING JUDGE STEINER: Thank you very much. I'll give back the floor to
- 21 Ms Bala-Gaye, who will continue with the Prosecution's' questioning.
- 22 Ms Bala-Gaye?
- 23 MS BALA-GAYE: Thank you, Madam President. Good morning, your Honours.
- 24 QUESTIONED BY MS BALA-GAYE: (Continuing)
- 25 Q. Good morning, Mr Witness.

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1 A. Good morning, ma'am.

2 MS BALA-GAYE: Madam President, may we move into private session?

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

4 *(Private session at 9.09 a.m.) Reclassified as Open session

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

6 MS BALA-GAYE: Thank you.

7 Q. Mr Witness, I want to continue from where we left off yesterday and read a few
8 more extracts of your statement and ask you a few more questions.

9 I'll ask the court officer to display document number 22 on the Prosecution's list, and this
10 is CAR-OTP-0054-0019 and could we please display page 0033? Thank you. Can we
11 scroll to the second half of the page, please?

12 Mr Witness, could I ask you to kindly read just one paragraph, which is where you start
13 off by saying, (Redacted)?

14 A. (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 Q. Mr Witness, apparently there was a bit of a problem. Could you re-read the second
23 to last sentence?

24 A. (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 Q. (Redacted)

4 (Redacted)

5 A. (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 Q. (Redacted)

11 (Redacted)

12 (Redacted)

13 A. (Redacted)

14 (Redacted)

15 MS BALA-GAYE: I'd like to provide a reference, Madam President. I'm referring to

16 transcript T-137, and it's the English edited version, page 55, lines 24 and 25.

17 Q. (Redacted)

18 (Redacted)

19 A. (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 MS BALA-GAYE: Mr Witness, we will go on what you've stated in the record.

3 Madam President, the French version is page 57, lines 8 and 9.

4 Q. Mr Witness, could I ask you to read that same page where the investigator starts
5 with, "Ensuite ..."?

6 A. I'm sorry, madam, I didn't see exactly the place.

7 Q. It's the second to last paragraph, where the investigator --

8 A. (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. (Redacted)

15 (Redacted)

16 A. (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 Q. (Redacted)

22 (Redacted)

23 (Redacted)

24 A. (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 I would also like to add, madam, that during this period it was also difficult to reach the
5 commander-in-chief, Mr Jean-Pierre Bemba, because we were -- this was a period of
6 reunification, the period where war had -- was already finished, and there were political
7 talks going on so that a government of National Unity would be established in the country.
8 Mr Jean-Pierre Bemba had travelled considerably. He had a lot of contacts with a view to
9 trying to set up the members of his government, army, police, public institutions, and it
10 was difficult to get hold of him at that time. (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 MS BALA-GAYE: Court officer, can we move to the next page and if we could just scroll
17 down the bottom of the page?

18 Q. Mr Witness, could I ask you to start reading the third to last paragraph which begins
19 with the investigator's question, "Pourquoi Bemba ..."?

20 A. (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 Q. (Redacted)

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1 (Redacted); isn't that right?

2 A. Correct, madam.

3 Q. And this was a direct order from Mr Bemba to arrest a member of the état-major;
4 isn't that right?

5 A. Madam, Mr Kibonge was not a member of the General Staff. He was Minister of
6 Defence, although he was also at the head of the G2. (Redacted)

7 (Redacted)

8 (Redacted)

9 I would also like to add, if you see in one of these pages I think the Chief of General Staff,
10 who was also General Amuli, was also very happy that Kibonge was arrested, so he
11 wanted to send me in haste and it was on the orders of the president that I would get
12 General Kibonge. There was a Gegere (phon), there was a problem between the two
13 generals and so he was very happy about that.

14 Of course the president, Bemba, was in Beni, and that is where the conspiracy was, but it
15 was General Amuli and myself. We were in Gbadolite. I found out about this via
16 General Amuli, that the commander-in-chief had asked me to go into the field in order to
17 get General Kibonge and to get him to Gbadolite.

18 Q. Mr Witness, I notice that each time I ask you about an order in relation to Mr Bemba
19 you mention the Chief of Staff, Amuli, (Redacted)
20 (Redacted)

21 A. Madam, we were in a hierarchy. An order can come from the commander-in-chief,
22 but it has to follow a chain. (Redacted)

23 (Redacted) So if the commander-in-chief had an order to give a G2, for example,
24 then he went via the Chief of General Staff, if he had an order to give to a G3, for example,
25 he went via the Chief of General Staff and it was the same for other members of the

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1 General Staff.

2 Q. Mr Witness, are you saying that Mr Bemba never by-passed Amuli, or the chain of
3 command? Is that what you're saying?

4 A. I didn't say that, madam. Furthermore, in one of my statements I also said that the
5 commander-in-chief could directly give the order, but afterwards the follow-up had to be
6 made by the Chief of General Staff and it was the same in a lot of sectors because there
7 wasn't just the military sector.

8 MS BALA-GAYE: Thank you for clarifying that. That was my understanding of your
9 testimony so far.

10 Court officer, could we please move to page 0039?

11 Q. Mr Witness, could I ask you to read the first question and the first answer?

12 A. (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 Q. Thank you. Do you recall having made this statement, Mr Witness?

20 A. Yes, I remember quite well, ma'am.

21 Q. And this is an example of Mr Bemba ordering (Redacted) to investigate without going
22 through Amuli; is that right?

23 A. Yes, ma'am, because Amuli himself was involved. That was the first thing.

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 I'd like to specify one thing about this order. The concern here expressed by Mr Bemba
6 was he wanted to determine exactly how it came to be that these military goods were
7 being misappropriated in the field.

8 (Redacted) He wanted at all cost - at all price - to determine exactly who

9 was responsible for the theft of these military goods intended for soldiers, and that is why

10 (Redacted)

11 (Redacted)

12 I thought it was a good thing for a leader to determine exactly what was happening with
13 the food supplies and the medications that were intended for the soldiers and were being
14 misappropriated.

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 Q. (Redacted)

25 (Redacted)

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1 A. (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 MS BALA-GAYE: Mr Witness, we have a copy of the statistics from the military court.

10 Now, in order to save time I will just refer to it for everyone who's in the courtroom, and

11 the ERNs are CAR-OTP-0017-0351_R01 and CAR-OTP-0017-0349_R01 and these are

12 number 9 and 10 on the Prosecution's list.

13 Q. (Redacted)

14 (Redacted)

15 PRESIDING JUDGE STEINER: Ms Bala-Gaye, I'm sorry if I interrupt you. What is the

16 copy of the document that is being -- is there any copy being shown to the witness?

17 MS BALA-GAYE: We only have the statement on the screen, Madam President.

18 PRESIDING JUDGE STEINER: Because the copies I have here with me, the names are

19 redacted. I don't know whether --

20 MS BALA-GAYE: I'm actually not showing the witness the document itself, but I just

21 wanted to refer in order to save time.

22 PRESIDING JUDGE STEINER: Okay.

23 MS BALA-GAYE: Thank you, Madam President.

24 Q. Mr Witness, would you like me to repeat the question?

25 A. If you could?

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1 Q. We have before this Chamber copies of statistics from the military court of the MLC.

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 A. (Redacted)

6 (Redacted)

7 (Redacted)

8 Q. (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 PRESIDING JUDGE STEINER: Yes, Maître Kilolo?

13 MR KILOLO: (Interpretation) Your Honour, I think it would be fairer to the witness if

14 he could be shown the document in question, because when it is put to him, (Redacted)

15 (Redacted)

16 (Redacted)

17 PRESIDING JUDGE STEINER: Ms Bala-Gaye?

18 MS BALA-GAYE: Madam President, I actually don't believe that is necessary, because

19 we have gone through this document in this court a number of times, and having the

20 witness look at a document that is redacted is not going to be very helpful. So I would

21 want him to respond to my question, which is whether or not it would surprise him that

22 we have information saying that (Redacted), and if

23 he -- he is in a position to know whether or not that would be correct and then we can

24 refer to the document, because I would be showing him a redacted document of which he

25 would have some information but not the full information.

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1 PRESIDING JUDGE STEINER: Ms Bala-Gaye, the way the question is put I'm -- I'm
2 trying very hard to see the relevance. Maybe you could rephrase the question, or rethink
3 whether the fact that it would surprise the witness or not is really something relevant.

4 MS BALA-GAYE: Thank you, Madam President. In fact, I think it's better to move on
5 because I think it's -- as far as I'm concerned, it's clear. I don't need to go further down
6 that line. Thank you.

7 Court officer, could we display page 0032 of the same statement?

8 Q. Witness, can you start reading from the third paragraph and just read the third and
9 fourth paragraphs of this page?

10 A. (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 MS BALA-GAYE: Could we scroll down a little bit on that page?

17 Q. Mr Witness, I'd like you to read the next question and answer after that before I ask
18 you my question.

19 A. (Redacted)

20 Q. Sorry, Mr Witness. Sorry to interrupt you. Just could you kindly read when the
21 investigator asked (Redacted) and then your answer to that?

22 A. (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 Question: (Redacted)

2 Answer --

3 Q. Sorry to interrupt you again. Based on what you have read out, isn't this yet
4 another example of Mr Bemba bypassing the chain of command and issuing an order
5 directly?

6 A. Not at all, ma'am. (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 MS BALA-GAYE: Madam President, may we move back into public session?

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

20 (Open session at 9.47 a.m.)

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

22 MS BALA-GAYE: Court officer, could you kindly display document number 29 on the
23 Prosecution's list of documents? And the ERN is CAR-OTP-0069-0372, and if we could
24 go to page 0391. The reference is CAR-OTP-0069-0372 and the page is 0391.

25 If we could scroll down further? Thank you.

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1 Q. Mr Witness, could I ask you to read the paragraph? Actually, let me just inform
2 you, first of all: This is Mr Bemba's book and we're returning to another aspect of the
3 book. So can I ask you to start from "Á Dulia" and just read out that paragraph?

4 A. Ma'am, that year, during that period of time, I was not yet a member of the MLC. I
5 wasn't even part of the MLC, so I have no specific information to give you about that.

6 Q. Mr Witness, you've stated that you've read the book (Redacted), and you were a
7 member of the MLC. Therefore, I'm asking you to read the paragraph and then I will ask
8 you a question. If you're unable to answer the question, then we can move on, but this is
9 a question about the functioning of the MLC.

10 A. Ma'am, during that period of time, I was far away (Redacted)
11 (Redacted). I have no information about what happened in Dulia. I was not a member
12 of the MLC. I can't see any reason to be talking about that. What's more, I'm not the
13 author --

14 PRESIDING JUDGE STEINER: Mr Witness, I'm sorry to interrupt you. You don't know
15 what the Prosecution is going to ask you so please, let's go step by step. Just read the
16 paragraph that the Prosecution asked you to read. You can give your comments after
17 that.

18 THE WITNESS: (Interpretation) Thank you, your Honour. "In Dulia, supported by
19 the artillery of the UPDF 3rd Battalion, we prepared a classic skirmish. We took up an
20 observation position on the heights of a hill and the Chad -- you see, looking down upon
21 the Chadians, who had to necessarily head towards Buta. From our observation position
22 we saw the column surge forward. Suddenly, a few moments before moving ahead, the
23 commander of the convoy stopped. He went off again and gestured to his men, gestured
24 to them that they follow him. The jeeps went along one at a time, not taking any
25 precautions, without any cover. The last vehicle had barely begun movement and the

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1 order was given to open fire. In a few moments, a rain of shells fell down upon the
2 Chadian battalion. The commander dropped to the ground, fatally wounded, and
3 during you this narrow, the -- there was utter chaos. It was impossible for the vehicles to
4 turn and go back. More than 600 Chadians died in perhaps 15 minutes.
5 In the enemy camp, they were stupefied and taken aback. All the survivors of the
6 contingent went back very quickly to Gbadolite and a group took up a position, a
7 defensive position, in Yakoma. Amongst the ranks of the ALC, the soldiers rejoiced. I
8 was very satisfied. No one had been injured. We were able to recover 12 jeeps that
9 were intact. Before leaving the spot where the ambush occurred, I was careful to ensure
10 that the corpses were buried. There was a terrible smell and it was a smell that I smelled
11 once again upon -- on other battle-fields.

12 Q. Mr Witness, in this extract Mr Bemba is talking about his involvement in military
13 operations, so my question to you is: During your time with the MLC, isn't it true that
14 Mr Bemba engaged directly in military operations?

15 A. Ma'am, I will explain two things to you. First of all, regarding the writing of this
16 book - and I've made this point several times - this book was written by three people:
17 Kamitatu, Professor Lunda Bululu and Alexis Thambwe Mwamba. Did they write it as a
18 form of political propaganda: Question? Did they write this book to trap
19 Mr Jean-Pierre Bemba: Question? I am telling you, I did not write this book. You
20 merely have to ask the people who wrote this book and who signed it, ask them for more
21 information about this particular book.

22 Now secondly, I joined the MLC in 1999, nearly the year 2000, and up until then, that was
23 the time of the cease-fire, other than the Mawiya operation, which was managed by one of
24 our units. In any event, I did not see, I did not learn of Mr Jean-Pierre Bemba being on
25 the field of operations. I don't believe he could take that risk, to actually go to the field of

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1 operations.

2 Perhaps afterwards he went and observed what had occurred, how the soldiers were
3 doing, that sort of thing, but actually being in the theatre of operations and issuing orders,
4 no, no, no, no. This is just political propaganda, a fantasy, a trap. Bemba never went to
5 the field, never went to the field of operations and gave orders and said, "Attack" or
6 anything like that, no.

7 Q. Mr Witness, in this statement you're saying that Mr Bemba never went to the field,
8 and yet you weren't with the MLC in the military throughout. Would it surprise you to
9 know that Mr Bemba went to the Central African Republic during the 2002/2003 events,
10 while the MLC were operating in the field?

11 A. To my knowledge, no. As I've told you time and time again, during the Bangui
12 operations, (Redacted) and what's more, during the Bangui operations,
13 Mr Bemba was extremely occupied - extremely occupied - working on the reunification,
14 and as part of the reunification of the country and the establishment of a central
15 government, a common administration, Mr Bemba did not have the time. He just did
16 not have the time to monitor closely. If he had time to go there, I would be surprised.
17 Perhaps it might have been to see how the children were doing, that is to say the MLC
18 soldiers, but I have no information about that (Redacted).

19 PRESIDING JUDGE STEINER: Ms Bala-Gaye, I'm sorry to interrupt.

20 Mr Witness, just to remind you that we are in public session. Thank you.

21 Ms Bala-Gaye?

22 MS BALA-GAYE: Thank you, Madam President.

23 Q. Mr Witness, I have a few final questions before I conclude. How many times have
24 you met with the Defence?

25 A. Direct meetings? Once. I met with them once, when they came to see me and ask

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1 me. There were two of them, Mr Aimé Kilolo and a white lady.

2 Q. Do you recall when that meeting took place?

3 A. (No interpretation) -- be more precise. It could be I think towards the second half
4 of last year, if my memory serves me well.

5 Q. And how long did this meeting last?

6 A. Approximately four hours.

7 Q. And during this meeting what was discussed with the Defence?

8 A. They asked me questions, a whole load of questions, like you're doing; like the
9 Prosecution's done.

10 Q. And during this meeting you only met with Mr Kilolo and another member of the
11 Defence team? If the answer is "Yes," then we will move into private session. If it's
12 "No," then we'll continue. Were they the only two that you met during this meeting?

13 A. Correct, madam.

14 MS BALA-GAYE: Madam President, may we briefly move into private session?

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

16 *(Private session at 10.01 a.m.) Reclassified as Open session

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

18 MS BALA-GAYE:

19 Q. Mr Witness, do you recall having stated that you met Mr Kilolo and (Redacted)

20 A. No, madam, I met them separately. I met Counsel Kilolo last year and (Redacted)
21 well, whose name I don't remember, that was some time afterwards.

22 Q. So it is your testimony that, when you met (Redacted), Mr Kilolo wasn't present?

23 A. Correct, ma'am. He just telephoned me to tell me that there was a (Redacted)
24 who would come to see me, and I'm sure that at the time he wasn't in the DRC. At least,
25 I saw the (Redacted) alone.

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1 MS BALA-GAYE: Madam President, we will be providing a reference to the contrary
2 from another -- the Defence witness, (Redacted). I just have another
3 final question and then I'll conclude.

4 Q. Mr Witness, do you recall having stated yesterday -- and I'm referring to transcript
5 319 bis, English edited version -- no, English real-time version I apologise, and I'm looking
6 at page 4, lines 16 to 18. This is what you stated, Mr Witness, and I quote, "I'm here to
7 tell the truth of what happened. I am against -- I would rather not -- I would not want an
8 innocent man to be punished when that person is not responsible," end quote.

9 Mr Witness, from what you are saying here, aren't you saying that you believe Mr Bemba
10 is innocent?

11 A. Madam, during the whole period when I was in the MLC I was able to see from far
12 or nearby Jean-Pierre Bemba, and sincerely he is a responsible person who had concern
13 not only for the well-being of the people he administered, but also the development of his
14 country. I also observed how rigorous he was, the concern that he had to do well, the
15 refusal to do harm, to do wrong, and sincerely for me he was a good leader. I think,
16 madam -- I think it's in-just, unjust, that he today is in this situation.

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 Mr Jean-Pierre Bemba trusted his people and during this time these people had other
25 hidden ambitions and they took advantage of these responsibilities, and for reasons that

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1 are well-known for ambition these people are prepared to do anything in order to destroy
2 him, but personally I really appreciated the behaviour of Mr Bemba as a chief of the
3 revolution where I participated.
4 I'm not flattering him. He is my young brother and us Africans we have what we call
5 certain rights. I have a lot of respect for him, but I am older than him. And if there was
6 harm and the possibility to do so I would have told him, and if the occasion arose which
7 would allow me to do so, but sincerely he does not deserve the fate that he has today.
8 Thank you.

9 PRESIDING JUDGE STEINER: Yes, Mr -- Maître Kilolo?

10 MR KILOLO: (Interpretation) Yes, your Honour. I'd just like to ask for the reference
11 for the question that was raised by Madam Bala-Gaye on the meeting. So here I'm
12 referring to the transcript of today, in the real-time transcript, page 23, line 5 to 7 thereof,
13 Madam Bala-Gaye who states, "Madam President, I'm going to provide you with a
14 reference which shows the contrary stated by another witness, a Defence witness, (Redacted)
15 (Redacted) met the
16 witness in the presence of the principal counsel of the Defence," and we would like to
17 have this reference because we have the feeling that this type of reference could lead the
18 Court into error.

19 PRESIDING JUDGE STEINER: Maître Kilolo, I'm sure that the reference was being
20 searched upon while the witness was making his statement, but in any case
21 Ms Bala-Gaye?

22 MS BALA-GAYE: Yes, indeed Madam President. We'll come back with the reference
23 and then we will read the correct portion into the record, just to ensure that we are all on
24 the same page. So we'll get the reference and extract and read it out into the record, if
25 that's fine?

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1 PRESIDING JUDGE STEINER: Should we continue in private session, madam?

2 MS BALA-GAYE: No, in fact I have concluded. I just wanted to request that certain
3 documents be admitted, so we can move back to open session. Thank you.

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

5 (Open session at 10.11 a.m.)

6 THE COURT OFFICER: We're in open session, Madam President.

7 MS BALA-GAYE: Thank you very much.

8 PRESIDING JUDGE STEINER: Ms Bala-Gaye, then while you're still searching for the
9 reference, if you allow me I will -- before you conclude, I would like to ask for a
10 clarification from the witness.

11 And so before I ask the clarification, Mr Witness, I will read an excerpt of a document that
12 is document number 6 on the Prosecution list. The ERN number is CAR-OTP-0008-0409,
13 and I ask, please, court officer to display the document. It's a -- the document is -- has
14 been -- is a result of a web search, so I think it's public.

15 Mr Witness, the document is in English and that's why I'm going to read a part of it for
16 you and then you will have the translation. It's part of a report, or -- yeah, a report from
17 the Radio France Internationale reproduced by the BBC in July 10, 2001. The title says:
18 "DRC Congo. Congolese Liberation Front unit commander said arrested. Article text:
19 In Congo, Kinshasa, Jean-Pierre Gombo ..." --

20 THE INTERPRETER: Message from the interpreters --

21 PRESIDING JUDGE STEINER: -- " ... leader from the Congolese Liberation Front, FLC,
22 has announced sanctions against the commander of the FLC unit, which had gone to fight
23 the mutineers in Bangui. You would recall that in the wake of the 28 May coup attempt
24 in the Central African Republic (CAR) a battalion of nearly 700 FLC rebels went to
25 support forces loyal to President Patassé. Today the commander of these rebel troops is

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1 under arrest for poor supervision, according to Jean-Pierre Bemba. It must be said that
2 these rebel combatants carried out serious atrocities. Jean Jacques Louarne reports," and
3 here is a recording of what this Mr Louarne said: "Yes, we recall all the testimonies given
4 in our radio. People were saying the same thing. Bemba's men have been maltreating
5 us and looting. The FLC troops are totally undisciplined. They had the field a woman
6 taking refuge with them and dealt blows to a young man in the street. "They are looting
7 everything, residents of Bangui's Ouango district explained. They are even breaking
8 down our roof,' they added. The witnesses are categorical and credible. At night
9 Jean-Pierre Bemba's men loaded the booty into canoes, taking them across river Ubangi to
10 the DRC.

11 Jean-Pierre Bemba has announced the arrest on 8 July of the commander of the 700 men
12 unit for, quote, 'poor supervision of troops.'"

13 Then the journalist says that question Jean-Pierre Bemba was vague about the
14 commander's identity. He's reportedly called Dibemba (phon) Diku. His first name is
15 rather vague, with Jean-Pierre Bemba claiming he could not remember. In reality, he's
16 Colonel Amuli. Why Jean-Pierre Bemba not forthcoming with his true name, will he
17 really be tried and punished, or has Jean-Pierre Bemba simply made the announcement
18 for the fact in an attempt to reconcile with the international community?" I ask please
19 now court officer to turn into private session.

20 *(Private session at 10.18 a.m.) Reclassified as Open session

21 THE COURT OFFICER: We're in private session, Madam President.

22 PRESIDING JUDGE STEINER: Mr Witness, today, and this is page 8 lines 12 to 17, you
23 (Redacted). And
24 more than once, including today, (Redacted)
25 (Redacted). My question in

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1 relation to this article here, or this report from Radio France, this announcement allegedly
2 made by Mr Jean-Pierre Bemba, that he had arrested the commander of the FLC unit in
3 Bangui, (Redacted)

4 THE WITNESS: (Interpretation) Thank you, madam. Madam, I confirm (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 Another contradiction in this so-called report the troops of Bemba, the ALC, left. There
13 were 450 of them, it wasn't 700, and then it should also be stressed that we shouldn't
14 confuse ALC troops with FACA troops who, on that date, were in Bangui because we're
15 talking about people being present and they could carry out abuses to with -- score
16 settling between Central Africans but without hiding anything from you, there were not
17 abuses. All the abuses that are being talked about in this report, this speaks about
18 present, those present at that time, and I was saying that in -- in the month of July, the
19 people who were present, well, ALC troops were no longer in Central African territory.
20 ALC troops were not -- there were not 700 of them as this report claims, and this so-called
21 statement by Jean-Pierre Bemba, this is something which I never heard, but it's true that
22 after I returned, and even during the period, well, who should make a report? It was the
23 Central African government who should report to the MLC authorities with regards to the
24 behaviour of the troops on the ground.

25 The squabble between the Central Africans, well, (Redacted) -- that they shouldn't fire

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1 heavy artillery because innocent people would be killed. (Redacted)

2 (Redacted)

3 (Redacted)

4 I confirm also madam, in God's name that I believe, that there were not abuses committed

5 as the report claims. Whilst stating that this report was made in the month of July, it is

6 possible that in the month, the Central Africans, between them, they could have been

7 fighting because of their differences of opinion. But ALC troops, no. They weren't

8 there at that time. They were not there in the month of July, and if there was control or

9 checks carried out with regards to my hierarchy, that was something that could be done

10 but, (Redacted)

11 (Redacted)

12 (Redacted). Thank you.

13 PRESIDING JUDGE STEINER: Mr Witness, my focus here was not on the number of

14 troops that were there. For me, in this case in relation to this report, it's not relevant

15 whether there were 400 or 700. It's not as well relevant for the purpose of this report

16 whether the FACA troops committed atrocities or not. My main interest in this, in

17 relation to this report, is to confirm whether you agree or you have knowledge that

18 allegedly Mr Bemba declared that he had arrested the commander of the troops in Bangui

19 for poor supervision. Are you aware of these declarations given, allegedly given to the

20 radio?

21 THE WITNESS: (Interpretation) No, no, madam. The only commander arrested in

22 Bangui was Commander Kisémbé.

23 PRESIDING JUDGE STEINER: (Redacted)

24 (Redacted)

25 THE WITNESS: (Interpretation) (Redacted)

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1 (Redacted)

2 (Redacted)

3 PRESIDING JUDGE STEINER: So to your knowledge, on 8 July 2001, to your knowledge,
4 no commander of troops or units in that -- that had been in Bangui was arrested, in
5 consequence of the events allegedly occurred in Bangui; is that correct?

6 THE WITNESS: (Interpretation) I said the following, your Honour: That on 8 July
7 only General Kisembo, Commander Kisembo, who was the commander of one of the
8 companies, and who had been caught (Redacted) was arrested and sent to the
9 Congo, and handed over to the courts there.

10 PRESIDING JUDGE STEINER: But Colonel Kisembo, was he arrested on 8 July?

11 THE WITNESS: (Interpretation) General, he was a general. He wasn't arrested on
12 8 July, he was arrested before then, while we were in the field of operations, and on 8 July
13 he was still in detention. He died a general.

14 PRESIDING JUDGE STEINER: Okay. Thank you very much. I think Judge Aluoch
15 what also like a clarification. We can turn back into open session, please.

16 (Open session at 10.28 a.m.)

17 JUDGE ALUOCH: Mr Witness -- sorry.

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

19 JUDGE ALUOCH: Mr Witness, (Redacted)

20 one or two aspects of your answers are not clear to me and so I would like you to -- I'd
21 like you to clarify so that I understand you fully.

22 In the real-time transcript, it's on the screen just now, this is what you said, "First of all,
23 regarding the writing of this book - and I've made this point several times - this book was
24 written by three people: Kamitatu, Professor Lunda Bululu and Alexis Thambwe
25 Mwamba. If they write it is a form of political propaganda ...", then you pose the

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1 question, "... did they write this book to trap Mr Bemba? Question: I'm telling you, I
2 did not write this book. You merely have to ask the people who wrote this book and
3 who signed it."
4 Now yesterday, Mr Witness, unfortunately I don't have yesterday's transcript, but I know
5 that I noted it down that you also gave the names of the three people yesterday, and if the
6 transcript comes this will be found somewhere on page 15 or 16 and you referred to them
7 as the people who wrote the book and when it was published you accepted it. That
8 appears in yesterday's transcript.

9 Two issues that I would like you to clarify, please. According to you, Mr Witness, since
10 you also say (Redacted) what role then did Mr Bemba play in the writing of this book?
11 Did these three people write it and his name was merely put as the writer of the book?
12 Did he play any role at all? That's my one question I would like you to answer.
13 And, secondly, since you've said that they are fantasies and political propaganda that
14 were put by these three people, have you at any time ever raised this issue, or are you
15 raising it for the first time before us? Have you ever objected to what they wrote, or
16 made it public, or wrote an article, or said something that this book was written by the
17 three people, it contains fantasies and political propaganda? Have you raised this issue
18 before?

19 Thank you. These are the issues that I'd like you to clarify.

20 THE WITNESS: (Interpretation) Thank you, your Honour. Now, I don't know if
21 we're in open session or not right now? Can we go into private session and I can give
22 you more information, more explanations? Thank you.

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

24 *(Private session at 10.32 a.m.) Reclassified as Open session

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

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1 THE WITNESS: (Interpretation) Thank you, your Honour, for your question, and
2 your concerns.

3 Let me address the first question. Ever since the publication of this book, I have had
4 serious concerns with its contents, and I've explained to you here that initially, (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 When the book came out, I tell you and I can confirm, that I really had a lot to say about it,
14 about certain facts. I thought that there was too much talk about certain people who, in
15 the field, who were not -- well, who were a source of publicity.

16 The first day when Ms Bala-Gaye asked me questions, (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 In the book I also thought that too much was made of Mr Jean-Pierre Bemba, even the

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1 orders or the measures that were taken by other people. He -- they always wanted
2 Mr Bemba to be in the spotlight in this book, so I said to myself: Is this political
3 propaganda, to highlight the leader? Question mark. And when I heard about this
4 book in this trial, I said to myself: Is this a way of trapping Mr Bemba or is this a way of
5 shifting responsibility regarding the management of the MLC at the time? Because we
6 are no longer talking about the -- because the rebellion is over. Is this a way of shifting
7 responsibility, and putting all the responsibility upon Mr Bemba? Once again a question.
8 The truth be told, a great many things really need to be called into question, when it
9 comes to the writing of this book, the responsibility of Mr Bemba as the writer of this book.
10 Indeed, he did sign the book. Did he have the time to read each and every word, each
11 and every sentence? All the various details of this book? No. He trusted people too
12 much, particularly Mr Kamitatu. He was too trustful. And he might have signed a
13 document from Mr Olivier Kamitatu without really reading it over seriously, (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted)
17 (Redacted)
18 (Redacted)
19 (Redacted)
20 So, you see, it was the blind trust that he had that led him to sign this book, and this led to
21 the consequences we see today. If yesterday the book gave him some political
22 satisfaction, that's one thing, but now, this book is only bad for him because, you see, he
23 blindly trusted Mr Olivier Kamitatu.
24 This book was not written by Mr Bemba, it was signed by him. He put his name on it.
25 He had the time -- I don't think he had the time to read it over. He might have glanced at

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1 it, without checking all the various things within it, your Honour. So that is my opinion
2 about the writing of this book.

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted) and you see, there's this

12 book that was written by the trio and then signed by Mr Bemba. You see, when you

13 consider the path (Redacted) so that is what I have

14 to say about the writing of this book, your Honour.

15 JUDGE ALUOCH: Thank you, Mr Witness. (Redacted)

16 (Redacted) one more clarification on this book that we have. Please tell me: Is this the first

17 time that you are raising concerns publicly about this book? Have you raised these

18 concerns at any other platform or written about these concerns, for other people to read

19 and know the truth? That part of my question is not yet answered, please.

20 THE WITNESS: (Interpretation) Well, I saw this as being a propaganda exercise. I

21 couldn't really be a barrier to that propaganda. It is now that I see that this book is a trap,

22 so perhaps in the future it will be possible to set the record straight. I don't know

23 whether I've made myself understood, your Honour?

24 JUDGE ALUOCH: Well, to a certain extent, on this last point, because I wanted to know

25 if you have raised these concerns, but you say you will do so in the future, so I take it from

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1 that answer that this is the first time that you are raising these concerns to anybody, other
2 than yourself? You have thought about them but you have never raised them. That's
3 the way I understand your explanation?

4 THE WITNESS: (Interpretation) No, your Honour, I have spoken about this to friends
5 and, you see, (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted) I've had some

9 reactions. I've talked to this with many friends. (Redacted)

10 (Redacted)

11 (Redacted)

12 JUDGE ALUOCH: And my final clarification is the one, what I'm seeking clarification on,
13 these three people whose names you have given as the ones who wrote the book, have
14 you ever discussed these issues with them, any one of them, since they seem to have
15 written fantasies, political propaganda, have you ever discussed it with them? That will
16 be the first point I'm seeking clarification on?

17 THE WITNESS: (Interpretation) Not with them. They are leaders, they are chiefs.

18 To question their vision, that wouldn't be good for me, and also in my initial statements,
19 that I made to the -- to the Prosecution, I really couldn't speak out against these leaders,
20 because of -- you see, those men are very strong, very strong, and there are many ways:

21 Assassinations, poisoning, there are many ways of dealing with -- I have to consider my
22 safety but I have talked about these issues a great deal with (Redacted), and that
23 is one of the reasons why (Redacted)

24 (Redacted).

25 (Redacted)

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1 (Redacted) there has been considerable discussion and people have talked
2 about all this. "Yes, this was done." "No, I did that." But you see, for the leader, I saw
3 this as being political propaganda. However, I wasn't really quite grasping that this was
4 a trap and now we can see that this is a trap. I don't know whether the leader has
5 noticed this and I didn't. I don't know if he's realised or if it's come to his attention but
6 the betrayal began slightly before the end of the rebellion. The betrayal already had
7 begun slightly before because -- by those ambitious people in Kinshasa. You see, there
8 are ambitious people in Kinshasa, and it's not more dangerous -- well, you see, it's more
9 dangerous to trust someone that you know well than trusting a stranger. You see, a
10 person who knows you very well is in a much better position to betray you in comparison
11 to a stranger. I don't know if this is clear to you.

12 JUDGE ALUOCH: And finally, Mr Witness, did you ever have a chance before all this
13 happened to draw Mr Bemba's attention to all these concerns that you have? Did you
14 ever have that opportunity?

15 THE WITNESS: (Interpretation) You see, well, at one point Mr Bemba disappointed
16 me, and I'm very -- it's very difficult for me to have to say this. Olivier Kamitatu came
17 down with a team to Kinshasa for the drafting of a new constitution, (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 So I thank you, ma'am.

14 JUDGE ALUOCH: Thank you.

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

16 (Open session at 10.53 a.m.)

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

18 PRESIDING JUDGE STEINER: Ms Bala-Gaye, I think you had enough time to find the
19 reference?

20 MS BALA-GAYE: Yes, I did, Madam President. I'd like to provide the references. The
21 first one is (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 PRESIDING JUDGE STEINER: Ms Bala-Gaye, one of the references you just mentioned
2 on page 54, lines 13, 14, unless I'm wrong but what the witness said is exactly the opposite
3 of what you said. The witness here says (Redacted)

4 (Redacted)

5 (Redacted) So could you clarify that please?

6 MS BALA-GAYE: Indeed, Madam President. That is the second reference that I just
7 found during the break. The first reference that I referred to mentions that during the
8 trip Mr Kilolo accompanied him and he mentions the countries, and that is what I was
9 referring to, and then subsequently during the break we found the second reference which
10 I have provided, which Madam President was just referring to.

11 PRESIDING JUDGE STEINER: Maître Kilolo, any comment?

12 MR HAYNES: Well, we found the explicit reference to the question that Mr Iverson put
13 at pages 53 to 54, and I will read it into the record. (Redacted)

14 (Redacted)

15 (Redacted) And a bit further on: (Redacted)

16 (Redacted) The evidence was

17 clear and unequivocal. Now can we go back to what Ms Bala-Gaye said earlier this
18 morning?

19 PRESIDING JUDGE STEINER: Ms Bala-Gaye?

20 MS BALA-GAYE: Thank you, Madam President. I have provided both references.

21 MR HAYNES: I haven't finished, sorry.

22 PRESIDING JUDGE STEINER: Sorry, Mr Haynes, my fault.

23 MR HAYNES: Ms Bala-Gaye put to the witness at page 22, the last two lines, "So it is
24 your testimony that when you met (Redacted) Mr Kilolo wasn't present?" She then
25 went on to say, "Madam President, we will be providing a reference to the contrary from

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1 another, the Defence witness, (Redacted). I have just another

2 identifiable question."

3 So what she was suggesting to the witness, and to the Trial Chamber, explicitly, was that

4 she was going to provide evidence and that she was putting to the witness that (Redacted)

5 (Redacted) at a meeting with this witness and Maître

6 Kilolo.

7 Now yesterday morning, we were treated to the spectacle of the Deputy Prosecutor

8 coming down to this Court to object that the witness had apparently slighted

9 Ms Bala-Gaye by referring to her as "young." We take a very serious view of the implicit

10 suggestion in what Ms Bala-Gaye has suggested to the Court this morning, which was

11 misleading to the witness and misleading to the Chamber but, more than that,

12 disrespectful, we submit, of the Defence lawyers in this case, and we wonder whether the

13 Deputy Prosecutor will be gracing us with his presence at 11.30 this morning to apologise

14 for the misleading question, which should be withdrawn and stricken from the record.

15 PRESIDING JUDGE STEINER: Of course I will be giving the floor again to the

16 Prosecution, but I don't think the two situations can be easily compared. Ms Bala-Gaye,

17 we have five minutes on the tape. Do you think you have time to answer to Mr Haynes'

18 suggestion?

19 MR BADIBANGA: (Interpretation) We will be very brief. I think my colleague has

20 been clear. Indeed, she indicated that she had provided two references to the Chamber

21 and indeed she realised that there was this additional information that seemed to

22 contradict the first information. I think she was extremely clear and transparent towards

23 the Chamber, and I see absolutely no link between the presence of the Deputy Prosecutor

24 and the incident, and I believe during the Defence questioning, someone misread

25 comments made by -- earlier, that is part of a trial. Each party brings forward

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1 information that they think is relevant, and may provide additional information.

2 From my point of view this incident is over and the information is on the record and I
3 really think we can leave it at that. I thank you.

4 PRESIDING JUDGE STEINER: Just to make it clear for the witness, as a matter of
5 fairness, the way the question or the statement was put to the witness, (Redacted)
6 (Redacted) that Maître Kilolo was present during the interview with you, was mistaken.
7 (Redacted)

8 without the presence of any member of the Defence. So it's clear for the record.

9 Ms Bala-Gaye, you want just to conclude? We have one minute before the break.

10 MS BALA-GAYE: Yes, indeed, Madam President. Thank you very much.

11 Mr Witness, I have concluded my examination. So thank you for your co-operation.

12 Madam President, I would like to tender into the record four documents, so the
13 two -- well, the map that was annotated by the witness, the extract that was annotated, so
14 I provide the ERN. It's CAR-ICC-0001-0091 and CAR-ICC-0001-0094 as well as the two
15 witness statements, which are CAR-OTP-0054-0019, and the second one ends 0005.

16 Thank you, Madam President.

17 PRESIDING JUDGE STEINER: Mr Witness, we'll have now our half-an-hour break. It's
18 a little bit past 11. We'll be back at 11.35.

19 I ask, please, court officer to turn into closed session for the witness to be taken outside the
20 courtroom.

21 *(Closed session at 11.03 a.m.) Reclassified as Open session

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

23 (The witness stands down)

24 THE COURT OFFICER: All rise.

25 (Recess taken at 11.03 a.m.)

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1 *(Upon resuming in closed session at 11.38 a.m.) Reclassified as Open session

2 THE COURT USHER: All rise.

3 Please be seated.

4 PRESIDING JUDGE STEINER: Welcome back.

5 Could, please, court usher bring the witness in.

6 (The witness enters the courtroom)

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

8 (Open session at 11.40 a.m.)

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

10 PRESIDING JUDGE STEINER: Mr Witness, welcome back.

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

12 PRESIDING JUDGE STEINER: Mr Witness, now the legal representatives of victims will
13 put some questions to you. They were authorised by the Chamber to put some questions
14 to you.

15 We have a two-hour session now, Mr Witness, and in your benefit we would like very
16 much to conclude with your testimony this morning. For that purpose, Mr Witness, it
17 would be very important that you make an effort and answer to the questions put to you
18 in a more concise and objective way in order to allow both legal representatives, and later
19 Defence again, to put the questions that they still need to put to you and helping you to
20 conclude your testimony in this morning's session.

21 Can we count on you, Mr Witness?

22 THE WITNESS: (Interpretation) I will make this effort, your Honour, but the essential
23 part is to be clear and to try and get people to understand my idea, and with respect I put
24 myself at the disposal of the legal representative for victims.

25 PRESIDING JUDGE STEINER: Yes. So I will give the floor to Maître Zarambaud, in

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1 order to put the questions authorised by the Chamber and any follow-up questions that
2 legal representatives deem necessary.

3 Maître.

4 MR ZARAMBAUD: (Interpretation) Thank you, your Honour, your Honours.

5 QUESTIONED BY MR ZARAMBAUD: (Interpretation)

6 Q. Good afternoon, Witness.

7 A. Thank you, your Honour. Thank you, Counsel.

8 Q. I am Counsel Zarambaud, I am normally a lawyer in the courts of the Central
9 African Republic and here, as the Presiding Judge has just said, I am one of the two
10 representatives - one of the two legal representatives - of victims.

11 As the Presiding Judge has said, we - the legal representatives of victims - must submit
12 our questions in advance to the Chamber, who will assess them generally with regards to
13 their relevance and in a particular way with regard to their relation to the interest of
14 victims who we represent, and so it is in that regard that the questions that have been
15 approved by the Chamber go into the facts which we are dealing with in this courtroom;
16 namely the events of 2002/2003 in Bangui.

17 Here I have noted that you didn't speak that much about the events in 2002 and 2003, so
18 as the Chamber has also said and the Presiding Judge said we have the possibility to ask
19 you follow-up questions; that is to say questions linked to your testimony here in the
20 courtroom.

21 From this perspective, I don't think I've got a lot of questions to put to you. I think that
22 the concern of the President will be respected, because I shall only ask a few short
23 questions. Indeed, Madam Bala-Gaye asked most of the questions that I would have put
24 to you following what you've said here.

25 As we've spoken a lot about these aspects, I think that the questions to be put were so

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1 relevant that I think one can say that I -- that I think I have significant experience to be
2 able to deal with this.

3 Now, with regards to the transcript 317 of 5 June, page 53 and 54, at the time of the second
4 intervention in Central African Republic (Redacted)
5 (Redacted); is that not the case?

6 A. Thank you, learned friend, for your question. (Redacted)
7 (Redacted)
8 (Redacted)

9 Q. So in accepting to come to testify before this Chamber, did you not know that the
10 crimes which Bemba is accused of are crimes which occurred from October 2002 to
11 15 March 2003?

12 A. Yes, I knew that and I think I said (Redacted) and to the Prosecution -- I said it to
13 the Prosecution and to the Defence. I said that I was not directly, or indirectly,
14 concerned with the war in 2002 and 2003 while I was in the territory under control of the
15 MLC.

16 Q. Very well, Witness. (Redacted) and the crimes of which Bemba is
17 accused are crimes which occurred in 2002 to 15 March 2003. (Redacted)
18 (Redacted), so what did you base
19 yourself on -- and this is the same reference, 53/54, and here I'll quote you, "But in my
20 humble opinion I think that the second operation must normally have had the same
21 methodology as the first one, but I couldn't tell you that with precision (Redacted)
22 (Redacted)
23 (Redacted)
24 So I'll take up my question again here. (Redacted) you weren't in the
25 field in the Central African Republic, so on what basis -- upon what do you base yourself

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1 to say that the second operation used the same methodology?

2 A. Learned elder, I said "I think," and I would tell you that if there is an organised
3 structure in the world it's in the military field, which is almost always the same, and the
4 military structure in military society there are rules, there are methodologies, which are
5 well-conceived and normally should be followed. They should follow the plan that's
6 been conceived, and that's why I stated that "I think" and I was saying "normally." That's
7 the first aspect.

8 The second aspect, dear learned elder, is to also clarify that in the Defence, or rather the
9 Prosecution statement, I was -- (Redacted) obliged me -- well,
10 I should not say certain truths because I had fears for my security and I knew that it was
11 here at the Court under oath that everything had to be revealed.
12 But you can understand with myself, learned elder, that in this period (Redacted)
13 (Redacted) and I couldn't tell you exactly what happened. There are only suppositions,
14 comments, reports, at three or four levels, and this is what I was able to say and I said in
15 my testimony to the Prosecution. I said the term, "I think. It would seem. I have
16 heard people say that." I would wish that the Court not take into consideration this
17 information, despite the fact that I said what I think. I said what I think with a bit of salt,
18 not to deceive anyone, not to draw insecurity to my modest self.

19 Q. Thank you. So, Witness, you've tried to develop a logical reasoning. Well, the
20 first operation went well, taking into account military rules, general military rules. The
21 second military operation should have gone well?

22 A. The second operation should have normally -- under normal conditions it should
23 normally have followed the same methodology. There are rules which are established
24 which normally should be respected. Going against these principles would be making
25 things wrong. It would be wrong not to respect such rules.

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- 1 PRESIDING JUDGE STEINER: Mr Witness, sorry if I interrupt you. Sorry, Maître
2 Zarambaud. You and Maître Zarambaud speak the same language, but I wanted to
3 remind you that we have interpretation. So you should not overlap and, after
4 Mr -- Maître Zarambaud says something, please, Mr Witness, wait for the five seconds.
5 Otherwise, we have overlapping speakers and it's impossible for the interpreters to follow
6 in that way. Thank you.
7 Please, you can continue.
- 8 THE WITNESS: (Interpretation) Thank you, your Honour. You understand I'm
9 prudent on this subject since the very start of this testimony. I'm used to speaking, but I
10 will continue to make this effort. Thank you.
- 11 MR ZARAMBAUD: (Interpretation)
- 12 Q. Thank you, Witness. I think that if it's just a matter of logic, everybody respects the
13 rules of the army, perhaps we wouldn't be in trial here. What we're doing here is to try
14 and search for the truth through the facts that occurred between 2002 and 2003 and not
15 necessarily via our analysis.
- 16 Now, you had the opportunity to say, Witness - and here I'll find the reference - that
17 (Redacted)
18 (Redacted). They spoke about
19 thefts, pillaging and, as a result, (Redacted). That
20 means that the two things weren't -- or the two operations didn't happen in the same way.
- 21 PRESIDING JUDGE STEINER: Yes, Mr Haynes?
- 22 MR HAYNES: Can we go into private session, please?
- 23 PRESIDING JUDGE STEINER: Court officer, please turn into private session.
- 24 *(Private session at 11.55 a.m.) Reclassified as Open session
- 25 THE COURT OFFICER: Madam President, we are in private session.

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1 MR HAYNES: (Redacted)

2 (Redacted)

3 PRESIDING JUDGE STEINER: (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 MR ZARAMBAUD: (Interpretation) Thank you, your Honour. Excuse me.

9 (Open session at 11.57 a.m.)

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

11 MR ZARAMBAUD: (Interpretation) Thank you, your Honour. The reference that I

12 wanted to give was transcript -- yesterday's transcript, page 90, paragraph

13 429 -- paragraphs 4 to 9, page 91, paragraphs 3 to 12. (Redacted)

14 (Redacted) I would like to go back to what's already been said, (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. So my question remains. Do you want me to re-ask the question, or re-put the
18 question?

19 A. Please, if you would be so kind.

20 Q. Thank you. What concerned me was in the following, after the second intervention,
21 congratulations were made comparing the two interventions; congratulations to the
22 ambassador. So I wanted to say, because it was said that the first operation went well
23 but that wasn't the case for the second one, the ambassador was proud of this comparison
24 that was being made in his favour and that -- does that mean that things did not happen
25 in the same way in the second as in the first intervention?

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1 A. Probably, because the ambassador wasn't in the field and not even in Gbadolite.
2 These are comments that he was told. There are flatterers. There are people who want
3 the -- who wanted the ambassador to take their opinion into account. We are Africans
4 and I think that you know congratulations, such approaches, are often welcome and so
5 the ambassador in that regard could only be happy with that.
6 You also have to take into account that there were people who were arrested, they were
7 handed over to the court, while the ambassador -- there was only one person who was
8 arrested and that was for theft, do you understand, and that could be a source of great
9 pride for the ambassador?

10 Q. Exactly. So, Mr Witness, as I was saying, we are not here to make some kind of
11 judgment about the logic of war, or assess people's individual judgment. We are here to
12 look at the events that occurred between October 2002 and 15 March 2003 to determine
13 whether the accused person, Mr Bemba, should be held responsible for what happened, or
14 not.

15 Given that you -- you were not in the CAR during that period of time, what do you base
16 yourself on when you say that you wouldn't want an innocent person to be punished if
17 that innocent person is not responsible? You said that earlier and I believe you repeated
18 it again, and it is to be -- and it is to be found on page 23.

19 A. You must realise, my learned elder, that the ambassador had been within the
20 rebellion for a period of time and if -- perhaps if violence or abuses occurred in Bangui,
21 like in any family, well, the children know their father. Children know their father and
22 they know how their father behaves. Knowing the behaviour of Mr Bemba ever since the
23 ambassador was within the rebellion, my learned elder, I really would swear on the Bible
24 that he would not allow violence, abuses, flagrant acts to occur and he would not stand by
25 and not take action.

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1 Now, it is true during that period of time, 2002 and 2003, Mr Bemba was extremely busy,
2 as I said earlier, with efforts to bring about reunification. I said that that had to be
3 considered. He wanted people to be placed within the public institutions, the
4 government, et cetera. There were too many -- well, he was often away. He had to
5 meet with leaders of other nations, with NGOs and the like. He just simply did not have
6 the time to monitor the situation in Bangui closely.

7 Military responsibility had been entrusted to the Chief of General Staff, General Amuli,
8 and I think he would have been the first person and I've been saying this over and over
9 again. You see, people were starting to hide reports and conceal things and this is what

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 I don't know whether my learned elder is satisfied with that reply?

19 MR ZARAMBAUD: (Interpretation) I am quite satisfied with your answer, yes. I see
20 you are saying that this is an analysis and as I said at the beginning of my remarks we are
21 asking questions - follow-up questions - related to the interests of the victims whom we
22 represent and, (Redacted)

23 (Redacted), I think that the replies from the witness

24 are entirely satisfactory and I can now end my questioning.

25 I thank you for answering my questions and I also wish to thank the Chamber for

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1 allowing me to address the Court.

2 THE WITNESS: (Interpretation) I thank you and I have great respect for your wisdom.

3 PRESIDING JUDGE STEINER: Thank you very much, Maître Zarambaud.

4 I will now give the floor to Maître Douzima Lawson.

5 Maître?

6 MS DOUZIMA LAWSON: (Interpretation) Thank you, your Honour.

7 QUESTIONED BY MS DOUZIMA LAWSON: (Interpretation)

8 Q. Good afternoon, Witness.

9 A. Good afternoon.

10 Q. Witness, just like Mr Zarambaud, I'd like to introduce myself and explain that I am
11 an attorney representing a number of victims who are participants in this trial. I too am
12 a lawyer and a member of the Central African Republic Bar.

13 Now, Witness, to begin I would like us to hark back to a statement that you made
14 yesterday, the hearing of 10 June 2013. I refer to the French transcript, page 78, lines 26
15 to 28, and the following page, lines --

16 THE INTERPRETER: Inaudible.

17 MS DOUZIMA LAWSON: (Interpretation)

18 Q. You made the following statement: "I am here to tell the truth about what
19 happened. I am against -- I would not want an innocent person to be punished when he
20 is not -- when he is not responsible."

21 Now, what do you mean exactly when you say or when you make reference to "what
22 happened"?

23 A. Thank you, ma'am. We are here because something did happen. That is the
24 reason for all of us being here. And if one analyses - I stress the word "analyses" - and
25 knowing the person, as I said to Mr Zarambaud, I really have a great difficulty seeing

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1 Mr Bemba allowing actions of violence, abuse, to occur without taking action.

2 But, you see, there were also people who were directly responsible - I stress people who
3 were directly responsible - who normally would be here to explain themselves if there had
4 been -- if the events had occurred, all these deplorable acts had occurred.

5 Q. Witness, now a few moments ago when you answered a question from the
6 Prosecutor, page 23, line 16, you said that it was because in your mind Mr Bemba was a
7 good leader and that is why you thought it was unfair for him to find himself in this
8 situation. Is that your opinion?

9 A. Yes, ma'am. He is a man and a man remains a man.

10 Q. Witness, Mr Zarambaud reminded you a few moments ago that here we are
11 examining the events of 2002 and 2003, in other words the MLC's second intervention,
12 and I'd like to remind you that on the hearing of 5 June 2013, transcript 317, page 53, line
13 21 to 28, page 54, lines 1 to 5, English, line 19 to 25, page 53, 1 to 2, Mr Kilolo put a
14 question to you, "Since you mentioned two interventions by MLC contingents in the CAR,
15 to your knowledge whose command was the MLC contingent placed under the second
16 time; that is to say in 2002?"

17 Your answer was this, (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 A. Ma'am, here this is a matter of analysis. If Mr Bemba -- well, I'm talking about

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1 analysis and comparisons. If Mr Bemba had had enough time, if he had had the
2 opportunity to monitor the ALC contingent in 2001 closely and if he gave that
3 responsibility to the person in question, (Redacted)

4 (Redacted)

5 How should I put this?

6 There was no attention, no risk in relation to 2001. He provided the reasons. For
7 various reasons, support had to be provided to Ange-Félix Patassé to protect the territory
8 under MLC control, to ensure that there would be no place in Bangui from which -- you
9 see, that is why the intervention was necessary in 2001.

10 During that period, with all of Mr Bemba's interests, all the interest he had as the leader of
11 the MLC, but he did not interfere directly. He merely provided the contingent through
12 the Chief of General Staff, provided to the FACA. So I don't think -- now, I won't
13 speculate why, but I don't think that in 2002/2003, as the war was coming to an end, as
14 reunification of the country was underway, I don't think there would have been any
15 particular interest to monitor that war individually. Analysis was done, as a man who is
16 thoughtful, who thinks things out.

17 Q. Witness, I would like you to answer my question. Now, a few moments ago, in
18 reply to a question from Mr Zarambaud, you said, and I quote, "I knew that it was here at
19 the Court, under oath, everything would be revealed. Everything would come out."
20 Now, when you say that everything was going to come out, about what, 2001 or
21 2002/2003?

22 A. (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 Q. (Redacted)

2 Now, during yesterday's hearing, 10 June, you mentioned abuse and violence by MLC

3 soldiers during the second war, cases you had heard about, and (Redacted)

4 once again I'm quoting from yesterday's transcript, you made the following statement:

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 Is that your testimony?

15 A. Yes, but as I have said repeatedly, and I think you've made this point as well, these

16 are just comments. This is just analysis. However, it was not direct experience, (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 Q. Witness, as a member of the MLC, what measures were taken by the authorities

22 leading the MLC, if you know, when they learned that MLC soldiers deployed in Bangui

23 had committed acts of violence and abuse, other than the Gbadolite trials at which eight

24 soldiers were put on trial?

25 PRESIDING JUDGE STEINER: Mr Kilolo?

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1 MR KILOLO: (Interpretation) I think that before putting that question, a preliminary
2 question has to be put to the witness, namely, were the authorities in Bangui informed of
3 crimes or allegations of crimes in the CAR, other than those eight people? Because the
4 way the question is put, it contains a statement that has been attributed to the witness,
5 according to which ALC authorities were apparently informed of such possible crimes,
6 and that has not yet been established.

7 PRESIDING JUDGE STEINER: Maître Douzima, I agree with Maître Kilolo, the way the
8 question is put, when they learned that MLC deployed in Bangui had committed acts. So,
9 could you please rephrase the question.

10 MS DOUZIMA LAWSON: (Interpretation) Your Honour, I think I was clear in my
11 question. I put the question: If, other than this measure, namely, of putting MLC
12 soldiers on trial, and the witness has spoken considerably about this during the hearings, I
13 asked whether anything else had been done, so I don't see why I would ask him about the
14 CAR authorities, because I already know the answer. He will tell me that he doesn't
15 know because he was not involved, but I'm asking him about the statements he made this
16 morning in relation to the Gbadolite trials, and I wanted to know whether, other than that,
17 was anything else done? Because he has said here that he received information to the
18 effect that the first operation went well. In contrast, the second did not go well. So, you
19 see, your Honour, that is what I'm driving at.

20 THE WITNESS: (Interpretation) Can you see the discrepancy here between eight and
21 one? I think this sufficiently demonstrates that, indeed, the first was better.

22 As for the measures, I have been constantly saying that (Redacted)

23 (Redacted)

24 (Redacted). The events that have been reported upon

25 are events, comments, analysis (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 MS DOUZIMA LAWSON: (Interpretation)

5 Q. Indeed, Witness, other than the trials in Gbadolite, (Redacted)

6 (Redacted) did they tell him that other measures had been taken in relation to the

7 information about the violence and abuse committed by MLC troops in the CAR?

8 A. (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 Q. Indeed, regarding the Chief of General Staff, the head of the MLC, you said earlier,

13 page 54, lines 17, that military responsibility was in his hands. Could I ask you this:

14 Who was above the Chief of General Staff?

15 A. Above the Chief of General Staff there was the commander-in-chief. However,

16 there was the political and military committee that was the umbrella, so to speak, and the

17 decisions were made after meetings and decisions taken by the Political/Military Council.

18 MS DOUZIMA LAWSON: (Interpretation) I thank you, Mr Witness.

19 THE WITNESS: (Interpretation) I thank you.

20 PRESIDING JUDGE STEINER: Thank you very much, Maître Douzima.

21 Mr Witness, the Chamber was informed that Defence would like to re-direct and for that

22 purpose I give the floor to Maître Kilolo.

23 Maître Kilolo?

24 MR KILOLO: (Interpretation) Thank you, your Honour.

25 QUESTIONED BY MR KILOLO: (Interpretation)

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1 Q. Witness, good afternoon.

2 A. Good afternoon.

3 Q. I'd like to ask you a number of questions to clarify matters. When you were
4 questioned by the OTP an excerpt of your earlier statement was read out to you, a
5 statement that was given during initial conversations with the OTP, and in this statement
6 apparently it says that Mr Bemba had mechanisms that allowed him to be informed of
7 things and to follow up ALC activities within MLC-controlled territory, and I'm making
8 reference to the real-time transcript, French version, T-319 bis, page 34, line 19, all the way
9 to page 37, line 12. I also refer to the French language transcript, real-time, T-319, page
10 112, line 26, to 115, line 21.

11 So my question is this: To your knowledge, did Mr Bemba have a system that allowed
12 him to be informed of activities and behaviour of the ALC troops in the CAR?

13 A. Counsel, I wouldn't want you to extrapolate hearsay here. I spoke about
14 mechanisms, mechanisms in the MLC territory, but Bangui in the Central African
15 Republic, this was outside the MLC territory. At that level, he didn't have control. He
16 didn't know the Bangui mechanisms and what was being done in Bangui.

17 (Redacted)

18 (Redacted) I asked the question if he could have control of the situation
19 outside MLC-controlled territory and particularly during this period when he was really
20 taken up with dealing with officials from the Government of Central Africa? No, I don't
21 think so.

22 Now, with regards to the territory which was under MLC control, yes, but where it
23 concerns the Central African Republic I do not think so. I do not believe so.

24 Q. To be more concrete, precise, you mentioned a certain number of sources, or
25 information channels. You mentioned the central transmission. You also named the

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1 Office of Internal Security, the Office of Military Intelligence and you also spoke about
2 customary chiefs and major traders; a certain number of channels you identified during
3 the Prosecution's examination. These were channels via which Bemba could obtain
4 information with regards to what was happening in the field within the framework of
5 operations of the ALC.
6 So these channels which you have identified, did they make it possible or not for
7 Mr Jean-Pierre Bemba to obtain information on the operations in which the ALC
8 contingent was taking part in the Central African Republic? That is the precise question.

9 A. Counsel, with the permission of the Presiding Judge, if we could please go into
10 private session?

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

12 *(Private session at 12.34 p.m.) Reclassified as Open session

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

14 THE WITNESS: (Interpretation) Counsel, you rightly mentioned these channels.

15 Now, these channels made it possible to give information to the chief of the revolution
16 within the territory controlled by the MLC, and also it has to be said that during this
17 period, the end of the war, Charlie Tango, so the centre of transmission, was -- it was
18 chock full and Amuli, who was managing the situation, he started to censor information
19 with regards to intelligence.

20 So with regards to this information the chief of the revolution had information which he
21 wanted, but to say that he was involved, well, we were almost at the end of the war in this
22 case and we had left our families (Redacted). Everybody was trying to go back. Above
23 all certain people were going back to Kinshasa, and it was at that time that I spoke to you
24 about (Redacted)
25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Now, with regards to the sources of information, these were well-known. While it was
17 during this period with regards to Charlie Tango and in connivance with the internal
18 security (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted) There were certain

22 things which were being done which we didn't admire and which we wanted to fight, but
23 because they were stronger than us, they were chiefs, different bodies, we were in

24 (Redacted)

25 (Redacted) The army had to go through Amuli, who was Swahili-speaking, and during

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1 this time they -- one tried to decry certain things and that's the reason why intelligence
2 and even information that one would want to get to the chief of the revolution was
3 censored by these people. This information was censored. And it was difficult, given
4 that the chief in that period, as I keep saying, of reunification, with everything that was
5 going on, all the work, it was difficult that he would be able to have all this information.
6 He was more occupied in preparing the government which would be there for the future.
7 Counsel, I think that I've been clear on this subject. The end of the war brought a lot of
8 bad things into the rebellion, our rebellion; (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted)
15 also the chief had very little time in order to follow the normal functioning of it. He was
16 abroad, as I said. He was outside that area. If he was there, he would have seen the
17 implementation of the institutions that were being set up and he would also see that at
18 that time he himself didn't really want to receive a lot. He was always with his restricted
19 committee, trying to set up future mechanisms for central government.
20 It was difficult to get hold of him, even via other informal channels, because there were
21 people who came to look for employment, there were people who came to hold a new
22 post in the central government, others who weren't even in the rebellion came from all
23 over Europe to come to find a place within the central government and at a certain time he
24 was saturated. He couldn't receive the whole world, read every report, see everyone.
25 And sometimes a report might come, but he would give it to the right person, but that

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1 person would be among the traitors.

2 And I think that today perhaps he would have had the opportunity to get to know who
3 was working with him and who has come to stick a knife in his back. You will quickly
4 and easily understand that all of these people at that time, in the last hours of the rebellion,
5 they had their personal ambitions and they no longer thought about providing service to
6 the movement so that we could be unified.

7 Some of them were bought. Well, they were already within the rebellion. The channels
8 were limited, and the chief could no longer follow and even had no interest in following
9 what was happening exactly in Bangui. Not only everything that could come to him was
10 being censored, but even he didn't have the material time in which to be able to follow it,
11 if necessary.

12 Q. Thank you very much, Witness. I've just got five more questions, so perhaps we
13 could make an effort to make it as short as possible.

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

15 MR KILOLO: (Interpretation) Not at all, your Honour. We can go into open session.

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

17 (Open session at 12.44 p.m.)

18 THE COURT OFFICER: Madam President, we're in open session.

19 PRESIDING JUDGE STEINER: Maître Kilolo, if you allow me?

20 Mr Witness, we understand that you are a man (Redacted)

21 (Redacted) but the fact of the matter is that for one simple question, for clarification

22 put by Maître Kilolo, you spent five pages of the transcript to answer. If we go in that
23 pace, Mr Witness, we are not going to finish, so again I would ask you to make an effort
24 and to answer to the questions put to you in a more objective and concise way. Thank
25 you very much.

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1 Maître Kilolo?

2 MR KILOLO: (Interpretation) Thank you, your Honour.

3 Q. Witness, the Prosecutor examined you with regards to information or rumours that
4 were running in the territory under MLC control in 2002 and 2003 about goods that had
5 been stolen in Bangui and taken to Zongo, Gemena, and you even mentioned the example
6 of a vehicle which belonged -- or which was taken to Gbadolite. General Amuli -- ended
7 up in General Amuli's hands. And you said that it had a fraudulent origin. Here I'm
8 referring to the transcript in the English edited version, English version real-time, T-319
9 bis, page 19, lines 11 to page 20, line 9, and also to the French version in real-time, T-319,
10 page 95, line 28 to page 97, line 1.

11 So my question is: This information, these rumours that you were getting, and about
12 which you say that they were one of the major subjects at the time in the area under the
13 control of the MLC, this information or these rumours, did they reach Mr Jean-Pierre
14 Bemba?

15 A. Counsel, I would tell you that at this period Jean-Pierre Bemba was almost
16 practically cut off from sources of information for two reasons that I indicated to you here.
17 I don't want to repeat them because I'm afraid that I'll take even more time, but you know
18 these two reasons. That's the first aspect. He couldn't. He could not know.
19 Secondly, General Amuli already had a jeep which came from the theatre of operations.
20 I don't know the origin of the jeep. Was it stolen? Had it been recuperated by the
21 mutineers? Had it been bought? Whatever, I don't know, but I would inform you that
22 even General Amuli would not want to accept the commander-in-chief would know that
23 there was a jeep which had come from Bangui, so he could only hide it, and because he
24 was somebody who was -- censored everything, he censored information, intelligence,
25 reports which were sent to the chief, do you believe that he was going to inform him

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1 thereof? I do not think so, Counsel.

2 Q. Thank you, Witness.

3 A. If you would allow me? I don't want you to take too much into consideration my
4 statements to the Prosecution. I told you, and I think that the Presiding Judge as well as
5 the august Chamber, know that this information was given strategically in order to
6 preserve my security. I was instructed, I'd like to say that in open session, I was
7 instructed and I didn't accept the instructions, but at the same time I couldn't say "no,"
8 taking into account my personal security, and I was basically psychologically playing
9 strategically, replying vaguely with vague answers with regards to what was said, so I
10 don't want you to take these statements into such consideration that I gave to the
11 Prosecution. Otherwise, why didn't the Prosecution call me here as a Prosecution
12 witness? If the Prosecution didn't call me here as a Prosecution witness here, it is
13 because they knew that at a certain time I was blocked. They knew that I would not go
14 along with their methodology, and I didn't respect the received instructions.
15 Thank you, Counsel.

16 Q. The Prosecutor asked you for the names of commanders who went to Bangui in 2001
17 and at that time you mentioned the 28th Battalion which was commanded at the time by
18 Mr Jean Diku and you also mentioned Commander Kisémbé, and here I'm referring to
19 transcript, English version real-time, T-319, page 23 to page 27, but also transcript, French
20 version, 319, pages 24 to 28. And my question is: Do you know where Commander
21 Kisémbé came from before joining the ALC?

22 A. Commander Kisémbé, the future general at the time, he came from the RCD army at
23 Buta. Their units were mixed (Redacted), the 28th Battalion. At the time the
24 commander, the brigade commander, was -- well, I don't know exactly any more. The
25 battalion commander was Jean Diku. (Redacted)

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1 went to Bangui for the first operation while, in the case of the second operation, that was
2 effectively carried out by the same troops of the 28th Battalion, but it no longer had the
3 same troops (Redacted). There was no longer
4 the FLC in the 2002/2003 period. All the troops coming from Buta and from Beni went
5 back to their area, so around 200 people from this same battalion, commanded by
6 Kisembo, General Kisembo afterwards, went back to Buta, and also the brigade
7 commander was changed.
8 General Moustapha, who was in Brigade B, he became brigade commander, and he too
9 brought back, for your information, General Moustapha, he brought a brigade into the
10 MLC from the DRC. So there was a large part of these people and he also brought with
11 him a lot of these troops who had been sent into battalions, so a large number of them.
12 Particularly by way of replacement there were troops who had left Buta and as there were
13 people who had been deployed, there were troops from the new 28th Battalion, they were
14 no longer the same troops as the ones who had been involved in the first operation (Redacted)
15 (Redacted). So the 28th Battalion in 2002 and 2003 had new troops who came from
16 General Moustapha in Basankusu and that included other troops who came from other
17 brigades because there were other deployments that were made and I would say that this
18 battalion did not have more than around 30 or 40 troops - I have no precisions in that
19 regard - the former 28th Battalion, (Redacted)
20 (Redacted).

21 Q. And do you know where Commander Kisembo went at the end of the operation in
22 2001?

23 A. It was practically at the end (Redacted). The Commander Kisembo
24 was with more than 220 of his troops and they went to Gemena, where a plane took them
25 to Buta, where he went to become general.

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1 Q. Yesterday, Madam Bala-Gaye asked you questions with regards to your meetings
2 with the Office of the Prosecutor, as well as the procedure concerning your testimony in
3 this case, and here I'm referring to transcript in real time, and the English version thereof,
4 T-319 bis, pages 4 to 10, and in the transcript in real time, the French version, T-319, page
5 79 to 85. In your answers you -- sorry, you also testified with regard to the fact that you
6 had met Mr Badibanga, a member of the Office of the Prosecutor, in the (Redacted)
7 (Redacted) and here I'm referring to the transcript 319, pages 5, lines 1 to 4, as well as the
8 transcript in the French version, real-time T-319, page 5, line 12 to 15, and who was still
9 in this examination by the Prosecutor, you mentioned your conversations with
10 (Redacted) and here I'm referring to transcript in real time in the English version, T-317,
11 page 33 to 36, as well as the transcript in real time French version, T-317, pages 34 to 37,
12 and my question is: What is the order in which that occurred, your conversation with
13 (Redacted) or your meeting with Mr Badibanga? Which occurred first?

14 A. Counsel, first of all --

15 PRESIDING JUDGE STEINER: Mr Witness. Court officer, could we turn briefly, please,
16 into private session.

17 *(Private session at 12.58 p.m.) Reclassified as Open session

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

19 PRESIDING JUDGE STEINER: (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 THE WITNESS: (Interpretation) Thank you, your Honour. I also wanted us to go into
24 private session, but I wanted to say to counsel that I didn't really understand the question
25 with transcripts number 00 whatever. I didn't get the part of the question. If he could

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1 really ask the question again?

2 PRESIDING JUDGE STEINER: Maître Kilolo, you can repeat the question without
3 mentioning the transcript, please.

4 MR KILOLO: (Interpretation)

5 Q. Witness, during your examination by the Office of the Prosecutor you mentioned
6 two meetings: One meeting that you had with (Redacted) and another that you
7 had with Mr Badibanga of the Office of the Prosecutor. My question is: Which of these
8 meetings was first?

9 A. I didn't have just two meetings. I had several meetings with those people. The
10 first was the telephone call from (Redacted)

11 (Redacted). He said to me, "(Redacted), I've talked to you about the
12 dealings I have with (Redacted)

13 Now, even though he wasn't in my heart for a while during a certain time, (Redacted)
14 (Redacted)

15 (Redacted). So how should I put this? Our dealings were not as before. Our
16 relationship was not as it was earlier.

17 He called me and he said, (Redacted) Jean-Pierre says that I am the one who is ..." --

18 THE INTERPRETER: Inaudible.

19 THE WITNESS: (Interpretation) -- "... the ICC and I just can't leave him hanging like
20 that because if he gets out and he comes (Redacted) I will flee. I have to do all I can so
21 that I can nail him. (Redacted) you have a lot of things to say during

22 Jean-Pierre's trial. Some people from the ICC are going to call you, but before that I'd
23 like to put you together with (Redacted) so that you can organise

24 yourselves and harmonise your statements about -- to the friends; our friends at the ICC."

25 And I said to him, (Redacted). I took risks in my life, but this is what I am.

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- 1 You can't ask me to do all of this. If Jean-Pierre were to come here (Redacted) and if
2 you were to flee I, without any resources, (Redacted), what would I do?"
- 3 And then he said, "Well, you have a great deal of information that will make you very rich
4 and first you will return to your earlier position." And I said, (Redacted)..." -- and
5 I know the fellow and I know the cat and mouse games. I couldn't say "No" to him. I
6 observed him and I played. We were playing a game, cat and mouse.
- 7 (Redacted) said to me, "Go, finish with them and then we will see what is possible." And I
8 said, "No, no, no. (Redacted), these positions, you can be appointed one day and
9 two days later relieved of your duties. I'm not going to go along with these matters of
10 government -- of positions. I'm not going to be an incriminating witness under those
11 conditions."
- 12 And so I suggested to him -- I played the game. I said, "Give me \$2,000,000 and I'll
13 co-operate. Without that, (Redacted), I've suffered too much already." He calmed me
14 down and he said, "Okay, we'll arrange all of this. (Redacted) is responsible for that aspect
15 of things. Talk to him, but go meet the friends after -- before, rather, the investigators
16 from the ICC and we will see how things work out." So that was the first meeting.
- 17 PRESIDING JUDGE STEINER: Mr Witness, I'm sorry to interrupt you. Just for the sake
18 of the transcript, when you mentioned that you were advised to meet some people, could
19 you repeat the names of the person -- the persons that you were suggested to meet in
20 order to harmonise or organise the statements? Can you repeat, please, those names?
- 21 THE WITNESS: (Interpretation) (Redacted) and me. Those were
22 the two people: (Redacted)
23 (Redacted) and also had
24 another position.
- 25 PRESIDING JUDGE STEINER: Thank you for the clarification, and let's see if you can

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1 conclude your answer to Maître Kilolo.

2 THE WITNESS: (Interpretation) If you don't mind, I haven't quite got to the end of my
3 account? I haven't quite landed, so to speak.

4 MR KILOLO: (Interpretation)

5 Q. What was the next meeting?

6 A. It was the meeting with the second person at the residence of (Redacted) where
7 we discussed matters and we had to calculate the chairman, but already there were
8 complaints and I said, "Well, we are unemployed and other people are working." And so,
9 you see, I played the game. I played along with him. That was the second meeting.
10 Then I saw -- correction, there was a third meeting, rather two meetings -- second meeting
11 with (Redacted) and he provided me with \$3,000,000. He said, "That's the money that was
12 given to you. We realise you're unemployed. Perhaps this will help you with this, that
13 and the other thing, pay your rent, but go see the friends at the ICC."

14 I took the \$3,000,000 and I went to see (Redacted)

15 (Redacted)

16 (Redacted) I explained

17 everything to her, "Ma'am, look at this. I went to see (Redacted). He gave me this. He
18 told me that." And (Redacted) even laughed and she said, (Redacted) that's not his money.

19 It is the country's money that he is stealing. Tell him to give you \$2,000,000. Take it, but
20 reveal everything to the ICC and tell them that -- even that they gave you money."

21 "Okay, ma'am," and she said I could call.

22 I came back and, you see, I was still playing along with them. The third meeting was
23 with Jean-Jacques Badibanga at the (Redacted). We met and (Redacted) had given
24 the number, and I also explained my problems to him. I said, "Listen, I don't want to be
25 sacrificed for Jean-Pierre just like that while I'm suffering. I've been unemployed for

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1 years." He said, "That's not our problem. That's not the ICC's problem. You have to
2 arrange that with (Redacted) and company in terms of your own -- your own organisation,
3 but us, the ICC, what we're interested in is information that we need and we have no
4 pressure."
5 Honestly, he only said what the ICC wanted and, in terms of money or resources, I said
6 clearly -- he said, "That isn't my business. You have to make your arrangements. What
7 we need is this, that and the other. That's your testimony."
8 The fourth meeting was with two ICC investigators. I believe there were three meetings
9 like that, one after another, with the ICC investigators, but between those meetings I had a
10 call from (Redacted) and he said to me -- no. No, no, it wasn't (Redacted). It was the call
11 from (Redacted) who said to me, "My
12 friend, you're going to have to get a bit wet if you want to dive into the water," and I said,
13 "Well, I do want to dive into the water, but I will get wet. Who is going to help me after I
14 come back out all wet? I don't have any spare clothing." And he said, "Calm down.
15 Calm down," all of that. We talked and I saw * what he was up to -- you see, these are
16 young people and I got the better of them.
17 I went to see them again, the friends of the ICC, at their invitation. With Mr Jean-Jacques,
18 he was -- how should I put this? He was friendly enough. He paid for two meals and a
19 few -- some desserts. I don't drink, but I think he paid for some sweets, or dessert, or
20 some soft drinks. We went our separate ways. He suggested to me -- well, he offered
21 some money for fuel and I said, "No, I have enough fuel in my vehicle. Thank you all the
22 same."
23 With the investigators as well they offered -- they did some calculations. They said,
24 "Where do you live?" (Redacted) "How much fuel did you need? Okay,
25 we'll give you ..." -- (Redacted). I said, "No, no, no. Thanks all the

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1 same. I'm fine for fuel. (Redacted) but I -- so I politely refused that
2 money.

3 After that, (Redacted) spoke to me and he said, (Redacted) the friends of the ICC say that
4 you won't go along with them," and I said, "(Redacted), I did some of the prep work.

5 I want you ..." -- and I said this to the friends the ICC, the investigators, and I said, "We're
6 just going to talk about the form, you and I. We're just going to talk about form, but
7 when it comes to substance you're going to have to give me some guarantees. (Redacted)
8 (Redacted)

9 (Redacted)

10 The second thing was I wanted my lawyer to be present and the third condition was my
11 safety.

12 Those were the conditions. Because, you see, that's why I asked for the 2 million because
13 when you have money you have security. But (Redacted) called me and said -- he said, "Oh,
14 you don't want to go along with this. The people from the ICC say that you haven't
15 complied. The conditions aren't -- "so I said "I'm not going along with this. These
16 conditions have to be met." And so there was the third discussion with the investigators
17 and after that I shut down. I had another call -- I don't know -- I was told that the friends
18 from the OTP wanted to meet with me, and I refused. I said "No, we'll see each other in
19 court." So those were the few meetings that I had with (Redacted) and the team from the
20 Prosecution.

21 Q. Thank you. You said that Mr Badibanga said to you that the friends from the ICC
22 said you weren't --

23 THE INTERPRETER: Overlapping speakers.

24 THE WITNESS: (Interpretation) No, it was -- everything that I said to the ICC
25 investigators was being reported back to (Redacted). He knew I wasn't co-operating and

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1 I -- you see, I was giving general answers, approximations. There was nothing to be said
2 about 2002, I had nothing to say, but I wanted to keep them going along. I wanted to
3 follow (Redacted) logic. So, you see, I was pretending to go along with them so that my
4 security would not be endangered, because I knew that he wouldn't be able to give me that
5 money, and even if he gave me that money, it was just something for me to put in my
6 pocket, leave the Congo and wait for the ICC outside.

7 Q. Can you give us some names? Who are these friends from the ICC you mention
8 who were in touch with (Redacted), to your knowledge?

9 A. Honestly, I don't know, but I see -- well, I don't know, but I presumed - and I'm
10 being very careful about my words here - I presumed it was Badibanga, because
11 Badibanga never asked me, never even asked me a question. It was the white
12 investigators who asked me questions. That was the first thing. Secondly, it was rather
13 with him that I -- that we met and he said he was from the Prosecution and so on and so
14 forth. But have -- he got my number through (Redacted). I presumed, I analysed that it
15 was (Redacted) who had given him my number, and I concluded that what was being said, or
16 what was being reported back to (Redacted) about my refusal to follow the line that they
17 wanted, could only have come from him, but I beg your pardon, this is just a supposition.
18 Well, plus he's a local fellow, he's from the Congo, so he had -- must have had contacts
19 with (Redacted). He was the first to call. He had my number. And after, after talking to
20 (Redacted) he called me and he was -- he was the one who had been in contact with
21 (Redacted). Otherwise, how would he have had my number?

22 Q. You also specified that Mr Badibanga, in reply to one of your concerns, said you
23 should make your arrangements with (Redacted) within your own organisation. Which
24 organisation was Mr Badibanga talking about?

25 A. I don't know. He -- I don't know what organisation. Perhaps our

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1 meeting -- because it was (Redacted) who put him on my tracks. (Redacted)
2 us -- the three of us, we were all people working (Redacted)
3 (Redacted). So at that level the three of us,
4 especially -- we complained. We did not understand. I was clear. I was clear with
5 (Redacted). He's a fellow -- well, he's not close to my heart, but we had (Redacted)
6 (Redacted) Of course, that
7 was during the rebellion.

8 Q. And the \$3,000 that you received, you received that in exchange for what exactly?
9 And do you know who provided that money?

10 A. He put the question -- he put the problem to me. Discussion, he brought out an
11 envelope and he gave it to me and in the envelope there it was \$3,000. And (Redacted) also
12 confirmed that he got his share. Who else? (Redacted) did not say anything, but at one point
13 he complained. So I --

14 THE INTERPRETER: The witness speaks in Lingala or Swahili -- in Lingala. The
15 witness goes on to explain.

16 THE WITNESS: (Interpretation) The leader gave out a lot of money but we just get
17 crumbs.

18 PRESIDING JUDGE STEINER: Mr Witness, I'm sorry. You are speaking too fast and in
19 Lingala. It's totally impossible for the interpreters to follow that. Please.

20 THE WITNESS: (Interpretation) Thank you. I was trying to imitate. I was just
21 trying to imitate (Redacted) but I explained it in French. He -- well, basically, it boils
22 down to they were giving a lot of money but we were just getting crumbs. So I was sort
23 of imitating what he had said. I thank you for that reminder.

24 MR KILOLO: (Interpretation)

25 Q. And when he says "the leader," who did --

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1 A. Question mark.

2 Q. And the share of money from -- to (Redacted) that was in exchange for what?

3 A. No idea. I think that everyone got his envelope, \$3,000. I don't know whether the
4 others got more. I was given \$3,000 in an envelope, in a khaki coloured envelope, and
5 I can tell you, I used that money. I had problems, financial problems. And before using
6 it, I said to (Redacted)

7 (Redacted), I even spoke about the 2 million that I had asked for

8 before testifying against Mr Bemba, and she said it's not their money. "If they offer you
9 the money take it, use it. Get out of the country and wait for the ICC and then spill the
10 beans there." Fortunately for them, unfortunately for me, they didn't give me -- I
11 wouldn't have taken the money and put it in my pocket.

12 Q. Witness, now, when you mention your first meeting with Mr Badibanga, was there a
13 third person other than you two?

14 A. No, it was just the two of us.

15 Q. Did he record your discussion?

16 PRESIDING JUDGE STEINER: We are trying to run against the clock and the
17 interpreters and court reporters are not able to provide us with the English transcript. So
18 my question is: If you still have some more questions to put, we will have to suspend
19 and come back because the way it's going it's completely impossible.

20 MR KILOLO: (Interpretation) Very well. I suggest that we resume after the break.

21 PRESIDING JUDGE STEINER: I think it's better, because unfortunately Mr Witness
22 sometimes takes too long to answer to a question and at the end we have just four minutes
23 on the tape.

24 So, court officer, please turn into open session.

25 (Open session at 1.25 p.m.)

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

2 PRESIDING JUDGE STEINER: Mr Witness, the Chamber thought that it would be
3 possible to finish with your testimony before the lunch-break, even because we have the
4 other witness waiting to start with his testimony in the afternoon, but unfortunately this is
5 not possible any more. So we are going to suspend now for our lunch-break and we will
6 resume at 3 o'clock. And for sure the next witness will be able to start only tomorrow
7 morning.

8 So I will ask, please, court officer to turn into closed session for the witness to be taken
9 outside the courtroom, and in the meantime we will suspend and resume at 3 o'clock.

10 *(Closed session at 1.26 p.m.) Reclassified as Open session

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

12 (The witness stands down)

13 THE COURT OFFICER: All rise.

14 (Recess taken at 1.27 p.m.)

15 (Transcription of the hearing continues in Transcript:

16 ICC-01/05-01/08-T-320bis-CONF-ENG)

17 CORRECTION REPORT

18 The Court Interpretation and Translation Section has made the following correction
19 in the transcript:

20 *Page 61 line 15

21 "I saw him go about " is corrected by "I saw what he was up to "

22 RECLASSIFICATION REPORT

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

24 ICC-01/05-01/08-3038, the version of the transcript with its redactions

25 becomes Public.