

Trial Hearing
Witness: CAR-D04-PPPP-0021

(Open Session)

ICC-01/05-01/08

1 International Criminal Court
2 Trial Chamber III - Courtroom 1
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08
5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and Judge Kuniko Ozaki
6 Trial Hearing
7 Tuesday, 9 April 2013
8 (The hearing starts in open session at 9.12 a.m.)
9 THE COURT USHER: All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE STEINER: Good morning.
13 Could, please, court officer call the case.
14 THE COURT OFFICER: Yes, Madam President. Situation in the Central African
15 Republic, in the case of The Prosecutor versus Jean-Pierre Bemba Gombo, case
16 reference ICC-01/05-01/08, and for the record we are in open session.
17 PRESIDING JUDGE STEINER: Thank you.
18 Good morning. I welcome the Prosecution team, Maître Douzima. We were
19 informed about difficulties Maître Zarambaud is facing in order to come to The
20 Hague, so his absence is justified by the circumstances.
21 I welcome the Defence team, Mr Jean-Pierre Bemba Gombo. Good morning to our
22 interpreters, our court reporters. Good morning, Ms Toumaj.
23 THE COURT OFFICER (DRC): Good morning, Madam President. I have just one
24 thing to mention. We don't receive the French interpretation here. If we could
25 have some help from the technicians, please?

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- 1 PRESIDING JUDGE STEINER: Please let me know if the problem is solved.
- 2 THE COURT OFFICER (DRC): I can still hear you in English.
- 3 PRESIDING JUDGE STEINER: Ms Toumaj, can you hear me in French?
- 4 THE COURT OFFICER (DRC): Yes, Madam President, I can hear you in French
- 5 now.
- 6 PRESIDING JUDGE STEINER: Good morning, Mr Witness.
- 7 WITNESS: CAR-D04-PPPP-0021 (On former oath)
- 8 (The witness speaks French)
- 9 (The witness gives evidence via video link)
- 10 THE WITNESS: (Interpretation) Good morning, Madam President.
- 11 PRESIDING JUDGE STEINER: Are you feeling well and ready to continue with
- 12 your testimony, sir?
- 13 THE WITNESS: (Interpretation) Yes, indeed, Madam President.
- 14 PRESIDING JUDGE STEINER: Mr Witness, I need to remind you that you are still
- 15 under oath. Do you understand that, sir?
- 16 THE WITNESS: (Interpretation) Yes, I do understand, Madam President.
- 17 PRESIDING JUDGE STEINER: I also would like to remind you that you are
- 18 expected to speak slower than normal and to give the five seconds after a question is
- 19 put to you before you start answering in order to allow our interpreters to do their job.
- 20 Can we count on you, Mr Witness?
- 21 THE WITNESS: (Interpretation) Yes, indeed, Madam President.
- 22 PRESIDING JUDGE STEINER: Thank you very much.
- 23 So I'll give back the floor to Maître Kilolo to continue with the questioning of the
- 24 witness.
- 25 Maître Kilolo.

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1 MR KILOLO: (Interpretation) Thank you, Madam President.

2 QUESTIONED BY MR KILOLO: (Interpretation) (Continuing)

3 Q. Good morning, Mr Witness.

4 A. Good morning, Counsel.

5 MR KILOLO: (Interpretation) I would like to ask that the court officer place before
6 the witness document number 28 in the list of Defence documents, please.

7 THE COURT OFFICER (DRC): (Interpretation) Maître Kilolo, document
8 CAR-DEF-0002-0580 is currently being presented to the witness.

9 MR KILOLO: (Interpretation)

10 Q. Mr Witness, you have a document before you where we can read under the
11 heading of the "Congolese Liberation Movement," under which is written "The
12 President." I would like to request that you read the title of this document and then
13 continue reading the document from "The National President of the Movement ..."
14 and finishing off with "... considering the urgency and opportunity." So I would like
15 you to read all of the excerpt before the verb "decrees."

16 A. "Decree number 0002/President/MLC/2002, dated 25 March 2002, creating the
17 court martial -- creating a court martial within the Congolese Liberation Army. The
18 National President of the Congolese Liberation Movement and Commander-in-Chief
19 of the Congolese Liberation Army considering the act establishing the MLC and more
20 specifically its Article number 2, I believe, considering decree number
21 037/Pres/MLC/2001, dated 7 December 2001, appointing the members of the executive
22 of the MLC, considering that as modified today law -- order law number 72-060 dated
23 25 September 1972 establishing a Code of Military Justice considering the ALC Code
24 of Conduct, considering the MLC Code of Conduct for senior officials, in view of the
25 fact that there is a distinct necessity to safeguard military discipline within the ALC

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1 by correctly reprimanding any criminal act involving vandalism, banditism,
2 disobedience and treason within this corps, considering the urgency and
3 opportunity."

4 Q. I would like to request that you read on and that you read the first article and
5 second article of this document, please.

6 A. "Hereby decrees: Article 1. Hereby creates a court martial within the ALC
7 with its headquarters in Gbadolite. Article 2. The court martial shall have
8 jurisdiction to try all offences committed by lower-ranking officers, higher-ranking
9 officers and generals. Nevertheless, it may be seized by any offence committed by
10 an ALC combatant if this is of a complex nature."

11 Q. I would like you to move on to the next page, please, that is
12 CAR-DEF-0002-0581. Mr Witness, could you please read -- well, could you please
13 identify the signatory of this document and the date of this document by reading
14 from the bottom of the page?

15 A. This document was signed in Gbadolite on 25 March 2002 and it obviously
16 bears the signature of Mr Jean-Pierre Bemba, President of the MLC.

17 Q. Could you please explain this document to the Court, Witness?

18 A. The document before us creates or sets up a court martial tasked with trying the
19 ALC officers, in principle, and some lower-ranking soldiers, were they to commit any
20 complex offences, and we can see from reading this document that the underpinning
21 judicial situation of this martial court is also provided in addition to the military code
22 of the DRC. Now, thirdly, this document bears the signature on 25 March 2002 and
23 was signed in Gbadolite.

24 Q. This might be redundant, but what is the objective of this decree setting up a
25 court martial within the Congolese Liberation Army?

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1 A. The underlying reason for setting up of this decree is to preserve discipline
2 within the ALC by trying to ward off any offences on the part of lower or
3 higher-ranking officers. We are trying to fight against impunity here and we are
4 trying to impose discipline.

5 Q. And in an entirely different register, Mr Witness, was there any specific event
6 that during the year 2002 and 2003 in fact, amongst the ALC activities, was there any
7 specific situation or event?

8 A. Now, the important event that comes to mind is the intervention on the part of
9 ALC units in the Central African Republic towards the end of the year 2002 and the
10 beginning of 2003.

11 Q. And to your knowledge, what -- for what reason was the ALC contingent sent
12 to the Central African Republic at that moment in time?

13 A. To my knowledge, the objective was to defend and protect a government that
14 had been democratically elected by Central Africans which was under threat and was
15 threatened of being overthrown by a rebellion movement from the north of the
16 country.

17 Q. And were there any other interests at hand, or any objectives on the part of the
18 ALC, justifying these troops being sent to the Central African Republic?

19 A. According to my understanding of the situation, I could not see any. I might
20 explain myself. Now, for any State or entity such as ours, an ALC which manages
21 an extensive geographic territory, well, a State has three interests. There are the vital
22 interests, there are the fundamental interests and there are those interests associated
23 with power. The vital interests as such, if part of its geographic territory is occupied
24 by forces outside of its control and part of the population is threatened and its
25 survival is threatened, this is a vital interest for the State.

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1 Now, a fundamental interest would be the supply lines for a country and it is ready to
2 fight those fundamental interests, those supply lines if you like, and then there are
3 those power interests, when a State deems that it should launch certain military
4 operations outside of its territory, for example.

5 Now, with regard to the MLC at that moment in time, to my mind what happened in
6 the Central African Republic did not affect in any way either the vital interests of the
7 MLC or the fundamental or indeed the power interests of the MLC, so I do not believe
8 that the ALC or the MLC had any particular interest in -- or any personal interest, if
9 you like, in going to undertake or lead military operations in the Central African
10 Republic.

11 According to what I understood, the idea was that in view of the fact that we are
12 fighting for democracy in our country and by virtue of the fact that we were under
13 the impression that democracy could lead to further development and it was the only
14 means, in fact, I believe that some comrades believed that it was necessary to support
15 a democratic regime in a country next to ours. That is the explanation that I can
16 furnish in this regard.

17 Q. If we were to talk about fundamental interests, during that specific period, that
18 is towards the end of 2002 and early 2003, was there a specific threat on the Central
19 African Republic that was of such a nature that would compromise the supply lines of
20 the ALC within the context of its military operations?

21 A. Quite humbly, the answer is no. No, because we had two alternate supply
22 routes. The first was the original route and you must understand that for some time
23 during the hostilities, during that period of hostilities, the Central African Republic
24 was not -- or rather had closed its borders and that had already happened previously
25 and at that time our supplies came in through Uganda. The second alternate supply

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1 route, and you may want to recall, is in the context of the ongoing operations in the
2 Central African Republic. I believe that when the operations started in the Central
3 African Republic, the communication channels on the river with Kinshasa were
4 reopened as people and goods began to move about more freely, but you may want to
5 recall that in 2002, I believe it was in the month of April, an agreement had been
6 signed between the MLC and Kinshasa by which Jean-Pierre Bemba was to become
7 the prime minister. I'm referring here to the Sun City I Agreement. By the way, an
8 MLC delegation went to Kinshasa and then to Matadi in order to draft the
9 constitution pursuant to the Sun City I Agreement. My opinion, therefore, is that the
10 events in the Central African Republic did not indeed amount to a serious threat to
11 our fundamental interests, namely our supply routes, because it was still possible for
12 us to use alternate supply routes. That's my answer, Counsel.

13 Q. During the same period, end 2002/early 2003, was the ALC still at war, or in a
14 state of hostility, towards the Kinshasa government or towards other forces?

15 A. No. In 2002, at that time what you need to recall is that in January 2001 one of
16 the belligerent leaders, who was a signatory to the Lusaka Agreement, was
17 assassinated in Kinshasa. His name was Laurent-Désiré Kabila. His successor, the
18 current president, Joseph Kabila, then undertook to commit himself to dialogue and
19 so it could have been said that for all practical reasons the war had come to an end
20 with the death of Laurent-Désiré Kabila, although subsequently there were some
21 skirmishes here and there, but in the minds of virtually everybody the war had come
22 to an end.

23 Q. As far as you understand, Witness, was there any agreement to commit the
24 troops; that is between the Central African Republic government and the leadership
25 of the MLC?

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1 A. Yes, my understanding is that there was an agreement, or such an agreement to
2 commit forces. It may not have been a written agreement, but I was able to have an
3 understanding of the substance of that agreement.

4 Q. Can you give us the content or the substance of that agreement, please?

5 A. Yes, Counsel. For the MLC, the idea was to provide combating or fighting
6 units to the powers in place in Bangui in order to help them fight Central African
7 rebels who were supported by external forces. That is one component of the
8 agreement.

9 The second component of the agreement was that troops will be made available to the
10 Central African authorities, who undertook to handle all matters relating to logistics
11 and to co-ordinate the operations on the field, or on the ground.
12 That in broad strokes is my understanding of some of the components of that
13 agreement to commit troops.

14 Q. Within the context of that agreement, do you know what the role of the
15 commander of the ALC unit that went to the Central African Republic would have
16 been?

17 A. The ALC commander was supposed to participate in the activities on the
18 ground as a tactical unit, alongside the other allied forces that had come to support
19 the power in place.

20 Q. Do you know why the MLC was not expected to provide logistics for the
21 operations in the Central African Republic, going by that agreement?

22 A. I think it was for two very simple reasons: (1) we did not ourselves have
23 enough logistics. It is true that we were an insurrectional movement which had
24 limited resources, but which tried to organise itself to the best of its ability. Second
25 reason, it was not our war. You see, the example I may provide today which you

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1 may be aware of is that in our country there is a contingent of more than 17,000 men
2 which has been in our country for several years and I'm referring to the United
3 Nations contingent of the Blue Berets which brings together units from several
4 countries including for example Pakistan, Uruguay, Morocco and from what I have
5 been able to gather the logistics for this operation is handled by the United Nations.
6 It is within a similar context or within a similar spirit that the MLC made its troops
7 available to the Central African authorities.

8 Q. As far as you know, and pursuant to that agreement to commit troops, whose
9 responsibility was it to design, to plan and to lead the military operations on the
10 ground? I'm referring here to the military operations that were to be conducted by
11 the Central African or rather by the ALC contingent in the Central African Republic.

12 A. Quite clearly - quite clearly - it was the Central African authorities.

13 Q. Do you know why?

14 A. Well, simply for several reasons, one being practical. As I stated a short while
15 ago, the MLC contingent was expected to collaborate or work with other troops that
16 they were to find on the ground, particularly the Central African national army, the
17 Presidential Guard and as far as I could understand there were other armed groups
18 which may be referred to as "militia." There was a need for the military operations
19 to be co-ordinated and it was therefore necessary - absolutely necessary - for a
20 co-ordination centre to be set up, an operations co-ordination centre. So that was the
21 first element, the need for co-ordination.

22 The second element: You see, in military operations, knowledge of the terrain or of
23 the field is crucial. Our contingent commander had never experienced any such
24 operations in the Central African Republic, he had never led any operations in that
25 country, and therefore could only but rely on soldiers who one would refer to as

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1 "natives" who had a full understanding of the terrain. It is for these two reasons that
2 I believe that the co-ordination of the operations, the planning of the operations, was
3 in the hands of the Central African authorities.

4 Q. According to that agreement, and as far as you know, who was in charge of
5 collecting information on the enemy and who processed such information in order to
6 convert it into military intelligence?

7 A. I believe that if things had happened with some orthodoxy, there should have
8 been a second office in charge of intelligence and that would have dealt with all
9 intelligence matters on the ground in the Central African Republic.

10 Q. Do you know who was in charge of crime prevention within the context of that
11 agreement?

12 A. To my mind, it was the Central African Republic authorities to whom the troops
13 had been made available.

14 Q. As far as you know, was it possible for suspects to be extradited to Zongo, that
15 is soldiers who were suspected or ALC soldiers who were suspected of having
16 committed some crimes in the Central African Republic? Would it have been
17 possible for that to happen without the authorisation of the Central African
18 authorities? Would that have been possible?

19 A. Well, I believe that within the spirit of that agreement to commit troops, this
20 would not have been possible. You see, if Gbadolite were able to extract or extradite
21 its troops that had been made available to the Central African authorities, such
22 conduct would have led to discomfort and interferences with the conduct of the
23 operations. That is why I believe that within the context of that agreement to
24 commit troops, it was the Central African authorities who were in charge of ensuring
25 proper conduct on the ground by the soldiers that had been made available to them.

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1 It was the Central African authorities who, at the behest or not of the Central
2 African -- or rather, of the MLC officials, it is the Central African officials who were in
3 a position to extradite or not to extradite any such suspects.

4 Q. Beyond that agreement to commit troops, that is between the Central African
5 State and the MLC, let me now put a question to you regarding the reality of what
6 actually happened in the Central African Republic, to the extent that you are aware of.
7 Now, as far as you know, who was in charge of the command and control of the ALC
8 troops in the Central African Republic?

9 A. The ALC troops were directly managed by their brigade commander; namely
10 General Moustapha, who was on the ground in the Central African Republic.

11 Q. The ALC unit commander, Moustapha, who did he receive operational orders
12 from; do you know?

13 A. To my mind, he received such orders from the Central African Republic
14 authorities, as I have explained, for practical co-ordination and knowledge familiarity
15 of the terrain. For those reasons, he could only receive such orders from the Central
16 African authorities. Now, if we were to take the contrary scenario and think that
17 Moustapha were to receive orders from elsewhere, he may be going down a road or
18 an axis without being aware of the possibility that some enemy troop or some
19 friendly troops may be on the same axis or road and that might lead to clashes
20 between him and enemy troops or between him and friendly troops because of such
21 lack of co-ordination. To this date, I am not aware that the ALC forces mistakenly
22 engaged combat with some units that had come to support them and for that reason I
23 therefore believe that there was some co-ordination of those operations at a certain
24 level.

25 Q. Do you know who gave the orders for the ALC contingent to withdraw from

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1 the Central African territory?

2 A. I do not have the specific name of the person who may have given such an order,
3 but my understanding is that the troops arrived in the Central African Republic with
4 the approval and agreement of the Central African authorities. I therefore believe
5 that the withdrawal of the troops should also have been done with their agreement
6 and approval.

7 MR KILOLO: (Interpretation) Let me ask the court officer to please make available
8 to the witness document number 37 on the Defence list of documents, page
9 CAR-OTP-0001-0471.

10 THE COURT OFFICER (DRC): (Interpretation) Maître Kilolo, document
11 CAR-OTP-0001-0471 at page 471 is now displayed to the witness.

12 MR KILOLO: (Interpretation)

13 Q. Witness, the document before you is an article that was printed from the Jeune
14 Afrique website by the OTP. I would like to point out for your attention that at
15 paragraph 4 of that media article, I want to draw your attention to that paragraph and
16 I'll read out that excerpt for you before putting my question to you.

17 A question was asked to Mr Jean-Pierre Bemba by Jeune Afrique and this is the
18 question, quote, unquote, "Why did you lose the Bangui battle? Answer: I did not
19 lose that battle. The Chadian troops that brought François Bozizé to power in the
20 Central African Republic simply took advantage of the withdrawal of my combatants.
21 Up until the end of February I had some 1,500 men on the ground. They were never
22 defeated. They even beat the Chadians in mid-February. However, in March and
23 pursuant to the provisions of the new constitution of my country, which placed the
24 management of all the Congolese forces under the Supreme Council for Defence,
25 I had to call my men back home."

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1 Now, Witness, let me stop here and ask you the following question: How do you
2 reconcile your answer whereby it was the Central African authorities who ordered
3 the ALC contingent in the Central African Republic to withdraw? How do you
4 reconcile that with the statement I have just read from this press clipping?

5 A. Thank you, Counsel, for the question. The author of the interview is present
6 with you there and I believe that he's in a better position to clarify his thinking. In
7 any event, and I do not attempt to speak on his behalf, let me simply say that my
8 understanding is the following. The MLC -- and how do I put this? The MLC
9 collaborated with the Central African Republic authorities and sent troops to the
10 ground. I also believe that the MLC had some negotiations with the authorities
11 regarding the withdrawal of those troops.

12 Now, in this document Mr Bemba refers to a procedure whereby the withdrawal took
13 place, and he's speaking in the first person. This leaves us with the impression that
14 he was the only one who made that decision, but I think that this does not exactly
15 reflect reality because, you see, the statement in the Jeune Afrique article does not
16 reflect reality because you cannot simply single-handedly withdraw one thousand
17 plus troops from a combat area just like that, you are told to withdraw and you just
18 withdraw. It doesn't happen that way. There are a number of procedures that have
19 to be put in place, that have to be respected. There are logistics, there are trucks that
20 have to be used and what have you. This is a matter that touches on logistics and
21 you may want to know that the logistics in the Central African Republic was not in
22 the hands of the MLC and therefore my humble opinion is that there was some
23 consultation with the authorities of the country.

24 Q. Did Mr Jean-Pierre Bemba have the power to issue operational orders to
25 Commander Moustapha in the Central African Republic?

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1 A. Mr Jean-Pierre Bemba was the commander-in-chief, and I explained this to you.

2 Commander-in-chief or supreme commander, well, a supreme commander is a
3 political official, but the commander-in-chief is the proper military official.

4 PRESIDING JUDGE STEINER: Court officer, the image is frozen.

5 (Pause in proceedings)

6 PRESIDING JUDGE STEINER: So my apologies on behalf of the Court to the parties
7 and participants. Apparently there is no response so we even don't know exactly
8 what the problem might be and in any case the system will have to be rebooted,
9 whatever that means, so I'm suggesting to parties and participants that we suspend
10 for 15 minutes instead of staying here in the courtroom just waiting for the problem to
11 be fixed. So therefore the hearing is suspended for 15 minutes.

12 THE COURT USHER: All rise.

13 (Recess taken at 10.04 a.m.)

14 (Upon resuming in open session at 10.21 a.m.)

15 THE COURT USHER: All rise.

16 Please be seated.

17 PRESIDING JUDGE STEINER: Welcome back.

18 Welcome back, Mr Witness. Can you hear me?

19 THE WITNESS: (Interpretation) Yes, hello again, Madam President. I can hear
20 you perfectly.

21 PRESIDING JUDGE STEINER: I think the technical problem was solved. I would
22 suggest, Maître Kilolo, to repeat your last question in order to allow the witness to
23 give his complete answer.

24 MR KILOLO: (Interpretation)

25 Q. Mr Witness, my question was whether to your knowledge Mr Jean-Pierre

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1 Bemba had the capacity to give operational orders to Moustapha in the Central
2 African Republic?

3 A. I thank you for the question, Counsel. As I said at an earlier stage, Mr Bemba
4 was the commander-in-chief of the ALC and even in this capacity one should not take
5 it for granted that he -- as such he is -- he was the supreme commander as political
6 person in charge of the army. He had power over the ALC as President of the ALC
7 and commander-in-chief, but when a unit was placed at the disposal of another entity
8 I believe that he then lost control over this unit, the effective control that is, and acting
9 in another manner would have been calling into question this agreement on
10 commitment of troops which would have given rise to catastrophic results, to my
11 mind.

12 Q. Now, I shall be putting a concrete question to you here. To your knowledge,
13 did Mr Jean-Pierre Bemba have the practical means of withdrawing from the Central
14 African battleground the ALC troops that were present there?

15 A. To my mind, I do not believe that Mr Bemba had such a capacity, practical
16 capacity that is, to withdrawing troops as the article that we have just read suggests.

17 Q. And why is it? Why do you say that?

18 A. Because, as I explained earlier, withdrawing 1,500 men from a theatre of
19 operations presupposes a certain -- certain logistical situation and a certain
20 co-ordination that Mr Bemba alone in Gbadolite could not set in place, or put into
21 play. I believe that this was to be done in collaboration or conjunction with the
22 Central African authorities.

23 MR KILOLO: (Interpretation) I would like to request that the court officer place
24 before the witness document 5 in the list of Defence documents at page
25 CAR-DEF-0001-0076.

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1 THE COURT OFFICER (DRC): (Interpretation) Maître Kilolo, this document is
2 currently being presented to the witness.

3 MR KILOLO: (Interpretation)

4 Q. Mr Witness, you have a document before you. Could you please read this
5 entire document out to us?

6 A. "Congolese Liberation Movement. The President. Gbadolite. 4 January 2003.
7 To Mr General Cissé, Special Representative of the Secretary-General of the United
8 Nations in the Central African Republic in Bangui. Dear Special Representative re
9 intervention of the MLC in the Central African Republic, at the behest of His
10 Excellency Mr Ange-Félix Patassé, President-Elect of the Central African Republic, the
11 MLC troops intervened in the country from 27 October 2002 in order to protect the
12 institutions that were threatened of being destabilised by an attempted coup d'état
13 and in order to save a president and member of his families who were in a dangerous
14 situation. Without wanting to intervene in the internal affairs of a sovereign State,
15 the MLC only intervened because on the one hand it had been requested by the most
16 authorised means, that is to say the President of the Central African Republic in
17 person, and on the other hand because the movement wanted preventatively to
18 protect its -- to protect its rear guard against any threats from countries -- from a
19 country with which the DRC has a long frontier.
20 So it is not in a spirit of adventure, nor for mercantile profit, that our troops went to
21 the Central African Republic.
22 The MLC firmly condemns any intervention in a -- any foreign intervention in an
23 African country and its army will never play a role of an army of mercenaries which
24 has made the continent suffer to such a degree."

25 THE INTERPRETER: The interpreter does not have the next part of the text.

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1 THE WITNESS: (Interpretation) "At the stage of the intervention and unless -- at
2 the current -- our intervention in the country has given rise to a number of negative
3 reactions, reactions that were mainly orchestrated by those individuals who wanted
4 to destabilise the regime in place in Bangui. At this, the actual stage of information
5 in my possession and unless proved to the contrary, I am under the impression that
6 there has been manipulation and disinformation towards the public opinion.
7 However, the MLC cannot in any way condone the behaviour contrary to the military
8 code within its troops and this especially when this behaviour has given rise to
9 serious violations of human rights.
10 Also, I have ordered the arrest on a preventative level of eight soldiers whose
11 behaviour in Bangui was against the instructions given by officers and troops before
12 their departure to the Central African Republic.
13 I am addressing this letter to you in order to request your assistance in investigating
14 amongst the population concerned and the communities, both religious and other
15 non-governmental organisations and such credible sources, in order to shed light on
16 what happened out in the field. The results of this investigation, that I hope will be
17 entirely transparent, will enable me to try the individuals before a court martial which
18 has been set up to this effect and to put an end once and for all to unacceptable
19 behaviour on the part of those men that must constitute the backbone of a republican
20 army that is disciplined and also ensure the respect of human rights everywhere
21 where the army is called upon to intervene.
22 I would like hereby to reassure the Secretary-General of the United Nations as to my
23 willingness to not let these intolerable crimes remain unpunished.
24 Yours sincerely, Jean-Pierre Bemba."
25 MR KILOLO: (Interpretation)

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1 Q. What is this document all about, Mr Witness?

2 A. There are, in my opinion, four points in this document. The first point is that
3 Mr Bemba explains to the Special Representative of the UN Secretary-General in
4 Bangui the reasons behind the intervention of the MLC contingent in the Central
5 African Republic.

6 Point 2: Mr Bemba mentions the rumours that were circulating at the time and he
7 states that these were rumours and not precise information.

8 Following those rumours, we move now to the third point. Some soldiers of the
9 ALC were arrested.

10 And the fourth point is that he was requesting the assistance of the Special
11 Representative for further investigations in order to establish the truth of the facts.
12 Counsel, that is what I was able to understand after a brief perusal of this document.

13 Q. For your part, Mr Witness, did you personally hear about any crimes in the
14 Central African Republic?

15 A. Just like everyone else, I heard the rumours that were circulating, but to be more
16 explicit maybe I should ask the Presiding Judge whether we can go into private
17 session before reverting to open session.

18 PRESIDING JUDGE STEINER: Of course.

19 Could, please, court officer turn into private session.

20 *(Private session at 10.36 a.m.) Reclassified as Open session

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

22 THE WITNESS: (Interpretation) Counsel, I wanted to say the following: The
23 information that we had and specifically myself was quite rudimentary. I explained
24 to the Court a short while ago that at the political level an agreement had been signed
25 with the Government of Kinshasa; that is the Sun City agreement. After the failure

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1 of the implementation of that agreement, there was a second round of negotiations
2 which started in Pretoria in early October.

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 This is the information I wanted to give you, Counsel.

12 PRESIDING JUDGE STEINER: Mr Kilolo, before you proceed, here in the transcript
13 you made the witness read in full document 5 in the list of Defence documents and
14 you declined the ERN number CAR-DEF-0001-0076, and once again the Chamber
15 reminds the Defence that the Defence should make reference to ERN numbers of
16 documents that have already been admitted into evidence in order to facilitate the
17 proper management of the case, and this document has an ERN number
18 CAR-OTP-0017-0363. So again I call the Defence's attention for the fact that, at the
19 end, when the Chamber will be in charge and the parties and participants to examine
20 the evidence presented in this case, if we have to examine ten documents - similar
21 documents - that have different numbers, it will be really, really difficult for parties,
22 participants and the Chamber to work in that way.

23 Thank you.

24 MR KILOLO: (Interpretation) Thank you, your Honour. I was actually about to
25 give you the same reference, because we included it in our amended list of

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1 documents.

2 Q. Mr Witness, you stated that you did not have any precise information. You
3 mentioned rumours. Can you tell us the difference between rumours and
4 information?

5 A. I believe that the difference is quite simple. Information relates to precise facts
6 on such-and-such a day, on this date this is what happened, but in this particular case
7 we received only general information. We heard that some soldiers of the ALC are
8 alleged to have misbehaved themselves here and there. So, Counsel, these rumours
9 were not precise enough to constitute information, in our opinion.

10 Q. Do you know why Mr Jean-Pierre Bemba was requesting from the Special
11 Representative of the UN Secretary-General assistance for the conduct of an
12 investigation?

13 A. I believe this is quite easy to understand. On the ground, I can say that we had,
14 on the one hand, our Central African partners, that is the officials belonging to the
15 regime in power, and then, on the other hand, there was the ALC contingent. Then
16 there was a third entity on the ground, that is the Special Representative of the UN
17 Secretary-General. So someone who wanted to be objectively informed would not
18 have addressed themselves only to the ALC contingent, because most of the rumours
19 made allegations against them. So there was no suspicion of impartiality on the part
20 of the Representative of the UN Secretary-General, so that would have been the
21 person who would have been considered the most objective and it was on the basis of
22 this that Mr Bemba contacted this neutral witness to obtain the most objective
23 information possible.

24 Q. Did the Special Representative of the UN Secretary-General communicate the
25 information requested; that is to shed light on the alleged crimes that were said to

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1 have been perpetrated by ALC soldiers in the Central African Republic?

2 A. As far as I know, the Special Representative never reacted to this request, except
3 I am mistaken.

4 Q. I would also like to understand, if you are able to shed some light. In this letter
5 Mr Bemba writes, "The ALC troops intervened in this country as from
6 27 October 2002 to protect institutions that were threatened by destabilisation through
7 an attempted coup d'état," so my attention was drawn to this date of 27 October 2002.
8 Does this ring a bell?

9 A. No, Counsel, this particular date does not really mean anything to me.

10 MR KILOLO: (Interpretation) Your Honour, I think we can go back to open
11 session.

12 PRESIDING JUDGE STEINER: Court officer, please turn into open session.
13 (Open session at 10.46 a.m.)

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

15 MR KILOLO: (Interpretation)

16 Q. Mr Witness, a short while ago you stated that the aspects relating to crime
17 prevention within the agreement signed between the MLC and the Central African
18 Republic authorities, you stated that the prevention of crime was the prerogative of
19 the Central African authorities. Do you remember that?

20 A. Yes, I do, Counsel.

21 Q. I simply wish to understand better. In his letter to the United Nations,
22 Mr Bemba states as follows: "Consequently, I have ordered the preventive arrest of
23 eight soldiers whose conduct in Bangui turned out to be contrary to the instructions
24 given both to the officers and the troops prior to their departure to the CAR." Can
25 you explain this sentence; that is in light of the aspect relating to the prevention of

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1 crimes?

2 A. There are two hypotheses here. Maybe Mr Bemba took a short-cut by saying
3 that, "I ordered." Perhaps he might have done that, because the way it is stated this
4 would be contrary to the intervention agreement because, according to that
5 agreement, Mr Bemba would not have given this order for arrest of people in the
6 CAR. So I believe that this is a short-cut that he takes in the correspondence, because
7 normally there would be consultation with the Central African authorities in order to
8 proceed with that arrest.

9 Q. To your knowledge, was there an investigation in the CAR about the rumours
10 relating to crimes allegedly perpetrated by ALC troops?

11 A. As far as I can remember there was no MLC investigation, or there was no
12 investigation of the MLC in the CAR, but I believe that there was an investigation on
13 the part of the CAR investigating -- CAR authorities, because one of our officers was
14 integrated in a commission of inquiry for that purpose.

15 MR KILOLO: (Interpretation) Can we go briefly into private session, your
16 Honour?

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

18 *(Private session at 10.50 a.m.) Reclassified as Open session

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

20 MR KILOLO: (Interpretation)

21 Q. Mr Witness, do you have any information about rumours relating to crimes
22 allegedly committed by ALC troops in Sibut? Does that remind you of anything?

23 A. Yes, Counsel, we got wind of the rumours circulating about that locality and in
24 fact Sibut reminds me about something (Redacted)

25 (Redacted)

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1 Q. (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 A. (Redacted)

6 PRESIDING JUDGE STEINER: Is that what you want, Maître?

7 Court officer, please turn into open session.

8 (Open session at 10.52 a.m.)

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

10 MR KILOLO: (Interpretation)

11 Q. Mr Witness, you told us a short while ago that the ambassador travelled to Sibut.

12 Can you tell us what he went to do there and under what circumstances?

13 A. Yes, indeed. Following the rumours that we heard in Gbadolite relating to
14 alleged misconduct on the part of ALC soldiers the organisation, in consultation with
15 the Central African Republic authorities, decided to send a delegation to travel and
16 gather information at the source about what really happened. I believe this was a
17 concern shared both by Gbadolite and by the CAR authorities, and that is how I no
18 longer remember the precise date given to me by the ambassador. He travelled there
19 with a delegation in a helicopter belonging to the movement. The helicopter flew
20 from Gbadolite to Bangui and in Bangui a captain of the FACA army, that is the
21 Central African Army, boarded the helicopter and served as a guide and he was also
22 responsible for supervising the mission. The helicopter travelled to Sibut and, given
23 that the delegation from Gbadolite did not know where Sibut was located, the FACA
24 captain served as a guide.

25 After a short trip, the ambassador and his delegation arrived in Sibut and contacted

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1 the local officials, including in particular the mayor of Sibut as well as other
2 personalities including a lady who was there. So they exchanged information on the
3 security situation and the relationship between the armed soldiers and the civilian
4 population. So this was how the mission took place.

5 Q. Was this an MLC investigation in Sibut?

6 THE COURT OFFICER (DRC): (Interpretation) There seems to be a power outage.

7 (Pause in proceedings)

8 PRESIDING JUDGE STEINER: Mr Witness, can you hear me?

9 THE WITNESS: (Interpretation) I can hear you loud and clear, your Honour.

10 PRESIDING JUDGE STEINER: So can you continue with giving your answer to the
11 question put to you?

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

13 I was saying that the ambassador travelled to Sibut. It was not an investigation
14 mission. It was simply a trip to gather information. I do not believe that it is
15 possible to carry out an investigation in half-a-day, so the ambassador also told me
16 that he was not alone. He was accompanied by international media. He mentioned
17 AFP, BBC and RFI.

18 MR KILOLO: (Interpretation)

19 Q. To your knowledge, who had the responsibility to carry out investigations
20 regarding crimes allegedly perpetrated by MLC troops in Sibut amongst others?

21 A. I believe this was the responsibility of the CAR authorities.

22 Q. Do you know whether the Central African authorities carried out an
23 investigation in Sibut?

24 A. Counsel, I do not have that information, but if you allow me, Counsel --

25 MR KILOLO: (Interpretation) Mr Witness, I believe we can continue after the

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1 break because I think it is 11 o'clock.

2 THE WITNESS: (Interpretation) Very well.

3 PRESIDING JUDGE STEINER: Thank you, Maître Kilolo.

4 Mr Witness, it's 11 o'clock. We'll have our regular break. We will be back at 11.30.

5 The hearing is suspended.

6 THE COURT USHER: All rise.

7 (Recess taken at 11.01 a.m.)

8 (Upon resuming in open session at 11.34 a.m.)

9 THE COURT USHER: All rise.

10 Please be seated.

11 PRESIDING JUDGE STEINER: Welcome back.

12 Welcome back, Mr Witness.

13 THE WITNESS: (Interpretation) Good day, Madam President.

14 PRESIDING JUDGE STEINER: Are you ready to continue with your testimony, sir?

15 THE WITNESS: (Interpretation) Yes, indeed, Madam President.

16 PRESIDING JUDGE STEINER: Maître Kilolo, you have the floor.

17 MR KILOLO: (Interpretation)

18 Q. A short while ago, Mr Witness, we were interrupted and I'm going to put a

19 question to you -- the question to you again. As far as you know, who had

20 responsibility for conducting investigations in the Central African Republic,

21 particularly in Sibut, regarding rumours of crimes that are alleged to have been

22 committed by ALC soldiers?

23 A. As far as I know, this job was to be done by the Central African authorities.

24 Q. Why do you say so?

25 A. Because that would be in line with the spirit of the commitment and agreement

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1 between the MLC and the Central African authorities.

2 Q. When the MLC delegation and the ambassador went to Sibut, did they obtain
3 authorisation from the Central African authorities in order to make that trip?

4 A. Yes, indeed, Counsel, particularly given that these were war times. You see,
5 people were not going to go about on a foreign territory under such circumstances
6 without the approval or the agreement of the local authorities.

7 Maybe I can tell you something that the ambassador told me, which may enable the
8 Court to have a clearer idea of the nature of the relations between the MLC and the
9 Central African authorities?

10 When the ambassador arrived in Bangui at the Bangui airport, the Central African
11 authorities had dispatched a liaison officer to the airport, who then boarded the
12 helicopter, and it was the liaison officer who guided the helicopter pilot to the
13 destination. When they were overflying a location, the officer then informed the
14 ambassador that they had agreed to a signal, that is the MLC and the Central African
15 authorities in Sibut had agreed to a signal or a code, and the signal would be the noise
16 of a helicopter which should then cause one of them to wave a white flag and
17 therefore indicate that this was the location they were seeking.

18 After the helicopter flew over for one round, they did not see the white flag. The
19 ambassador then ordered the pilot to overfly the same area for a second time and still
20 no white flag. Then at that time one of the MLC members panicked and said, "We
21 must be in the wrong location because this must be an enemy occupied territory.
22 They're likely to shoot us down and we will die."

23 Then the ambassador ordered the pilot to overfly the area for a third time, in spite of
24 the objections and complaints of his comrade. It is on that third occasion that the
25 white flag emerged, the white flag that had been talked about by the Central African

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1 authority, and that's how the helicopter was able to land.

2 This is to point out that those of us who are Congolese - and I'm stating this according
3 to what I was told by the ambassador - we did not have any knowledge of the terrain
4 of the Central African Republic.

5 Thank you, Counsel.

6 Q. What type of information was the MLC delegation looking for in Sibut?

7 A. The delegation wanted to find out and cross-check the veracity of the rumours
8 that had circulated regarding abuses by ALC and FACA troops on the Central African
9 population. That was the purpose of the mission, to gather information on the
10 situation on the ground.

11 Q. Did that delegation also seek to obtain any information on rumours about
12 pillaging in Sibut?

13 A. Yes, indeed. That falls under what I have generally referred to as "abuses."

14 Q. Did the delegation also seek to gather information on rumours about rapes in
15 Sibut?

16 A. Yes. There had been rumours about pillaging, about rapes, in Sibut. I do not
17 quite remember whether there were any rumours about rapes, but clearly there were
18 rumours about pillaging.

19 Q. When the delegation got to Sibut, which troops were present when the MLC
20 delegation arrived in Sibut?

21 A. The delegation met up with one ALC unit and had discussions with that unit,
22 but most of the discussions took place between the local authorities and the Central
23 African authorities.

24 Q. My question is to find out from you what loyalist units were present in Sibut at
25 that time, as far as you know, and following what you were told by the ambassador?

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1 A. Maître, memory fails me here. You may want to know that these things
2 happened about 11 years ago, so I don't clearly recall which Central African units
3 were deployed at that time.

4 Q. Witness, please respect the five-second rule. I am going to make the same
5 effort, namely that after a question has been put to you please wait five seconds
6 before answering so that interpretation into English can be done properly, and I will
7 make the same effort myself.

8 A. I have understood you.

9 Q. Once you got to Sibut, who - which authority - decided the locations to be
10 visited by the ALC delegation in Sibut? Who made that decision?

11 A. It was the Central African officer who had come along with us.

12 Q. Do you know which authority decided on who was to be interviewed by the
13 MLC delegation in Sibut?

14 A. No. Well, this is what happened, practically, and I'm going by what the
15 ambassador told me. The delegation met under some trees, with some notables who
16 had been invited to that location by the Central African authorities. The delegation
17 did not go from office to office or from a house to house, no, delegations were invited
18 by the Central Africans to meet the delegation at one location, at a specific location,
19 under some trees, and this is where the interviews and discussions took place.

20 Q. Was it possible at that time to conduct an autonomous investigation? What is
21 it possible for the MLC to conduct an autonomous investigation in the Central African
22 Republic?

23 A. No. I think it would have been difficult. I have already explained to you the
24 circumstances in which the ambassador arrived at that location. I have told you how
25 the physical organisation of the meetings took place. I have also told you how all of

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1 that was under the supervision of the Central African authorities. It would therefore
2 have been difficult for the MLC delegation to aspire under those circumstances to
3 conduct an autonomous investigation.

4 Q. Once the delegation arrived in Bangui and took on the Central African officer
5 representing the Central African authorities, on the way from Bangui to Sibut, did
6 that officer provide any information on the rumours of acts of violence by ALC
7 soldiers in the Central African Republic?

8 A. No, there were no discussions of that nature in the helicopter. The officer
9 simply focused on directions, and the road to be followed. The ambassador told us
10 that it was raining on that day and that the helicopter was flying rather low and was
11 following a route or an itinerary that took the helicopter towards the north. The
12 captain, who was also a guide, was therefore fully focused on the itinerary to be taken
13 by the helicopter and so was in conversation -- was in conversation with the pilot as
14 to how they were travelling and there was no other sustained conversation with the
15 delegation during that trip.

16 Q. What information was the MLC delegation able to gather during that
17 information mission to Sibut?

18 A. The ambassador said that some of the notables -- you see, the delegation had
19 come with the media as well, and I am sure that there is footage of these meetings.
20 So there were discussions with local authorities who said that, contrary to the
21 rumours that had been received in Gbadolite, some of the abuses of acts of violence
22 that had taken place in Sibut were actually attributable to General François Bozizé's
23 rebels, who at the time was the commander of the forces that were hostile to the
24 regime in power. So, according to the population, those abuses were committed by
25 Bozizé's men, and I think one of the notables, particularly the mayor of Sibut, is said

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1 to have told the ambassador that it was thanks to the ALC troops that he himself was
2 able to come out of the bush, where he had sought refuge. And so he had taken
3 advantage of that opportunity to thank the ALC for what they had done. But, you
4 see, the ambassador also received complaints from a mother who was a senior citizen
5 and who had complained about the fact that her cloth or wrappers had been stolen by
6 an ALC troop. That is part of the information that we were aware of, namely, that
7 the acts of violence or abuses were conducted mostly by the Bozizé troops but that
8 only one or two ALC soldiers misbehaved in that area during that time.

9 Q. Witness, I would now invite you to watch a few videos with us and then I'll put
10 a question to you thereafter. If this could be done by the court officer, I would like to
11 invite the court officer to please distribute the English and French versions of the
12 transcript so that we may all follow. We will be looking at five video excerpts, and
13 each of these sequences will be identified so that we may be able to follow what is
14 stated in each of these sequences.

15 Witness, while waiting, I would like to clarify this point with you: You did clarify,
16 or you did mention, that the ambassador was in the company of the international
17 media. What was the role of the press, or the media, in that delegation?

18 A. I think that the media wanted to avail itself of that trip in order to get
19 information on the real situation relating to the conduct and the rumours that had
20 been circulated. The media therefore also wanted to verify and cross-check those
21 rumours on the ground.

22 Q. Did you subsequently have any further discussions with any of the journalists
23 that had accompanied the ambassador?

24 A. Yes, some informal discussions, yes.

25 Q. Do you know what information was gathered by those media organs in Sibut?

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1 A. To my mind, they gathered the same information as the MLC delegation.

2 MR KILOLO: (Interpretation) I would now therefore ask the court officer to please
3 play document number 15, which is a video footage of what happened in Sibut,
4 document CAR-DEF-0001-0832, and I would like us to start with the first segment
5 from minute 12 to minute 22.25 seconds.

6 (Viewing of the video excerpt CAR-DEF-0001-0832)

7 MR KILOLO: (Interpretation)

8 Q. Mr Witness, did you follow this video excerpt?

9 A. Yes, indeed, Counsel.

10 Q. Could you tell us who the individual was who was expressing himself and
11 precisely what he was talking about?

12 A. This is an excerpt from a video recording taken during the visit of the
13 ambassador of the MLC to Sibut. Now, the gentleman whom we have just heard
14 speaking is the mayor of the locality of Sibut. So that's what I can say about this.
15 Do you want me to make comments, or pass comments, on what he said?

16 Q. Yes, please, Mr Witness, and if you could also clarify as to what kind of
17 information he furnished with regard notably to the rebels of General Bozizé and also
18 with regard to the loyalist soldiers and the ALC troops in Sibut?

19 A. Thank you, Counsel. Now, this information comes to corroborate the
20 information that I provided at an earlier stage, but it goes into further detail. Now,
21 generally speaking, this is the information that the MLC delegation obtained in Sibut
22 and this is confirmed by what the mayor has to say.

23 Now, with regard to the contents, we can see that amongst the Central Africans there
24 are two forces present; notably the loyalist forces and the rebels. He talked about
25 this on a number of occasions, talked about the loyalist forces notably, so many South

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1 Africans could not distinguish between the ALC, FACA and other forces. For them
2 it was the loyalists fighting the rebels.
3 Secondly, amongst the Central African population, the person in charge of the
4 operations in their country is the late President of the Republic, Ange-Félix Patassé,
5 and this is how you can now see the mayor congratulating him and encouraging him
6 on a number of occasions during what he had to say on -- with regard to the
7 operations that he led in the Central African Republic.
8 Now, the name of Mr Jean-Pierre Bemba was mentioned in passing and at the behest
9 or upon the initiative of the journalist, so these are not ideas that naturally came to
10 mind for the Central Africans. For them it was the rebels and the rebels, so those in
11 charge of the operation were the Central African authorities and they were the ones
12 who were spontaneously thanked for what they did.
13 The mayor goes into the difficult conditions that he lived under for a number of
14 months. He was obliged to seek refuge in the bush and he lived in very subhuman
15 conditions. It was thanks to the action taken by the loyalist forces that they managed
16 to come out of the bush. He also gives us some information about the abuses
17 committed by the rebel forces. He talks about heads on staffs. He does not say that
18 he did not -- he did not say that he saw it himself, but he saw -- he said that this was
19 reported to him by other individuals. "The rebels ...", and I use his vocabulary, "...
20 were behaving like animals," he says.
21 Now, the last point of information maybe. He talked of the need for the ALC, saying
22 that they had done a very good job and that he was highly grateful. He requested
23 that they remain because he was fearful that were they to depart the worst would
24 happen, and he was of the belief that the work had not yet been finished, the rebels
25 being only 50 kilometres away from the location where he was.

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1 So this is some of the information that came to mind once I had viewed this video
2 excerpt.

3 Q. And, Mr Witness, when the mayor of the town of Sibut says that he had heard
4 many complaints made, people saying that their wife had been raped for example,
5 what does he mean when he says that?

6 A. Well, this was part of the abuses perpetrated by the rebel force, and in
7 providing examples of this he said that somebody came to see him saying that his
8 wife had been raped, that his shop had been looted, et cetera, and all of this was
9 under the responsibility of the rebel forces. But one should also say that there was
10 something happening on the side of the loyalist forces, but not in the same -- to the
11 same degree. I think that is what he meant.

12 But with regard to the rapes and the crimes and heads being placed on the end of
13 staffs, well, these were the crimes that the mayor was referring to.

14 Q. Now, when the mayor of the town of Sibut says that rapes, lootings and
15 murders were acts committed by rebels, which rebels is he referring to?

16 A. Well, in the context of the time in the Central African Republic, the rebels were
17 those men who came under General François Bozizé, who hailed from the north of the
18 Central African Republic and who were on their way to Bangui in order to overthrow
19 the loyalist forces of the president, Ange-Félix Patassé.

20 So those were the two camps, if you like. So when they talk about "rebels," they are
21 referring to the troops of General Bozizé.

22 MR KILOLO: (Interpretation) I would like to request that the court officer show
23 another excerpt from this video from time-stamp 22 minutes and 26 seconds until
24 minute 27 and 29, 27 minutes 29 seconds.

25 (Viewing of the video excerpt CAR-DEF-0001-0832)

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1 MR KILOLO: (Interpretation)

2 Q. Mr Witness, did you follow this excerpt attentively?

3 A. Yes, indeed, Counsel, I did.

4 Q. Could you please tell us who is speaking in this video excerpt and the substance
5 of the information provided to the ambassador in this context?

6 A. The individual talking in the video is the vicar from the local parish, so he is a
7 figure of religious authority, if you like, and he is explaining the relations that they
8 entertained with the rebels who occupied the area for a period of three months.

9 They were not very good relations because he talks about "playing the game," just as
10 if they were living forcibly in the company of those individuals who had, however,

11 committed abuses, and he talked about some goods that were looted. He also says

12 and admitted to the fact that the men from the ALC came to liberate them from this

13 oppression that they were living, this oppressive situation under Bozizé's rebels.

14 However, he does acknowledge that within the ALC troops, and this is also what the

15 mayor said, there were four or five soldiers who were out of control, who looted, who

16 stole, but he then immediately goes on to say that the ALC commander of the unit

17 took measures in order to put a stop to this type of behaviour. So this is the

18 substance of what I could gather from this excerpt.

19 Q. So, in brief, on the basis of the information gathered by the ambassador out in
20 the field, which forces or which troops were responsible for committing these acts of

21 abuse at the Sainte-Famille Parish in Sibut and also the lootings at the Petit séminaire

22 in Sibut and also the looting in the priests' and nuns' compounds in Sibut?

23 A. Well, the answer is clear to me. It was the rebel soldiers of General Bozizé who
24 perpetrated these acts of looting and abuses.

25 MR KILOLO: (Interpretation) I would request that the court officer show the third

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1 video excerpt, this same video, from minute 27.32 seconds to minute 31.1 second.

2 (Viewing of the video excerpt of CAR-DEF-0001-0832)

3 MR KILOLO: (Interpretation)

4 Q. Mr Witness, were you able to follow this video excerpt in its entirety?

5 A. Yes, indeed, Counsel, I was.

6 Q. Could you please tell us what was the substance of the statements made by the
7 lady you've just seen talking?

8 A. The lady is talking about the state of mind of the community she's living in, and
9 this is in keeping with what the mayor said and also with what the vicar said, but
10 here you can hear the children playing in the background and you can hear their cries
11 of joy in the background. So this was the atmosphere in which the ambassador
12 found himself whilst rumours were being mongered at the time, wanting to have
13 people believe that the MLC troops were behaving in a barbaric manner in the
14 Central African Republic. However, this excerpt allows us to realise that in Sibut,
15 however, this was not the case.

16 The ALC had excellent relations with the population, and the lady, who explains that
17 the children are joyful because they have been liberated and complains that they lived
18 under very difficult circumstances for three months out in the bush, also understands
19 that Mr Jean-Pierre Bemba came to help President Patassé and that -- and via this
20 video she is thanking him.

21 As for my personal sentiment after having seen this video excerpt, I think that this
22 lady is sincere when she thanks Mr Bemba. I think they are spontaneous and sincere
23 thanks. This was a comfort for the ambassador; notably that the rumours being
24 mongered as to the alleged abuses committed and barbaric behaviour on the part of
25 the ALC troops in the Central African Republic were exaggerated, or otherwise

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1 completely unfounded.

2 So that is the sentiment that the ambassador relayed to me after having had the
3 discussions with these various people out in the field.

4 Q. Do you know why the CAR citizens in Sibut had to flee to the bush after
5 General Bozizé's rebels entered the town?

6 A. I would say that the members of the population fled because of the conduct of
7 General Bozizé's forces on the ground. I do not think that the population really
8 wished to go and live in the bush. If they left, it means that something really
9 happened with the new arrivals. I do not think that people can take the serious
10 decision of taking infants and babies to live in the bush for three months if nothing
11 had happened.
12 I agree with those who have just expressed their opinion to the effect that the conduct
13 of the rebels caused panic and that is why people went to live in the bush. It is
14 possible that after an operation people will run away from the explosions and leave
15 the village, but frequently a few hours afterwards or maybe one day after that people
16 would return home, but if they spent three months in the bush it means that the
17 conduct of those rebels left a lot to be desired.

18 Q. Do you know why the civilians of the CAR, including young people and
19 children, started returning to Sibut when this town was taken back by loyalist forces
20 including the ALC troops?

21 A. In my opinion, I believe that the population realised that the new arrivals
22 conducted themselves in a way that was different from the other -- from the rebels;
23 that is in relation to the population. So this is what would have happened, because
24 people would have come to find out what was happening and gauged the conduct of
25 the new arrivals. Then they would report back to those who had stayed in the bush

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1 and inform them that the forces on the ground are behaving well and that the others
2 could come out of the bush.

3 So in answering your question I think that the conduct of the loyalist forces, including
4 the ALC, in relation to the population was different, which has as a result the return
5 of the population from the bush.

6 MR KILOLO: (Interpretation) I would now like to ask the court officer to play the
7 fourth sequence from 32 minutes 28 seconds to 38 minutes 19 seconds.

8 (Viewing of the video excerpt CAR-DEF-0001-0832)

9 MR KILOLO: (Interpretation)

10 Q. Mr Witness, were you able to follow that excerpt in its entirety?

11 A. Yes, Counsel.

12 Q. Can you tell us who was speaking there and what was the substance of the
13 information given to the ambassador?

14 A. The speaker was a CAR citizen, who is a Muslim, and he says that the rebels
15 arrived his locality on 29 November 2002. He said that cohabitation with the rebels
16 was very difficult. He gave details of abuses perpetrated. He adds that members of
17 the armed wing of the MLC came to liberate them, and he's worried about the
18 scheduled departure of the ALC forces in the coming weeks and he's wondering
19 whether those soldiers should not be requested to stay longer.

20 This simply confirms what I said a short while ago. The information gathered by the
21 ambassador on the ground was contrary to the rumours being circulated by the
22 media.

23 Q. When this gentleman tells the ambassador that Muslims had been killed by
24 Bozizé's rebels, did he also tell the ambassador the reason why Bozizé's rebels killed
25 Muslims in Sibut?

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1 A. No, Counsel, I did not receive any satisfactory explanation for that, that is the
2 reasons why the rebels attacked certain Muslims. I did not receive any satisfactory
3 explanation for that.

4 Q. A short while ago you pointed out that the loyalist forces, backed up by the
5 ALC contingent, liberated the town of Sibut. My question is this: When the MLC
6 delegation arrived in Sibut, apart from the ALC soldiers who were there, were there
7 any soldiers of other nationalities who were present on the ground, or not?

8 A. Upon his arrival, the ambassador saw ALC soldiers, that is the Congolese
9 soldiers, a few FACA soldiers, but it should be pointed out that there was no
10 assembly or parade of all the fighting units in Sibut at that time. It is possible that
11 there were other soldiers responsible for security activities (Redacted)
12 (Redacted) all the members of the ALC contingent. (Redacted)
13 soldiers who were present when the helicopter landed, and specifically the
14 commander, that is the major who was there. (Redacted) So if
15 there were foreign or other foreign troops present there on the ground, the
16 ambassador would not have been able to know that since it is not clear to determine
17 someone's nationality simply by looking at that person, so it would have been
18 difficult to know who was a foreigner and who was a CAR citizen.

19 MR KILOLO: (Interpretation) I would like to ask the court officer to play the last
20 excerpt of the same video, from minute 38.20 seconds to minute 42.18 seconds.

21 (Viewing of the video excerpt CAR-DEF-0001-0083)

22 MR KILOLO: (Interpretation)

23 Q. Mr Witness, were you able to follow that last excerpt in its entirety?

24 A. Yes, indeed, Counsel.

25 PRESIDING JUDGE STEINER: If you allow me? Could, please, court officer turn

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1 very briefly into private session.

2 *(Private session at 12.52 p.m.) Reclassified as Open session

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

4 PRESIDING JUDGE STEINER: Thank you.

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 THE WITNESS: (Interpretation) Thank you. I fully understood and I thank you,
10 Madam President, for that reminder.

11 PRESIDING JUDGE STEINER: Thank you.

12 Court officer, please turn back into open session.

13 (Open session at 12.53 p.m.)

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

15 MR KILOLO: (Interpretation)

16 Q. Mr Witness, can you tell us who was the speaker in that last excerpt and the
17 information that he was able to provide to the ambassador?

18 A. That gentleman is a civil servant in the Ministry for Youth Affairs of the CAR at
19 that time in Sibut. He provided supplementary information to what the other
20 speakers had already said. He explains that Sibut fell to the rebels on 29 October
21 and that abuses allegedly started on 30 October, with the arrival of Chadian soldiers.
22 This is a piece of information that was not provided by the other speakers. He
23 reiterated the difference in conduct, that is on the part of the ALC soldiers, and he
24 says that the ALC soldiers and the loyalist forces behaved much better. He also
25 states that, to his knowledge, there were no abuses as reported by certain media, and

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1 he mentions the names of the various media, and he qualified his answer by stating
2 that maybe the abuses could have been perpetrated in other localities but not in Sibut
3 because he was a witness.

4 Another point, apparently he fully understood the principles, even though he was not
5 aware that there was an engagement agreement between the MLC and the CAR, but
6 this civil servant of the Ministry for Youth Affairs has the common sense to state that
7 it would be President Patassé who would decide on the departure or not of the MLC
8 forces. That was included in his last statement. This is what I was able to gather
9 from that video excerpt.

10 Q. Mr Witness, two points of clarification: While speaking of the arrival of
11 Bozizé's rebel troops supported by Chadian soldiers, he said that the population of
12 Sibut was subjected to atrocities. Furthermore, he states that when the MLC soldiers
13 arrived Sibut, there were no further houses being destroyed or burned down. What
14 did he mean by that?

15 A. In my opinion, he was referring to the abuses mentioned by the mayor of Sibut,
16 who had mentioned killings, rapes and pillaging. So this last speaker also
17 mentioned, he added something, that is the malicious destruction of residential
18 houses, and he attributes that to General Bozizé's rebels.

19 Q. This person also said something that struck me, and this is what he said:
20 "Jean-Pierre Bemba's soldiers, acting alongside the loyalist forces, pushed back the
21 rebel forces beyond Sibut and beyond Begoua." When he said that Bemba soldiers
22 working alongside loyalist forces, what does he mean by that?

23 A. I believe that this gentleman simply wanted to say that these were joint
24 operations involving CAR soldiers and ALC soldiers.

25 Q. Mr Witness, when that fact-finding mission carried out by the MLC to Sibut was

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1 concluded, was the information gathered by that delegation conveyed to

2 Mr Jean-Pierre Bemba?

3 A. As far as I know, yes. The ambassador told me that he made an oral report of
4 the mission to Mr Jean-Pierre Bemba.

5 Q. Which information was communicated to Mr Jean-Pierre Bemba at the end of
6 that fact-finding mission?

7 A. In a nutshell, the information was that no abuses or atrocities were perpetrated
8 by ALC soldiers on the civilian population in Sibut. The abuses and atrocities
9 committed were attributed to Bozize's rebels. Secondly the ALC had very good
10 relations with the population of Sibut, and thirdly the population wished that the
11 ALC soldiers should stay put for some time because the rebels were not far away.
12 That is the information that was relayed to the president, in addition to the video
13 excerpts that were handed over to him by the ambassador.

14 Q. Mr Witness, I would like some clarification regarding the functioning of military
15 jurisdictions in the DRC at that time, that is in the territory under the control of the
16 MLC, and I'm referring specifically here to the court martial. You must of course
17 have learned that there was a trial involving ALC officers and non-commissioned
18 officers in a court martial; that is officers that were in the Bangui operation. Is this
19 information that you received?

20 A. Yes, Counsel.

21 Q. To your knowledge, and within the context of the judiciary system applicable in
22 the territory under the MLC control at the time, on who did the responsibility fall to
23 prosecute an ALC soldier suspected of having committed any crimes during a
24 military operation? Who had the power, or the responsibility, to bring this soldier to
25 book?

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1 A. If I am not mistaken, it was the unit commander.

2 Q. Once a soldier has been brought before the courts, who had the power or the
3 responsibility to decide to prosecute for such-and-such an offence, for example
4 murder rather than rape, or rape rather than pillaging and what have you? I'm
5 referring here to the characterisation of the facts for which a suspect may have been
6 prosecuted. Who had the jurisdiction to determine that characterisation?

7 A. I believe that the normal procedure that applies elsewhere would be the
8 appropriate -- would be the appropriate procedure; namely that the prosecutor
9 characterises the facts and then it is up to the courts to determine whether to
10 recharacterise such facts or not depending on the material and the facts available in
11 the case file.

12 Q. Within that system, who had responsibility in case a soldier were prosecuted to
13 decide whether or not to dismiss the charges and find that there was no case, or to
14 confirm such charges and then commit the matter to trial?

15 A. That prerogative lies with the court.

16 Q. Who had the power, or the responsibility, to decide the nature of penalty
17 applicable to an ALC soldier involved in any crimes committed within the context of
18 a military operation?

19 A. Could you please rephrase your question, Counsel? I did not understand it.

20 Q. Where an ALC soldier were to be involved in a crime and were to be convicted,
21 who had the power to determine the sentence, six months or one year of
22 imprisonment, or five years of imprisonment, or ten years of imprisonment? Who
23 had the power to determine the sentences?

24 A. Well, sentences and penalties were determined by the court.

25 Q. Did Mr Jean-Pierre Bemba have any role or responsibility in the process of

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1 justice, or in the administration or the unfolding of justice?

2 A. As far as I know, no, neither from a legal standpoint nor in relation to the facts.

3 I never learnt at the time that Mr Bemba may have for example reduced or increased

4 the sentences, or even suggested to a court or a tribunal the nature of a sentence that

5 should have been handed down. That, by the way, would have been a violation of

6 one of the principles we were fighting for, namely the rule of law, because you know

7 rule of law requires that the judiciary should be independent. We were fighting to

8 go to Kinshasa in order to change things, and if the leaders of our organisations were

9 to interfere with justice then that would raise a lot of doubt as to the nature of our

10 deep convictions. So I am not aware of any instances in which Mr Bemba was

11 personally involved in the course of justice and in the administration of justice.

12 Q. Can you give us, in very broad strokes, the nature in which the judiciary was set

13 up within the MLC?

14 A. Quite ordinarily we had career magistrates or judges, we had a registrar and

15 then three soldiers who would be chosen by casting of lots, or who would be

16 randomly selected.

17 Q. The three soldiers who would be randomly selected, did they remain

18 answerable to their hierarchical bosses, namely the Chief of General Staff, in relation

19 to the discharge of their duties in the court martial?

20 A. No, that would have affected the principle of the independence or autonomy of

21 the court. Upon designation - random selection - of those three soldiers and upon

22 their assignment to those duties they were no longer answerable to their superiors,

23 the idea being to guarantee the independence of the judiciary.

24 Q. Was it possible -- at that time, and within the context of the judiciary in place at

25 the time, was it possible to prosecute an unidentified perpetrator or suspect; that is to

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1 bring a charge against an unknown person?

2 A. Quite humbly, I do not think so.

3 Q. What did the judges of the military courts rely on to determine sentences in case
4 of conviction, or in cases of conviction?

5 A. Basic legal documents such as the Code of Military Justice, the Criminal Code
6 and the MLC Code of Conduct.

7 Q. Could you tell the Court what a legal defender was, or is?

8 A. A legal defender, in summary, is a lawyer with limited competency.

9 Q. In which courts can a legal defender appear, or could a legal defender appear at
10 the time in the territories that were under the MLC control?

11 A. I believe that the legal defender could appear before the Courts of First Instance
12 at the time.

13 Q. Could a legal defender appear before the court martial as a defence lawyer
14 within the context of that legal system that was in place at the time and which may
15 still be in place in the DRC today?

16 A. I am not very familiar with the procedure before the court martial, but I believe
17 that the legal defender, under the Congolese law, could validly appear in those
18 circumstances before the court.

19 Q. Witness, in this trial a number of questions have arisen, particularly regarding
20 the examination or questioning of a soldier who has been accused at night, or in
21 relation to hearings before a military court on a Saturday, or even matters relating to
22 the summons, the very brief summons of a soldier to appear before a court martial,
23 for example, being summoned today to appear in two days at a hearing, or even in
24 relation to a decision that takes effect 48 hours from the time. Can you talk to us a
25 little bit about this flagrante procedure?

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1 A. The flagrante procedure is a very special procedure whereby the prosecuting
2 authority and the judge's powers are expanded because the flagrante nature of the
3 matter is such that the evidence is obvious. So the flagrante delicto circumstances
4 are such that the offender is present at the site of the offence or such that between the
5 time the offence is committed and the perpetrator is arrested, very little time has
6 elapsed. In such circumstances, the legislature holds then that because of these
7 special circumstances surrounding the flagrante delicto, procedures may be modified
8 and sometimes very highly streamlined.

9 MR KILOLO: (Interpretation) Mr Witness, I have no further questions for you.

10 On behalf of the Defence, I thank you for kindly accepting to answer our questions.

11 THE WITNESS: (Interpretation) Thank you, Counsel.

12 PRESIDING JUDGE STEINER: Thank you very much, Mr Witness.

13 We have still ten minutes, and my question to the Prosecution is whether Prosecution
14 would like to start right now or that we adjourn and the Prosecution will start its
15 questioning tomorrow?

16 MR BADIBANGA: (Interpretation) Thank you, Madam President. I believe that
17 it might be wise for us to start tomorrow morning. The witness has been here since
18 early this morning and he might need some rest and that is why I would suggest that
19 we resume and continue tomorrow morning.

20 Thank you.

21 PRESIDING JUDGE STEINER: So if that is agreeable to the parties, and I think that
22 even for Mr Witness, maybe it's more convenient if we adjourn for today and resume
23 tomorrow morning when the Prosecution will start with the questioning of the
24 witness.

25 Therefore, I thank you very much the Prosecution team, Maître Douzima Lawson, the

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1 Defence team, Mr Jean-Pierre Bemba Gombo. I thank very much our interpreters,
2 our court reporters, as always.

3 Thank you very much, Ms Toumaj.

4 THE COURT OFFICER (DRC): (Interpretation) Thank you, Madam President.

5 PRESIDING JUDGE STEINER: Mr Witness, thank you very much. We hope you
6 can take some rest for the rest of the day, that you have a nice and restful evening and
7 we will resume tomorrow morning at 9 o'clock.

8 This hearing is adjourned.

9 (The hearing ends in open session at 1.20 p.m.)

10 RECLASSIFICATION REPORT

11 Pursuant to Trial Chamber III 's Orders, ICC-01/05-01/08-2223 and ICC-01/05-01/08-3038,
12 the version of the transcript with its redactions becomes Public.