

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 -
5 ICC-01/05-01/08
6 Presiding Sylvia Steiner, Judge Joyce Aluoch and
7 Judge Kuniko Ozaki
8 Trial Hearing
9 Wednesday, 19 June 2013
10 (The hearing start in open session at 3.34 p.m.)
11 THE COURT USHER: All rise. Please be seated.
12 Mr Witness, welcome back.
13 WITNESS: CAR-D04-PPPP-0004 (On former oath)
14 (The witness speaks French)
15 (The witness appeared via video link)
16 THE WITNESS: (Interpretation) Good afternoon, your Honour.
17 PRESIDING JUDGE STEINER: Are you ready to continue with your
18 testimony, sir?
19 THE WITNESS: (Interpretation) Yes, I'm ready.
20 PRESIDING JUDGE STEINER: I now give back the floor to Mr Haynes,
21 who will continue questioning you.
22 Mr Haynes.
23 MR HAYNES: Your Honour, thank you very much.
24 QUESTIONED BY MR HAYNES: (Continuing)
25 Q. And welcome back, sir.

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Questioned by Mr Haynes (Continuing)

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1 A. Good afternoon, counsel.

2 Q. Sir, just before the break you were telling us about the visit of
3 a delegation of politicians and international figures to Bossembélé after
4 the loyalist forces had dislodged General Bozizé's rebels and the reasons
5 that they had been brought there. What did you find when you entered
6 Bossembélé after the loyalist forces took it?

7 PRESIDING JUDGE STEINER: Did you hear the question?

8 No, he did not.

9 Mr Witness, can you hear me?

10 THE WITNESS: (Interpretation) Yes, I can hear you, your Honour.

11 PRESIDING JUDGE STEINER: Mr Haynes, he is with you. Do repeat
12 the question.

13 MR HAYNES: I'll make it shorter.

14 Q. What did you find when you entered Bossembélé?

15 A. When we arrived in Bossembélé, we saw that the whole population
16 had fled, had hidden in fields, because there were Bozizé's men killing
17 the population, raping the women, and looting the livestock of the people
18 of Bossembélé.

19 Q. What evidence did you see that they had been killing people in
20 Bossembélé?

21 A. We found corpses, burnt corpses, tied down, burnt. We had women
22 telling us that they had been raped. We saw houses that had been
23 destroyed, and people were telling us that their goods had been stolen,
24 looted.

25 Q. Did any loyalist unit enter the town of Bossembélé before your

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1 unit?

2 A. As I said, we were in the forefront. We entered together with
3 the loyalists in the front line and we saw the damage that had been done
4 by the general's men and the death squadrons.

5 Q. And over what period of time did Bozizé's men quit the town?

6 A. We ousted them. There was violent combat. We fought with the
7 help of the Libyan aviation. We managed to oust them and managed to free
8 up the Boali road. After we liberated the Boali road there was a
9 withdrawal to --

10 THE INTERPRETER: One place I didn't catch.

11 THE WITNESS: (Interpretation) And to Bossangoa.

12 MR HAYNES:

13 Q. Just one item of detail about what you've told us, the burnt
14 corpses that were tied down, how were they tied down?

15 A. They were tied and they had been burnt using tires. Some were
16 tied and some were covered with tires. We found several corpses, not
17 just one corpse, several corpses. Some were already in a state of --
18 were already decomposing. So they had been killed some days before we
19 arrived.

20 Q. How long after you entered the town of Bossembélé did the
21 delegation of politicians and international figures arrive?

22 A. After Bossembélé had been taken, one day later the aircraft with
23 the delegations came and were filming. This was shown on the Central
24 African television what I'm telling you, it was shown on television.

25 Q. Thank you. Did the ambassador of France have the opportunity to

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1 speak to any rape victims?

2 A. I can't say yes or no to that, but we were in the front line.
3 After having liberated the town, we took up a position on the Bossangoa
4 road to safe-guard the town before the authorities came, and this was
5 shown on television and I think we -- showed on television what the
6 people were saying. I think everybody was aware of what was being said.

7 Q. Thank you. How long did you remain in Bossembélé?

8 A. We set up a headquarters in Bossembélé. We stayed there for a
9 few days before moving to the road to Bossangoa.

10 Q. Okay. And what units moved to the road to Bossangoa?

11 A. The loyalists. We were still all mixed up, as I said to you
12 earlier. There were platoons of loyalists, the FACA platoons comprising
13 the SCPS, the Sarawi forces, Paul Baril's men with the FACA and the
14 presidential guard and the MLC.

15 Q. Did you arrive at Bossangoa?

16 A. Yes, I did get to the Bossangoa.

17 Q. How long after you had liberated Bossembélé did you arrive at
18 Bossangoa?

19 A. It took a few days, a few days because the fighting in Bossembélé
20 exhausted us and we used up a lot of ammunition, and we needed to wait
21 for major resupplies in order to continue the combat.

22 Q. Okay. What happened when you reached Bossangoa?

23 A. When we reached Bossangoa, we saw that the cotton company in
24 Bossangoa had been looted, destroyed by the -- by Bozizé's men and the
25 death squadrons. The Catholic church, the priest, the monsignor was in

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1 Bossangoa. He complained. He told us everything that had happened, the
2 church had been looted by Bozizé's men.

3 Q. Were Bozizé's men in Bossangoa when you got there?

4 A. At Bossangoa there was also combat but not really sporadic like
5 Bossembélé.

6 Q. How long did it last for?

7 A. Two hours perhaps, not long. The time it took us to drive them
8 out because they were fleeing, and everything that was on their path,
9 they ransacked in their flight.

10 Q. Where were they fleeing to?

11 A. They were going from Bossangoa, they were fleeing towards the
12 north in the direction of Chad, they were withdrawing in that direction,
13 towards Sido.

14 Q. Okay. Did you go anywhere after Bossangoa in the events?

15 A. Personally I stopped at Bossangoa because Bozoum had been
16 attacked as well and Bozoum had to be liberated.

17 Q. When you say you stopped at Bossangoa, did you remain there or
18 did you go somewhere else?

19 A. I went to Bozoum, but when the fighting had already finished,
20 because in Bossangoa we were relieved and we were relieved by a platoon
21 led by Captain Bengbam Gombe (* phon).

22 Q. What happened to the MLC troops at this time?

23 A. Well, we -- since we had our headquarters in Bossembélé, we made
24 a base in Bossembélé. Bossembélé became the headquarters. There were
25 MLC troops and loyalists in Bossembélé, and the MLC troops continued to

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1 fight with other units, but our unit was given the order to remain in
2 Bossembélé and set up a base.

3 Q. So your unit was ordered to remain there. What about the MLC
4 troops?

5 A. The MLC troops carried on fighting still with the loyalists to
6 liberate Kabo and Sido, but our unit stayed, went back to Bossembélé.

7 Q. Okay. Well, we'll leave that there. So just a few more
8 questions. I asked you about the presence at all these places of General
9 Bombayake and you've told us something about the presence of General Mazi
10 during the events. Did you see Colonel Moustapha during the events?

11 A. Yes, he was the Commander-in-Chief of the MLC.

12 Q. And did you see Colonel Moustapha?

13 A. As I was saying, the teams, the platoons of the MLC and the
14 loyalists, the FACA, we were all mixed up, and personally we saw
15 Moustapha during the whole time that we were fighting until I stopped.

16 Q. Just so that we're clear, which towns did you see Moustapha?

17 A. In Damara, Sibut, Kaga-Bandoro, Bossembélé, Bossangoa, Bozoum.

18 Q. Okay. Thank you.

19 Now, throughout your evidence you've described to us the crimes
20 that were committed by General Bozizé's forces in Bangui, PK12, in
21 Damara, in Sibut, in Bossembélé, and in Bossangoa. In any area where you
22 were involved in combat, did you become aware of any crimes being
23 committed by loyalist forces?

24 A. As I said, I was in the front line. We were ahead, but there was
25 a loyalist command SCPS which made their base at PK12 after having

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1 liberated PK12. Before moving on to Damara, the SCPS was at PK12 and we
2 moved on. So there was -- we were advancing and there was a team
3 blocking as a control post.

4 Q. Okay. It might be that that question lost a little in
5 translation.

6 Were you aware of any FACA troops or members of Miskine's forces
7 or SCPS or MLC or any other loyalist soldiers committing crimes in
8 Bangui?

9 A. No. I have no knowledge of that. I was at the front line of the
10 combat.

11 Q. What about in any of the other towns, PK12, Damara, Sibut,
12 Bossembélé, Bossangoa, Bozoum?

13 A. As I said, I was in the front line. I didn't see anything.

14 Q. Did anyone in the unit you were fighting in commit any crimes in
15 any of those areas?

16 A. Counsel, name me a war that has no deaths with whatever weapons,
17 with live ammunition.

18 Q. Okay, sir. Well, I'll leave that there. Thank you very much
19 indeed. I have no further questions for you, but the Prosecution will
20 now ask you some questions. So can you give them your full attention,
21 please.

22 PRESIDING JUDGE STEINER: Thank you, Mr Haynes.

23 Before I give the floor to the Prosecution, I apologise for the
24 Prosecution that I want a clarification.

25 Mr Witness, we heard very recently, very recently, a testimony

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1 from former FACA soldier. He testified, as you, under oath, and I'm
2 talking about transcript 325, already the edited version, page 22,
3 starting on line 10. He said that he went to Bossangoa with the MLC
4 troops, presidential guard, the loyalists. He said:

5 "Our goal was to liberate Bossangoa, but then there were acts of
6 vengeance occurred in Bossangoa because, you see, this is the place where
7 Bozizé was born. No pity was shown. These acts were committed out of
8 desire for vengeance. They mistreated the local people."

9 Then Defence asked:

10 "When you say 'them,' who are you referring to? Who mistreated
11 the local people in Bossangoa?"

12 And the answer was:

13 "The soldiers, my brothers-in-arms."

14 So what he's saying here that were the loyalists that committed
15 atrocities, mistreated people that are staying in Bossangoa and you are
16 saying that there were -- it was the Bozizé's soldiers. Who is lying,
17 Mr Witness? Or if I may rephrase: Who is mistaken?

18 THE WITNESS: (Interpretation) Listen, your Honour, I came here to
19 shed light on the events for the Court. I can tell you what I saw, but
20 what I did not see, I'm not going to invent something that I did not see
21 to satisfy anyone. I'm here to shed light on the events for the Court,
22 to tell the truth and nothing but the truth.

23 I was not alone in the field. Can one person such as myself
24 fight against 1.500 or 2.000 troops of Bozizé? No. We were in a platoon
25 made up of two sections, so it depends on which side of the battle that

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1 was taking place.

2 Let me tell you something else. In 2001, when the coup d'etat of
3 General Kolingba failed, the MLC forces -- the other forces came to --
4 the Libyan forces, I beg your pardon, came to protect General Patassé.
5 So we were trained in the use of heavy weaponry. So I was the team
6 leader for the use of those heavy weapons, so I cannot imagine what the
7 other teams were doing. We have our own combat strategy. I cannot be in
8 a thousand places at the same time. The town of Bossangoa is very large.
9 That is what I can tell you, Madam.

10 PRESIDING JUDGE STEINER: Mr Witness, all witnesses that come
11 here to testify say the same thing, that they just come to tell the
12 truth, the whole truth, nothing but the truth. I'm trying to understand
13 how two different ex-FACA soldiers are telling two different stories.
14 And you said that your unit or -- was the first to arrive. You were in
15 the front line, the first to arrive in Bossangoa. And the other witness
16 is saying that they were the loyalists, the ones that mistreated the
17 local population because Bossangoa is the place where Bozizé was born, so
18 it was vengeance. And this is what I would like to understand. Do you
19 have anything to say about that?

20 THE WITNESS: (Interpretation) Yes. Let me explain. We were on
21 the front line. This means that after having dislodged General Bozizé's
22 men, we had to continue the fighting and not stay there. I did not stay
23 in Bossangoa. This means that after us there is always a unit that would
24 set up base in the town to secure the town and ensure that the enemy does
25 not return to occupy the town, because if you capture a town and then you

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1 leave it, the enemy can return. But I'm telling you that I did not
2 remain in Bossangoa. After having liberated Bossangoa, we returned to
3 Bossembélé and then moved on to Bozoum. That is what I have already told
4 you. I did not stay put in Bossangoa.

5 I told you that I was on the front line, and after the fighting,
6 if there are losses on our side, you have to rebuild the strength of the
7 unit and then move on. That's what the front line does. You don't stay
8 in one place. You capture a town and then you advance to liberate
9 another town. So other units stayed put. They had received the orders,
10 but our own objective was to, first of all, dislodge the enemy on the
11 front line, so it would have been unimaginable for me to stay there
12 longer.

13 PRESIDING JUDGE STEINER: Just to make sure if I understood,
14 Mr Witness. You were on the front line. Your unit was the first one to
15 arrive in Bossangoa. And you say that you saw corpses, burnt corpses,
16 that the population come back to the town and told you that women were
17 raped, that there was looting, murders, and all these atrocities were
18 committed by Bozizé's forces, and you liberated Bossangoa. Am I
19 summarising correctly what you said?

20 THE WITNESS: (Interpretation) I believe that I was not well
21 understood. I told you about Bossembélé. Regarding Bossangoa, I said
22 that the cotton company in Bossangoa was looted as well as the Catholic
23 church. We observed that there had been looting in Bossangoa. I did not
24 say that there were burned corpses in Bossangoa. If I'm not mistaken, I
25 was talking about Bossembélé and that is where we found dead bodies that

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1 had been burned. But the cotton company in Bossangoa had been destroyed
2 and even the priest -- the bishop in the Catholic church in Bossangoa
3 complained to us about the looting perpetrated by General Bozizé's men at
4 the church.

5 PRESIDING JUDGE STEINER: So if I well understood, in Bossangoa
6 you only received complaints about looting; is that correct?

7 THE WITNESS: (Interpretation) That is correct, and we also saw.

8 PRESIDING JUDGE STEINER: And according to you, these lootings
9 were perpetrated by Bozizé's men?

10 THE WITNESS: (Interpretation) The bishop who was there at the
11 Catholic church told us that the vehicles of the church had been forcibly
12 taken away by the men of Bozizé and the Zakawas. The cotton company was
13 destroyed and the vehicles were looted by General Bozizé's men, as well
14 as fuel reserves. That is what I'm telling you, Madam.

15 PRESIDING JUDGE STEINER: So the information given by the other
16 witness, that the loyalist forces committed pillaging, rapes, and murders
17 in Bossangoa, you don't know anything about that?

18 THE WITNESS: (Interpretation) That's correct, your Honour,
19 because after the fighting we advanced. Those who stayed back might have
20 done that, but we did not stay in Bossangoa so I cannot imagine something
21 that I did not see.

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

23 I will now give the floor to Prosecution. Mr Bifwoli, if you
24 prefer to remain seated, feel comfortable. You have the floor.

25 First, Mr Haynes, I'm sorry, but I didn't want to interrupt what

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1 the witness was saying, that's why I didn't give you the floor in the
2 middle of what he was saying.

3 MR HAYNES: No, I simply wanted to assist. I could see the
4 confusion between Bossangoa and Bossembélé.

5 PRESIDING JUDGE STEINER: But I didn't want you to assist.
6 That's the point. Thank you.

7 Mr Bifwoli.

8 MR BIFWOLI: Thank you, your Honours.

9 QUESTIONED BY MR BIFWOLI:

10 Q. Good afternoon, Mr Witness.

11 A. Good afternoon, counsel.

12 Q. Mr Witness, my name is Thomas Bifwoli and I represent the Office
13 of the Prosecutor. This afternoon I'll be asking you questions on behalf
14 of the Prosecution following the testimony that you have given in this
15 court. Do you understand?

16 A. Yes, I understand you.

17 Q. And just as you have tried throughout, I'll request that you
18 observe a five-second rule before you give an answer to my question to
19 allow the interpreters to interpret what me and you are saying. Is that
20 okay with you?

21 A. Yes, that's fine with me.

22 Q. And finally, if an answer to any question that I put to you will
23 require you are revealing information that is identifying, feel free to
24 provide that answer in private session. So just let us know and we'll
25 get into private session. Is that fine with you?

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1 A. Yes, that is fine.

2 Q. Mr Witness, yesterday at transcript T 325 bis realtime, page 17,
3 lines 8 to 10, you testified that the MLC troops arrived on the 29th of
4 October, 2002. Do you recall saying that?

5 A. Yes, that was my testimony.

6 Q. Which day of the week was the 29th of October, 2002?

7 A. Let me tell you this, this was a long time ago, ten years
8 already. If I'm trying to give you something, maybe I might tell you
9 something that is incorrect. I remember that they arrived just as I have
10 told you.

11 Q. Mr Witness, I am putting my questions to test your credibility
12 and that's why I'm going to investigate certain details, how you know
13 certain things and why you do not know certain things. So I will put to
14 you certain questions.

15 Now, yesterday you also testified that Bozizé rebels launched the
16 rebellion on the 25th of October, 2002. Do you recall saying that?

17 A. Yes, that is what I said.

18 Q. Now, you can recall very well the 25th and the 29th. Can you
19 recall which day of the week was the 25th of October, 2002?

20 A. No. I know that it was on the 25th even though I do not know
21 which day of the week it was.

22 Q. So, Mr Witness, do you maintain your testimony that the MLC
23 arrived on the 29th October 2002?

24 A. Well, that is what I said.

25 Q. Yesterday at transcript T 325 bis realtime you testified that you

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1 knew Prosper N'Douba. Do you recall testifying like that?

2 A. Prosper N'Douba is the government spokesperson. Everyone knew
3 him at that time.

4 PRESIDING JUDGE STEINER: Mr Bifwoli, sorry to interrupt, when
5 you give a reference it's not enough to give the number of the
6 transcript. You just said transcript 325 bis realtime, but not the page
7 or lines. The witness has already answered, but next time please give
8 the complete reference.

9 MR BIFWOLI: Well guided, Madam President, your Honours. Thank
10 you.

11 Q. Now, Mr Witness, Mr N'Douba publicly testified in this case as a
12 Defence witness. Are you aware that he has written a book about the
13 events of 2002 and 2003?

14 A. No, I'm not aware of that.

15 Q. Well, Mr N'Douba had written a book which has been admitted in
16 evidence in this Court and in his book, which is CAR/DEF/0002/0108 at
17 0187, he states that his family informed him that MLC troops commenced
18 crossing into the CAR from the evening of 25th October 2002. This
19 contradicts what you have told this Court, doesn't it?

20 A. I am talking about what I saw. I cannot speak on behalf of
21 someone else.

22 Q. Mr Witness, there can only be one day of MLC commencing their
23 crossing into CAR during this conflict; correct?

24 A. I told you what I observed.

25 Q. Mr Witness, you are recalling this date from the top of your

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1 head, aren't you?

2 A. But listen, counsel, I'm not a calendar. I'm talking of dates
3 that I remember. I cannot imagine a date so as to give someone a
4 satisfactory answer.

5 Q. But you have no record that you kept that your can show this
6 Court about this date; correct?

7 A. I'm not a historian; I'm a soldier. Counsel, it is the
8 historians who keep records. I'm a soldier.

9 Q. And therefore, Prosper N'Douba made a record of this date shortly
10 after events. You, you never made any record and you want the Court to
11 disregard the date provided by Prosper and believe what you are saying.
12 Is that your testimony?

13 PRESIDING JUDGE STEINER: Yes, Mr Haynes.

14 MR HAYNES: Can we have a reference for where Prosper N'Douba
15 made a record of the date shortly after the events. We've only been
16 referred to his book so far, and I don't know when that was written.

17 PRESIDING JUDGE STEINER: Mr Bifwoli, good question.

18 MR BIFWOLI: Your Honours -- sorry. I'll be providing the Court
19 with the time when this book was published, but at least the date we are
20 talking about is provided in that book. And if Mr Haynes wants, I can
21 still skip this question and come back to it.

22 PRESIDING JUDGE STEINER: Maybe you can rephrase your question
23 without reference to the date of the publication of the book, since we
24 don't know yet which date is that, Mr Bifwoli.

25 MR BIFWOLI: Thank you, your Honours.

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1 Q. Now, Mr Witness, as you are now aware, there is a written record
2 in evidence by Mr Prosper N'Douba that says MLC commenced crossing into
3 the CAR on the 25th, and on the other hand, you are saying on the 20 --
4 they crossed on the 29th of October, 2002, and you are recalling that
5 from your memory. Should this Court disregard what was written down in a
6 record and believe what you are recalling from your memory?

7 A. As I was saying, counsel, I'm not a historian who writes things
8 down. I'm a soldier in the field. You know that this was ten years ago.
9 Sometimes it's even my son who tells me, "Papa, this is my birthday
10 today." I'm not a historian. I'm sorry.

11 Q. So that it's clear, you are saying that it is likely that you are
12 confused about this date; is that what you're saying?

13 A. I did not say that I was confused. That was what I said. I do
14 not want to change what I said to please you. That is what I said.

15 Q. Mr Witness, an MLC soldier in evidence before this Court - and
16 that is CAR-DEF-0002-0001 at 0043 - states that he crossed into the CAR
17 on the 26th of October, 2002. This contradicts what you told the Court,
18 doesn't it?

19 A. Listen, counsel, you yourself just said that Prosper N'Douba said
20 that they crossed on the 25th, and now you are telling me that an MLC
21 soldier said that he crossed on the 26th. I'm telling you that they
22 crossed on the 29th, so you will understand that we are not historians to
23 record the dates.

24 PRESIDING JUDGE STEINER: Mr Haynes.

25 MR HAYNES: "An MLC soldier in evidence before this Court,"

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1 that's, frankly, completely misleading. We know what he's referring to.
2 He's referring to the interview of somebody in a document we've all seen.
3 It's not an MLC soldier in evidence before this Court. The suggestion to
4 the witness is that somebody's given evidence on oath to that effect.
5 It's completely misleading.

6 PRESIDING JUDGE STEINER: Mr Bifwoli.

7 MR BIFWOLI: Thank you, your Honours. Your Honours, the piece of
8 evidence that I'm referring to is the Gbadolite court-martial dossier.
9 This piece of evidence has been admitted in evidence in this Court and I
10 do not understand any other way we can refer to it if it's not evidence
11 and what I'm referring to is what this particular soldier is saying
12 within this particular bundle. So if we can't refer to the contents of
13 this bundle, for what reason is it in evidence? The soldier himself is
14 saying, "I crossed on this particular date." The entire bundle is in
15 evidence.

16 PRESIDING JUDGE STEINER: Mr Bifwoli, I think what Mr Haynes said
17 is that the way the question is put, at least the way the question is at
18 the transcript, gives the impression, the wrong impression, that MLC
19 soldier was giving evidence before this Court. So maybe if you rephrase
20 your question, because the way it is, an MLC soldier in evidence before
21 this Court, so just rephrase and the issue is solved.

22 And before we go ahead I just would like for the Prosecution to
23 check - maybe I'm wrong - but the date of the publication of Mr N'Douba's
24 book apparently is 2005. This is document CAR-DEF-0002-0001 can be 15 or
25 45, now I don't know, 15.

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1 You can continue, Mr Bifwoli.

2 MR HAYNES: Actually, we think it's January 2006, but it probably
3 doesn't matter very much.

4 PRESIDING JUDGE STEINER: Here I have L'Harmattan, which is the
5 editing company, 2005, but in any case we can check it later.

6 MR BIFWOLI: Thank you, your Honours. I think we will check that
7 because the date we seem to have is 1st of January -- I think the best
8 way is to check and to come back to the Court.

9 Q. Now, Mr Witness, I will rephrase my question pursuant to the
10 directions of the Chamber. We have a document in evidence before this
11 Court, and in that document an MLC soldier is quoted as saying that he
12 crossed into the CAR on the 26th of October, 2002. That contradicts what
13 you told the Court, that MLC started arriving in the CAR on the 29th;
14 isn't that so?

15 A. Well, as I said, I am basing myself on what happened. I'm not
16 basing myself on what other people have said. I'm trying to clarify the
17 truth for the Court, and I have to say what actually happened. I'm not
18 here to lie. The -- I'm not inventing a date, 25th, 26th, 29th, I didn't
19 invent what I said. I'm not a historian; I'm a soldier. And I know what
20 I said.

21 Q. Mr Witness, a Defence witness at T 261, at transcript T 261,
22 edited, page 35, from line 18, D-0051 testified that actually the MLC
23 arrived in the CAR on the 30th. You are saying they arrived on the 29th.
24 Do you still maintain your testimony?

25 A. I maintain what I said, counsel. You can't force me to say what

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1 I didn't say. I'm telling the truth and I maintain what I said, and
2 that's it.

3 Q. Now, Mr Witness, we have on record an MLC soldier giving one
4 date. We have on record a Defence witness, D-0051, giving a different
5 date, and now we have you giving a different date. However, I think the
6 Court will decide who to believe. I'll move on.

7 Now, Mr Witness, are you aware if Mr Bemba visited the CAR during
8 this conflict period?

9 A. No, counsel, I didn't see him. Personally I didn't see Mr Bemba
10 crossing the river. I didn't see him.

11 Q. Are you aware if during the period October 2002 to March 2003
12 Mr Bemba visited the CAR?

13 A. As I said at the beginning, I didn't see him. Personally I did
14 not see him. I don't want to invent something, so I'm saying I did not
15 see him. Personally, I did not see him.

16 Q. Well, you didn't see him, but did you hear, for instance, that he
17 came to the CAR during this period?

18 A. No, no. I don't want to lie to you.

19 Q. Mr Witness, a short while ago you testified that the operation
20 started on the 30th of October, 2002. Do you recall saying that?

21 A. Yes. The combat started as I said and the merger too.

22 Q. After how many days did you take over PK12?

23 A. As I said, the combat was along three axes. Boy-Rabé, there we
24 had to take Boy-Rabé, and then there was Fouh, Gobongo, PK10, PK12, and
25 then part of the combatant area. So I don't recall everything, but

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1 perhaps three, four days.

2 Q. So, Mr Witness, if it took you roughly three or four days to take
3 over PK12, then we are talking about from the 30th, from maybe the 3rd of
4 November, roughly, approximately, you had control of PK12 from the 3rd of
5 November. Would I be correct to say that?

6 A. If you've correctly calculated it, three, four days, if that is
7 what the calculation comes out at, then that is what it is.

8 Q. Okay. So that it's clear, Mr Witness, the 30th of October, 2002,
9 was a Wednesday. So if I count three days from that, then the first --
10 31st is the first day; then the 1st, second; and then 2nd November is the
11 third day. And you are saying you arrived after three or four days. So
12 am I correct then, based on this calendar, that you took over PK12 from
13 the 3rd of November, 2002?

14 A. Yes, you can say that.

15 Q. And for how long did you stay in PK12 after taking control before
16 you advanced?

17 A. As I was saying, after we took PK12 we stayed at the Begoua
18 school, for a few days at least, before taking the direction of Damara.

19 Q. Approximately how many days when you say "a few days"?

20 A. Well, as I said, we stayed four or five days, it depends. I
21 can't give you an exact date, but it wasn't the day itself or the day
22 after that we continued on our way. We waited four or five days to
23 reorganise ourselves, of course.

24 Q. And it is your testimony that at PK12 you were with the MLC
25 troops carrying out the operation jointly; is that your testimony?

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1 A. It is indeed, counsel.

2 Q. If someone said that Bemba was in PK12 on the 2nd November 2002,
3 would you agree with that person?

4 A. As I'm trying to say, I did not see him. I did not see Mr Bemba
5 and I don't know him. Personally I didn't see him, but I can't imagine
6 that he was there. I was focusing with my head on the combat. We had to
7 liberate occupied towns. And if you were to ask me where I fired a
8 bullet or lost a bullet, I would be able to tell you that; but I can't
9 say when people arrived.

10 Q. So, Mr Witness, are you sure that you were in PK12 around this
11 time, you?

12 A. As I said at the beginning, I was in PK12. We had set up a
13 headquarters at the Begoua school before we took the road to Damara. As
14 I said, I was there myself, I was there.

15 Q. Mr Witness, at transcript T 325 bis, realtime, yesterday, at
16 page 25, lines 6 to 10, you testified that Moustapha was present in the
17 meeting that was held before MLC and FACA launched a joint operation. Do
18 you recall saying that?

19 A. Yes, Moustapha was the commander, the commander of the battalion
20 that led the MLC troops in the Central African Republic. It's necessary
21 that he be there, to receive orders.

22 Q. When did Moustapha arrive in the CAR?

23 A. As I said, please, I don't want to start telling lies here. So I
24 said what I know. I can't tell you something I don't know. That's just
25 how it is.

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1 Q. Please tell the Court the date that Moustapha arrived in the CAR.

2 A. I have said that I don't know. I can't invent a date. I didn't
3 have a calm head.

4 Q. Yes. Mr Witness, you are the one who started providing dates to
5 this Court. It is surprising that suddenly you can't recall certain
6 dates, but when was this meeting held? Can you tell the date that this
7 meeting was held before the joint operation was launched?

8 A. As I said to you, once the MLC troops had been brought to the
9 support regiment, having -- once the MLC had been issued with their
10 equipment, their military arsenal, their communications equipment, there
11 was a meeting, which took at least three hours, and the general
12 communicated the orders and said what had to happen. That was
13 communicated on that day, and then we formed platoons and we engaged on
14 the battle-field, on the field of honour.

15 Q. Am I correct to say this meeting took place on the 29th of
16 October, 2002, the same day, according to you, when the MLC arrived?

17 A. Indeed.

18 Q. Mr Witness, in a document which has been admitted in evidence
19 before this Court, in that document Moustapha has reported to his
20 authorities and he states that he arrived in the CAR on the 30th October
21 2002. Again, that contradicts your testimony, doesn't it?

22 PRESIDING JUDGE STEINER: Which document, Mr Bifwoli?

23 MR BIFWOLI: Sorry, your Honours.

24 PRESIDING JUDGE STEINER: Before Mr Haynes gets on his feet.

25 MR BIFWOLI: Sorry, your Honours --

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1 MR HAYNES: No, I know the document he is referring to.

2 MR BIFWOLI: It is -- sorry, the document is CAR-D04-0002-1514 at
3 1637, number 39 on the list.

4 Q. Mr Witness, probably I'll repeat the question. In a document we
5 have in evidence before this Court, Moustapha is stating to his bosses in
6 Gbadolite that he arrived on 30th October 2002. This contradicts what
7 you've told the Court, doesn't it?

8 A. Madam President, I am talking about what was seen, what happened.
9 But I'm not a historian, I can't recall all the dates. I'm talking about
10 what happened, what happened. I'm not inventing things; I'm talking
11 about what occurred.

12 Q. Between you and Moustapha, who should the Court believe,
13 Mr Witness?

14 A. Well, counsel, as I said, we're not historians, we don't recall
15 all the dates. We don't keep dates. We're talking about a long time
16 ago. I'm not a machine, I'm not a computer. To give you chapter and
17 verse on everything. I can only talk about what I know, and the rest,
18 well, I can't invent things to tell you.

19 Q. So are you saying that you are poor in recalling dates?

20 A. I can only tell you about what I remember. I mean, what I don't
21 remember, should I invent it? Should I imagine it for you? That's not
22 what I'm going to do.

23 Q. So in spite of your poor memory in recalling dates, the only two
24 dates you can give this Court are those ones that other Defence witnesses
25 are able to give this Court. Mr Witness, are you telling the truth?

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1 A. I'm here under oath. I cannot lie to the Court. I can only
2 explain what I know to the Court. What I don't know, I'm not going to
3 invent things just so I can tell you something. I'm here to tell you the
4 truth, to tell you what I know. And I'm not a historian. I don't recall
5 all the dates. I sometimes have difficulty recalling my son's birthday.
6 He says to me, "Papa, it's my birthday today." I'm not a historian; I'm
7 a soldier and I don't recall all the dates.

8 Q. What is so special about these two dates that you can be able to
9 recall with such surgical precision?

10 A. As I said, I can only tell you what I remember. If I invent
11 something, then I will be lying. Do you want me to start lying? If you
12 want me to start lying, I will do it, but I can't make things up. I'm
13 here under oath. I don't want to lie. This is what I said, and I'm not
14 going to change what I said. That is what I said and that is it.

15 MR BIFWOLI: Madam President, for the next set of questions I
16 prefer to be in private session.

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

19 (Public session at 4.53 p.m.) *Reclassified as Open session

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

21 PRESIDING JUDGE STEINER: Mr Bifwoli, one moment. Court Officer,
22 I notice that the English transcript became 326 bis. Would you please,
23 just for my personal notebook, at what time we changed the transcript?

24 COURT OFFICER: Yes, Madam President. We changed the transcript
25 into 326 bis after the break of 3.30 and the exact time would be at

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1 15.34, when the session started.

2 PRESIDING JUDGE STEINER: Thank you. Saying that was after the
3 break, I can situate myself. Thank you very much.

4 Mr Bifwoli.

5 MR BIFWOLI: Thank you, your Honours.

6 Q. Now, Mr Witness, we are now in private session, so feel free to
7 provide all the details because what you say will not come out of this
8 courtroom. Now, where did you undertake your military training?

9 A. (Redacted)

10 (Redacted)

11 (Redacted)

12 Q. (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 A. (Redacted)

17 (Redacted).

18 Q. (Redacted)

19 A. (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. (Redacted)

5 (Redacted)

6 (Redacted)

7 A. (Redacted)

8 (Redacted).

9 Q. (Redacted)

10 (Redacted)

11 A. (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 THE INTERPRETER: That was an explanation from the interpreter.

17 MR BIFWOLI:

18 Q. (Redacted)

19 A. (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 Q. Now, Mr Witness, does the name Joseph Mokondoui, and Mokondoui is
11 spelled as M-o-k-o-n-d-o-u-i, does that name mean anything to you?

12 A. I did not quite catch that name, please.

13 Q. I'll repeat the name. Joseph Mokondoui. Maybe my pronunciation
14 is not good, but I'll spell Mokondoui. Mokondoui is spelled as
15 M-o-k-o-n-d-o-u-i.

16 A. Yes, it rings a bell.

17 Q. Can you tell the Court who that person is?

18 A. Personally I am not his friend so I wouldn't know who he is.

19 Q. How do you know him? What position, for example, does he hold?

20 A. As I have said, in fact you mispronounced the name. There are
21 people who bear such names and the same first names, so it is really
22 confusing. I do not want to mislead the Court. There are people who are
23 known by that name, so I cannot tell you precisely who this is.

24 Q. Mr Witness, you recall you took an oath to testify to this Court
25 and the rules are you don't choose which questions to answer and which

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1 ones not to answer. However, where you don't know the answer, saying you
2 don't know is also accepted. So can you tell the Court the Joseph
3 Mokondoui that you know? Who is he? What position does he hold and
4 where?

5 A. To avoid confusion I will tell you very frankly that I do not
6 know, because this would be confusing. I know many Josephs, not only
7 that you are pronouncing the name very badly, so I did not want to be
8 confused because I could have misled the Court and I do not want to do
9 that.

10 Q. Of course, Mr Witness, I don't come from the CAR, but I spelled
11 for you the name so you got it right; correct?

12 A. Like I told you, it is pointless for me to speak in a confused
13 manner. I cannot say anything about something, a name, that I know there
14 are many of them, so I do not want to say something that is wrong.

15 Q. Was there a Joseph Mokondoui in FACA during this period?

16 A. Listen, counsel, do you know how many names exist in the FACA,
17 how many namesakes? I have namesakes in the Central African Army, same
18 family name, same first name, that happens, so I didn't want to just say
19 anything.

20 Q. So in short, you don't want to answer this question; is that
21 correct?

22 A. In order to avoid confusion, yes.

23 Q. So the Court has heard you and it will make its own
24 determinations. Does the name Narcisse Arido - and Arido is spelled as
25 A-r-i-d-o - mean anything to you?

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1 A. I do not know that person. Personally, I do not know him. There
2 are many of us in the army, you know, counsel. There are many people in
3 the FACA. So personally, I do not know him. We do not know each other,
4 no.

5 Q. What about someone called Joaquim Kokate, and Kokate is spelled
6 K-o-k-a-t-e, does that name mean anything to you?

7 A. I do not know him, but since the name is Kokate, it's a Yakoma
8 name, it is a Central African Republic name, but I do not know anyone
9 bearing that name. I do not know this person.

10 Q. And what about someone called Anicet (* phon) Songoto, and
11 Songoto is spelled as S-o-n-g-o-t-o?

12 A. As I have told you, no, I do not know him. Maybe these are FACA
13 soldiers. There are many Central African citizens in the army, but I do
14 not know him personally.

15 Q. And do you know someone called Simplicie Mapouka? And Mapouka is
16 spelled M-a-p-o-u-k-a.

17 A. No, maybe I have heard the name somewhere, but I do not know this
18 person. Yes, maybe I have heard the name in the USP. The name Mapouka
19 seems to be familiar, but I do not know that person, no.

20 Q. I'll ask you another name. Does the name Albatross mean anything
21 to you?

22 A. When you say "Albatross," that is a code-name that is given to
23 members of the presidential guard at the airport. So it is a code. For
24 example, General Bombayake, his code is Hercules. That is the code of
25 the director of the presidential guard. And the chief of the gendarmerie

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1 at the time was called Panther, and the president was the Sun King, le
2 Roi Soleil. So that was the code that was used on the walkie-talkie. So
3 Albatross is the code-name given to the commander of the presidential
4 guard unit at the airport. So he's referred to as Albatross, but that is
5 not the name of an individual.

6 Q. And who -- what is the name of the commander of the presidential
7 guard unit that was at the airport during the conflict period?

8 A. Listen, counsel, during the conflict, at the airport the
9 code-name was Albatross. That is what I'm telling you. The name Mapouka
10 Simplicie rings a bell. He is probably somebody in the USP, but I do not
11 know him. That is what I have been telling you from the beginning. USP
12 airport, yes, but I do not know him. When General Bombayake arrived at
13 his position, he changed everything. New individuals were appointed. So
14 as I'm telling you, the name sounds familiar to me, but personally I do
15 not know him.

16 MR BIFWOLI: So we can go back into open session.

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

19 (Open session at 5.15 p.m.)

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

21 MR BIFWOLI:

22 Q. Mr Witness, you testified that the FACA Chief of General Staff
23 was General Betibangui; is that correct?

24 A. I answered that question. He died later, but on the 25th of
25 October, the Chief of Staff of the Central African Republic Army was

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1 indeed Mr Betibangui.

2 Q. You also testified that General Bombayake was the head of the
3 USP; correct?

4 A. Yes, that is what I said, director-general of the presidential
5 security.

6 Q. So were FACA and USP independent entities?

7 A. What do you understand by USP? It's a military unit. It's still
8 part of FACA, but it is a detachment exclusively for the security of the
9 president. It is not separate, no. All of us were under the authority
10 of the Ministry of Defence and the General Staff, of course. General
11 Bombayake received his orders from the General Staff. He was a member of
12 the FACA. We were all FACA and not a separate unit. It's just that it
13 was a more trusted unit, that is all, but to say that it was separate,
14 no.

15 Q. So, General Bombayake received his orders from FACA. Who did he
16 report to?

17 A. As I was telling you, apparently you are not familiar with the
18 organisation chart of the Central African Army, but since Bombayake was
19 the DG or commander of the presidential guard, he had a personal
20 relationship with the president of the republic, but all of us was under
21 the authority of the General Staff. So Bombayake also reported to the
22 General Staff; he was a member of the FACA. He was not commanding a
23 militia group. We were all FACA and reporting to the General Staff.

24 Q. So that it's clear, Mr Witness, did Bombayake report to the
25 General Staff or to the president, Patassé?

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1 A. As I have told you, there was also an issue of trust. The
2 president did not fully trust the FACA. This means that Bombayake
3 personally also reported directly to the president because of the issue
4 of trust, because the president did not have full confidence in the FACA.
5 That is it.

6 Q. So the chain of command was such that Bombayake was to report to
7 the General Staff; is that correct?

8 A. In the general structure or organisation chart, that is how it
9 should have happened, but given the circumstances, even the person who
10 was commanding the CCOP fled. So Bombayake also reported directly to the
11 head of state and he also received orders from the head of state because
12 of this issue of trust. So as I've told you, during this period the
13 president was losing confidence in the FACA, who was probably -- who were
14 probably playing a double game. For example, Lengbe was playing a double
15 game and he fled. That is what I am saying.

16 Q. So if the only reason why Bombayake reported directly to Patassé,
17 am I correct to say that in reporting directly to Patassé, Bombayake was
18 not observing the chain of command as was laid down; is that correct?

19 A. That is not what I said. I said that it was a problem of trust.
20 I did not say that the Central African Army was disorganised. So if you
21 have a commander who meets all the time frequently with the head of state
22 alone. So things can be said, orders can be given directly because of
23 this issue of trust. I did not know how you are understanding this.

24 Q. The chain of command required that Bombayake reports to the
25 General Staff. But because of the trust he had with the president, he

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1 reported directly to the president. So he didn't observe the chain of
2 command when he was reporting directly; is that correct?

3 A. As I have told you, there were orders which were issued directly
4 to Bombayake. So the president trusted General Bombayake more. He had
5 already saved the president in 2001. He was -- when he was DG. In the
6 night of the 28th of May. He had a small unit and with a small team they
7 saved the president from the aborted coup of General Kolingba. So
8 Bombayake at that time earned the full trust of the head of state. So
9 please understand me, that is it.

10 Q. In spite of repeating my question, Mr Witness, you've not
11 answered whether Bombayake observed the chain of command or not in
12 reporting to Patassé; however, I'll move on. Now, yesterday at
13 transcript T 325 bis, realtime, at page 18, lines 18 to 23, you testify
14 that Lengbe was present when the MLC arrived in the CAR. Do you recall
15 saying that?

16 A. This is because it was Lengbe who was in command of the CCOP at
17 that time. He had to be there at the naval base. He was there.

18 Q. Now, you also testified that MLC were provided with uniforms.
19 Was Lengbe present when these uniforms were provided to the MLC?

20 A. I have already told you that in the support regiment, the MLC had
21 to be given uniforms. We took the time to open the container, took the
22 uniforms, and give them. I cannot control everyone. That must have been
23 the case because he was the one in command of the CCOP, despite the
24 double game that he was playing. He was there. He could not be absent,
25 but he was playing his game but he had to make believe. First of all, he

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1 was there at the support regiment.

2 THE INTERPRETER: And the witness added that he was there with
3 Commander Dandito.

4 PRESIDING JUDGE STEINER: Mr Bifwoli, just if you want to put
5 your last question, we need to conclude.

6 MR BIFWOLI: I think I can stop there. Thank you.

7 PRESIDING JUDGE STEINER: Thank you, Mr Bifwoli.

8 Mr Witness, that's almost 5.30. It's time for us to adjourn.
9 You are entitled to take some rest. We will continue tomorrow. In
10 principle, your testimony will start at 3.00. If there is any change in
11 the schedule, you will be informed. We hope you have a very, very
12 restful evening.

13 I thank very much the Prosecution team, the legal representatives
14 of victims, the Defence team, Mr Jean-Pierre, who is not here.

15 Mr Rojas, thank you very much.

16 THE COURT OFFICER: (Via video link) Thank you, Madam President.
17 You are welcome.

18 PRESIDING JUDGE STEINER: Special thanks to our interpreters and
19 court reporters that allowed us these last-minute changes in the sitting
20 hours. Our special thanks.

21 And thank you very much, Mr Witness, for in principle --

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

23 PRESIDING JUDGE STEINER: -- in principle and unless the parties
24 and participants are informed otherwise, the Chamber will resume tomorrow
25 morning at 9.00 with the continuation of the testimony of Witness 0003.

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1 The hearing is adjourned.

2 THE COURT USHER: All rise.

3 (The hearing ends in open session at 5.28 p.m.)

4 RECLASSIFICATION REPORT

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

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

7 becomes Public.

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