

Trial Hearing
Witness: CAR-D04-PPPP-0039

(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
6 Judge Kuniko Ozaki
7 Trial Hearing
8 Wednesday, 24 April 2013
9 (The hearing starts in open session at 9.06 a.m.)
10 THE COURT USHER: All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE STEINER: Good morning.
14 Could, please, court officer call the case.
15 THE COURT OFFICER: Thank you, Madam President. Situation in the Central African
16 Republic, in the case of The Prosecutor versus Jean-Pierre Bemba Gombo, ICC-01/05-01/08.
17 PRESIDING JUDGE STEINER: Thank you.
18 Good morning. I welcome the Prosecution team, legal representatives of victims,
19 Defence team, Mr Jean-Pierre Bemba. Good morning to our interpreters, our court
20 reporters. We will continue today with testimony of Defence Witness 39.
21 The Chamber received a request from the Prosecution to address the Chamber at the
22 beginning of this hearing, so I'll give the floor to the Prosecution and I suppose we should
23 go into private session?
24 *MR BADIBANGA: (Interpretation) Indeed, your Honour, with your leave.
25 PRESIDING JUDGE STEINER: Good morning, Mr Rojas.

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1 THE COURT OFFICER (Redacted): (Interpretation) Good morning, your Honour.

2 PRESIDING JUDGE STEINER: So I'll ask now court officer, please, to go briefly into
3 private session.

4 *(Private session at 9.08 a.m.) Reclassified as Open session

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

6 PRESIDING JUDGE STEINER: Maître Badibanga, please.

7 MR BADIBANGA: (Interpretation) Thank you, your Honour.

8 I merely wish to inform the Chamber about the situation in the Central African Republic.

9 I will not dwell on the matter, but I'm sure you realise that there have been political
10 changes in that country quite recently. (Redacted)

11 (Redacted)

12 (Redacted)

13 It would appear that that information has not been provided to the Chamber and to our
14 understanding the Victims and Witnesses Unit is in the best position to inform the
15 Chamber but, given the scope of the problems, or rather the consequences, (Redacted)
16 (Redacted), we think it is important to make this point to the Chamber.

17 We realise that the Chamber is always concerned about the safety and protection of
18 witnesses, so we merely wish to draw this issue to the attention of the Chamber.

19 PRESIDING JUDGE STEINER: Thank you very much, Maître Badibanga. The
20 Chamber for sure will start contacting VWU first and foremost in order to see whether
21 there is anything that is relevant for the Chamber to be informed in relation to the security
22 of Prosecution and I suppose Defence witnesses.

23 There are Defence witnesses in the CAR as well?

24 MR HAYNES: Yes, (Redacted)

25 Suffice it to say we had a meeting yesterday with the Protection Unit of the VWU and we

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1 were fully briefed as to the operational capabilities of the ICC in the Central African
2 Republic.

3 PRESIDING JUDGE STEINER: Thank you very much.

4 The Chamber will come back to the parties, and anything special that legal representatives
5 would like to address in that respect? Maître Zarambaud?

6 MR ZARAMBAUD: (Interpretation) Yes, your Honour. I believe everyone is familiar
7 with the situation. Indeed, there are major difficulties getting about, moving about the
8 country, and I suppose the same holds true for victims.

9 We have informed the various units that are in charge of that, and indeed there are
10 serious problems and I thank you.

11 PRESIDING JUDGE STEINER: Maître Zarambaud and Maître Douzima, the Chamber
12 hopes that any information related to possible risk to victims participating in these
13 proceedings is immediately communicated with VWU for VWU to take the possible
14 actions, but in any case the Chamber will turn back to the parties and participants as soon
15 as the Chamber receives more concrete information in that respect.

16 As the parties and participants know, not only the Statute and the Rules, but the Judges
17 that are committed to this Court have always as its main concern security and well-being
18 of victims and witnesses before this Court.

19 So, we can turn back into open session now.

20 (Open session at 9.13 a.m.)

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

22 PRESIDING JUDGE STEINER: Mr Rojas, could you please bring into the video link
23 room our Witness 39.

24 THE COURT OFFICER (Redacted): (Interpretation) Yes, your Honour.

25 WITNESS: CAR-D04-PPPP-0039 (On former oath)

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- 1 (The witness speaks French)
- 2 (The witness gives evidence via video link)
- 3 PRESIDING JUDGE STEINER: Good morning, Mr Witness.
- 4 THE WITNESS: (Interpretation) Good morning, your Honour.
- 5 PRESIDING JUDGE STEINER: How are you feeling this morning?
- 6 THE WITNESS: (Interpretation) I'm feeling better, your Honour.
- 7 PRESIDING JUDGE STEINER: Mr Witness, are you ready to continue with your
- 8 testimony?
- 9 THE WITNESS: (Interpretation) Yes, your Honour.
- 10 PRESIDING JUDGE STEINER: Before I give back the floor to the Prosecution, I need to
- 11 remind you that you are still under oath; do you understand that, sir?
- 12 THE WITNESS: (Interpretation) Yes, your Honour.
- 13 PRESIDING JUDGE STEINER: I also would like to remind you about your protective
- 14 measures, the care you should take in order not to reveal in open sessions information
- 15 that could lead to your identification and, finally, to remind you of our ground rules,
- 16 meaning that you are expected to speak slower than normal and to give the five seconds
- 17 after a question is put to you and before you start answering to it. And once again,
- 18 Mr Witness, just to let you know that at any time, if you need a break, just let us know and
- 19 you will have as many breaks as needed. Is that fine with you, sir?
- 20 THE WITNESS: (Interpretation) Yes, your Honour.
- 21 PRESIDING JUDGE STEINER: I give back the floor to Mr Zeneli from the Prosecution,
- 22 who will continue questioning you.
- 23 QUESTIONED BY MR ZENELI: (Continuing)
- 24 MR ZENELI: Thank you, Madam President.
- 25 Q. Good morning, Mr Witness.

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1 A. Good morning, Counsel.

2 Q. Yesterday, Mr Witness, we were talking about the chain of command regarding the
3 discipline of the MLC troops in the Central African Republic operation; do you remember
4 that?

5 A. Yes, I remember that, Counsel.

6 Q. I will cite a portion from yesterday's transcript regarding that issue, and the
7 reference would be T-309, confidential English edited transcript of 23 April 2013, at page
8 54, lines 12 through 24, and the French version of the same is T-309, confidential French
9 edited transcript of 23/04/2013, page 57, lines 10 through 23. And I cite:

10 "I ask you, Mr Witness, in terms of the discipline of the troops, was Commander
11 Moustapha the highest authority to discipline them, or did he have someone else above
12 him for that? Answer: In my statement of yesterday I stated that Commander
13 Moustapha, in the context of this operation -- correction, of this operational chain of
14 command, was the deputy and he received orders from the Chief of General Staff of the
15 Central African Republic.

16 Question: And that included also orders concerning the discipline of the troops; is that
17 correct? Is that your testimony?

18 Answer: Could you please repeat your question?

19 Question: And that included also issues regarding the discipline of the troops; is that
20 correct?"

21 And your answer, Mr Witness: "A commander is the individual who has the
22 responsibility and authority in all aspects of the conduct of operations and that includes
23 discipline." End of quotation.

24 Mr Witness, did Mr Jean-Pierre Bemba have any responsibility and authority regarding
25 the discipline of the MLC troops in Central African Republic operation?

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1 A. The answer is no, of course. Mr Bemba was not commanding the units in the CAR,
2 so he was not involved in the chain of command of those units.

3 Q. Did Mr Jean-Pierre Bemba have the authority to issue any orders, let's say, for the
4 arrest of the MLC soldiers in the Central African Republic?

5 A. Mr Jean-Pierre Bemba did not have the necessary authority to give orders to arrest a
6 soldier on the soil of the Central African Republic, and this is what I was saying yesterday,
7 Counsel. I believe that yesterday we ended, just before touching upon disciplinary
8 issues, we had a discussion - I don't know whether it was captured on the transcript - but
9 we had a discussion about the concept of orders. You spent a lot of time talking about
10 orders. We talked about directives, instructions, orders, operational orders. Perhaps
11 just to make things even clearer, I would say this: An operational order, or a military
12 order, must include -- must answer five fundamental questions.

13 The first question is this: Who? Second question: Who does what? Or -- correction,
14 when, where and why? That's what I call a military order or an operational order, and
15 everything that -- anything that doesn't include those five components -- well, you see,
16 this is what I call a military order, an order that can be carried out.

17 Q. Did Mr Jean-Pierre Bemba order the arrest of soldiers of the MLC in Central African
18 Republic?

19 A. Could you repeat your question, Counsel?

20 Q. Did Mr Jean-Pierre Bemba order the arrest of MLC soldiers in the Central African
21 Republic; that is arrest of MLC soldiers that could have committed crimes there?

22 A. To my knowledge, no MLC soldier was arrested in the CAR upon the orders of
23 Mr Jean-Pierre Bemba.

24 Q. Was any MLC soldiers in Central African Republic arrested on orders of anyone else
25 within the MLC hierarchy?

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1 A. Counsel, if soldiers had been arrested for possible crimes in the CAR, it would have
2 been ordered by the head of the command in the Central African Republic.

3 Q. And who is that command?

4 A. I said the person who commanded the operations and, to my knowledge, the person
5 who did that was General Mazi.

6 MR ZENELI: Madam President, I would like the witness to be shown the
7 correspondence letter of Mr Jean-Pierre Bemba to the FIDH, and I will provide you with
8 the number in the Prosecution list shortly.

9 I actually have a choice of documentary evidence which can be presented to the witness
10 on this issue, but let us start with CAR-OTP-0017-0363. And if the court officer would be
11 kind enough to go to page 0364 of that document I'd really appreciate it, and of course I
12 will wait until you find it since I didn't give you the number in the list.

13 THE COURT OFFICER (Redacted): (Interpretation) The document CAR-OTP-0017-0363,
14 the redacted version number 1 which corresponds with the document 14 on the list of the
15 Prosecutor's documents, and namely page 0364 thereof, is being shown to the witness.

16 MR ZENELI: If I cause any inconvenience to the court officer, I apologise in advance.
17 Please show him the first page first.

18 THE COURT OFFICER (Redacted): (Interpretation) Yes, sir. The first page, 0363, is
19 being shown to the witness.

20 MR ZENELI:

21 Q. Mr Witness, are you familiar with this document?

22 A. Your Honour, I need time to read the document.

23 (Pause in proceedings)

24 THE COURT OFFICER (Redacted): (Interpretation) The court officer is showing the
25 first and second page to the witness.

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1 THE WITNESS: (Interpretation) Your Honour, I've just read the first page.

2 MR ZENELI:

3 Q. And from the reading of that first page, Mr Witness, I ask my question again: Are
4 you familiar with the document?

5 A. Well, the word -- no. I mean, I've read it. I've read the first page, your Honour.
6 Is there a problem with translation? I'm asking whether I know the document?

7 Q. And there is no misunderstanding there. That is what I'm asking you to tell us.
8 Are you familiar with this document?

9 A. I have to read this document.

10 Q. Mr Witness, can you read the heading of this document for us?

11 A. The letter "Concerns the intervention of the MLC in the Central African Republic."

12 Q. And just before that title, what do you read? What is it in the heading of that
13 document? Start from, "Mouvement de Liberation du Congo, Le Président," and then
14 move downwards. Read that for us, please.

15 A. "Gbadolite, 4 January 2003, to Mr General Cissé, Special Representative of the
16 Secretary-General of the United Nations in the Central African Republic in Bangui.
17 Mr Special Representative, concerning intervention of the MLC in the Central African
18 Republic."

19 Q. That is sufficient. So my question is: Are you aware of a correspondence between
20 the President of the Mouvement de Liberation du Congo and General Cissé, the
21 representative of the special -- the Special Representative of the Secretary-General of the
22 UN?

23 A. Your Honour, could I ask for us to go into private session, please?

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

25 *(Private session at 9.39 a.m.) Reclassified as Open session

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

2 PRESIDING JUDGE STEINER: Yes, Mr Witness?

3 THE WITNESS: (Interpretation) Thank you, your Honour. Counsel, if I understand

4 your question well, you're asking me if at the time when this document was written

5 whether I was aware of this correspondence between the President of the MLC and the

6 Special Representative of the General Secretary of the United Nations, and I would say no.

7 (Redacted)

8 (Redacted)

9 MR ZENELI:

10 Q. Did you hear about any such correspondence afterwards?

11 A. Well, there was lots of correspondence that the President of the MLC wrote. I

12 didn't know all the correspondence which was sent from his office outside.

13 Q. Did you, Mr Witness, hear about a correspondence between Mr Jean-Pierre Bemba

14 and General Cissé afterwards? The reason I'm asking whether you heard it afterwards is

15 because when you answered you said "at the time", meaning 4 January 2003. So I would

16 like to know whether you heard about it afterwards, or at any other time?

17 A. No, Counsel, I didn't hear of it.

18 Q. Where was the G3 at the time that this correspondence was taking place? Where

19 was the G3 in January 2003? Was he in Gbadolite, or was he again off to some other

20 place far away from Gbadolite?

21 A. (Redacted)

22 Q. I would like to continue to talk about "the G3," Mr Witness, the other officer in the MLC,

23 and so if you just forget about (Redacted) for the moment and tell us where he was in

24 January 2003. Can you confirm that he was in Gbadolite?

25 A. Counsel, I don't know where you want to go with that. (Redacted)

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1 (Redacted)

2 MR ZENELI: Madam President, may we just for a moment move into private session?

3 PRESIDING JUDGE STEINER: We are in private session, Mr Zeneli.

4 MR ZENELI: Then I do have to apologise to all the participants, you yourself and the
5 witness.

6 Q. I'm sorry, I thought we were in open session, Mr Witness.

7 So back to the January 2003, then. Yesterday you told us that the third battalion that
8 crossed over to Central African Republic, that is Commander Yves' battalion, took place

9 (Redacted) If I were to put to you that the third

10 battalion - and that is not the title of the battalion because the battalion was called the
11 5th - crossed over as a reinforcement of the MLC troops in January 2003, what do you
12 have to say to that?

13 PRESIDING JUDGE STEINER: Yes, Maître Kilolo.

14 MR KILOLO: (Interpretation) Could we see the reference, the exact reference of the
15 statement of the witness, saying that (Redacted) the battalion, Yves' battalion,
16 crossed over? Because I had the impression that's not exactly correct, this summary
17 thereof.

18 PRESIDING JUDGE STEINER: Exactly in order to avoid repetition and interruptions, I
19 asked you yesterday, Mr Zeneli, to bring us the references.

20 MR ZENELI: And I'm quite prepared for that, Madam President.

21 PRESIDING JUDGE STEINER: I appreciate it.

22 MR ZENELI: The reference is T-309, confidential English edited transcript of 23
23 April 2013, page 49, lines 4 to 10, with the French corresponding reference T-309,
24 confidential French edited transcript of 23/04/2013, page 51, line 28 until page 52, lines 1 to
25 5. And I will cite:

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1 "Question: Where was the G3 when the third battalion crossed over to Bangui? Where
2 was the G3?

3 Answer: (Redacted)

4 (Redacted)

5 End of quotation.

6 And may I just note that my learned colleague is not even following in the French version
7 of the transcript.

8 Q. So, Mr Witness, you told us that in (Redacted)

9 (Redacted) and I repeat my question: If I were to put to you that Commander

10 Yves' battalion crossed over in January 2013, what do you have to say to that?

11 A. Counsel, I think that you heard what I said. I said October, November, date in

12 November, (Redacted) and February and April, so I didn't say that in January.

13 I said October and November, a date in November which I wasn't able to state precisely.

14 Q. Mr Witness, were you --

15 PRESIDING JUDGE STEINER: Maître. Sorry, Mr Zeneli.

16 Maître Kilolo?

17 MR KILOLO: (Interpretation) Your Honour, I would just like to have it noted for the

18 record that Mr Zeneli gives himself leave to make comments with regards to other counsel

19 in this courtroom. I think this is a lack of courtesy and I, above all, would like to say that

20 the reference that he communicated in the French was read by the Defence team, because

21 he keeps talking about principal counsel of the Defence. Well, the principal counsel of

22 the Defence did read this reference and, furthermore, I would also like to mention that

23 yesterday, where it concerned speaking about the principal Defence counsel, he spoke

24 about Honourable Counsel Kilolo, and I think that the term "Honourable" is reserved just

25 for the Judge and not for the counsel. So this way of using irony to have some kind of

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1 trickery is totally unacceptable, so we would ask him to show mutual respect. Thank
2 you very much.

3 PRESIDING JUDGE STEINER: Mr Zeneli.

4 MR ZENELI:

5 Q. Mr Witness, where were you in January 2003?

6 A. (Redacted)

7 Q. (Redacted)

8 (Redacted)

9 A. Counsel, I said that I didn't remember the date, the crossing of the third battalion.
10 Furthermore, we were just speaking about two battalions which had crossed over in the
11 beginning and which had another battalion which followed, and I said that I didn't know
12 the exact date when this battalion crossed over. I no longer remember this exact date
13 when the battalion crossed over. That is the answer that I gave you, Counsel.

14 MR ZENELI: Madam President, may we move on to open session because I think both
15 the witness and I will be cautious on not revealing any identifying information for the
16 witness?

17 So just another kind reminder, Mr Witness, that you should talk about the (Redacted)
18 (Redacted) Understood?

19 THE WITNESS: (Interpretation) Yes, your Honour. If I asked for a private session
20 because (Redacted) so I don't know if it's a
21 problem for counsel, if we could remain in closed session.

22 PRESIDING JUDGE STEINER: Mr Witness, this Chamber has been trying to have as
23 much as possible the hearings in public sessions because this is the rule. The private
24 sessions should be the exception. (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 So I would turn back into open session and let's try to proceed in that way. Is that fine
4 with you, sir?

5 THE WITNESS: (Interpretation) Okay, your Honour.

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

7 (Open session at 9.54 a.m.)

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

9 MR ZENELI:

10 Q. Mr Witness, where was the G3 at the time that Commander Yves' battalion crossed
11 over as a reinforcement of the MLC troops in the Central African Republic for the 2002
12 and 2003 --

13 A. The G3 was in Gbadolite.

14 MR ZENELI:

15 Q. So, since you changed your testimony today about the location of the G3, is there
16 any other item, issues, recollections of the testimony you have provided up to this point
17 that you would like to reconsider and change?

18 A. I'm not changing anything. I'm just shedding light on the situation. When I speak
19 about January, I don't have a precise date. I'm clarifying my words.

20 PRESIDING JUDGE STEINER: Judge Aluoch would like to seek a clarification.

21 JUDGE ALUOCH: Mr Zeneli, I just thought the question you put was very broad,
22 because this witness has given testimony for several days. Unless you're specific on the
23 area that you're asking him, maybe that's why he's not able to give you a specific answer
24 because the question is quite broad. That's the observation I made.

25 MR ZENELI: And I thank you for that. I am, to my best, trying to avoid leading

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1 questions and asking the witness, of course, to the best of his recollection, to provide us
2 with the information on quite a significant event, which was the crossing over of the third
3 battalion, which he himself testified about G3 not having been present at the time that it
4 crossed over.

5 From the answer that we just received, I think that that point has now been clarified,
6 meaning that he has changed his testimony of yesterday and told us that the G3 was not
7 in South Africa at the time that the third battalion was sent as a reinforcement, but that he
8 was instead in Gbadolite in January 2003.

9 Q. Mr Witness, we will continue to have one final look at the document that was shown
10 to you by the court officer and, if I could kindly ask that court officer moves to the second
11 page of that document, I would ask you to read for us the second paragraph of it.

12 Is the document showing? Mr Witness, can you kindly start reading for us from "Au
13 stade ...", which is the first -- the second paragraph of the second page, and go until
14 "...République Centrafricaine"? I don't want you to read any more, so just read that for
15 us out loud.

16 A. So: "According to the current information that I have in my possession at the
17 moment, and based on the fact that there have been manipulations and misinformation of
18 public opinion, nevertheless the MLC ..." --

19 THE INTERPRETER: If the witness could be asked to slow down, this would be easier.
20 Thank you very much.

21 PRESIDING JUDGE STEINER: Mr Witness, I'm so sorry to interrupt you. You were
22 going too fast for our interpreters. They can't follow you in that pace. Could you please
23 restart and read a little bit slower?

24 THE WITNESS: (Interpretation) I thank you, Madam President: "At the current state
25 of information in my possession, and unless proved to the contrary, I am in a position to

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1 believe that there has been manipulation and deformation of public opinion. However,
2 the MLC cannot in any way caution behaviour that is contrary to the military code
3 governing its troop and especially when this behaviour has given rise to grave violations
4 of human rights. I have also ordered the arrest - the preventative arrest - of eight soldiers
5 whose behaviour in Bangui has proven contrary to the instructions given by officers to the
6 men, or to the troops, before their departure to the Central African Republic."

7 MR ZENELI: Could the court officer kindly scroll down to the bottom of this page?

8 Q. Mr Witness, who is the signature? Who has signed this document?

9 A. This document is signed by Mr Jean-Pierre Bemba.

10 MR ZENELI: The court officer may take the document off the screen. I do not need it
11 any longer.

12 Q. Mr Witness, let us talk about the crimes committed by the MLC troops in the Central
13 African Republic operation of 2002 and 2003, and to help you a bit more with your
14 testimony I will again cite from what you have already told us. The transcript is at page
15 51, lines 5 to 14, of 308, confidential English edited version, of 22 April 2013, with a French
16 version of it corresponding to T-308, confidential French edited transcript, 22 April 2013,
17 page 51, lines 22 through 28, until page 52, lines 1 through 4.

18 And I cite, "Question: Did you hear anything about crimes involving ALC soldiers in the
19 Central African Republic?" Your answer, Mr Witness: "Shortly after the withdrawal of
20 the MLC troops a few rumours were going about, some rumours to the effect that -- and
21 usually it was the LFI, the LFI that -- correction, RFI, began to talk about crimes that had
22 been allegedly committed, but reports of its soldiers doing this or that, or the other thing
23 to a particular civilian I did not hear any such thing. RFI did make mention of such
24 alleged events, and I believe, I suppose, the authorities must have looked into it. I really
25 don't know. I am not part of these channels. So shortly after the withdrawal of troops,

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1 there were rumours," end of quotation.

2 Now, Mr Witness, how did you hear about these rumours?

3 A. Madam President, I would like to come back on what Counsel just said, and I
4 believe that the question was misinterpreted or that the -- there was a misinterpretation,
5 but I would answer to Counsel that if he said he had ordered the arrest of soldiers in the
6 Central African Republic I said, "No." I said, "No, not in the Central African Republic."
7 The letter says that he ordered the arrest of those eight soldiers, but this was in territory
8 under MLC control and I do not want to be misunderstood here. The understanding that
9 should be drawn from this note is that Mr Jean-Pierre Bemba ordered the arrest of these
10 eight officers within the territory under MLC control and his authority was not
11 extra-territorial. So these officers that he mentions here were not in Central African
12 territory, but under MLC -- in territory under MLC control. That is what I wanted to
13 clarify.

14 And as to the question that he has just put to me, as to how we heard these rumours, I
15 would confirm once again that it was over the RFI, and the note that he is mentioning is
16 talking about preventative measures, meaning that we do not have all the allegations.
17 We do not have all the information on the crimes committed. This is a preventative
18 measure and this is for the purposes of an investigation.

19 That's what I wanted to provide as clarification. I do not believe that I am contradicting
20 myself here; the question being precisely that.

21 Q. Mr Witness, did you hear about these rumours, as you put it, directly from the RFI
22 yourself?

23 A. Yes, Counsel, I did hear this myself.

24 Q. Were you listening to the RFI during the operations period, or only after the
25 withdrawal of the troops?

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1 A. We would listen to RFI on occasion, Counsel.

2 Q. And would some of those occasions have been during the operations in Central
3 African Republic?

4 A. During and after, Counsel. As I said, we listened to RFI. We also listened to other
5 radio stations.

6 Q. But you told us that you only heard about the rumours, again borrowing your word
7 there, after the MLC troops withdrew; am I correct?

8 A. Counsel, I don't know what you're driving at. I said that I heard it, but when
9 certain officers were arrested, preventatively, this was not yet confirmed.

10 Q. Mr Witness, I have just read to you quote/unquote what you yourself told us, not
11 ten years ago, not ten days ago, only two days ago, and I read it to you again, but it seems
12 like you are still confused so I will read it to you again. And these, Mr Witness, are your
13 words. I'm again making reference to edited version of transcript 308, page 51, lines 5 to

14 14. "Question: Did you hear anything about crimes involving ALC soldiers in the
15 Central African Republic?

16 Answer: Shortly after the withdrawal of the MLC troops," and I repeat, Mr Witness,
17 "Shortly after the withdrawal of the MLC troops, a few rumours were going about, some
18 rumours to the effect RFI began to talk about crimes that had been allegedly committed
19 about reports of a soldier doing this or that or the other thing to a particular civilian. I
20 did not hear any such thing. RFI did make mention of such alleged events, and I believe,
21 I suppose the authorities must have looked into it. I really don't know. I am not part of
22 those channels. So, shortly after the withdrawal of troops, there were rumours." End of
23 quotation.

24 Now, Mr Witness, you told us that you would be listening to RFI even during the conflict,
25 that is from October 2002 until March 2003. So my question to you is whether during

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1 that period, when listening to the RFI, you heard from the RFI any reports on crimes
2 committed by the MLC soldiers in the Central African Republic?

3 A. Counsel, I said that I followed, like everybody else, what was broadcast over the
4 radio and the information or news telling us about the crimes. I also said yesterday that,
5 shortly after the troops had withdrawn, we heard the same information over the radio
6 waves.

7 Q. Mr Witness, I would like to provide you with another citation, and that is transcript
8 308, edited version, page 8, lines 16 to 17, with the French corresponding reference
9 transcript 308, confidential, French edited version of 22 April 2013, page 9, lines 4 to 5.
10 My learned colleague, Maître Kilolo, was asking you questions at that time, Mr Witness,
11 and he started by saying, and I quote: "I think you'll remember that we did meet in the
12 past, and I'll just introduce myself to you once again." End of quotation.

13 When did you meet with the Defence, Mr Witness?

14 A. Counsel, I met with Defence when they came to (Redacted). That was approximately
15 the month of May 2012.

16 Q. And can you tell us who you met with from the Defence?

17 A. Could we please go into private session, Madam President?

18 PRESIDING JUDGE STEINER: Court officer, please.

19 *(Private session at 10.23 a.m.) Reclassified as Open session

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

21 PRESIDING JUDGE STEINER: Why, Mr Witness, you requested private session? Any
22 special reason for that?

23 THE WITNESS: (Interpretation) Yes, by virtue of this question I'm going to talk about
24 myself and the date at which I met Mr Kilolo and the Defence in (Redacted). Yes, Counsel
25 was asking me when I had met with Defence, and I said that I had met the Defence in the

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1 month of May 2012, and he was accompanied -- well, there were two of them. They were
2 staying in a hotel in (Redacted)

3 MR ZENELI:

4 Q. Do you remember who they were, what their names were?

5 A. As I said, there was one Maître Aimé Kilolo, and there was also Mr Peter, a British
6 gentleman. I believe that that is his name. He was speaking French with an English
7 accent. I know that there were two of them staying at the hotel.

8 Q. Do you remember the date of May 2012, when you met both Peter and Kilolo?

9 A. No, I do not recall the precise date. I cannot recall the precise date.

10 PRESIDING JUDGE STEINER: Mr Witness, unless you have something more specific to
11 say, I don't think this kind of information needs confidentiality. So I'm -- I would try to
12 turn back into open session, and unless you have very specific information that can
13 identify you, we will stay in open session. Is that fine with you, sir?

14 THE WITNESS: (Interpretation) Yes, very well, Madam President.

15 (Open session at 10.27 a.m.)

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

17 MR ZENELI:

18 Q. So, how did it come that you met with both of the Defence representatives?

19 A. I know that some time before I had received a telephone call from abroad and at the
20 end of the line there was a gentleman by the name of Maître Aimé Kilolo, he introduced
21 himself as such, and he said that he wished to meet me in (Redacted) when he was due to
22 visit the town, or city, in a week or two's time. I said that I was fine with that, and when
23 he arrived in (Redacted) he told me where he was staying and I went there to meet him.

24 Q. When did Mr Kilolo call you?

25 A. Are you asking me precisely at what date he telephoned me?

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1 Q. We do like to be as precise as possible, so if you can give us a date, by all means do
2 so. If not, then just an approximation of that.

3 A. I said that when he telephoned me, he said he was going to be in (Redacted) in one or
4 two weeks' time, that he would meet me. He
5 arrived in approximately the month of May and he said that he was in (Redacted) and I
6 went there to meet him at the hotel that he had indicated to me.

7 Q. So are we to understand that the telephone call from Mr Kilolo took place one to two
8 weeks prior to his arrival in (Redacted)

9 A. Yes, indeed, Counsel.

10 Q. And what did you discuss with Maître Kilolo on that phone call?

11 A. During the phone call, he just told me that he wanted to meet with me in (Redacted)
12 and that he was the Defence attorney of Mr Jean-Pierre Bemba.

13 Q. Did he tell you what the purpose of such meeting would have been?

14 A. When he arrived in (Redacted) we talked --

15 THE INTERPRETER: Inaudible.

16 THE WITNESS: (Interpretation) -- about the purpose of his call.

17 MR ZENELI:

18 Q. What we just heard, Mr Witness, was not fully translated and so I have to repeat my
19 question. Did Mr Kilolo tell you about the purpose of the meeting during the phone call
20 that you had with him?

21 A. He told me that he wanted to ask me some questions about the case that he was
22 defending.

23 THE INTERPRETER: Message from the interpreters: The sound is cutting out
24 occasionally.

25 MR ZENELI:

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1 Q. And did you have any questions for him during that phone call?

2 A. No, I didn't have questions. I said -- he said that he was going to meet with me in
3 (Redacted) once he got there. We really didn't have a long discussion. We spoke and he
4 said he wanted to meet with me in (Redacted)

5 Q. And you agreed?

6 A. Yes, I agreed. I said to him that if my schedule allowed, if I were in (Redacted) I
7 would be able to meet with him.

8 Q. Fast forward two weeks to your (Redacted) meeting with him. Tell us who was
9 present and what you talked about? Just tell us what took place in that meeting?

10 A. He was with a white man, a British fellow, and his name was Peter I believe. When
11 I got there, he asked me if I was indeed who I was and I said "Yes."

12 Might the Presiding Judge allow me to go into private session now?

13 PRESIDING JUDGE STEINER: Court officer, please.

14 *(Private session at 10.34 a.m.) Reclassified as Open session

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

16 PRESIDING JUDGE STEINER: Mr Witness?

17 THE WITNESS: (Interpretation) Okay. He asked me if I had worked within the ALC
18 and what position I had held. I introduced myself, (Redacted)

19 (Redacted) and after he asked me a series of questions and he -- very much like what we
20 were talking about during the very first session here, and it was -- we touched upon a
21 number of issues. It was much -- rather like what we've done here.

22 PRESIDING JUDGE STEINER: Can we turn back into open session, Mr Zeneli?

23 Mr Witness, we will turn back into open session. (Redacted)

24 Court officer, please.

25 (Open session at 10.36 a.m.)

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

2 MR ZENELI:

3 Q. How long did the meeting go on about, Mr Witness?

4 A. We spent two or three hours with him.

5 Q. Other than that meeting, did you meet with either Mr Kilolo or Peter after
6 May 2012?

7 A. We never met again.

8 Q. Did you have any other contact, be it via phone or email, with any of them, or any
9 representative of the Defence?

10 A. No. Well, in January of this year, Mr Kilolo himself called me again to ask me, or
11 rather to tell me that the OTP wanted to meet with me, and that I said -- and I said that I
12 was very busy. He told me -- he asked if he could meet with me. I said, no, I was very
13 busy, and I really didn't see what I had to do with them and I really didn't see what kind
14 of questions they might want to ask of me.

15 Q. And did you ask him those questions? Did you ask him to clarify that for you?

16 A. Which questions, Counsel?

17 Q. Well, you just told us that you were busy, and that you didn't know why you had to
18 meet or tell the Office of the Prosecution. So did you ask for clarifications from Maître
19 Kilolo?

20 A. No. When I told him that, we concluded the conversation, and I really couldn't ask
21 for any more clarifications.

22 Q. Have you ever received any compensation for the purpose of this testimony?
23 Financial compensations?

24 A. No, Counsel.

25 Q. Did you have to travel to the place you are testifying from today?

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1 A. The first time I got here, that was on Friday, during the familiarisation.

2 Q. And did you incur any expenses for such travel?

3 A. The office here picked me up in their car, so there were no expenses incurred.

4 Q. Have you received any promises from anyone, Defence representatives, anyone, on
5 behalf of your testimony to this Court?

6 A. I never received any promise. I was no longer in contact with them, Counsel.

7 MR ZENELI: Mr Witness, these are just form of questions we ask from every witness, so
8 I hope you have not taken offence to those questions. I have concluded my questions to
9 you, and I would like to thank you for the time you've given me.

10 Thank you, Madam President.

11 PRESIDING JUDGE STEINER: Thank you very much, Mr Zeneli.

12 Mr Witness, as I mentioned in the first day --

13 THE WITNESS: (Interpretation) Your Honour --

14 PRESIDING JUDGE STEINER: -- the first day before you started your testimony I
15 mentioned that, after the Prosecution, the legal representative of victims had been
16 authorised to put some questions to you, and therefore I'll give now the floor to Maître
17 Zarambaud on behalf of the victims he represents.

18 Maître Zarambaud, you have the floor.

19 QUESTIONED BY MR ZARAMBAUD: (Interpretation)

20 Q. Good morning, Witness.

21 A. Good morning, Mr Zarambaud.

22 Q. I am Mr Zarambaud Assingambi. I am a member of the Bar and I appear before
23 the courts in the Central African Republic, and as the Presiding Judge has just said, here I
24 am representing a number of victims. Along with me is Marie-Edith Douzima, also a
25 lawyer. She too is here.

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1 A. If you don't mind, if you don't mind, Counsel?

2 Q. Yes?

3 A. Could I ask the Presiding Judge, if you don't mind, if I could have a short break and
4 then we could resume?

5 PRESIDING JUDGE STEINER: If the parties agree and Maître Zarambaud as well, we
6 could maybe anticipate our break and give some more time for the witness also to take
7 some rest.

8 So, Mr Witness, instead of having a short break, because it's almost 11 o'clock, we will
9 anticipate our regular break. We will suspend now and resume at a quarter-past-11.
10 The hearing is suspended.

11 THE COURT USHER: All rise.

12 (Recess taken at 10.45 a.m.)

13 (Upon resuming in open session at 11.23 a.m.)

14 THE COURT USHER: All rise.

15 Please be seated.

16 PRESIDING JUDGE STEINER: Mr Witness, welcome back.

17 THE WITNESS: (Interpretation) Good morning, your Honour.

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

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

20 PRESIDING JUDGE STEINER: I'll give back the floor to Maître Zarambaud.

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

22 Q. Witness, a few moments ago I introduced myself to you. Now, as I was saying,
23 and I believe the Presiding Judge was also saying the same thing, you see, the legal
24 representatives of victims are only allowed to put questions to witnesses that have been
25 authorised in advance by the Chamber. They can also put a number of follow-up

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1 questions to witnesses, in other words questions that follow up on replies that you gave to
2 Defence counsel, or OTP counsel. Most of my questions have already been replied, so I
3 won't be asking you all the questions that I had provided for.

4 I'd just like to remind you that you are subject to protective measures and you should not
5 say anything that could lead to your identity being revealed.

6 My first question is this: Who took the decision to send troops from the ALC to the
7 Central African Republic? And you already have replied.

8 I'll move on to my second question now. This decision to send ALC troops to the Central
9 African Republic, was this decision put in some kind of written agreement between the
10 CAR and the MLC?

11 A. Counsel, to my knowledge, if you're talking about a written agreement, to my
12 knowledge there was no written agreement. What I do know is that, if a decision of this
13 nature were to be taken for the troops to cross over from one country to another, there
14 must be agreements. There must be some kind of agreement between the two officials,
15 or people in charge.

16 Q. Thank you, Witness. Now, in each country, you see, there are various procedures,
17 or processes, to make a decision such as going to war, or having foreign troops come to
18 one's country, and there are these various processes and agreements relating to
19 international and national conflicts. Now, to your knowledge, on the CAR side, did the
20 National Assembly of that country authorise this decision allowing MLC troops to land in
21 the CAR?

22 A. Are you talking about the National Assembly of the CAR, or the National Assembly
23 of the MLC?

24 Q. Well, I don't know whether there was a National Assembly within the MLC. I'm
25 talking about the National Assembly of the CAR.

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1 A. Yes, I've understood that. Now, I too fully realise that there was no National
2 Assembly within the MLC. I don't know whether the CAR National Assembly had sat
3 and considered that issue.

4 Q. Thank you. We have had considerable discussion of the chain of command
5 throughout your entire testimony before the Chamber and I would like to ask you this:
6 If an agreement had been signed between the MLC and the CAR authorities regarding the
7 chain of command, be it integrated or not, when ALC troops crossed over, was there an
8 agreement about the chain of command?

9 A. Counsel, throughout my entire testimony I made no mention of an agreement. I
10 was talking about the events, the way the operations were conducted or the decisions
11 were made regarding those operations. I described the subordination of the units within
12 the CAR. As for an MLC officer being designated to an operational position in the CAR,
13 I was talking -- I said that there were two units and those two units were placed under the
14 operational command of the existing chain of command in the CAR.

15 Q. So just to be clear, you don't know about a written convention or agreement
16 establishing the command of the ALC troops in the Central African Republic and your
17 conclusion is drawn from what was reported to you?

18 A. That is correct, Counsel.

19 Q. Thank you. In this regard you indicated that the troops had been placed under the
20 command of the Central African authorities because, in your words -- and the reference is
21 in the transcript 308-Conf, French edited version, page 38, lines 25 to 28, and the first lines
22 of page 39, and it states the following: "The President of the Central African Republic
23 was in place. He was there. His Commander of the Republican Guard was also there.
24 There was also the Chief of General Staff of the Central African Army, so he had a chain of
25 command which existed in Bangui."

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1 On page 39, "That is the reason why the unit had been put under the orders of the Bangui
2 authorities. If you say that the unit was under the orders, well, it had to receive orders
3 from this chain of command which existed at least with regards to two major lines of
4 activities."

5 Now, my question is as follows: An army is not just a Chief of General Staff, nor a
6 Commander of the Republican Guard, nor the President or the Supreme Chief of the
7 Army, so to your knowledge what was the state of the Central African Army at the time
8 that the MLC came to the aid of the Central African authorities?

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

10 I cannot hear you. Mr Rojas?

11 THE COURT OFFICER (Redacted): (Interpretation) So the sound is still very good, but the
12 image and sound has been re-established.

13 PRESIDING JUDGE STEINER: Mr Witness, did you hear the question put by Maître
14 Zarambaud?

15 THE WITNESS: (Interpretation) Yes, your Honour. Counsel Zarambaud wanted to
16 know if at the time that the MLC troops crossed over to the CAR, we knew about the state
17 of the Central African Army.

18 PRESIDING JUDGE STEINER: We are waiting for your answer.

19 THE WITNESS: (Interpretation) Counsel Zarambaud, we didn't know the complete
20 state of affairs of the Central African Army, but if you remember in my testimony I said
21 that from the 26th there were ten officers from the MLC with the escort that was sent to
22 the Central African Republic to take up contact with the Central African officers. They
23 found the people responsible at Central African level and they reported to the MLC, so
24 there was still a Central African command which received them and they told them -- well,
25 they received the two MLC units. So with regard to the complete state of affairs, that's

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1 something I don't know, but what I do know is that MLC units didn't go alone into
2 Central African territory. They went with Central African officers and troops.

3 MR ZARAMBAUD: (Interpretation)

4 Q. Thank you very much. So, if you were not aware of the state of the army, perhaps
5 it could be said that that was because the Central African Army, which is the army of the
6 whole State, was not capable of dealing with the rebellion and that was the reason why
7 they called upon the troops of another country?

8 A. Counsel, the fact of calling upon other forces in order to aid, that means there's a
9 problem, but I just want to remind you of the situation that was prevailing at that time.
10 There was a rebellion, that is to say some of the Central Africans had taken up arms
11 against a government, and very often when there's a rebellion, as we've always seen, had
12 to deal with, there are a lot of people who are complicit therein. And, in order to answer
13 your question, they couldn't act -- well, there was a degree of incapacity. There wasn't an
14 army which was able to deal with a rebellion. There needed to be a core of men who
15 could raise the moral of the loyalists, those who were still loyalists, in order to try to
16 maintain democratic -- a democratic institution.

17 Q. Thank you very much. I'm now going to ask a last follow-up question with regards
18 to this point. The ALC authorities, did they not expect that their troops would be
19 defeated because they were put under the command of people who had not been able
20 with their own troops to deal with this situation?

21 A. Counsel, how can you send troops such that they can fail? When you have a war,
22 you do that to win. Defeat, if it happens, well, it can happen for several different reasons.
23 So, with regards to your question, I have no answer thereto.

24 Q. I'll come back to the question which I put to the Chamber. So, to your knowledge,
25 were there international treaties relating to the command of foreign troops when those

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1 troops went to fight in another country?

2 A. Yes, Counsel, I know that there are international treaties which can be bilateral or
3 multilateral.

4 Q. I'm speaking about measures or provisions of these treaties with regard to
5 integrated command when armies from several countries are fighting together.

6 A. I don't know all the provisions. Unless you could tell me exactly what provisions
7 you're talking about, then I could give testimony on them.

8 Q. Well, here I'm talking about provisions concerning the command of troops when
9 several countries are fighting together. When you send troops abroad, are there
10 international conventions governing that? When, for example, troops are sent to
11 Afghanistan, you have lots of different bodies of troops, there's a system of command. I
12 want to know, with regards to this issue of command, to your knowledge is there an
13 international convention or do troops just turn up and arrange that sort of thing in the
14 field themselves?

15 A. I really don't see this, but what I can say is that when different troops are in the field
16 there's a -- the greatest problem is the issue of command and the unity of command and
17 the rules of engagement. Those are the two major problems. Logistics as well, that's
18 another operational problem. Unity of command, you have to know who's commanding
19 all the troops, all the troops are subject to operational command, whose operational
20 command? What are the rules of engagement as well.

21 Q. Thank you, Witness. With regards to the orders given in the field to troops who
22 are in the field, here I'm referring to transcript 306, French version, the edited French
23 version, of 22 April 2013, page 20, 20 to 24, lines 20 to 24, and I will add to that page 30,
24 lines 19 and 20 thereof. You stated the following: "The supreme commander expressed
25 a wish, what he wanted, and if you went down to the General Staff level you can call it an

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1 operational directive and at divisional level you can speak about an operational
2 instruction and with regards to a zone or area of operations, an operational area or a
3 brigade, well, that's an operational order in that case," and on page 35, when you read a
4 message, this message stated, "Don't move." That's lines 19 to 20, ss I said, "There is no
5 movement to Bafwasende and Banalia. Be ready to move to Mambasa," and this
6 message came from the chairman. The terms -- well, my question is as follows: Do the
7 terms "Do not move," or that term, is it not sufficient in itself such that there's no need to
8 add anything to it and as a result all the chain that you describe, namely the expression of
9 a will which comes from the state directive, operational directive, divisional level,
10 operational instruction and with regard to a zone an operational order, when you say
11 directly to those people who are in the field "Do not move," the chairman, did he not give
12 an operational order in that regard?

13 A. Counsel, I don't know if I can -- if you could just put the message on the screen
14 again such that we could analyse it together with you so that I can say again what I called
15 an operational order?

16 Your Honour, if you would allow the message to be displayed once again upon the
17 screen?

18 PRESIDING JUDGE STEINER: Mr Witness, do you think it's really necessary in order to
19 answer to the question put to you? Maître Zarambaud is asking what is the -- what is the
20 nature of a message saying "ne bougez pas," "ou ne pas bouger"? If you think it's
21 necessary we can display the message, but it doesn't appear to me.

22 MR ZARAMBAUD: (Interpretation) If the President would allow me, I can read the
23 message slowly? I can read these two lines.

24 PRESIDING JUDGE STEINER: Please, Maître Zarambaud, in the meantime we'll try to
25 find out the reference of the message if need be.

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1 MR ZARAMBAUD: (Interpretation) Your Honour:

2 Q. So "From: Chairman. To: Ngalimo. Do not move. There is no movement
3 towards Bafwasende and Banalia. Be ready to move towards Mambasa." That's the text
4 of the message.

5 A. Yes. Waiting for the message to be shown with the reference, I would like to
6 answer your question with regards to what I was able to say here in testimony, namely an
7 operational order, what I call a military order which has to be executed, it has to include
8 five different elements. Who does what, where, when, why, are additional elements, and
9 when you remark in this message, it says "Do not move." This isn't a military expression.
10 A soldier, what does this mean, "Do not move"? So if you look thoroughly at the
11 message, this is a message from chairman to Ngalimo, Charlie Mike. Ngalimo was an
12 individual. This is a message which isn't addressed to the commander of Nia-Nia road
13 and it does not say when, i.e. there's no time notion included. On the contrary, it gives
14 information. There is no movement towards the road. This isn't a military order; it's
15 information. It's not a military order. It is not an operational order.

16 PRESIDING JUDGE STEINER: Maître Zarambaud, in your view we still need to display
17 the message? Are you in -- still putting any further questions in this respect?

18 MR ZARAMBAUD: (Interpretation) No, madam, your Honour. I think this is an
19 interpretation of the witness and I note his interpretation of it. I don't have any questions
20 to put about it.

21 PRESIDING JUDGE STEINER: So you can proceed. Just for the record, it's a document
22 CAR-D04-0002-1514 at page 1580.

23 MR ZARAMBAUD: (Interpretation)

24 Q. Witness, as I said a moment ago to the Presiding Judge, I've just taken note of your
25 answer; namely that the chairman didn't express himself in military language and that he

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1 addressed an individual. I'm not going to go further on that. That is up to the
2 assessment of the Chamber.

3 Now, during your examination by the Defence and the Prosecutor, you had the
4 opportunity to say that you weren't present when the ALC troops crossed over towards
5 the Central African Republic but, according to what was reported to you thereafter, was
6 Mr Bemba in Zongo at the time the ALC soldiers crossed over to the Central African
7 Republic?

8 A. Counsel, I don't know if he was in Zongo. To my knowledge, it wasn't an aspect
9 that I'd ask. Well, I don't know if he was in Zongo or not.

10 Q. According to what was reported to you, when you said that among the ALC troops
11 there were minors as well as certain women who were carrying babies on their backs?

12 A. To my knowledge, in the MLC army there were no minors. I know that there were
13 women soldiers, who were carrying babies, that's something -- on their backs, that's
14 something that I don't know.

15 Q. What do you know about pillaging, rapes and killings that the ALC troops were
16 accused of?

17 A. Counsel, as I said a moment ago in my statement, we heard about pillaging and
18 murder committed which was on the radio, and to my knowledge we didn't have
19 information in the sense of knowing which soldier had done what and at what time and to
20 whom. And the Office of the Prosecutor had us also read a document from Charlie Mike,
21 which stated at -- or for a preventative -- on a preventative basis. So actions were taken
22 with regards to certain officers and that is the information in our possession, Counsel.

23 Q. Witness, you really do stress this expression "a titre préventif," "on a preventative
24 basis." Were you informed about the fact that some ALC troops who had operated in the
25 Central African Republic, that they were tried in Gbadolite?

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1 A. Yes, Counsel, I was informed of a trial that there had been thereon.

2 Q. That is to say, if it was on a preventative basis, at the end, in the end it became real?

3 A. I'm not a lawyer, Counsel, but I think that all persons on trial, well, it doesn't say
4 that they're really guilty because a trial can convict somebody or not convict somebody on
5 the basis of the available evidence.

6 Q. So this means that you were never privy to any information as to the outcome of this
7 trial, were you?

8 A. No, Counsel, I did not have any information on the outcome of the trial.

9 Q. I thank you, Mr Witness. Now, did the commanders of the ALC in Central African
10 Republic report to Jean-Pierre Bemba and did they receive any orders from him?

11 A. The ALC commander was to report back to the person in command in the Central
12 African Republic, and he was only to receive orders from his commander who was
13 commanding the troops in the Central African Republic.

14 Q. So does that mean that if -- or from the moment when the chairman sent his troops
15 to the Central African Republic, he was no longer interested in what happened to them
16 and did not ask them what was going on unless -- and did not have anything to say to
17 them, unless he spoke to the Central African authorities, that is?

18 A. Well, in the previous question, Counsel, you were talking about orders. Now
19 you're talking about information. If we're talking about informing Charlie Mike how
20 operations had unfolded, well, he did not have the intention to do so. He could inform
21 him, because administrative links limited this. If he was placed under operational
22 command, then his administrative and operational links are not entirely cut off. So I said
23 inform, yes, but report, no, or receive orders, no.

24 Q. So if he was informed of a given situation that was dangerous for his troops, did he
25 not have anything to say to them?

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1 A. As to formulating orders, he had to go via the chain of command.

2 Q. If my memory serves me correctly, Mr Witness, it would seem to me that you said
3 that Mr Bemba had a telephone at home, a long-range telephone at his home?

4 A. Counsel, I do recall the information received from the OTP and I recall having stated
5 that the Thuraya was not the means of communication which was issued to the ALC units,
6 and the Prosecution retorted by saying that they had information to the effect that the
7 ALC commander, or commanders, had Thurayas. I said that the mere fact of possessing
8 a Thuraya does not mean that this is the means by which operational or military orders
9 are to be given. A Thuraya can be used for various types of communication.

10 PRESIDING JUDGE STEINER: Mr Witness, I'm sorry if I interrupt you. Could you
11 please be so kind and try just to answer to the question put to you, because otherwise we
12 will not be able to conclude with your testimony? This was not the question put by
13 Maître Zarambaud, so please try to be more objective and more concise and then we can
14 release you as soon as possible from your duties as a witness.

15 Do you want Maître Zarambaud to repeat the question?

16 THE WITNESS: (Interpretation) Yes, Madam President.

17 MR ZARAMBAUD: (Interpretation)

18 Q. To be more specific, did you state that Mr Bemba had a satellite telephone at his
19 home and that this satellite telephone was different from a Thuraya and that it was a fixed
20 telephone? Is that what you said?

21 A. Yes, I did say that there was a satellite phone that was used.

22 Q. And with such a satellite telephone, were one to have the Thuraya number of
23 another individual, was it possible to then reach that individual on their Thuraya by using
24 this satellite telephone?

25 A. Yes, Counsel, one can reach a person using a satellite telephone, or Thuraya. One

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1 can communicate with them, yes.

2 Q. Now, still with regard to the very same transcript, that is transcript 308, confidential
3 French version, page 23, lines 4 to 7, you said as follows, quote: "The supreme has no
4 limits. He can go wherever he wants. He can go a lot further down or he can rise a lot
5 further up. He is the supreme commander, so the categorisation that I was attempting to
6 provide you with might be respected, as it might not be respected, or not at all."

7 So Mr Bemba, with his satellite telephone --

8 THE INTERPRETER: Inaudible because of background noise.

9 MR ZARAMBAUD: (Interpretation)

10 Q. -- and because he was the chairman and there were no limits to his actions, was he
11 able to directly call the commander out in the field in the Central African Republic?

12 A. Counsel, I came to testify on facts and not theories or hypotheses. I think yesterday
13 we found it difficult to work with the Prosecution because they were spouting theories.
14 Now, in the context of his theory, that is what I said. I might have been able to talk about
15 hypotheses myself, and here we are talking about facts. So I do not want us to hark back
16 to hypotheses whereby one would imagine that he could or he could not have done
17 such-and-such a thing. I have come here to testify to the Court as to facts that I am aware
18 of, I have knowledge of or have seen or heard about.

19 Q. You are entirely right in so saying, Mr Witness, and I shall put the question in a
20 factual -- against a factual background. Were you informed, or are you aware with
21 regard to the facts under study, whether the supreme commander, Mr Bemba, used his
22 fixed satellite telephone at his home in order to reach his commanders out in the field in
23 Bangui who had Thurayas?

24 A. I answered "No" to that question. I said that I was not aware of any
25 communication via Thuraya that Mr Jean-Pierre Bemba would have had with the

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1 commanders out in the field.

2 Now, if you want any further clarification, I believe that you should put the question to

3 Mr Jean-Pierre Bemba himself, or to the commanders out in the field who were -- who had

4 Thurayas with which they were communicating.

5 Q. I thank you, Mr Witness. Do you know whether any looted vehicles in the Central

6 African Republic were brought to Zongo and to Gbadolite, and do you know whether

7 Mr Moustapha had written the following on a given vehicle: "Moustapha pe a zali

8 moto," which means "Moustapha is also a human being"?

9 A. As to knowledge of looted or vehicles that they looted, I do not know. What I do

10 know is that there is a great distance between Zongo and Gbadolite, and I was not privy

11 to the fact that vehicles had been looted, Counsel.

12 MR ZARAMBAUD: (Interpretation) Well, I thank you, Mr Witness, for having

13 answered my questions, and, Madam President, this concludes my examination of the

14 witness and I thank you.

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

16 Judge Aluoch seeks a clarification.

17 JUDGE ALUOCH: Mr Witness, I am seeking a clarification from the evidence you gave

18 on Monday, 22 April, that is from transcript 308. These were answers to

19 Mr Zarambaud's questions -- sorry, I beg your pardon, Mr Kilolo's questions. At page 46,

20 Mr Kilolo asked you a specific question which was, line 23: "Did Mr Bemba have control

21 over and command of the ALC contingent in the Central African Republic?"

22 And I will quote the answer you give and thereafter seek two clarifications from that

23 answer. Your answer, Mr Witness, was as follows: "I believe that somebody present in

24 the courtroom, Charlie Mike, would be in a position to answer that question, but

25 nevertheless I do not believe that the fact that he was commander of the ALC gave him

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1 the right to command outside of the ALC commanded territory and, in order to have
2 control over and command of the MLC, he was under certain constraints. There were
3 some obligations that he had to fulfil. I am not sure whether he did fulfil all these
4 obligations, but I do believe that he delegated his power of command to the Central
5 African Republic who had requested this." Unquote.

6 From this answer, Mr Witness, I seek two clarifications: The first one with respect to
7 when you said, "There are some obligations that he had to fulfil. I'm not sure whether he
8 fulfilled these obligations," Mr Witness, what did you mean by this, that Mr Bemba had
9 some obligations to fulfil? Would you clarify that, please?

10 THE WITNESS: (Interpretation) Well, clarification that I can give, there are
11 interpretation problems. When I talked about obligations, I was talking about conditions.
12 In order to be able to command units out in the field, first of all one must have real-time
13 intelligence and one must have the capacity to react as fast as possible. One must have
14 intelligence of what is going on out in the field in order to be able to ascertain the
15 vegetation, the field of observation, the field of fire, the terrain, the progress, roads in
16 place, and there's a lot of information that one needs and one must be able to react to this
17 information.

18 One needs to be able to synchronise all the units in time. One must also have specific
19 information on the enemy in real-time. One also requires command over all the units
20 that are operational out in the field and, once you have ascertained these conditions, when
21 sending the troops with our units in the CAR, Mr Jean-Pierre Bemba did not have
22 command over the other units who were moving side by side with the MLC units, which
23 meant that he was not in a position to be able to command operations in the Central
24 African Republic.

25 JUDGE ALUOCH: I need a further clarification from your answer which I read to you a

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1 few minutes ago, especially the part that reads, "... but I do believe that he delegated his
2 power of command to the Central African Republic who had requested this." Do you
3 have anything to say about who had requested this? Do you have any further
4 information on that, on the fact that Central Africans had requested for this, that he hands
5 over his power of command?

6 THE WITNESS: (Interpretation) Your Honour, if I refer merely to the note that the OTP
7 has just had me read, that is from the Charlie Mike to the representative of the -- the
8 Special Representative of the United Nations in the Central African Republic, he was
9 saying at the behest of the President, Ange-Félix Patassé, so I believe that by virtue of this
10 letter the individual who was requesting the presence of the MLC troops in the Central
11 African Republic was the president, Ange-Félix Patassé.

12 JUDGE ALUOCH: That was document 14 on the Prosecution -- Prosecution's list. I
13 believe that's what you are referring to? All right.

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

15 PRESIDING JUDGE STEINER: Mr Witness, I also want to seek some clarification and for
16 that purpose I ask, please, court officer to display to the witness document
17 CAR-D04-0002-1514 at page 1631.

18 THE COURT OFFICER (Redacted): (Interpretation) Madam President --

19 PRESIDING JUDGE STEINER: Yes?

20 THE COURT OFFICER (Redacted): (Interpretation) Madam President, document 1514 of
21 document CAR-D04-0002-1514 is currently being presented to the witness.

22 PRESIDING JUDGE STEINER: I'm sorry, court officer. Maybe I made a mistake. It's
23 page 1631.

24 THE COURT OFFICER (Redacted): (Interpretation) 1631?

25 PRESIDING JUDGE STEINER: Yes.

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- 1 THE COURT OFFICER (Redacted): (Interpretation) Very well, I shall look for it.
- 2 PRESIDING JUDGE STEINER: Yes, Mr Zeneli?
- 3 MR ZENELI: It is already displaying, Madam President.
- 4 PRESIDING JUDGE STEINER: Usually we can see it in the small square on the screen
- 5 and I couldn't. Thank you, Mr Zeneli.
- 6 Mr Witness, I know that it's quite difficult to read this message, the message that is at your
- 7 left side, but could you please make an effort and read it for us?
- 8 THE COURT OFFICER (Redacted): (Interpretation) I am presenting the left-hand side of
- 9 the message to the witness. Are we talking about the message at the bottom of the page,
- 10 or the message in the middle?
- 11 PRESIDING JUDGE STEINER: (Interpretation) In the middle of the page.
- 12 THE COURT OFFICER (Redacted): (Interpretation) The message to the left-hand side in
- 13 the middle of the page is being presented to the witness.
- 14 PRESIDING JUDGE STEINER: Could you please read it for us, Mr Witness?
- 15 THE WITNESS: (Interpretation) "From: Sector commander Gemena Zongo. To:
- 16 Chief of General Staff of the ALC. For information to the chairman. Number 001.
- 17 Command General Staff/South Ubangi sector/road/2002. I hereby am honoured to
- 18 transmit to you the situation as of 26 October 2002. The situation is calm, unless
- 19 anything unexpected happens. The military situation is as follows: A company of 151
- 20 soldiers has made the crossing on the Bangui side under the command of Captain René
- 21 Abongo. The soldiers have fulfilled the requisite conditions for combatants. They have
- 22 the will and the means to fight. The morale of the CIE authorities PNC in Zongo are
- 23 mobilised and they are -- they have -- they have ensured security. Other situations and
- 24 miscellaneous. The morale of the leaders and the troops is good. Nothing to report.
- 25 In 26 October 2002."

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1 PRESIDING JUDGE STEINER: Thank you for your effort, Mr Witness.

2 Mr Witness, on transcript 308, page 42, lines 2 to 16, and today, page 10 -- transcript 310,
3 page 35, lines 3 and 4, you mentioned that on 26 October ten officers crossed with their
4 bodyguards, with their escorts, you mentioned, to Bangui to assess the situation in the
5 field. Is this message, that talks about 151 troops commanded by Commander René
6 Abongo, the same group that you mentioned of ten officers and their escorts that crossed
7 to Bangui for an assessment of the situation?

8 THE WITNESS: (Interpretation) Yes, Madam President, this is one and the same group.
9 I was saying that the ten officers and their escort -- well, the situation in Bangui was one of
10 war and you can see that everyone takes with them ten to 15 members of an escort, so the
11 strength of 151 men can be reached. And when there is a group of 151 soldiers who have
12 a commander, within military organisation this can be called a company.

13 PRESIDING JUDGE STEINER: It is just that the message mentions that this company,
14 the soldiers (Interpretation) "The will and the ability to fight." (Speaks English) This
15 group went to Bangui, crossed to Bangui, only for an assessment?

16 THE WITNESS: (Interpretation) Exactly, your Honour.

17 PRESIDING JUDGE STEINER: But since you were not in Zongo, nor in Gbadolite, from
18 where you took this conclusion? Who told you that, that this company crossed only for
19 assessment?

20 THE WITNESS: (Interpretation) Your Honour, I said that -- you see, I had some
21 colleagues within the General Staff headquarters and I shared information with them as
22 well as my office staff who were -- who had remained in the office and they spoke to me
23 when I came back from -- when I came back to Gbadolite.

24 PRESIDING JUDGE STEINER: They gave you all these details, that were ten officers
25 that crossed on the 26th only for assessment of the situation? Is this the information you

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1 received?

2 THE WITNESS: (Interpretation) Yes, that's right, your Honour, to make contact.

3 That's what I said, to make contact with the authorities in Bangui.

4 PRESIDING JUDGE STEINER: Thank you.

5 I am informed that Defence would like to re-direct. Sorry?

6 MR HAYNES: I think Maître Douzima might have some questions yet.

7 PRESIDING JUDGE STEINER: Maître Douzima did not ask for questioning the witness.

8 MR HAYNES: Sorry.

9 MR KILOLO: (Interpretation) Under those conditions, we do not have any further
10 questions either.

11 PRESIDING JUDGE STEINER: Mr Witness, this concludes your testimony and we
12 would like to thank you very much.

13 Before you leave the Court, Mr Witness, I want, as with all other witnesses in this case, to
14 express the thanks of the Judges for the time you have taken to give evidence at this trial.

15 Mr Witness, in order for the Judges to find the truth, it's critical that witnesses such as
16 yourself are prepared to give evidence and to assist the Chamber on the relevant issues.

17 We are aware that this may have been inconvenient for you. You mentioned that you are
18 available to the Court since last Friday, therefore, far from your activities, maybe from
19 your family. You therefore leave us with our thanks.

20 Before you leave, Mr Witness, and as we do with all other witnesses in this case, we
21 would like to ask whether there is anything that you would like to address to the
22 Chamber? If you so wish, this is the opportunity and you have the floor.

23 THE WITNESS: (Interpretation) No, I have nothing further to tell the Chamber.

24 PRESIDING JUDGE STEINER: Therefore again, Mr Witness, thank you very much and
25 we wish you a safe journey back to your home, to your activities.

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1 I would like to thank very much the Prosecution team, legal representatives of victims, the
2 Defence team, Mr Jean-Pierre Bemba Gombo. As always, I would like to thank very
3 much our interpreters, our court reporters.

4 Thank you very much, Mr Rojas.

5 THE COURT OFFICER (Redacted): (Interpretation) You're quite welcome.

6 PRESIDING JUDGE STEINER: Parties and participants will be informed in due time
7 about when and at what time the Chamber will resume for the testimony of the next
8 Defence witness.

9 Thank you very much, Mr Witness, and this hearing is adjourned.

10 THE COURT USHER: All rise.

11 (The hearing ends in open session at 12.37 p.m.)

12 CORRECTION REPORT

13 The Court Interpretation and Translation Section has made the following correction
14 in the transcript:

15 *Page 1 line 24

16 "Indeed, your Honour, that would be appropriate." is corrected by, "Indeed, your
17 Honour, with your leave."

18 RECLASSIFICATION REPORT

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