

Trial Hearing
Witness: CAR-OTP-PPPP-0044

(Open Session)

ICC-01/05-01/08

1 International Criminal Court
2 Trial Chamber III - Courtroom 1
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08
5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and Judge Kuniko Ozaki
6 Trial Hearing
7 Friday, 3 February 2012
8 (The hearing starts in closed session at 9.51 a.m.) Reclassified into open session
9 THE COURT USHER: All rise. The International Criminal Court is now in session.
10 Please be seated.
11 (Open session at 9.52 a.m.)
12 THE COURT OFFICER: Good morning, Madam President. For the record of the case
13 we started the hearing in closed session and we are now in open session.
14 PRESIDING JUDGE STEINER: Good morning. Could, please, court officer call the
15 case.
16 THE COURT OFFICER: Situation in the Central African Republic, in the case of The
17 Prosecutor versus Jean-Pierre Bemba Gombo, case reference ICC-01/05-01/08.
18 PRESIDING JUDGE STEINER: Good morning and welcome the Prosecution team,
19 Maître Zarambaud. For the record, the Chamber informs that we received information
20 that Maître Douzima suffered a great loss and we want to register our condolences, Maître
21 Douzima. Good morning, Defence team. Good morning, Mr Jean-Pierre Bemba Gombo.
22 Good morning our interpreters, court reporters.
23 As you all know we don't have for the time being the transcripts working, the real-time
24 transcripts, but of course -- it's already working? I'm informed that it's already working,
25 so we came in on time. Since before we start with the questioning of Witness 44, the

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1 Chamber has a short oral decision to be issued which is the decision on the application to
2 question Witness 44 by Maître Zarambaud.

3 On 16 June 2011 the Chamber received an application from Maître Zarambaud on behalf
4 of the victims that he represents to question Witness 44. It's filing 1529-Conf. The
5 application contains a list of nine sets of questions.

6 On 23 September 2011 the Defence filed a response to the application by Maître
7 Zarambaud's filing 1776-Conf opposing questions 1.1, 1.2, 2, 3.1 to 3.3, 4.1 to 4.3, 5.1, 5.2,
8 6.1 to 6.3, 7.1 to 7.3, 8.1 to 8.4, and 9.1 to 9.3.

9 On 5 October 2011 Maître Zarambaud filed his reply to the Defence's response. It's filing
10 1825-Conf justifying the relevance of his questions.

11 Having considered the reasons given by Maître Zarambaud as to why the personal
12 interests of the victims that he represents are affected, the Chamber allows his application
13 to question Witness 44.

14 Turning to the proposed questions, the majority with Judge Aluoch dissenting, does not
15 allow the set of questions numbers 1 and 2 to be posed to the witness since they may have
16 implications on the witness's security.

17 In relation to the remaining set of questions, they are authorised by Majority.

18 Judge Aluoch dissents with respect to question 4, which she considers to be irrelevant to
19 the facts of the case. And Judge Ozaki dissents with respect to question 6.2, which she
20 considers leading and speculative; questions 7.3 and 8.3, which she considers leading; and
21 question 8.2, which she considers irrelevant.

22 The Chamber will now go into closed session in order to start with the testimony of
23 Witness 44, that according to decision ICC-01/05-01/08-2107-Conf filed this morning the
24 testimony will be heard in full closed session.

25 Court officer please turn into closed session. Mr Haynes.

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1 MR HAYNES: Just briefly, I haven't yet had the opportunity of taking my client's full
2 instructions about decision 2107. I am not going to raise anything now. It may well be I
3 require to address you for a few minutes after the first break.

4 PRESIDING JUDGE STEINER: Certainly, Mr Haynes. Court officer, please turn into
5 closed session.

6 (Closed session at 9.59 a.m.) Reclassified into open session

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

8 (The witness enters the courtroom)

9 WITNESS: CAR-OTP-PPPP-0044

10 (The witness speaks French)

11 PRESIDING JUDGE STEINER: Good morning, Mr Witness, and welcome.

12 THE WITNESS: (Interpretation) Good morning, madam.

13 PRESIDING JUDGE STEINER: Mr Witness, somewhere in front of you there should be a
14 card containing the words of the oath. Could I ask you, please, to take the oath by
15 reading out the words printed on this card?

16 THE WITNESS: (Interpretation) I do not have any card before me. I declare -- I
17 solemnly declare that I will speak the truth, the whole truth and nothing but the truth.

18 PRESIDING JUDGE STEINER: Mr Witness, now that you have taken the oath, can I
19 confirm that you understand what the oath means?

20 THE WITNESS: (Interpretation) Yes, perfectly well, madam, your Honour.

21 PRESIDING JUDGE STEINER: That you must give answers to questions asked of you
22 that are true and accurate, to the best of your knowledge and belief?

23 THE WITNESS: (Interpretation) Precisely, your Honour.

24 PRESIDING JUDGE STEINER: Mr Witness, as you have had explained to you by

25 Victims and Witnesses Unit during the familiarisation process, you will be questioned

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1 first by the Prosecution, then by Maître Zarambaud, legal representatives of victims, who
2 was authorised by the Chamber to put some questions to you, and finally by the Defence
3 of Mr Jean-Pierre Bemba Gombo.

4 As you know, the Chamber put in place measures to protect your identity from the public,
5 so you will give your evidence in closed session, which means that only the people inside
6 this courtroom can hear what you have to say and can see you. You therefore cannot be
7 identified by the public.

8 Mr Witness, because we speak different languages and in order for we to understand each
9 other, we have interpretation. Because of this, it's important that you speak slower than
10 normal in order to allow the interpreters to do their job.

11 At the same time it's important, Mr Witness, that after a question is put to you that you
12 wait about five seconds before you start giving your answer in order to allow the court
13 reporters to finalise the transcript of the questions put to you. We call that "the
14 five-seconds golden rule."

15 Because all of that may seem unnatural it is possible that you start speeding up, or that
16 you forgot the golden rule, so I will have to interrupt you and ask you to slow down.

17 Don't take offence. It's just for practical reasons. Do you understand that, sir?

18 THE WITNESS: (Interpretation) Yes, I have perfectly understood you, your Honour.

19 PRESIDING JUDGE STEINER: Mr Witness, the Chamber has few questions to put to
20 you, the first being whether you have been given the opportunity to read the statement or
21 statements you gave to the Court?

22 THE WITNESS: (Interpretation) Yes, I did have this opportunity --

23 PRESIDING JUDGE STEINER: Mr Witness, at the time when you made --

24 THE WITNESS: (Interpretation) -- last Wednesday.

25 PRESIDING JUDGE STEINER: -- your statements, did you do so voluntarily?

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1 THE WITNESS: (Interpretation) Yes, I did do so voluntarily, after having been
2 informed that the Prosecutor wished to witness me -- to interview me.

3 PRESIDING JUDGE STEINER: Mr Witness, is the information that you have provided in
4 your statement or statements true and accurate to the best of your knowledge and
5 understanding?

6 THE WITNESS: (Interpretation) Yes, I can confirm that, Madam President.

7 PRESIDING JUDGE STEINER: Mr Witness, in case the parties or the Chamber intend to
8 use your statement or statements as evidence in this case, do you have any objection?

9 THE WITNESS: (Interpretation) This is quite a normal procedure and I have no
10 objections to make.

11 PRESIDING JUDGE STEINER: Thank you, Mr Witness.

12 I will now give the floor to the Prosecution. I think Ms Kneuer? You have the floor,
13 Ms Kneuer.

14 THE WITNESS: (Interpretation) Could I have some paper, please?

15 PRESIDING JUDGE STEINER: Court usher, please.

16 MS KNEUER: Good morning, Madam President, your Honours. Before I will address
17 the witness, may I kindly seek your guidance how we will sit today?

18 PRESIDING JUDGE STEINER: Sorry, could you repeat your question, Ms Kneuer?

19 MS KNEUER: Yes, certainly, Madam President. What will be the sitting hours today?

20 PRESIDING JUDGE STEINER: We will be sitting the same sitting hours as we have been
21 for the whole week from 9.30, already with a half-an-hour delay, until 4.30. Thanks to
22 our interpreters and court reporters that gave us half-an-hour extra.

23 MS KNEUER: Thank you, Madam President, for that clarification.

24 QUESTIONED BY MS KNEUER:

25 Q. Good morning, sir.

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1 A. Good morning, Madam Prosecutor.

2 Q. Sir, as you know, my name is Petra Kneuer and I am a senior trial lawyer at the

3 Office of the Prosecutor and will lead your testimony today; hopefully just today.

4 Sir, Madam President has advised you on the functioning in the Court, so the only thing I

5 would like to add is if my questions may be unclear, please let me know and I will

6 rephrase and clarify.

7 The Honourable Bench allocated to the Prosecution five hours for your questioning and I

8 will do my utmost that I will finish my questioning by the end of today.

9 Sir, can you please state for the Court your full name?

10 A. My name is (Redacted). I was born (Redacted)

11 (Redacted), in the Democratic Republic of the Congo. I

12 am (Redacted)

13 Q. I understand that you were born in the DRC, but just for the record what is your

14 nationality?

15 A. I am of Congolese nationality by birth and today I am still of that nationality.

16 Q. What is your marital status, Mr Witness?

17 A. I am married to (Redacted)

18 Q. Do you have children, sir?

19 A. I have (Redacted)

20 Q. What languages do you speak and understand?

21 A. I have knowledge of the French and I speak (Redacted) well and I have some

22 knowledge of Lingala and Swahili.

23 Q. What is your current place of residence? And you don't have to provide the

24 concrete address, just the town or city, please?

25 A. Kinshasa, which is the capital of Congo.

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1 Q. What is your current occupation, sir?

2 A. I am currently (Redacted)

3 Q. Can you specify for which (Redacted)

4 A. I am (Redacted)

5 Q. Since when are you holding this position?

6 A. I have held this position for nearly (Redacted)

7 Q. Could you please briefly summarise your previous occupations, if possible in a
8 chronological order, please?

9 A. (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 Q. You mentioned Mr Bemba's party. What is this party called?

4 A. This party is called the Mouvement de Libération du Congo, the MLC.

5 Q. When did you join the MLC?

6 A. I joined the MLC during (Redacted), I believe. I no longer recall the precise date
7 but I do believe that it was during (Redacted) when I had (Redacted)

8 (Redacted)

9 (Redacted). I joined the MLC during (Redacted), but I do not recall the precise date. It was
10 certainly in the (Redacted) however, probably around (Redacted)

11 Q. Mr Witness, I would like to clarify the record. Did you mention DRC, when you
12 (Redacted), or did you mean something else?

13 A. (Redacted)

14 THE INTERPRETER: Apologies from the interpretation booth.

15 THE WITNESS: (Interpretation) This was a political movement which had its
16 headquarters in Goma.

17 THE INTERPRETER: Things were going at speed. Apologies.

18 MS KNEUER:

19 Q. That's what I thought, Mr Witness. Thank you. What was the reason for you to
20 join the MLC?

21 A. Well, I will start by telling you why I joined the rebel movement. As I told you,
22 when you interviewed me, I did not really have the characteristics of a military chief, of
23 somebody who takes up arms, but when Kabila Senior took power, and when he publicly
24 announced that he had been in exile for a period of 30 years and that he was going to take
25 power in the Congo for a period of 30 years without organising any subsequent elections,

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1 and in view of the fact that I felt attracted to the necessity of joining those people who
2 were of the opinion that he should not install a dictatorship for 30 years, (Redacted)
3 (Redacted)

4 When I realised (Redacted)
5 (Redacted). I was still following what was going on in the country and I was
6 favourably impressed by the political action led by Mr Bemba. I decided, (Redacted)
7 (Redacted), to go and join him
8 because I was of the opinion at the time that he had the same objective, that is to say to
9 overcome the power in Kinshasa.

10 THE INTERPRETER: Message from the English booth: Could the witness please be
11 requested to slow down somewhat in his delivery for the purposes of interpretation and
12 transcription. Thank you.

13 THE WITNESS: (Interpretation) Should I speak even more slowly?

14 THE INTERPRETER: Says the witness.

15 MS KNEUER:

16 Q. Yes, sir. I understand the interpreters as well as the stenographers would greatly
17 appreciate that. And it's a trap in this courtroom to rush, I know that myself.
18 Sir, again, just to clarify the record, when you speak about Kabila Senior, do you refer to
19 Laurent-Désiré Kabila?

20 A. Yes, indeed, it was Laurent-Désiré Kabila who had stated in a public statement that
21 he had been in exile for a period of 30 years and that he was imposing the same exile of 30
22 years upon all those who were opposed to him.

23 Q. What positions did you hold within the MLC?

24 A. I belonged to the group that joined the MLC somewhat belatedly. The MLC was
25 set up by Mr Bemba and some of his initial companions. I joined the MLC under the

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1 circumstances that I have described to you, and at that moment in time most of the MLC
2 structures were already in existence.

3 (Redacted)- when I refer to "others," I mean
4 those individuals with whom (Redacted)- the MLC structure existed not
5 only on a political level but also on a military level. And when (Redacted)
6 (Redacted) the various meetings that Mr Bemba
7 chaired over.

8 Subsequently, (Redacted). And when preparing to attend the
9 various political negotiations, there were a number of such meetings which took place in
10 Addis Ababa, Gaborone, Lusaka, before reaching Sun City. (Redacted)
11 (Redacted)

12 Q. How long did (Redacted)

13 A. Until virtually the end of the Sun City negotiation process when a team - a
14 transitional team - was set up in Kinshasa, which was due to implement the transitional
15 institutions with the government headed up by President Kabila and for Deputy
16 Presidents, notably Mr Bemba. This is when (Redacted), a few
17 months after having reached or arrived in Gbadolite until a few months after the
18 negotiation process was completed.

19 Q. And what was (Redacted) What were (Redacted)

20 A. As I told you, Madam Prosecutor, (Redacted)
21 undertaken just before the beginning of the negotiations. And just before the
22 completion of the Sun City agreements there was a very lengthy process during which the
23 negotiators for Mr Bemba, there were some individuals amongst those negotiators who
24 had an official title within the movement; either they were general secretary or they were
25 in charge of a specific department, such as the economy or something similar.

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1 (Redacted) Mr Bemba was of the opinion at the time that in

2 order to take part in the negotiations in the correct manner, (Redacted)

3 (Redacted)

4 THE INTERPRETER: (Redacted) correction.

5 MS KNEUER:

6 Q. (Redacted)

7 Can you please clarify this?

8 A. (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. Sir, you already mentioned that (Redacted) the process of negotiations.

14 Can you provide some examples on topics upon which (Redacted)

15 A. The negotiation process consisted of a number of stages, as I said to you, notably
16 how we were going to put a stop to war; how we were going to arrive in Kinshasa; how
17 we were going to reach a political agreement there; how we were going to set up
18 transitional institutions, which then subsequently gave rise to definitive institutions or
19 permanent institutions.

20 (Redacted), and the team that was tasked with these negotiations, had to

21 see how they could put forward our ideas under the presidency of Mr Bemba and see how
22 we could construct or build up a republic formed on democratic principles.

23 So our role was to ascertain how we could reach this goal and how we could -- once we
24 had managed to reach a ceasefire, how once we had reached the time of Sun City
25 negotiations, how we could actually implement or push forward our ideas. So this was

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1 principally a political role in the face of the adversaries on the other side, because in those
2 negotiations - participating in those negotiations - there were a number of groups. There
3 was our group, there was the group from the government, there was the civil society
4 group, there was the RCD group, there was -- (Redacted) to see
5 whether we could impose our point of view upon the others and to see to what extent
6 how we could avoid being crushed by the others, and I do believe that we managed this
7 (Redacted) manage to gain a certain amount of power.

8 Q. Who (Redacted)

9 A. This of course was Mr Bemba's decision. He was the chief or the head of the party.

10 Q. If I understood you correctly, you stated earlier that during the governmental
11 transition, (Redacted); correct?

12 A. Yes, that is correct, for Mr Bemba's party, that is.

13 Q. (Redacted)

14 A. (Redacted)

15 (Redacted), so each group was taken into account

16 during the Sun City negotiations. Each group had a quota in the transitional government,
17 and it was up to those in charge of each group to designate in writing those individuals
18 who were to represent the group - their specific group - within the government.

19 I don't know whether I'm still talking too fast for the interpreters? Should I slow down
20 somewhat? Am I still speaking fast? You know, I'm doing my very best. So the
21 appointment was made upon a decree by Mr Bemba and by the president of the republic
22 and subsequent to a suggestion put forward by Mr Bemba.

23 Q. Sir, I would like to turn to a new topic and it's the MLC itself. Can you please tell
24 us when the MLC was created?

25 A. Let me begin by pointing out that (Redacted)

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1 (Redacted), was created around 1999, or early 2000. The MLC must have been
2 founded a few months after that, in Kisangani. I no longer remember the precise dates,
3 and I believe I said that during the interview that the MLC was created a few months after
4 (Redacted), so in my opinion that would be 2000/2001. I told you that during the interview.

5 Q. Who created the MLC?

6 A. The founding instrument of the party presents a list of a certain number of founding
7 members. The party was created at the initiative of Mr Bemba, but he was not alone.
8 There is a certain number of founding members, and this includes Mr Valentin Senga,
9 Mr Simene, Mr Jean Singo and a few other people who were with him in Kisangani.

10 Q. Do you remember any other names of founding members?

11 A. Let me say that the position of founding member changed over time. The first
12 group, there were about five or six. I believe there was Mr Kamitatu and Mr Dominique
13 Kanku, who were in the first group. Afterwards, that notion of founding member was
14 broadened to include others who arrived later. So there are of course the original
15 founding members and others who joined the party later, but were referred to as founding
16 members, (Redacted). So those are people who came later, but had the same status as
17 those who had started the party.

18 Q. Do you recall any names from the second group that joined the MLC?

19 A. In the first group I believe I should add General Amuli, from the military branch,
20 and then in the second group there was Professor Lunda Bululu and Mr José Endundo. I
21 believe Mr Senga was also considered as a founding member but, as I told you during the
22 interview, there are archives and the secretary-general of the party, Mr Kamitatu, is in
23 possession of documents that contain all this information.

24 Q. Sir, you mentioned earlier that the MLC was created in Kisangani. Why was the
25 MLC created in Kisangani?

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1 A. I believe that this was the most convenient location at that time for the founders of
2 the party. Kisangani was in the east of the country, which was no longer under the
3 control of Kinshasa, and Kisangani was the capital of a province. The two provincial
4 headquarters, which were under the control of rebel movements, were Kisangani on the
5 one hand and Goma on the other, and so as soon as Mr Bemba decided that he wanted a
6 party that was different from the RCD it was logical for him to choose a capital that was
7 not that of the RCD. Kisangani was not under the political or administrative control of
8 the RCD, even though they were close to the Orientale province, and I believe it was for
9 that reason of convenience that Mr Bemba chose Kisangani.

10 Q. Can you briefly describe what the purpose was to create the MLC?

11 A. The short answer, Madam Prosecutor, is that the objective was to fight against the
12 government in Kinshasa. Since it was not possible to fight that government through the
13 usual political means, the objective was to use arms to overthrow that government. That
14 was also the objective of the RCD. The objective was to arrive in Kinshasa and to
15 overthrow the government in Kinshasa, which had decided that it would be in power for
16 30 years.

17 Q. Was there any document defining these objectives of the MLC?

18 A. The first document is included in the archives of the secretary-general but, as the
19 Kinshasa negotiations approached, the parties whose initial documents could have been
20 just one or two pages transformed themselves into political parties. So instead of being
21 political/military movements they became political parties and they drew up statutes, or
22 political manifestos, that would be similar to those drawn up by all parties in Africa, or
23 the US, but the initial documents of the MLC were summary documents and those
24 documents exist in the archives of the secretary-general of the party.

25 Q. With regards to this first document that, as you just stated, defined the MLC as a

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1 political/military party and it was composed of a few pages, was this first document
2 signed?

3 A. Yes, indeed. It was signed by the founding members of the first group. It still
4 exists.

5 Q. Sir, you also mentioned a second document which addressed the movement of the
6 MLC to a political party. Can you elaborate more on this second document, please? For
7 example, who drafted it? How long was it? What exactly did it contain?

8 A. It is similar to the normal statute or constitution of any political party that includes
9 the names of the founders, the objective of the parties, the internal organisation of the
10 party, leadership of the party, it's congress and other organs. So it is the standard statute
11 or constitution of any conventional political party, but the most important thing in this
12 document was that the aspect related to the overthrow of the government by the army no
13 longer existed. The objective was to achieve or to accede to power through democratic
14 means, that is through elections, so there was a change from using military means to using
15 democratic means and winning elections as needed. So this was nothing really
16 extraordinary. This is a constitution or statute that would be similar to any one in an
17 African country, or any other country.

18 Q. Sir, you may have already mentioned that, but when was this second document
19 drafted and created?

20 A. I do not remember the precise date, but that document was drafted in Gbadolite.
21 This was during the period when we were preparing the political agreements of Sun City,
22 and we knew that we were inevitably progressing towards a political agreement and that
23 we would have to move to Kinshasa and start acting as a political party, so in brief I do
24 not recall the precise date.

25 Q. Mr Witness, when I ask for dates I understand it's quite difficult to remember after

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1 such a long time, but it's perfectly fine if you provide a time-frame, as you just did. This
2 helps us to understand. With regards to this standard statute, was it approved by
3 someone?

4 A. Yes. The statute was indeed approved by all those who were considered as the
5 founding members, but this is the group which had been enlarged to include others. It
6 was not only made up of the founding members who had been in Kisangani, but it
7 included all those who were considered as founding members, (Redacted)
8 signed.

9 The first group of founding members with Mr Bemba was made up of less than ten
10 people, but in the statute you will see that it was signed by more than 20 people. So this
11 was the final statute that was approved by all (Redacted)

12 Q. In which language were the first and second founding act drafted?

13 A. French is the official language of Congo, and all administrative documents are
14 drafted in French. Let me add the statute was later submitted to the Ministry of Home
15 Affairs for the MLC to be approved as a political party, so this document is available in
16 the national archives. It can be asked for and I believe it would be made available
17 without any problem.

18 Q. To your knowledge, sir, was there any other document defining the MLC's
19 organisational structure or role?

20 A. There were various appointment decisions signed by Mr Bemba as the president.
21 For example, the setting up of the executive committee, or team, which was a sort of
22 government at that time in Gbadolite, so there was an official appointment decision.
23 Everyone who was appointed to a position of responsibility was appointed by decision
24 signed by Mr Bemba, just like I was appointed (Redacted)
25 So one can consider that amongst the acts there was the first declaration of the creation of

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1 the movement in Kisangani, there were various appointment decisions to administrative,
2 political or military positions. Then there was the major document, which is the statute
3 or constitution of the MLC signed by the larger group of founding members and
4 submitted to the Ministry of the Interior.

5 Q. Sir, could you please briefly describe the structure of the MLC at the time of its
6 creation, and in particular in 2002 and 2003?

7 A. Initially, the movement was a political/military movement. Mr Bemba was the
8 president of that movement as well as the military commander. There were two
9 different branches of the movement; the political branch which was under the authority of
10 Mr Bemba, but which was headed by a secretary-general Mr Olivier Kamitatu. We were
11 all members of that political branch and we met under the chairmanship of Mr Kamitatu
12 or Mr Bemba, depending on what was happening. Then there was a military wing
13 headed by General Amuli, but which also came under the authority of Mr Bemba, who
14 was the commander-in-chief of the movement. That in brief was the organisation of the
15 MLC.

16 Q. You mentioned that Mr Bemba was the president of the MLC and the commander,
17 the military commander. How long did this leadership of Mr Bemba last?

18 A. The entire time, Madam Prosecutor, ever since the creation of the movement as a
19 political/military movement, and then subsequently as a political party. Let me say that
20 with regard to the army, it can be considered that in theory he was no longer the military
21 commander, that is after we went to Kinshasa and the institutions were set up, but that
22 was simply in theory.

23 He still had a Pretorian guard, which was directly under his authority even when he was
24 in Kinshasa, but during the entire period of the evolution of the party from the beginning,
25 right up to arrival in Kinshasa and the establishment of the transitional government in

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1 which he became a vice-president and (Redacted), during
2 that entire period he was the commander of the MLC soldiers as well as the leader of the
3 political wing of the party.
4 So he remained the political leader of his party to this very day, and he also continued to
5 be the political and military leader of the party up until the time that he was granted a role
6 to play in Kinshasa.

7 Q. Sir, you just said, and I'm referring to page 23, line 7 and 8, that Mr Bemba remained
8 the political leader of his party to this very day. Can you explain what you mean by that,
9 please?

10 A. I can give you a recent example, which is not a secret, because it was in the public
11 domain. There were changes within the MLC even as Mr Bemba was here. Mr François
12 Mwamba, who was the secretary-general of the party, took decisions that were challenged
13 and during the congress of his party, he stated that he was doing so in consultation with
14 Mr Bemba, who is in The Hague, and the person who does not agree with him could call
15 Mr Bemba. So he said that in public, and I believe that they are in contact with
16 Mr Bemba.

17 I also know that the members of his party are in contact with him, even after the elections,
18 because some of them stated that he could participate in the process that would be put in
19 place after the elections on condition that he was in agreement to do so. So this means,
20 this illustrates, that he is the one leading the party and that is not me saying it; they are the
21 ones saying it themselves.

22 Q. Just to be clear: Who's currently the president of the MLC?

23 A. Officially, Mr Bemba is still the president of the MLC but there is a secretary-general
24 known as Thomas Luhaka, who replaced François Mwamba. I said that he was the one
25 who made the last public statement before he was replaced, and he said that he had taken

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1 a decision in consultation with Mr Bemba and anyone who did not agree could call
2 Mr Bemba.

3 Ever since that time, Mr Mwamba was relieved of his duties, and now it is Mr Luhaka
4 who is secretary-general of the party. The president is still Mr Bemba but the party is
5 managed on a daily basis by Mr Thomas Luhaka the secretary-general.

6 Q. When did Mr François Mwamba become secretary-general of the MLC?

7 A. The first secretary-general of the MLC was Mr Olivier Kamitatu, and that was
8 during the entire time that we were in Gbadolite. After our arrival in Kinshasa, when the
9 positions were being distributed amongst the officials of the MLC, Mr Bemba became
10 vice-president of the Republic; Mr Olivier Kamitatu became speaker of the National
11 Assembly, while maintaining his position of secretary-general of the party because the
12 two were not incompatible.

13 At one point there was a misunderstanding at the summit between Mr Bemba and
14 Mr Kamitatu, who at that time was speaker or president of the National Assembly
15 representing the MLC, and given that the rules that had been drawn up for the transition
16 were clear, that is positions were occupied as representatives of the various parties or
17 group.

18 Now, after the misunderstanding between Mr Kamitatu and Mr Bemba, Mr Kamitatu was
19 compelled to resign as president of the national assembly since he was no longer
20 representing his party. At that time he was replaced by Mr Thomas Luhaka, and at the
21 time when Mr Kamitatu was forced to resign he also had to resign as secretary-general of
22 the party and that was the time at which Mr François Mwamba became secretary-general.
23 Now, quite recently - and I believe that was barely one year ago - there was renewed
24 conflict inside the party, involving a difference in approach between Mr François
25 Mwamba and Mr Bemba, and this was probably as a result of the electoral process.

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1 Mr François Mwamba was forced to resign as secretary-general and was replaced by
2 Mr Thomas Luhaka, and so currently the president of the party is Mr Bemba. The
3 secretary-general is Mr Thomas Luhaka.

4 PRESIDING JUDGE STEINER: Thank you, Ms Kneuer.

5 Mr Witness, we'll have a short break for you to take some rest, as well as our interpreters
6 and court reporters. It's almost 5-past-11. We will suspend and resume at 11.35. I ask,
7 please, court usher to accompany the witness outside the courtroom.

8 (The witness stands down)

9 THE COURT OFFICER: All rise.

10 (Recess taken at 11.02 a.m.)

11 (Upon resuming in closed session at 11.40 a.m.) Reclassified into open session

12 THE COURT USHER: All rise. Please be seated.

13 PRESIDING JUDGE STEINER: Welcome back. I ask, please, court usher to bring the
14 witness in.

15 (The witness enters the courtroom)

16 PRESIDING JUDGE STEINER: Mr Witness, welcome back.

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

18 PRESIDING JUDGE STEINER: Are you ready to continue giving your testimony?

19 THE WITNESS: (Interpretation) Yes, I am indeed ready, your Honour.

20 PRESIDING JUDGE STEINER: Ms Kneuer, you have the floor.

21 MS KNEUER: Thank you, Madam President.

22 Q. Welcome back, sir. Sir, before the break you stated, and I'm referring to page 23,
23 lines 23 onwards, that you also know that the members of his party are in contact with
24 Mr Bemba even after the elections because some of them stated that he, Mr Bemba, could
25 participate in the process that would be put in place after the elections on condition that

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1 he was in agreement to do so. To which elections are you referring?

2 A. Madam Prosecutor, I believe that the transcription was not entirely faithful to what I
3 said. I think, Madam Prosecutor --

4 THE INTERPRETER: Repeats the witness.

5 THE WITNESS: (Interpretation) -- that the transcription was not -- the transcript was
6 not precisely faithful to what I said. I'm going to speak somewhat more slowly.

7 As I said at an earlier stage, the members of his party -- in the context of the undertaking
8 that the president intends to take after the elections that were just held, the members of his
9 party were approached with a view to ascertaining whether they could accept to enter
10 National Unity government. I didn't talk about the government at an earlier stage. I
11 merely said that they had been approached in order to see whether they could come
12 together in an open political context.

13 So the response that they gave to the emissaries that had been sent to speak to them was
14 that, yes, they could take part in such a process in -- within a new government on the
15 condition that Mr Bemba granted his authorisation. So that's what I said in the context of
16 the elections that just took place.

17 Q. Thank you, sir, for that clarification. You also provided an illustration of
18 Mr Bemba leading the MLC, and I'm referring to page 23, line 16 onwards, for the record.
19 You provided an example that François Mwamba, who was the secretary-general at that
20 time, took decisions which were challenged and that he referred that he took these
21 decisions in consultation with Mr Bemba, to summarise what you stated and what the
22 record reflects. I'm interested in -- again in the date. Do you recall which year this
23 incident occurred?

24 A. Mr Bemba was already in The Hague, so it was the last undertaking made by
25 Mr François Mwamba within the organisation of the MLC which gave rise to challenges

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1 on the part of a number of the founding members, such as Mr Sesanga, and the -- this
2 would probably date back to a year-and-a-half or two years which, yes, did give rise to a
3 number of challenges from -- to François Mwamba and I said that anybody who was not
4 in agreement should contact him.

5 So it is in the public domain and of public knowledge that Mr Bemba had a heavy hand
6 over his party. He had full control, and I -- I don't have proof of this, but I would say
7 that amongst the candidates to the recent presidential election there are those who
8 requested his support in order to be -- to receive the vote of his supporters, so of course it
9 is public knowledge that he remains the head of his party even whilst he is in The Hague.

10 Q. Mr Witness, you also stated - and it's page 24, lines 13 and 14 - that Mr Mwamba
11 was replaced by Mr Luhaka. Who took that decision?

12 A. Well, I can't state who took the decision. I presume that it was done in agreement
13 with Mr Bemba, because he, as I said, is still the head of his party. All that I stated to the
14 effect that Mr Luhaka did indeed replace Mr François Mwamba, and I went on to say that
15 when Mr François Mwamba set up the various organs or bodies with in the party that
16 were challenged, he said that he did have an agreement with him. So the arrival of
17 Mr Thomas Luhaka occurred within the context of a meeting of their political bureau, and
18 I cannot say that for this appointment Mr Bemba was consulted, but what I did say was
19 that when Mr François Mwamba did set up the structures within the party and when
20 there were challenges, he said publicly -- and this was repeated in the press. He said that
21 he had reached an agreement with Mr Bemba, and that those who were not in agreement
22 could reach him in The Hague and that he was reachable.

23 THE INTERPRETER: Message from the English interpreter: Could the witness please
24 be requested to slow down? There's a lot of information, it's very dense and for the
25 purposes of interpretation and transcription this is very necessary indeed. Thank you.

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1 MS KNEUER:

2 Q. Mr Witness, the interpreters are kindly asking you to slow down a little bit.

3 A. I shall make a very considerable effort.

4 Q. Perhaps I can also contribute by slowing down. Sir, before the break you explained
5 to us that the MLC was composed of a political wing and a military wing. Were
6 members of the military wing involved in political matters?

7 A. I can confirm that the MLC did indeed have two wings: A military wing, with at
8 its head General Amuli who reported directly to Mr Bemba, who was the
9 commander-in-chief whilst occupying the position of president at the same time he was
10 commander-in-chief of the army; and there was a political wing with Mr Olivier Kamitatu
11 as secretary-general.

12 Usually Mr Bemba would convene, according to the subject under discussion, either the
13 military wing or the political wing, and he would make sure that there was not too much
14 synergy between the two branches or wings. He might have been fearful of an
15 agreement between the politicians and the military behind his back, but the rule was that
16 he laid down the law, or that the meetings held with the soldiers were held with the
17 soldiers and the meetings held with the politicians were held with the politicians.

18 There were some meetings where the political and military wings came together, and this
19 was the case notably when (Redacted), the negotiators, came back from Sun City, or back
20 from Pretoria, and (Redacted) report back. There were some rare meetings of this ilk,
21 where the political and military wings came together. The rule was that what he
22 undertook with the military was undertaken with the military and the political wing, or
23 the politicians did not have to be overly curious as to what was going on.

24 Q. Looking at the period from October 2002 until March 2003, who did ultimately
25 exercise the particular leadership in the MLC?

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1 A. I can confirm to you, Madam Prosecutor, that there is no challenge as to the fact that
2 the effective political and military leadership of the MLC was conducted or exercised by
3 Mr Bemba. This has never been challenged. He was both the military and political
4 head of his party, so he was the effective leader.

5 Q. Sir, you mentioned several times already (Redacted)
6 (Redacted). Who else from the MLC participated?

7 A. (Redacted)

8 (Redacted)

9 (Redacted) the members

10 of the team who were in attendance at all the meetings and who went to all the locations
11 where the negotiations were held, notably Addis Ababa, Lusaka, Gaborone, Sun City,
12 Pretoria and Matadi, et cetera.

13 Q. Who nominated (Redacted) individuals that you just mentioned to be part of
14 the negotiation delegation?

15 A. The negotiation team was appointed by Mr Bemba. It was at his discretion.

16 Q. Can you just remind us, for the record, how long the negotiation process lasted?

17 A. It was extremely lengthy. (Redacted) left from the month I think of
18 July/August 2002, approximately, and reached significant agreements in the month of
19 March 2003, but the process had not concluded in March 2003 because within a small
20 follow-up structure that was established, comprising representatives of the small bodies
21 present in the negotiation, (Redacted) in Kinshasa continued (Redacted) work until the
22 month of June and it was at the end of the month of June 2003 that the transition
23 government was put in place.

24 Q. Did Mr Bemba take part in these negotiations?

25 A. Mr Bemba attended the opening ceremony. It was during this occasion in Sun City

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1 that he was present, as was Mr Kabila. He might have stayed on for the negotiations had
2 Mr Kabila stayed behind, but in view of the fact that (Redacted) had -- that they had left Gbadolite
3 for the opening ceremony and (Redacted) had left with him and when Mr Bemba realised that his
4 presence was no longer necessary, he went back to Gbadolite and (Redacted) remained behind;
5 (Redacted) the negotiating team. So this means that he only attended the opening ceremony, as
6 such.

7 Q. Do you recall how many days he stayed?

8 A. I no longer remember, but he left before (Redacted) actually started the real work. He did
9 not take part in the technical negotiating sessions, as such. He attended the official
10 opening ceremony.

11 Q. Was the delegation throughout the negotiations in contact with Mr Bemba?

12 A. Yes, (Redacted) throughout the entire period of the negotiations (Redacted)
13 were practically in permanent contact with Mr Bemba. (Redacted) had to report to him on the
14 difficulties that (Redacted) were facing in order to have his point of view. He himself was
15 particularly interested in the conduct of the negotiations. It was for this reason that he
16 regularly called (Redacted); he called either the head of the delegation (Redacted) or any other
17 member of the delegation. He called (Redacted) several times. One can say that he was
18 following up those negotiations very closely as if he was present himself. He did not
19 spend a single day without contacting (Redacted), irrespective of where (Redacted) were. Sometimes
20 he made several calls in the course of a single session to the point that (Redacted) became a
21 nuisance with those who -- or rather for those who were with (Redacted), and (Redacted) had to
22 switch off our telephones, but the head of delegation did not want to do that because it
23 could be criticised later on. So Mr Bemba was not at the negotiations, but (Redacted) were
24 reporting to him permanently. And each time there were difficulties, and there were many of
25 those, at the end of each day the report would not be given to him only by the head of the

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1 delegation but by practically all of (Redacted). This was because he asked for a report from the
2 head of delegation, and this was part of his character because immediately afterwards he
3 would call another member of the delegation to cross-check the report and ensure that
4 what had been reported was consistent with the reality on the ground. So he followed
5 up closely the work that (Redacted) were doing, no matter where (Redacted) were.

6 Q. You mentioned twice that Mr Bemba was in permanent contact with the head of
7 delegation and other members of the delegation. What do you understand by
8 "permanent contact"?

9 A. Maybe "permanent" is not the right word. Maybe I should say that he was in regular
10 contact with the head of delegation and all of (Redacted). As soon as (Redacted) made progress
11 in the negotiations, (Redacted) had to report back to him, and every time (Redacted) were at a
12 different stage of the negotiations, unless when (Redacted) were not working, the telephone
13 would ring ten to 15 times. He called not only the head of delegation (Redacted) but after him
14 he would call either (Redacted) and would ask the same questions to
15 ensure that (Redacted) did not give him different versions on the progress of the negotiations.
16 So he was determined that (Redacted) should have a political agreement, but a political
17 agreement that would be favourable to him and his movement. That is why I say the
18 contact between him and the negotiating team was practically permanent.

19 Q. Sir, you stated that Mr Bemba cross-checked the reports that he received in order not
20 to receive different versions. Can you explain if there was any incidents that triggered
21 the cross-checking by Mr Bemba?

22 A. No, there were no incidents, first of all because (Redacted) were all together during those
23 negotiations which took place in the same room. The delegates were all there. (Redacted) did
24 not split up into committees, (Redacted) were all in the same room discussing the various items.
25 Secondly, (Redacted) negotiators was to summarise the work that had been done

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1 after -- or during each break, because (Redacted) knew that Mr Bemba would call and (Redacted)
2 had to be sure that each and every one of (Redacted) had had the same understanding of the
3 discussions that had taken place.
4 So he would call (Redacted) head of delegation and after that, depending on the item under
5 discussion, he would call (Redacted) or some other member of the delegation. At the end of each
6 session, (Redacted) would have two or three calls from him asking (Redacted) what had
7 happened, what was (Redacted) point of view, what -- how (Redacted) had defended our
8 positions and what the others had thought. So that is how (Redacted) worked during
9 those negotiations for a period of several months.

10 Q. Does this then mean that Mr Bemba didn't trust the delegation and therefore
11 cross-checked?

12 A. No, I do not think that it means he did not trust the delegation. I believe he
13 selected (Redacted) on the basis of very specific criteria. To begin with, this was a delegation
14 made up of academicians entirely, so he had taken into consideration the education level
15 of his delegates. But Mr Bemba is naturally distrustful, that is part of his character. He
16 has to cross-check and compare the reports that are submitted to him.
17 I believe that what was at stake during those negotiations was such that he could not have
18 sent people to negotiate people that he did not trust, but I believe that it is simply in his
19 nature to cross-check everything and in that way he was sure that what was being said to
20 him was consistent with what had happened in the negotiating room.

21 Q. Despite the telephone contacts you had with Mr Bemba, did you also meet with him
22 in person?

23 A. Personal contact? That was during the negotiations. It is obvious that when (Redacted)
24 were in Gbadolite (Redacted) would meet with him personally, but Gbadolite is located in the
25 extreme north of Congo and the meetings were holding or taking place in Sun City at the

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1 southernmost point of the continent. So it was not possible to have personal face-to-face contact
2 with him, that is why (Redacted) were in telephone contact. But when (Redacted) were not in
3 South Africa, because there were breaks, there were breaks during the negotiations, (Redacted)
4 would return to Gbadolite and of course (Redacted) would have face-to-face contact with him.

5 Q. Do you recall how often (Redacted) met with Mr Bemba either during the phase of the
6 negotiations, when (Redacted) returned to Gbadolite, or any other time before or after the
7 negotiations?

8 A. During the period when (Redacted) were in Gbadolite (Redacted) saw him almost on a daily
9 basis, except when he had travelled out of Gbadolite to Gemena or to some other location. But
10 when he was in Gbadolite, (Redacted) would see him almost every day. When there were breaks
11 in the negotiations and there were actually many breaks, there was a break in Addis
12 Ababa, and (Redacted) returned to Gbadolite. (Redacted) saw him. There was a break in Gaborone
13 and (Redacted) returned. There was a break during the negotiations in Lusaka, and practically
14 everywhere. Then (Redacted) would return and see him in Gbadolite, but when (Redacted) were
15 in the course of negotiations then (Redacted) would be in contact with him by telephone.

16 Q. Where did (Redacted) meet with Mr Bemba?

17 A. When (Redacted) were in Gbadolite, either (Redacted) would meet in his residence
18 in Gbadolite or in his office also in Gbadolite. There was no problem at all.

19 Q. How did (Redacted) refer to Mr Bemba when (Redacted) addressed him?

20 A. (Redacted) All the others referred to him as "chairman," but (Redacted)
21 (Redacted)

22 Q. What were the main topics that (Redacted) and Mr Bemba discussed?

23 A. Politics, politics and politics. What will we do after we arrive Kinshasa? How are
24 we going to ensure that the discussions continue? How are we going to prepare
25 ourselves to have a majority in the assembly? So our discussions were essentially

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1 political, that is clear.

2 Q. Did (Redacted) ever talk with Mr Bemba about the abuses in the Central African Republic
3 committed by his MLC troops?

4 A. When those abuses were committed in the Central African Republic, (Redacted) were in
5 South Africa participating in the negotiations. (Redacted) learned about that information
6 through the media. RFI reported extensively on the issue, as well as the BBC and the
7 Voice of America. (Redacted) attention was specifically drawn by (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted). However, during that period of the

21 operation in the Central African Republic, (Redacted) were not physically close to him and

22 (Redacted) were not really informed of what was going on in the Central African Republic,
23 except by the media. Mr Bemba did not report (Redacted) about what was happening.

24 Q. I will come back to the media reports as well as the (Redacted) at a later

25 stage. Before I move to my next topic, would you mind to spell the name of (Redacted)

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1 (Redacted) for the record, please?

2 A. Maybe it will not be the correct spelling, but it is (Redacted)

3 (Redacted). I believe that is just the approximate spelling.

4 Q. Thank you, sir. Since when (Redacted) Mr Bemba?

5 A. (Redacted) Mr Bemba for decades. He is the son of a very good family. His
6 father was a major economic operator and (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. Mr Witness, I would like to stick for a moment with the MLC troops and some
15 logistics. Do you know the size of the MLC troops in general at the relevant time in 2002
16 and 2003?

17 A. Military statistics were obviously one of the aspects that Mr Bemba considered as
18 defence secrets. I cannot tell you that we knew the number of soldiers, that is those of us
19 in the political wing, at least I did not know the strength of the forces, but after arrival in
20 Kinshasa and when the time came to integrate the MLC troops, the RCD troops and the
21 government troops, the figure that was put forward by Mr Bemba for the troops of the
22 MLC was ten to 12,000 men. This was what was taken into account when the time came
23 to prepare a merger of the troops of all the groups into a national army and harmonise the
24 ranks of the officers.

25 Q. Looking at the time period of October 2002 to March 2003, do you know the size of

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1 the troops that were sent and deployed to the Central African Republic?

2 A. No, Madam Prosecutor, I do not know the answer. As I've told you, I do not know
3 whether amongst the politicians - that is the civilians - there is even one who can tell you
4 the number of troops that were there. Now, in the Central African Republic I cannot tell
5 you whether it was a battalion, a division, or a brigade that was deployed there. I cannot
6 tell you that. However, it was soldiers who were in Gbadolite, who were in Zongo.
7 Well, about those soldiers I do not know their numbers.

8 Q. Who was the commander that was in charge of the operations of the MLC in the
9 Central African Republic at the relevant time?

10 A. Mustapha. I know the name Mustapha, but I've forgotten the other name, but he
11 was referred to as "Mustapha, the Banyamulengue." I do not recall his other name. He
12 was an officer of Banyamulengue origin, which is why he was referred to as
13 "Banyamulengue.

14 Q. Where was the headquarters of the MLC troops during the time of the Sun City
15 negotiations which matches with the CAR conflict, meaning in 2002 and 2003?

16 A. All the officers under the authority of Mr Bemba were based in Gbadolite, because
17 Gbadolite was the military headquarters. It was the seat of the political institutions, so it
18 was in Gbadolite.

19 Q. Who decided to deploy the MLC troops to the Central African Republic?

20 A. Madam Prosecutor, let me point out to you that (Redacted) present there at the
21 time of the operation in the Central African Republic, but when you look at the military
22 organisation of the MLC it is clear that no one but Mr Bemba could have taken the
23 decision to deploy MLC troops to the Central African Republic. That is obvious. I do
24 not think that anyone else could have taken that decision. According to the organisation,
25 it is -- he is the president of the party, or the chairman, but he is also the

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1 commander-in-chief of the MLC army, so I cannot imagine who else, apart from him,
2 could have taken the decision to deploy troops to the CAR.
3 I regret this for his sake maybe, but today it is probably too late for you to have called here
4 the person who asked him to send troops and that is Mr Patassé. He is now deceased,
5 but I believe he should have appeared here to provide clarification regarding the events
6 during that period which prompted Mr Bemba to digress from his national objectives; that
7 is to arrive Kinshasa after exerting military pressure. That episode in the Central African
8 Republic was totally incomprehensible but, as I told you when you interviewed me, I do
9 not believe that he is Napoleon, that he should be waging war to go and conquer Moscow.

10 No, that is not the case. I believe that this is an appeal from Mr Patassé that he should
11 not have heeded, and this person should have been brought to sit here with Mr Bemba.
12 So in answer to your question, I would say that it was certainly Mr Bemba who took the
13 decision to deploy MLC troops to the Central African Republic, but he did that at the
14 request of Mr Patassé. Why did he heed that appeal, which was simply an adventure
15 and which would never have done him any good? That is the question.

16 Q. Was the deployment of the MLC troops announced publicly?

17 A. To my knowledge, no. To my knowledge, no.

18 Q. Where were the MLC soldiers that were sent to the Central African Republic coming
19 from? I mean, which region?

20 A. I am not in a position to state what region they came from. You should know that
21 in the MLC army, for the most part, soldiers hailed from the same region as Mr Bemba.
22 This is quite normal. In such insurrectional movements, the soldiers follow an
23 individual they identify with, so there were many soldiers and maybe the majority, most
24 of them hailed from the Équateur region, Mr Bemba's region, but the officer in charge of
25 the troops in the Central African Republic hailed from the eastern part of the country, the

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1 Kivu region. He is of Banyamulengue origin, or ethnic origin, which is why it was said
2 that these were Banyamulengue soldiers.

3 I suppose that within the unit the officer would surround himself with soldiers, or guards,
4 who hail more from his ethnic group for security reasons probably. Probably there were
5 people of the same ethnic origin as him in that unit. As to say whether they were all
6 Banyamulengue, well, I do not believe so because there was a great mixture of troops who
7 came from all areas. But for the most part the MLC troops hailed from the Équateur
8 province, but officer Mustapha hails from South Kivu and he is a Banyamulengue.

9 Q. Sir, I'm aware that at the relevant time you belonged to the political wing.

10 However, are you aware if the MLC troops had uniforms?

11 A. No. One did not have to be a member of a political wing to know whether they
12 had a uniform or not. We lived with them, we cohabited with those soldiers in Gbadolite
13 and, yes, they did all have a uniform which was green in colour, it was entirely green, so
14 the troops did have a uniform, yes.

15 Q. Did the soldiers have insignias?

16 A. No. In Gbadolite they did not wear any insignia. There were no ranks as such in
17 Gbadolite. The military rank was a known fact. We, people knew that the chief was
18 Mr Amuli, and the soldiers knew that their military chief, General Amuli, knew
19 who -- and their generals, whether it be Mustapha or other generals, knew who they were
20 but they did not wear any insignia at the time. And, generally speaking, one would use
21 the term "commander" for all and sundry, whether they be sergeant, captain or lieutenant,
22 and everyone was called "commander" with the exception of the general, so there was no
23 insignia as such.

24 We started thinking about rank when we knew that all the political negotiations were
25 completed and then was the time to grant people rank, in order to enable them to then

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1 gain a rank from the MLC when they entered the army in Kinshasa. So the question of
2 rank really arose at the end, virtually at the end, to enable them to have a rank when they
3 integrated the national army.

4 Q. Were the soldiers granted a rank before the MLC entered into the army in Kinshasa
5 or afterwards, if you know?

6 A. No, it was just before going to Kinshasa. Certain ranks were awarded to the top
7 brass and -- or the superior officers, and what enabled them to have -- which enabled
8 them to have a rank when entering the army in Kinshasa. For example, General Amuli
9 was recognised as a general and he was then able to have command of the marine, the
10 navy, which enabled this individual to be recognised within his rank because the political
11 agreement that we had come to also provided for equilibrium within the ranks of the
12 army.

13 Q. Did the soldiers have berets?

14 A. Yes, I do believe that this was the case. What I do know, and what I'm certain of, is
15 that they had uniforms that were green in colour and that with the exception of the
16 officers they wore rubber boots. Well, the remainder of them wore a variety of attire.

17 Q. Do you know who supplied the uniforms to the MLC troops?

18 A. No, I do not know where they came from, but I do know that Mr Bemba did have
19 the means of buying uniforms and as for the weapons the soldiers accumulated whilst
20 there was this troop advancement, and whilst the government army fled and they left
21 their stocks behind them, there was enough supplies to be taken up by the governmental
22 troops. But I believe that the uniforms were bought by Mr Bemba because the soldiers
23 did indeed have uniforms. They were correctly attired.

24 Q. You said Mr Bemba did have the means of buying uniforms. How do you know
25 that he had these means?

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1 A. Well, no, Mr Bemba is a member of a family of businessmen who are the most
2 prosperous within the DRC. And what is more, when we decided to follow him in his
3 movement, we thought that this was not an ideal -- this was an ideal situation, because on
4 the material front he did not lack anything. He was born with a golden spoon in his
5 mouth and he did not have any financial problems. His father was at the head of an
6 economic empire, he was himself at the head of very prosperous companies, and this
7 meant that he opted for a rebellion which meant that we thought that he was attempting
8 to conquer power because he refused, as we all did, for another dictatorship to be set up
9 subsequently to the prior dictatorships and -- so he wasn't in the need financially. He
10 did not need to lead a rebellion in order to increase his financial gains; he hailed from a
11 family that was well-known and that was extremely well off. And buying military
12 uniforms at a low cost of a few dollars, well, you know, if a uniform costs \$5 and you need
13 to dress 10,000 men, well, this did not really pose a financial problem for him.

14 Q. Talking about Mr Bemba's financial situation, do you have any information
15 about -- any further information about his assets and properties?

16 A. No, I do not have any details of his assets. We know that the Bemba Group
17 represents wealth, a number of plantation, a number of shops. He owns an airline
18 company, ships, real estate and all sorts of other things. This is the Bemba Group, and
19 the MLC headquarters in Kinshasa is housed in a building belonging to the group. As
20 for his assets and what he has on his bank accounts, I don't know, but it is very plain for
21 all to see what people own and that such-and-such an individual owns this or that. So,
22 well, he is present in all the various sectors, whether it be aviation, agriculture, real estate,
23 commerce. So his family is extremely respectable in the world of business.

24 Q. Do you know if the MLC had any assets or properties at the relevant time?

25 A. To my knowledge, no. The MLC in Gbadolite was housed in public buildings, and

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1 at the time Gbadolite had a very considerable infrastructure. It was Maréchal Mobutu's
2 home village, and as everyone in Africa did in those times, well, he built a number of
3 villas in Gbadolite, high quality villas out in the middle of the jungle, and when the war
4 broke out all those villas were available and the MLC came to occupy them and they have
5 left those villas since.

6 Mr Bemba had an entire -- an entire fleet. He had two Russian aeroplanes, an Antonov
7 belonging to him, I believe one Antonov and maybe -- I don't know whether the larger
8 plane is an Antonov as well or not, but at a given moment in time he also rented a small
9 South African jet that was not at the disposal of the MLC. These were his personal assets,
10 personal property.

11 Q. Coming back to the MLC troops, did you see the uniforms of the MLC troops
12 yourself?

13 A. Yes, they were green in colour. For those in Gbadolite, anyway, these were
14 uniforms that were green in colour.

15 Q. Do you know if Mr Bemba's troops were equipped with weapons?

16 A. Yes, indeed. There was no problem in terms of weaponry. As I said, during the
17 military march Mr Bemba's troops accumulated victories before reaching Gbadolite and
18 throughout this march they picked up weapons that had been left behind, abandoned by
19 the Kinshasa troops, and upon arriving in Gbadolite, according to what we were clearly
20 told, there was an entire arsenal that had been abandoned by the governmental troops.
21 There was also a mistake where a Ukrainian pilot believed that he was supplying
22 government troops, and he fell into the hands of Mr Bemba's troops who then took all of
23 the weapons that he was bringing to the government troops. So, to my knowledge, there
24 was no problem in terms of weapons. They had enough.

25 Q. Sir, you stated that you were clearly told about this arsenal. Who exactly told you

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1 that, or how did you learn about it?

2 A. Well, this is what has been reported back during war time. Everyone was proud of
3 their exploits and they told us what happened. I do not believe that this was a secret.
4 When Mr Bemba arrived in Gbadolite, the governmental troops fled - they left - and you
5 could see that when they moved around there was equipment to protect, Gbadolite
6 airport for example, that was not by any means homemade.

7 Q. Did the MLC soldiers receive any payment for their service to the MLC?

8 A. During the period when we were in Gbadolite, they often complained of not
9 receiving any payment. They received rations, but on a very regular basis they would
10 ask one or other of us saying that they had problems in the family that they needed \$20 or
11 \$30 and we would give it to them, but I believe that throughout the various movements
12 there was no salary paid as such, whether it be the MLC, whether it be the RCD. The
13 soldiers would arrive in Kinshasa in order to be integrated into the army and then receive
14 some money.

15 What they had in the MLC was food. I don't believe they had a problem receiving that.
16 In Gbadolite there were no soldiers who said that they had empty bellies, but they did
17 complain about lacking money and then we -- they would receive the answer that they
18 were part of a revolution and that they would have to wait until they reached Kinshasa in
19 order to integrate the army and receive a salary. So to make matters clear, they received
20 nourishment but they did not receive any money.

21 Q. To whom did the soldiers complain of not receiving any payment?

22 A. Well, they complained to all of us, because when they came to ask us if we could
23 give them some money they'd say, "Well, you know, chief, I have family problems. You
24 know that we don't have any salary. Could you give us \$20 or \$30?", and of course we
25 would then give it to them, yes. However, Madam Prosecutor, you should be aware that

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1 when entering this military - the military - they realised that there was no salary. They
2 realised that when they were integrated in the national army in Kinshasa that was when
3 they would be paid. They were aware of that.

4 Q. Who provided the food to the soldiers?

5 A. I did not take part in the distribution of food, but I think on the military side of the
6 organisation there was a ration distribution service.

7 Q. Where did the money come from to purchase the food, if you know?

8 A. I do not know but, as I said, Mr Bemba had provided most of the financing for this
9 movement. As I said to you, he did not have any financial problems and he had a goal.
10 As to whether there were any other sources of finance, I do not know. The leaders or
11 senior officials of the party started to raise money for the party once they had acceded
12 power -- acceded to power in Kinshasa, and rules were established according to which
13 any individual occupying a position of responsibility had to pay from their salary back
14 into the party. So this was what happened within the country during the war.

15 THE INTERPRETER: Correction: "After the war."

16 MS KNEUER:

17 Q. What was the reason that the MLC troops in general didn't receive payment?

18 A. To my mind maybe it was deemed that they would receive their salary once they
19 entered Kinshasa and they were told that when they entered the military and they were
20 told that they would be nourished in the interim, but this also occurred in the other
21 movements.

22 So the attraction and the hope associated with arriving in Kinshasa that they would then
23 be part of an army that would give them a salary, that would give them accommodation
24 and treatment, well, this meant that they accepted to receive rations in the interim, but I
25 do not have any idea as to the financial means accessible to the movement. I only know

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- 1 that, in terms of buying fuel, et cetera, there were no problems. I think, however, that
2 this all came from Mr Bemba's personal money.
- 3 MS KNEUER: Madam President, I think it's time to break.
- 4 PRESIDING JUDGE STEINER: Mr Witness, we will suspend now for our lunch-break.
5 You have time not only to have lunch, but to take some rest. It's almost 1 o'clock. We
6 will resume at 2.30.
- 7 I will ask, please, court usher to accompany the witness outside the courtroom. We will
8 suspend and resume at 2.30.
- 9 (The witness stands down)
- 10 THE COURT OFFICER: All rise.
- 11 (Recess taken at 12.58 p.m.)
- 12 (Upon resuming in closed session at 2.37 p.m.) Reclassified into open session
- 13 THE COURT USHER: All rise. Please be seated.
- 14 PRESIDING JUDGE STEINER: Good afternoon and welcome back. We will
15 continue with the testimony of Witness 44, and I ask, please, court usher to bring the
16 witness in.
- 17 (The witness enters the courtroom)
- 18 PRESIDING JUDGE STEINER: Good afternoon, Mr Witness.
- 19 THE WITNESS: (Interpretation) Thank you, your Honour.
- 20 PRESIDING JUDGE STEINER: Are you ready to continue with your testimony?
- 21 THE WITNESS: (Interpretation) Yes, I'm ready.
- 22 PRESIDING JUDGE STEINER: Thank you. I'll give back the floor to the
23 Prosecution. I just remind you, Mr Witness, please, to speak slower than normal in
24 order to facilitate our interpreters' and court reporters' work.
- 25 Ms Kneuer, you have the floor.

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1 MS KNEUER:

2 Q. Good afternoon, sir. Sir, have you heard of the term "Article 15"?

3 A. "Article 15" is an expression that is used in Congo and which was invented by a
4 politician from Kasai several decades ago and which meant that people should help
5 themselves, they should get by, and this referred to people who were going to search
6 for diamonds in Kasai at that time and this means "Do anything you can in order to
7 survive, in order to make ends meet, in order to live," so that is what is known by the
8 expression "Article 15."

9 Q. In the context of a military operation, if a soldier is told to apply Article 15, can
10 you explain to us what that means?

11 A. Considering the meaning of Article 15 in Congo, that means you have the green
12 light to do anything you wish to do that would enable you to succeed, to win and
13 possibly to enrich yourself. That is the meaning that we would have for that
14 expression.

15 Q. Do you know if Article 15 was applied during the operations in the Central
16 African Republic between 2002 and 2003?

17 A. I did not hear anything about that. I've just listened to your question and I
18 never heard of that and I never said any such thing during my interview.

19 Q. Did Mr Bemba ever travel to the Central African Republic?

20 A. Yes, Mr Bemba travelled to the Central African Republic several times. Yes, he
21 was quite often in Bangui.

22 Q. Do you know if Mr Bemba travelled at the relevant period, meaning
23 October 2002 until March 2003, to the Central African Republic?

24 A. I did not receive any such information relating to the relevant period, but
25 regarding his travel to Bangui during another period when I was in Gbadolite, yes,

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1 I can confirm that, but during that period - that relevant period - I cannot confirm that
2 I ever heard any information that he was in the Central African Republic.

3 Q. How did Mr Bemba travel to the Central African Republic, if you know?

4 A. At the time when we were in Gbadolite, (Redacted), he
5 travelled to Bangui a few times by plane.

6 Q. Do you know which plane Mr Bemba used?

7 A. To begin with, regarding the period during which he travelled to Bangui, let me
8 point out that it was before his troops went there. He went there several times by
9 plane, and in Gbadolite there was a small Antonov and a large Antonov and for a
10 certain period of time he had chartered a South African single-engine plane, so the
11 means of transport was by plane.

12 Q. Can you describe the Antonov by colour?

13 A. White. It was white, I believe with a few blue stripes, but the two Antonovs I
14 believe were white in colour.

15 Q. From which airport did Mr Bemba depart to the Central African Republic?

16 A. Gbadolite has a large airstrip which at the time could actually be used by a
17 Concorde. It had been built in the past by President Mobutu so any plane could
18 actually land there, so the Gbadolite airport has one of the best airports. It's one of
19 the best airports in the area. There was another airstrip in Gemena which was under
20 the control of the MLC, so he could travel either from Gbadolite or from Gemena.

21 Q. To which airport in the Central African Republic did Mr Bemba travel?

22 A. Obviously, in Bangui. I do not know whether in the Central African Republic
23 there is even an airport other than in Bangui, but he went to Bangui to see Mr Patassé,
24 so that would have been where he landed.

25 Q. Do you know from where Mr Bemba got the fuel to operate his aircrafts?

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1 A. From Bangui in the Central African Republic and from Entebbe in Uganda.

2 There was a small office in Entebbe which was manned by Mr Jean Singo and it was
3 responsible for supplies. So there was Bangui and there was Entebbe, but I think
4 most of the supplies came from Entebbe. It was more difficult to get supplies from
5 Bangui.

6 Q. You just mentioned that Mr Bemba went to Bangui to see Mr Patassé. Did
7 Mr Bemba also meet with other individuals?

8 A. That I wouldn't know. I do not know whether he met with other people, or not.
9 All I know is that while we were in Gbadolite he travelled to Bangui on a few
10 occasions and he told us that he was going to see Mr Patassé. I do not know whether
11 he met with other Central African Republic personalities.

12 Q. Do you know if Mr Bemba was accompanied by members of the MLC, or other
13 individuals?

14 A. Mr Bemba never travelled without his bodyguards. It depended on the type of
15 mission and the person he was going to see, but what is clear is that each time he
16 travelled he travelled with his bodyguards and maybe one or the other of his
17 collaborators, but we never knew the day or time of his departure. We only knew
18 after he returned. I do not know whether this was for reasons of security, but we
19 learned about his trips only after his return.

20 Q. Can you describe the relationship between Mr Bemba and Mr Patassé?

21 A. I do not think I can describe the type of relationship. I know that Mr Patassé
22 would telephone from time to time and then Bemba would tell us, "That was
23 Mr Patassé." I know that Patassé referred to him as "my son," but that is really not
24 very significant. In African culture, older people have a tendency to call the younger
25 ones their sons and I can simply say that Patassé called him regularly.

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1 Q. Did Mr Patassé also travel to the DRC, to Gbadolite for example?

2 A. As far as I know, he never came to Gbadolite. Perhaps if he came to Gbadolite
3 it might have been before I joined the MLC, but during the entire period after my
4 arrival in the MLC and the time we went to Kinshasa Mr Patassé never came to
5 Gbadolite. I can say that with certainty.

6 Q. What was the nature of the relationship between Mr Bemba and Mr Patassé in
7 terms of what brought them together?

8 A. Madam Prosecutor, I have already told you that I did not know the nature of the
9 relationship between Mr Patassé and Mr Bemba. However, when you look at the
10 context that was prevailing at the time in the Central African Republic, you should
11 take into account the fact that Mr Patassé as president was not very stable.

12 I believe that Mr Patassé considered Mr Bemba as someone who would help to
13 establish him in his position more solidly, so Mr Patassé knew that he could be
14 overthrown and, based on the information that we had, I believe that he did not have
15 any reasonable military force that would be able to withstand the forces of Bozizé, or
16 anyone else who wanted to overthrow him. So I believe that in his relationship with
17 Bemba he probably felt that that was a possibility of safeguarding his presidency.

18 Q. You told us that Mr Bemba and Mr Patassé had telephone contacts. Are you
19 aware of the content of these telephone conversations?

20 A. No. Mr Bemba is someone who is very secretive. It is clear that he does not
21 disclose any conversations that he has with other people. He also has a character
22 trait that makes him to always want to demonstrate that he is in contact with
23 powerful people, so he can tell you that "Such-and-such a person has just called me
24 on the phone," but he would very rarely disclose the substance of the conversation to
25 you.

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1 I know, for example, that when we were with him Patassé would call, but for
2 someone like him, who is quite secretive, he will tell you that this person has called
3 but without disclosing to you the content of the conversation.

4 Q. Sir, you stated that Mr Patassé knew that he could be overthrown. Are you
5 referring to a specific incidence?

6 A. No. I believe that there was a first attempted coup against Mr Patassé (Redacted)
7 (Redacted), I no longer remember precisely when, and even at that time
8 Mr Patassé had asked Mr Bemba whether he could come to his assistance. I don't
9 have the details of that operation, but it did not lead to criticisms or a reaction at the
10 international level.

11 Regarding the resources at the disposal of Mr Patassé, I can say that he did not really
12 have an army as such. He had a few small teams in his entourage and I believe
13 sincerely that he thought Mr Bemba was in a position to save his regime. That is
14 how come he embarked in that adventure and it is for that reason that I said it is a
15 pity that Mr Patassé did not appear here, and I also think that Mr Bemba's ego was
16 flattered because he has an ego and I think he was proud that a Head of State was
17 appealing to him to assist him save his regime.

18 Q. Why did Mr Bemba send his MLC troops to the Central African Republic in
19 October 2002?

20 A. Madam Prosecutor, I think only Mr Bemba can answer that question. What I
21 said is that because I know him I think that his ego, he felt somewhat flattered
22 because he has an ego and he must have felt flattered that a Head of State was calling
23 upon him for help and that sort of put him and the Head of State at more or less the
24 same level. However, unfortunately, because of his ego he made the fatal mistake
25 that he made and that is what I can say. He is the only one in a good position to give

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1 you the answer as to why he sent his troops to the Central African Republic. I am
2 not.

3 Q. You stated that Mr Patassé was calling upon Mr Bemba for help. Can you
4 explain why Mr Patassé needed help?

5 A. Madam Prosecutor, I have already said so. Mr Patassé was under attack.
6 There was a rebel movement attacking him in his country and that movement was led
7 by the current Head of State, Mr Bozizé. By the way, Mr Patassé had a very good
8 relationship with Mr Bemba and he did not have an army. By the way, clearly he
9 was not in a position to call on his peers to come to his aid; that is the Heads of State
10 of neighbouring countries. I don't know why, but I know that he called on
11 Mr Bemba, who answered, and what I know is that without Mr Bemba's troops,
12 without their intervention, Mr Patassé would have been very quickly toppled because
13 they had a rebel movement which had intended to topple him from power, but he
14 only stayed on a little longer thanks to the intervention of Mr Bemba's troops.

15 Q. What was Mr Bemba's interest to help Mr Patassé? What did Mr Bemba gain
16 from supporting Mr Patassé?

17 A. Quite objectively, being based in Gbadolite Bangui was the closest airport to
18 Gbadolite so it was possible that there was an interest in having Bangui as an airport
19 for supplies for the MLC and that is why Mr Patassé may have felt that he could offer
20 logistical services to Mr Bemba and that in return would be able to ask for services
21 from him. That is my interpretation, because you may want to know that MLC
22 planes flew on several counts -- several times to Bangui for supplies, and I think that
23 this is a plausible justification. Otherwise, we do not see what Mr Bemba's interest
24 in this could be. However, this can -- this must also be seen in addition to the fact
25 that an elected Head of State was calling on him for assistance and that such a call

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1 was a kind of recognition by the Head of State, so to speak. That is a possible
2 interpretation as well.

3 Q. Do you know when the relationship between Mr Bemba and Mr Patassé started
4 and ended?

5 A. I do not know when their relationship started, Madam Prosecutor. I do not
6 know. However, I know that Mr Patassé used to call Mr Bemba "my son," but as I
7 said in the African context when you call someone your son that doesn't necessarily
8 mean that they are your son. All old people call young men their sons and all young
9 persons refer to elderly people as their fathers, so that is not a special
10 significance -- that is not of a special significance as such. However, I think this
11 relationship may have come to an end when Mr Patassé was overthrown and
12 Mr Bemba went back to Kinshasa within the framework of the agreement that was
13 negotiated and signed in South Africa, so I don't know whether thereafter they
14 continued to maintain a relationship and I do not see for what reason they would
15 have continued to maintain the relationship, Mr Patassé having been overthrown and
16 Mr Bemba no longer being in a position to support him because he no longer had an
17 army which was stationed opposite Bangui. He had moved to Kinshasa. So I think
18 that their relationship came to an end when Mr Bemba went to Kinshasa and
19 Mr Patassé himself was overthrown.

20 Q. Do you have any further information about the visits of Mr Bemba to the
21 Central African Republic, for example which specific locations he visited, how he
22 travelled within the Central African Republic, et cetera?

23 A. No, Madam Prosecutor. No.

24 Q. Do you know if any other member of the MLC leadership visited the Central
25 African Republic during the conflict?

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1 A. From reliable sources I do know that Mr Simene, who was in charge of finances
2 in the MLC executive, had travelled to Bangui during the events. I am aware of that
3 and the information was confirmed.

4 Q. Do you know how often Mr Simene travelled to Bangui?

5 A. No, all I know is that he went to Bangui while (Redacted) were in South Africa.

6 (Redacted) confirmed (Redacted) that Mr Simene had told him that he had been to Bangui.

7 So I don't know how many times he went to Bangui during the events, but I know
8 that he did go to Bangui during the events when the troops were still there.

9 Q. Do you know with which business Mr Simene was occupied when being in
10 Bangui?

11 A. I do not know whether he was involved in any particular activities while in
12 Bangui, but as a member of the executive of the MLC he was in charge of financial
13 matters.

14 Q. To whom did Mr Simene report about financial matters?

15 A. In financial matters obviously he reported only to Mr Bemba, but he had a
16 supervisor whose name was Mr François Mwamba. I don't know whether he
17 reported to Mr François Mwamba as well, but I think that in financial matters he did
18 report directly to Mr Bemba.

19 Q. Is Mr Simene still with the MLC?

20 A. No, he left the MLC and joined the PPRD, President Kabila's party.

21 Q. Why did Mr Simene leave the MLC?

22 A. I don't know the exact reasons for which he left, but I know about what
23 transpired between Mr Bemba and Mr Kamitatu, (Redacted)

24 (Redacted), but I do not know clearly what happened between Mr Simene

25 and Mr Senga who were among the founding fathers, but who all left the MLC and

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1 joined the PPRD, the party to which they now belong and where they serve as senior
2 officials.

3 Q. Did Mr Bemba receive any payments by Mr Patassé for the involvement of the
4 MLC troops in the Central African Republic, if you know?

5 A. No, I have no idea on that. Nothing.

6 Q. Sir, you already stated that Mr Patassé didn't travel to Gbadolite. Do you
7 know if any other member of the CAR government travelled to Gbadolite, or DRC, at
8 the relevant time?

9 A. Before (Redacted) left for the negotiations, and also when (Redacted) returned to Gbadolite
10 during the recesses in (Redacted) negotiations, there was a building opposite the one in
11 which (Redacted) used to live and it was occupied by two Central African officials. I don't
12 know what their ranks were, but it would appear that they were people of a certain
13 rank, but off-the-cuff I could say that I think that they may have had trouble with the
14 authorities in power in the Central African Republic and I think they were expecting
15 to have some kind of mediation in their matter. All I'm saying is that there were
16 some Central African officials who lived in Gbadolite at the time over a period of
17 several weeks.

18 Q. Do you know the names of the two Central African officials?

19 A. No, no. I believe that they were also instructed to lie low, so to speak. They
20 never went out. They hardly ever went out.

21 Q. Was Mr Bemba in contact with his troops in the Central African Republic
22 during the relevant period in 2002/2003?

23 A. The way in which he led the party and the army lead me to believe that he was
24 in contact, because the contrary would have been totally impossible. I have already
25 explained to you how he monitored the political negotiations in South Africa and

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1 how he monitored the troops in the Central African Republic as well, which I believe
2 was probably a greater concern to him than the political negotiations. So he led the
3 army in such a way that it would not be imaginable that he was not in contact with
4 those on the ground.

5 Q. By which means would he have contacted his troops in the field?

6 A. Mr Bemba is someone who was very fond of communications gadgets. He had
7 significant resources in the area of communication. The satellite briefcase, several of
8 them, and his men at the battle-front had those satellite communications devices as
9 well. He had the Thuraya telephone which enabled him to communicate with
10 people in all locations, so he is someone who was very, very interested in those
11 communication gadgets and he had the resources; the necessary communication
12 resources.

13 Q. Did you personally see Mr Bemba using these devices, this electronic
14 equipment?

15 A. Yes. Yes, I did. Wherever he was, the communication devices were there
16 with him clearly.

17 JUDGE ALUOCH: Ms Kneuer, I would like to seek a clarification from the witness.
18 This appears on page -- the real-time transcript, English transcript, at page 64. I'm
19 just looking for the right line. It's line 6, I think. It's page 64, line 6. The witness's
20 answer is, "So he led army in such a way that it would not be imaginable that he was
21 not in contact with those on the ground." Please, Mr Witness, would you clarify
22 what that statement means for my better -- for the better understanding of the
23 Chamber, please? Thank you.

24 THE WITNESS: (Interpretation) Madam President, Mr Bemba was the
25 commander-in-chief of his army. The way in which he led his troops, the army, and

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1 the way in which he conducted politics was such that he monitored everything. He
2 knew everything that was going on. I want to remind you that when (Redacted) were
3 involved in political negotiations, he used to call (Redacted) several times each day to find
4 out what was going on, so my conviction is that he could not have been disconnected
5 from his troops on the ground. He must have known what was happening with the
6 troops, so I am convinced that the commanders who were leading the operations
7 informed him of what was happening, but I do not think that the commanders told
8 him that they were engaging in rape, in looting and ransacking and what have you.
9 I don't think they said that, but I think that the commanders informed him that, "We
10 have captured such-and-such a neighbourhood. There have been such-and-such
11 losses on our side and on the other side" and so on and so forth. So I think that he
12 was aware of all those things in real-time regarding the advancing or progress made
13 by his troops in Bangui and elsewhere. That is part of him. It is part of his being as
14 a military commander.

15 I am also convinced that he had direct contact with the officers at the battle-front. I
16 say so because the same technique he used to question politicians about who was
17 involved in what type of negotiation is, to my mind, the same technique that he used
18 on the soldiers. For example, he would ask General Amuli what was going on and
19 simultaneously also question the commanders at the front to find out how things are
20 developing or unfolding at the battle-front. But, as I said during the interview, I do
21 not believe that he is a sadist and I don't think that it would have pleased him to hear
22 that women had been raped and that a number of places had been torched. I am
23 convinced that he knew how far the troops were progressing. If they had moved 30
24 kilometres into the country, he was aware of it. If they had run into any kind of
25 problem, he must have been aware of it, but I do not think that they reported to him

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1 about killings, about rapes and about theft. I don't think so.

2 JUDGE ALUOCH: Thank you very much.

3 MS KNEUER:

4 Q. Sir, when you say that Mr Bemba was in direct contact with officers at the
5 battle-front, or commanders, do you have any idea who specifically this has been?
6 Do you know a name?

7 A. The operation in the Central African Republic was led by General Mustapha,
8 who today is part of the regular army. I am fully convinced that Mr Bemba was in
9 direct and permanent contact with Mr Mustapha in the Central African Republic,
10 either by satellite telephone or by Thuraya, and I am convinced that he put questions
11 to Amuli all the time about what was happening. Now, I think that knowing the
12 way he used to work, whatever information he got from General Amuli he would
13 cross-check with the commander at the battle-front. The contrary would have been
14 unimaginable. So what I have said is that the soldiers on the field do not necessarily
15 behave in a way that upholds or respects all the rules, and that is why they would not
16 tell him that, "We raped a number of women" and that "We burnt down a number of
17 houses." I don't think they would have made such a report to him, but they would
18 report to him that they have captured such-and-such a location, that they are 20
19 kilometres away from Bangui and so on and so forth. That is the kind of report they
20 would make to him.

21 Q. Sir, you explained to us that Mr Bemba was the commander-in-chief and that
22 General Amuli was the chief of the military staff. Can you tell us how the chain of
23 command between Mr Bemba and General Amuli worked?

24 A. General Amuli was answerable directly to Mr Bemba clearly, but you see,
25 Mr Bemba had his own way of working and he therefore, that is General Amuli, was

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1 not the only channel by which Mr Bemba went to contact such-and-such a
2 commander. Yes, Mr Amuli was the Chief of General Staff, but it did happen often
3 that Mr Bemba would deal directly with other officers and then from information
4 gathered from those officers he would put questions to General Amuli. So the
5 normal chain of order would be from the commander-in-chief, General Amuli and
6 then down to the other commanders, but that is not the way in which he operated,
7 because the organisation chart simply was a matter of theory in this case because
8 Mr Bemba sought at all times to find out how things were developing on the ground.
9 I am convinced that General Mustapha made more reports to Mr Bemba than General
10 Amuli during the Bangui operations.

11 Q. How do you know that Mr Bemba bypassed General Amuli and contacted
12 Mr Mustapha in the field?

13 A. First by the way he ran things. I don't know whether Mr Mustapha is one of
14 your witnesses, I don't know your witnesses, but if he were to be one of your
15 witnesses I am sure he will tell you that in a situation like that one Mr Bemba was
16 more inclined to deal directly with those on the ground and then cross-check later on.
17 That is how he functions, or he operates.

18 Q. With respect to information on a military level, do you know if written reports
19 were generated regarding the 2002/2003 operation in the Central African Republic?

20 A. Madam Prosecutor, I never saw a single written document, but if such a
21 document did exist, from my position I could not have had access to it.

22 (Pause in proceedings)

23 MS KNEUER: Sorry, Madam President.

24 Q. Sir, earlier this morning you stated that you learned about the crimes committed
25 in the Central African Republic through the media. You referred to the RFI, BBC

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1 and Voice of America, and I'm referring to the English transcript, page 37, lines 23

2 onwards, real-time transcript. I have a few questions on this topic, sir. Was it easy

3 to access the media at the relevant time?

4 A. Yes, absolutely. Not in FM, but by shortwave. We listened specifically to RFI,

5 the BBC and the Voice of America. The country was divided, and if you wanted to

6 know what was happening in the west or in the east it was over the RFI that we knew

7 what was happening in Kinshasa. It was over the BBC that we would know what

8 was happening in Goma, for example, and the RFI reported quite a great deal on

9 what was happening in the Central African Republic. I listened to RFI a lot even

10 though the BBC and the Voice of America also broadcast sometimes in French, but I

11 mostly listened to RFI. So there was widespread media coverage.

12 Q. Roughly how often were the emissions on RFI, BBC, or Voice of America?

13 Daily? Weekly?

14 A. The radion station RFI on a daily basis has six news broadcasts directed at

15 Africa; 4.30, 6.30, 9.30 a.m., 1.30 p.m. I believe there are at least six newscasts

16 devoted to events in Africa. At the time with the Voice of America there were at

17 least two broadcasts per day and BBC also had at least two broadcasts per day, but

18 with the RFI they had several broadcasts and I believe it is still the same today.

19 Q. When you travelled back to Gbadolite (Redacted), were you

20 also able to listen to RFI, BBC and Voice of America in Gbadolite?

21 A. Yes, absolutely. On shortwave radio it was possible to monitor all those

22 broadcasts.

23 Q. Do you recall what was reported about the crimes committed in the Central

24 African Republic in RFI, BBC, or Voice of America?

25 A. In a nutshell, practically all those broadcasts denounced the abuses committed

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1 by what the population there referred to as "the Banyamulengues;" that is the troops
2 under the command of General Mustapha. They talked about rapes, theft and the
3 destruction, and this was discussed at length over those radio stations.

4 Q. Do you know if Mr Bemba listened to the radio, or read media, at the relevant
5 time?

6 A. I believe the answer is, yes. I am certain about that, because in a place such as
7 Gbadolite one does not have access to other sources of information. There is no
8 television. There are no other means of communication than the radio, so I believe
9 that just like all the rest of us he must have been listening to the radio with the
10 advantage that he could listen to broadcasts in English because he has a perfect
11 mastery of English.

12 Q. To your knowledge, Mr Witness, was Mr Bemba aware of the crimes committed
13 by his troops in the Central African Republic at the relevant time?

14 A. Madam Prosecutor, let me say that it was impossible for Mr Bemba not to listen
15 to the radio. It is certain that he listened to the radio. I have also told you that I am
16 convinced that he was in contact with the officer who was in command of the
17 operation. I have added also that I am sure that the officer did not tell him that they
18 were committing crimes, that they were looting, killing people and raping. I believe
19 he would say that, "We have captured such-and-such a place. We are facing
20 resistance," and so on and so forth. Maybe he did not take the information broadcast
21 over the radio stations very seriously. That is the information coming from RFI, BBC
22 and the Voice of America. I told you this when you interviewed me several months
23 ago and I told you that I do not believe that he was being told that, "Look, we have
24 just murdered so many people. We have just raped so many women." I do not
25 believe that he is that cynical, that he is that sadistic as to take any pleasure from

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1 learning about such information. But I believe that he was in contact with the front.

2 On an hourly basis he would have known what progress was made.

3 Now, did he think that the radio stations were exaggerating? Maybe, but I believe

4 the most serious message was sent (Redacted) conveyed the message that I

5 have already talked about.

6 Q. Coming back to (Redacted), this morning - and I'm referring to transcript

7 204, real-time, page 38, lines 6 onwards - you told us that (Redacted)

8 (Redacted)

9 (Redacted) Do you recall when this telephone call occurred?

10 I don't mean the exact date, but the time-frame, the year, the month?

11 A. (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. You just stated that (Redacted) practically issued an instruction. Can you explain why

15 it is that (Redacted) is in a position to give instructions to Mr Bemba?

16 A. Madam Prosecutor, first of all at that time when (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 Q. This morning you also stated that (Redacted) indeed conveyed the message to
2 Mr Bemba, and I'm referring to page 38, lines 17 to 19. Did (Redacted)
3 (Redacted)

4 (Redacted) that he conducted with Mr Bemba?

5 A. (Redacted), that he had conveyed that
6 message to Mr Bemba word for word, that is the message sent by (Redacted), but
7 (Redacted) that they had had a discussion of the matter. So probably Mr Bemba
8 did not react immediately, but (Redacted) that he had transmitted the message.

9 Q. Sir, one last question on this topic of (Redacted) You stated that (Redacted)
10 (Redacted), and I'm referring to page 38, lines 8 and 10.

11 Why was it so urgent that the troops withdraw immediately? Do you know the
12 reason?

13 A. No, I do not know the reason, but I suppose that the international community
14 was expressing increasingly serious criticisms of that situation and therefore it was
15 necessary to intervene. I do not think that it was her own initiative; I believe that it
16 must have been (Redacted) superiors who would have found out from (Redacted) whether
17 (Redacted) could reach anyone close to Mr Bemba.

18 What I'm sure about is that Mr Kamitatu, who is a methodical and very organised
19 person, did not add or subtract anything from the message. Maybe he could have
20 presented the message in a softer manner, because it is not in his nature to be brutal,
21 but I believe that he transmitted the message from (Redacted). I do not know
22 whether he is one of your witnesses, or not.

23 Q. What happened after (Redacted) message to
24 Mr Bemba? Did the troops actually leave the Central African Republic?

25 A. (Redacted). I do not know

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1 whether the withdrawal was immediate, or whether it was delayed, but I believe this
2 message was crucial in the decision that Mr Bemba had to take.

3 Q. Do you know when the MLC troops left the Central African Republic?

4 A. No, not precisely, Madam Prosecutor.

5 Q. After the MLC troops withdraw from the Central African Republic, where did
6 they go?

7 A. Obviously, they went back to their bases. Those who had been in Gbadolite
8 would have returned to Gbadolite and those who were in Zongo would have come
9 back to Zongo from where they left before going to the Central African Republic.

10 PRESIDING JUDGE STEINER: Ms Kneuer, I'm sorry to interrupt, but I would like to
11 enjoy the opportunity from one of the last answers of Mr Witness to ask for some
12 more precise information, because here on page 74, lines 20/21, of your answer you
13 said, (Redacted). I do not know

14 whether the withdraw was immediate, or whether it was delayed," et cetera, et cetera.

15 Turning back, Mr Witness, to page 36, lines 23 to 25, you mentioned that "When there
16 were breaks in the negotiations and there were actually many breaks (Redacted) returned to
17 Gbadolite. (Redacted) saw him, Mr Bemba. There was a break in Gaborone, in Lusaka,
18 practically everywhere, and then (Redacted) would return and see him." "(Redacted)" I
19 suppose is the (Redacted)

20 In page 38, lines 20 to 25, you say that during the period of the operations in the
21 Central African Republic, and here I quote, "(Redacted) were not physically close to
22 him, Mr Bemba, and were not really informed on what was going on."

23 So these two statements you made, combined with this last one on page 74, lines 20 to
24 21, mean that during the period between October 2002 and March 2003 the group of
25 negotiators never returned to Gbadolite? (Redacted) stayed for six months in South Africa

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1 without any breaks, is that correct, or is there any problem in the translation that is
2 misleading me in my interpretation?

3 THE WITNESS: (Interpretation) Your Honour, it is not possible for (Redacted) to
4 have stayed for six months straight in South Africa. The breaks that we are talking about
5 referred to all the other processes that had been initiated to reach an agreement. The
6 only process that was successful was the one in South Africa, but this required a lot of
7 time. When I mentioned Addis Ababa, (Redacted) had had a first meeting there but it was a
8 failure. When (Redacted) went to Gaborone it was the same thing, and Lusaka was the same
9 thing.

10 Now, when the negotiations started in South Africa, with the weight of President
11 Thabo Mbeki at the time who was determined for (Redacted) to find an agreement, (Redacted)
12 were more permanent there, but now regarding whether (Redacted) spent six consecutive
13 months there without returning to Gbadolite I cannot say. But when the time came,
14 that is for the highlights of the operation in the CAR, that is when the troops were
15 deployed and when (Redacted) were -- when they were withdrawn, it is clear that
16 (Redacted) were in South Africa.

17 Q. Mr Witness, who took the decision to withdraw the MLC troops from the
18 Central African Republic?

19 A. Madam Prosecutor, given the way that the MLC was functioning, the decision
20 to deploy troops to the Central African Republic could have been taken only by
21 Mr Bemba and a decision to withdraw the troops from the Central African Republic
22 also could only be taken by Mr Bemba. That is a certainty.

23 Q. Do you know if Mr Bemba publicly announced the withdrawal of his MLC
24 troops from the Central African Republic?

25 A. Madam Prosecutor, I do not remember any such declaration.

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1 Q. Sir, are you aware of any measures taken to deter or to punish the MLC soldiers
2 for the crimes they committed against the civilians in the Central African Republic
3 during the relevant period?

4 A. No. I know that during our -- during a different event, that is what happens in
5 Mambasa, Mr Bemba had decided to create a court-martial to deal with what had
6 happened in Mambasa, and at that time lawyers were called from Lawyers Without
7 Borders in Kinshasa to come and take part in the trial, but the government in
8 Kinshasa was opposed to that. Now, with regard to the Central African Republic, as
9 far as I know no such thing happened.

10 MS KNEUER: May I have a moment, Madam President?

11 PRESIDING JUDGE STEINER: Mr Haynes.

12 MR HAYNES: Your Honour, I promised myself that I would rise to let all the parties
13 know, the Chamber in particular and the witness, half-an-hour before the scheduled
14 close, that the Defence doesn't presently propose to bring this witness back on
15 Monday so that others can organise their affairs accordingly.

16 PRESIDING JUDGE STEINER: You mean the Defence is not going to question the
17 witness?

18 MR HAYNES: Yes.

19 (Pause in proceedings)

20 MS KNEUER:

21 Q. Sir, you stated that the government in Kinshasa was opposed to that and there
22 was a quotation from page 77, line 18 to 19. Why was that?

23 A. I believe that the government in Kinshasa felt that it was a bluff, a masquerade
24 and there was no genuine intention to punish people for what had happened in the
25 Central African Republic and the government felt that agreeing with those lawyers to

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1 go to Gbadolite would have been condoning a masquerade and so they stopped the
2 lawyers from going. You see, there may have been a mistake in my statement where
3 it was stated that Gbadolite stopped the lawyers from showing up. It is the contrary.
4 It is Kinshasa which stopped the lawyers from going to Gbadolite.

5 PRESIDING JUDGE STEINER: Ms Kneuer, I am sorry to interrupt again. There
6 has been any problems with the microphones of the witness? His voice has been cut
7 many times. Could, please, court usher verify that.

8 MS KNEUER: Madam President, your Honours, just also for the convenience of the
9 parties and participants, I am confident that I can finish by 4.30 today.

10 PRESIDING JUDGE STEINER: Ms Kneuer, sorry, we granted legal representatives
11 as well the right to put questions, so even if you go until 4.30 the witness will be here
12 on Monday for the questioning of legal representatives and maybe for Chamber
13 questions as well. You can proceed.

14 MS KNEUER: I understand that, Madam President.

15 Q. Sir, can you tell us more about the court-martial that was initiated?

16 A. The court-martial was set up in Gbadolite essentially to try soldiers who were
17 involved in what happened in Mambasa, in Mambasa. Mr Bemba at the time agreed
18 that lawyers from Kinshasa could attend and Lawyers Without Borders from
19 Kinshasa agreed to come. So a number of soldiers were convicted during those
20 proceedings, but I do not recall the nature - the exact nature - of the sentences that
21 were meted out, and that at the time was some kind of gesture to show that there was
22 no impunity and also in relation to what had happened in the Central African
23 Republic.

24 Q. Can you tell the Court what happened in Mambasa?

25 A. The things that happened in Mambasa were in relation to what happened early

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1 on in the MLC operations when some troops were dispatched on a somewhat
2 punitive operation under General Ndima, and what happened is that the national and
3 international community felt that the operation was designed to massacre pygmies, so
4 there was a lot of information that was disseminated, but I must say that some of the
5 pictures were disseminated at the time as being proof of the massacres were in fact
6 not correct because they depicted incidents of things that had happened in Uganda
7 with their own rebel activities there. But these things happened before (Redacted)
8 (Redacted), and at that time Mr Bemba felt that it was necessary to proceed by court-martial,
9 a number of soldiers were tried, some were convicted and I don't know what
10 happened subsequently, but I think -- I think there is a problem with my microphone,
11 not with the headpieces. There must be a problem with my microphone.

12 PRESIDING JUDGE STEINER: If it is not affecting the interpretation? Is it
13 affecting? No.

14 We can continue.

15 MS KNEUER:

16 Q. You stated, sir, that some soldiers were convicted. For what exactly were they
17 convicted?

18 A. Failure to obey orders, destruction, killing and I think those are the offences, but
19 this is in relation to what happened in Mambasa and I believe that a copy of the
20 decision of the court-martial, or the judgment of the court-martial, must be available
21 somewhere. I did not attend the proceedings, I did not follow up that issue, but
22 I know that there was a court-martial and that people were convicted.

23 Q. Do you know which sentences were retained against the soldiers?

24 PRESIDING JUDGE STEINER: Yes, Mr Haynes.

25 MR HAYNES: What is the relevance to these proceedings of what sentences were

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1 recorded against soldiers convicted of offences in a different country at a different
2 time? We are here to deal with charges against my client relating to events in the
3 Central African Republic. This is so far removed from that, it's utterly irrelevant.

4 PRESIDING JUDGE STEINER: Ms Kneuer.

5 MS KNEUER: Madam President, initially the Prosecution had used prior behaviour
6 and conduct of the MLC troops both in the CAR and in Mambasa as an indicia for
7 knowledge and intent of Mr Bemba. The Pre-Trial Chamber has not granted this
8 aspect. However, the Pre-Trial Chamber did not limit the Prosecution to use these
9 facts in a different way, and I suggest to this Bench that the information is relevant in
10 the context of the failure to prevent and to punish. There are other aspects to the
11 facts of the case, the charged crimes, from which inferences can be drawn, so this is
12 directly relevant to this case against Mr Jean-Pierre Bemba.

13 (Trial Chamber confers)

14 PRESIDING JUDGE STEINER: Ms Kneuer, for the purpose of gathering elements
15 related to the responsibility - the criminal responsibility - under Article 28, related to
16 failure of punish, we are going to allow the questioning in relation to the facts
17 occurred in Mambasa. You can proceed.

18 MS KNEUER: Thank you, Madam President.

19 Q. Mr Witness, do you want me to repeat the question, or do you still remember it?

20 A. I think I answered the question already, namely, that some people were
21 convicted for failure to obey, and so, Madam Prosecutor, I think I answered by saying
22 that some people were convicted or sentenced for failure to obey, some for
23 destruction, some for killings and I went on to say that it is possible to obtain a copy
24 of the judgment and I then went on to say that I don't know what became of those
25 people who were convicted.

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1 Q. Are you aware which sentences were retained against the soldiers?

2 A. Madam Prosecutor, I do not have the details and I have already told you that I
3 did not attend the court-martial, but I know that the court-martial did in fact hold.

4 Q. Who set up the court-martial in Gbadolite?

5 A. Mr Bemba.

6 Q. Do you know when it was set up, or created?

7 A. It was before the Bangui operation and I'm certain about that. That was before
8 (Redacted) the negotiations in South Africa.

9 Q. And when did the operation in Mambasa take place?

10 A. The Mambasa operation I believe took place quite early on, that is during the
11 first months of the founding of the MLC. This was a split within the MLC and one of
12 the RCD leaders went on to create a faction of the LCD so -- which then dislodged
13 Mr Bemba's troops which were in Mambasa and the Mambasa operation was
14 therefore conducted as a reprisal for that action. So the operations took place before
15 (Redacted) and it was in connection to those facts that the court-martial was set
16 up.

17 THE INTERPRETER: Correction from the interpreters: The split was within the
18 RCD, not the MLC.

19 MS KNEUER:

20 Q. (Redacted)

21 A. (Redacted)

22 (Redacted) The constitution that was drafted relating to our
23 institutions after 2006, that draft constitution had provided that anyone who would
24 be admitted to the -- to be president, or who would be elected president of the
25 republic, will be a live senator. The draft project, or the draft constitution, also

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1 provided that the four vice-presidents will be live senators. This proposal was not
2 passed and only the president of the republic benefited from that provision.
3 So having not passed parliament, the draft came back to the ministerial council and so
4 at that time Mr Bemba suggested that an ordinary law should be passed whereby the
5 vice-presidents can become live senators. (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 When the elections were scheduled, then it was time (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 MS KNEUER: Madam President, your Honours, I will need perhaps 15 more
15 minutes, and I know that we have a two-hour tape so I propose that we continue on
16 Monday morning.

17 PRESIDING JUDGE STEINER: Thank you, Ms Kneuer. Even because in the
18 meantime I think all staff members of the Court were informed that they could leave
19 the Court earlier because of the weather conditions, so I do apologise to the
20 interpreters could not benefit from this decision.

21 And I have also -- I need also to communicate to parties and participants that there is
22 a problem with the numbering of the transcript. Today's transcript is 205 and not
23 204 as it appears on our screens. It will be rectified. 204 refers to the hearing
24 related to the previous witness.

25 As well, and I'm not sure whether the parties and participants and the Registry were

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1 notified of the sitting hours for next week in relation to the questioning of Witness 44,
2 the Chamber decided that it will be sitting on Monday from 9.30 to 6 p.m. and on
3 Tuesday from 9 in the morning to 5.30 p.m. in case of course Defence intends to or
4 changes its mind and decides to question the witness.

5 So these are thanks to our interpreters and court reporters that provided us with this
6 possibility of having six hours' of hearing on Monday and six hours' hearing on
7 Tuesday in order for parties and participants to be able to proceed with their
8 questioning.

9 Mr Witness, thank you very much. We are going to adjourn for today. We wish
10 you have a very restful weekend. We will resume on Monday morning at 9.30.

11 I thank very much the Prosecution team, Maître Zarambaud, the Defence team,
12 Mr Jean-Pierre Bemba Gombo. I thank very much again our interpreters and court
13 reporters. We are going -- I am going to ask, please, court usher to accompany the
14 witness outside the courtroom and, in the meantime, we will suspend, adjourn and
15 resume on Monday morning.

16 (The witness stands down)

17 THE COURT OFFICER: All rise.

18 (The hearing ends in closed session at 4.23 p.m.) Reclassified into open session

19 RECLASSIFICATION REPORT

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

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