

Trial Hearing
Witness: CAR-D04-PPPP-0045

(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, 22 March 2013
- 8 (The hearing starts in open session at 10.04 a.m.)
- 9 THE COURT USHER: All rise.
- 10 The International Criminal Court is now in session.
- 11 Please be seated.
- 12 PRESIDING JUDGE STEINER: Good morning. Could, please, court officer call the
- 13 case.
- 14 THE COURT OFFICER: Thank you, Madam President. Situation in the Central
- 15 African Republic, in the case of The Prosecutor versus Jean-Pierre Bemba Gombo,
- 16 ICC-01/05-01/08.
- 17 PRESIDING JUDGE STEINER: Thank you. Good morning. I welcome the
- 18 Prosecution team, the legal representatives of victims, Defence team, Mr Jean-Pierre
- 19 Bemba Gombo. Good morning to our interpreters, our court reporters. Good
- 20 morning, Mr Rojas.
- 21 THE COURT OFFICER (Redacted): (Interpretation) Good morning, your Honour.
- 22 WITNESS: CAR-D04-PPPP-0045 (On former oath)
- 23 (The witness speaks Lingala)
- 24 The witness gives evidence via video link)
- 25 PRESIDING JUDGE STEINER: Good morning, Mr Witness.

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

2 PRESIDING JUDGE STEINER: We hope you are feeling well this morning and
3 ready to continue with your testimony, sir?

4 THE WITNESS: (Interpretation) Yes, your Honour, I am feeling very well.

5 PRESIDING JUDGE STEINER: Mr Witness, I need to remind you once again that
6 you are still under oath. Do you understand that, sir?

7 THE WITNESS: (Interpretation) Yes, your Honour, I do understand.

8 PRESIDING JUDGE STEINER: I will then give back the floor to Maître Douzima
9 Lawson, legal representative of victims, who will continue questioning you.
10 Maître Douzima, you have the floor.

11 MS DOUZIMA LAWSON: (Interpretation) Thank you, Madam President.

12 QUESTIONED BY MS DOUZIMA LAWSON: (Interpretation) (Continuing)

13 Q. (No interpretation)

14 THE INTERPRETER: "Good morning, Counsel," says the witness. The interpreter
15 apologises.

16 MS DOUZIMA LAWSON: (Interpretation)

17 Q. Witness, you very often referred to someone called Colonel Thierry. At the
18 hearing of 19 March 2013 you declared that Colonel Thierry was the person who was
19 at the headquarters and he was the one to meet with you first. He was the person in
20 charge of the operations at headquarters. Mr Witness, are you talking about Colonel
21 Thierry Lengbe?

22 A. Counsel, the other name of Lengbe, well, I'm not familiar with that name. The
23 only name I'm acquainted with is "Thierry."

24 Q. Witness, you described him. Let me remind you of what you said. This was
25 on the hearing on 19 March, page 18, lines 18 to 20 of the transcript, and you said that

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1 he wasn't very slim, he wasn't very tall, and that his skin was not very dark. So,
2 Witness, this person that you described as being at the headquarters and he was the
3 one to meet with you first, he was in charge of operations at the main staff
4 headquarters, now, Colonel Thierry, had he complained to Moustapha about the
5 behaviour of some of the men in the ALC?

6 A. Counsel, what was said with Colonel Moustapha, well, I can't know about that
7 because I wasn't there, and the second thing is, one day after the battle, when the
8 rebels fled PK4, he too, Colonel Thierry, also fled to join the rebels going via a
9 different route.

10 Q. As far as you know, Witness, was there ever any incident between the ALC
11 troops and the FACA?

12 A. Counsel, concerning the 28th Battalion, to begin with, when things were
13 difficult, they began to flee, one after the other, but as of PK12, from start to finish,
14 there were no difficulties whatsoever with those who were coming from the DRC and
15 those who were in Bangui.

16 THE INTERPRETER: Lingala interpreter's correction: The Lingala interpreter
17 believes that the word was "DRC."

18 MS DOUZIMA LAWSON: (Interpretation)

19 Q. I won't give his name, (Redacted) did not talk about incidents that had
20 occurred between the FACA and the MLC; is that not the case?

21 PRESIDING JUDGE STEINER: Turn into private session.

22 (Private session at 10.14 a.m.) * Reclassified as Open session

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

24 PRESIDING JUDGE STEINER: Maître Douzima, please (Redacted)

25 (Redacted)

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1 We can turn back into open session, please.

2 (Open session at 10.14 a.m.)

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

4 MS DOUZIMA LAWSON: (Interpretation) Yes, I will take that on board.

5 Q. Let me rephrase my question, Witness. The deputy of the commander, did he
6 explain anything about any incident between the FACA and the troops of the MLC?

7 A. Counsel, regarding the 28th Battalion, there was no problem at all. Perhaps it
8 is that the commander's deputy that was in charge of logistics and administration
9 may have also used it, but whether or not there were any problems, if that's the
10 question, well, I don't know.

11 Q. Well, thank you. Since you don't know, let's go on to something else.
12 Witness, at the hearing of 19 March, transcript 297, page 37, you talked about the
13 Bossembélé battle and about enemies that arrived in Bozoum. Did the battalion also
14 operate in those two towns?

15 A. Counsel, the commander of the 28th Battalion, well, he did not go and make
16 battle in Bossembélé. He went to Bossangoa. And he didn't go to Bozoum either.
17 The other troops were the ones who went there.

18 Q. And was this battalion in Sibut?

19 A. Counsel, the 28th Battalion was not on the road to Sibut.

20 Q. Witness, on several occasions you implied that the troops of the MLC did not
21 commit abuses, but did you ever hear anything said about abuses perpetrated by
22 those troops, either via the press, the Central African press, or else the international
23 press?

24 A. Counsel, with all due respect, the commander of the 28th Battalion had no
25 contact and he had no knowledge of the press and he didn't even have any

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1 information from journalists because he was a soldier, and he received only orders
2 from his superiors.

3 Q. At yesterday's hearing, page 26, this time this is real-time transcript, line 27, you
4 declared that the commander of the 28th Battalion had arrested some enemy soldiers
5 who were speaking in Lingala. Were those soldiers Congolese?

6 A. Counsel, when we arrested them, the first identification they gave was that they
7 came from Brazza. I don't know whether they were misleading the person who was
8 asking them questions at the main staff and/or the operations commander, but I got
9 no information to determine whether they really did come from Brazza or from the
10 DRC and that they may have crossed over before. I don't know that. But initially,
11 when the commander of the 28th Battalion arrested them, they had accepted that they
12 came from Brazza. They spoke and then we sent them over to the operations
13 commander to continue the procedure.

14 Q. Where were they arrested?

15 A. It was on the road, two kilometres away. They were hiding in a house on the
16 road to Bossangoa. We made them come back to the headquarters for operations so
17 that we could identify them.

18 Q. Who are the soldiers that you considered to be enemy soldiers?

19 A. When the attorney for Defence asked the question, I said that the enemy was the
20 Chadians, Central Africans, and some -- I don't know whether they came from Brazza
21 because they spoke Lingala. I have proof for the two.

22 Q. But how do you know that they were part of enemy troops, that they belonged
23 to enemy troops?

24 A. At PK4, when we were fighting there, there were those who had been arrested
25 and we asked Bomengo to try them. When we got to PK12, the population at PK12

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1 also spoke to us about them. In Bossembélé, the two that had been arrested had also
2 accepted that, where they were, they were mixed in with those that the witness just
3 mentioned.

4 Q. So, by way of conclusion, on the basis of what you know, among the enemy
5 troops were included Central Africans, Chadians and Congolese people from
6 Congo-Brazzaville?

7 A. Yes, that's right. As for those who spoke Lingala, their identity, they could
8 well be people from Congo-Brazza or else from the DRC who had come across a long
9 time before, and so they had hidden their identity, but they nonetheless spoke
10 Lingala.

11 MS DOUZIMA LAWSON: (Interpretation) Thank you very much, Witness.
12 Your Honour, I've finished.

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

14 I am informed that Defence intends to re-direct, but before that, I think the Chamber
15 still has some, a few, follow-up questions to put to the witness.

16 And for my part, Mr Witness, I just want, although I'm not giving now references
17 because I don't have them with me, but I can give them at any time, but just to
18 confirm your testimony in relation to the group of scouts that crossed the river on
19 26 October. On a first moment you mentioned that it was a group of scouts
20 composed by eight, nine, ten officers. Later on you clarified that it was eight, nine or
21 ten officers, plus some guards, because Captain René needed some guards to provide
22 their security; is that correct?

23 THE WITNESS: (Interpretation) Thank you, your Honour. The number that I
24 gave comprised only the officers, but I also said that there were soldiers to protect.
25 Apart from the guards, there were also a few soldiers there to help to protect them

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1 because they were moving to where their destination was.

2 PRESIDING JUDGE STEINER: Okay. And then after we saw the log-book, you
3 agreed that in total 151 troops crossed. You remember that?

4 THE WITNESS: (Interpretation) Yes, your Honour. I hadn't given the number of
5 soldiers, but if we're talking about 150 for the record, yes, it's true.

6 PRESIDING JUDGE STEINER: Yes, I am just trying to understand --

7 THE INTERPRETER: Correction, not for the record. From the log-book.

8 PRESIDING JUDGE STEINER: I'm just trying to understand, because first you said
9 "officers," then "officers plus guards," then "officers plus guards plus soldiers" and we
10 came to the number of 151, but yesterday you mentioned that once in Bangui the
11 soldiers went to Camp Béal, while the officers went to meet Central African
12 authorities; is that correct?

13 THE WITNESS: (Interpretation) With all due respect, Madam President, I think
14 that my answer may be giving you the impression that there are two answers to your
15 question. In fact, regarding the bodyguards, I would say that they are included in
16 the number eight and there was a more significant number of bodyguards.

17 I no longer remember what the exact number was, but if the log-book provides that
18 there were 151 that must be true, but they did not go to Camp Béal and they did not
19 remain in the office. They simply took up positions where our counterparts from the
20 FACA were located. They needed some soldiers for purposes of their own
21 protection.

22 PRESIDING JUDGE STEINER: Mr Witness, who went to Camp Béal? Now I don't
23 understand. The bodyguards, the soldiers, or nobody, of this first group went to
24 Camp Béal? I can find the transcript of yesterday when you said that the soldiers
25 went to Camp Béal, while the officers went to meet the Central African authorities.

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1 I'm trying to understand.

2 THE WITNESS: (Interpretation) Madam President, according to the report that
3 was drawn up, they were received at Camp Béal. The office where the group was
4 received, that is the group of officers was received, is not far away from Camp Béal.
5 Now, regarding the reconnaissance trip and going by the analyses that were done,
6 they had used a map and they had to go to the ground to find out what the situation
7 was and to locate the place which was not far away from Camp Béal. And, you
8 know, the enemy was not far away, so they wanted to find out where the FACA units
9 had been deployed and they went to see what the situation on the ground was at that
10 time.

11 PRESIDING JUDGE STEINER: The 151 troops went on the 26th and came back on
12 the first day three hours later, two or three hours later; is that your testimony?

13 THE WITNESS: (Interpretation) We can say that it did not take up to three hours.
14 They went in the morning and came back in the evening.

15 PRESIDING JUDGE STEINER: I will find the part of the transcript in which you
16 mentioned answering to the questions put by, as far as I remember, the Defence,
17 saying that this scout group stayed for no more than two or three hours.

18 In relation to the reference of Camp Béal, this is the transcript 299, page 36, line 6.

19 You said, "Thank you, Maître. When the observers went over, most of those soldiers
20 stayed in Camp Béal for the purpose of protecting the team, but the chiefs who were
21 in contact with Colonel Thierry, the Operational Chief of Staff, gave them the
22 information and the drawing of the location of the enemy." So you confirm, or you
23 want to clarify, this information that most of those soldiers of the 151 soldiers stayed
24 in Camp Béal?

25 THE WITNESS: (Interpretation) Madam President, what you say is true, is correct,

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1 but regarding the work that was done by the scouts I did not mention any time-frame.
2 The counsel had put a question to me, and I think it was the Prosecutor, who asked
3 me whether the scouts had arrived at that location and stopped at the office. My
4 answer to him was the following: That they went to locate the other troops on the
5 other side who had been deployed on the ground.

6 PRESIDING JUDGE STEINER: Okay, Mr Witness. Mr Witness, we heard here, in
7 this Court, testimonies mentioning that, before the troops crossed from Zongo to
8 Bangui, Mr Bemba addressed the troops in order to boost their morale. Were you in
9 Zongo when Mr Bemba addressed the troops?

10 THE WITNESS: (Interpretation) Madam President, the whole truth of the matter is
11 that Mr Jean-Pierre Bemba, according to me, did not go to Zongo before the troops
12 crossed over. The person who talked to the soldiers before they crossed over was
13 the deputy to the commander of the 28th Battalion. He told them about their
14 destination and the purpose of their mission.

15 The commander of the 28th Battalion then arrived with those who were in his
16 company and said the following, "You are going there for a specific purpose, a
17 specific mission." Then the brigade commander also arrived and started by talking
18 to the troops. That was on the next day. He told them the nature of their mission
19 and the task they were being assigned, as well as those who would command them.
20 All the troops that were to cross over heard what the brigade commander had to say.
21 Mr Bemba never came to talk to the troops before they crossed over.

22 PRESIDING JUDGE STEINER: My last question is much more a clarification,
23 Mr Witness, of something you said yesterday at page 31, lines 10 to 14, that at one
24 point you mentioned that, "The witness ...", meaning yourself, "... does not see why
25 the Court is still keeping Mr Bemba over here to this day." What you meant by that,

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1 Mr Witness?

2 THE WITNESS: (Interpretation) Thank you very much, Madam President.

3 Let me say that we are dealing here with orders and I am speaking in Lingala. That
4 is the rule, that is the law, according to the terms that have been defined by the courts.
5 You are the ones seeking the truth.

6 Now, when I say "This is the law," or, "This is the rule," I am sure that you understand
7 what I am referring to because you have had to hear a number of witnesses who
8 appear here pursuant to the law and to the rules so that you may be able to discover
9 the truth for the purpose of justice.

10 Now, when it comes to me or to myself, having been a witness, I am somewhat
11 saddened by these things.

12 PRESIDING JUDGE STEINER: I continue not to understand what you meant when
13 you say that you don't understand why Mr Bemba is still here in this trial before the
14 Court. Are you convinced that he should not be here; is that what you meant?
15 That it's unfair that he's here? Or -- this is what I wanted you to clarify, your own
16 words.

17 THE WITNESS: (Interpretation) Madam President, before I answer your question,
18 allow me to say the following: We are dealing here with the law, and I do not know
19 whether I am being interpreted correctly. I cannot follow what is being said. When
20 I talk about the law, it is because I understand that it is because of the law that you are
21 seeking to discover the truth. Now, I was an eyewitness to these experiences. I
22 went through them myself, and when I hear what is happening, then this is what I say,
23 just as I said to the Defence counsel and to the Prosecutor, I say the same thing;
24 namely, that I do not understand why the courts arrested Mr Bemba and have kept
25 him to this day in a quest to discover the truth. That is what I am concerned about,

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1 your Honour.

2 PRESIDING JUDGE STEINER: So you are convinced that Mr Bemba is innocent; is
3 that what you mean?

4 THE WITNESS: (Interpretation) Madam President, this is a matter for justice and
5 for the courts to determine.

6 PRESIDING JUDGE STEINER: Thank you very much, Mr Witness. Judge Aluoch
7 also needs some clarifications.

8 JUDGE ALUOCH: Mr Witness, I will go back to your testimony of 19 March,
9 transcript 297. It's indicated that this testimony was given in private session but,
10 nevertheless, I have checked the portion that I'm interested in and there's nothing that
11 would identify you at all. So I'm going to quote part of what you said. Then I can
12 ask you a clarification.

13 This was your reply, and I quote you, "Let me repeat myself. This is what I told the
14 Defence counsel. The rebels had occupied PK12 and PK4. I no longer remember
15 how many days they spent at those locations, but I believe they spent quite some time
16 there."

17 And now I'm on line 18 of that same page, page 10, "So we left PK12 to go to PK4 and
18 our CAR colleagues with whom we worked, including those responsible for
19 operations and the staff in the office, they had received the information." Line 21,
20 the same page 10, "We also witnessed how they had been chasing away families to set
21 up their command posts in the houses of those families. That is why in my answer
22 to Defence counsel I was saying that if you heard about those, that is the abuses, it
23 was because of the rebels who were in PK12 and PK14."

24 Mr Witness, please assist the Chamber by just breaking down this word and
25 explaining, when you said, "We also witnessed how they had been chasing away

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1 families," please tell us exactly what you witnessed.

2 THE WITNESS: (Interpretation) Madam President, I would like to correct part of
3 what you have just read out. We rather went from PK4 to PK12, and not the
4 opposite. When we arrived at PK12, we found out that each rebel commander was
5 occupying a home, or a house. And so if you take the number of troops that had
6 occupied PK4 and PK12, you would realise that there was a significant number of
7 rebels occupying those houses.

8 We also found at the same time that the Central African police and some FACA
9 troops had set up a mopping-up unit. That unit had collected some military
10 equipment that had been abandoned by the rebels. The unit also went to the various
11 houses that had been occupied by the rebels, and we then also realised that the
12 population had reported on these issues and the operations commander had
13 compiled the information into a report that was made available at a meeting of the
14 commanders, and that information was then made available to the commanders at
15 that meeting, at which he told us that the local population was dissatisfied with what
16 had happened in their area.

17 JUDGE ALUOCH: Mr Witness, that was a long explanation. I do not know
18 what -- which part of that explanation we are supposed to rely on when you say, "We
19 also witnessed how they had been chasing." So you -- can I take it that you actually
20 did not witness what you are referring to? Because according to me "witness" means
21 you are seeing something. So did you witness anything, as you testified?

22 THE WITNESS: (Interpretation) Your Honour, the location at which the rebel
23 commander was residing was easy to identify. The commanders, I must say, were
24 occupying a number of houses which were easy to identify and there were indicia
25 such as military equipment, to point those houses out. At PK12 we were in the city,

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1 in the heart of the people, and it is the population that pointed these houses out to us.

2 We went to some of these houses that had been occupied by the rebel leaders. The

3 owners of those houses actually came and told us that they had been driven out of

4 their homes by the rebels. That information was then compiled into a report.

5 JUDGE ALUOCH: I have one further clarification, Mr Witness, from transcript 295

6 of 15 March, at page 9. This is the English transcript, the English version. This is

7 what you said. I think you were being -- you were being asked questions by

8 Mr Haynes, counsel for the Defence, and this is what you said from line 20: "When

9 we arrived at PK12, our FACA colleagues who were able to communicate with a

10 civilian who told us that -- that is the FACA troops had been informed that the rebels

11 had caused damage with the civilian population."

12 Then I will go to, on the same point, I'll go to the same transcript, 295 of 15 March,

13 page 18. Again you are being asked further questions by Mr Haynes, and this is

14 what you said concerning the same subject matter: "Communication was rather easy.

15 Our FACA colleagues facilitated this. If there was someone speaking Lingala, and

16 someone from the Central African Republic was listening, they would realise that

17 there were words that were similar. We didn't have too many communication

18 problems. We had the assistance of our FACA colleagues."

19 From these two portions, Mr Witness, I want you to clarify the following: What

20 language did the FACA soldiers speak? As you say they were able to communicate

21 with the civilians.

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

23 spoke French and Sango. Those who crossed over spoke French, Lingala and some

24 Swahili. So we did not have any communication problem.

25 JUDGE ALUOCH: What about your soldiers, Mr Witness, what language did they

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1 speak? Because you seem -- your evidence is to the effect that you relied on FACA
2 soldiers to communicate with the population.

3 THE WITNESS: (Interpretation) Your Honour, I have just said that the troops of
4 the 28th Battalion were many in number. Some of them spoke French; others spoke
5 Lingala; while a few of them spoke Swahili. And then there were times when we
6 also used sign language.

7 JUDGE ALUOCH: But you have not clarified to me, Mr Witness, because you seem
8 to have relied on the FACA soldiers to communicate with the population. That is
9 what your testimony is.

10 THE WITNESS: (Interpretation) Yes. Part of the population was unable to speak
11 French, and whenever the need arose, the population would speak to a FACA soldier
12 in Sango, who would then in turn interpret the statement into French.

13 JUDGE ALUOCH: Thank you, I'll leave it at that.

14 PRESIDING JUDGE STEINER: I will break my promise, and I found out that I still
15 have a final clarification from the witness.

16 Mr Witness, just to make it clear, if I understood your testimony, and this is one
17 transcript 295, starting on page 40. When asked by Defence counsel, you were given
18 a map from Central African Republic. In that map you could show some places.
19 You showed PK12, Bossembélé, Bossangoa, Bozoum, and then you were asked, "What
20 about Mongoumba?" And your answer on page 41, line 2, is, "No unit went to
21 Mongoumba."

22 Do you confirm your testimony, Mr Witness?

23 THE WITNESS: (Interpretation) Yes, your Honour. No soldier in the 28th
24 Battalion went across could contradict me, as I am speaking under oath. Nobody
25 can contradict me.

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1 PRESIDING JUDGE STEINER: Mr Witness, let's have it clear. I'm not talking
2 about the 28th Battalion. I want you to confirm that no unit, no MLC soldiers, went
3 to Mongoumba, whether this is your testimony.

4 THE WITNESS: (Interpretation) Yes, your Honour, no soldier went to
5 Mongoumba.

6 PRESIDING JUDGE STEINER: Are you aware or have you been informed about
7 any incident that happened in Mongoumba between MLC soldiers and Central
8 African soldiers?

9 THE WITNESS: (Interpretation) Madam President, with all due respect, on the
10 map Mongoumba is far from where we were located. The commander of the 28th
11 Battalion had simply no information about events that took place in Mongoumba.

12 PRESIDING JUDGE STEINER: Nobody informed you, even later, that something
13 had happened in Mongoumba?

14 THE WITNESS: (Interpretation) Madam President, nobody informed me about
15 Mongoumba.

16 PRESIDING JUDGE STEINER: I will ask, please, court officer to display for the
17 witness document CAR-V20-0001-0156 -- 0165, on page 0167.

18 Yes, Mr Haynes.

19 MR HAYNES: Your Honour, just two things: Can we make sure that the witness
20 can see this, because I don't think it will be on the facility that Mr Rojas has down
21 in -- in the location. And secondly, would you mind just telling him what this
22 document is?

23 PRESIDING JUDGE STEINER: For sure, Mr Haynes.

24 Can the court officer try to zoom, as much as possible, on this square at the right top
25 of the page.

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1 Mr Witness, this is one page of a newspaper called Le Citoyen, it's a Central African
2 Republic newspaper, dated 14 March 2003, and there is this small information here.
3 Let me finish first, Mr Witness.

4 I want you, please, to read this square that is on the top right of the page.

5 Court officer, please make it sure that the square is on the screen, the whole square,
6 because I want the witness to read it.

7 THE COURT OFFICER: Madam President, we have zoomed in at the maximum on
8 the square.

9 PRESIDING JUDGE STEINER: If in the zoom can appear the beginning and the end
10 of each sentence. I cannot see from my screen. Yes, I think it -- yes.

11 Mr Witness, please read it loud for the Chamber.

12 THE WITNESS: (Interpretation) Thank you, Madam President. I can only read
13 the title, which is visible, but just below, it's not visible enough for me to read out
14 loud. "The MLC asserts that it is the victim."

15 PRESIDING JUDGE STEINER: Court officer, maybe if we focus on the first column
16 first, the left column.

17 Mr Witness, I think now it's sufficient for you to read.

18 THE WITNESS: (Interpretation) Yes. "From Kigali (Rwanda), the Movement for
19 the Liberation of the Congo (MLC), the Congolese rebellion whose men have been
20 accused of plundering the Central African locality of Mongoumba (200 kilometres
21 east of Bangui) on 5 and 6 March, stated Wednesday that they were the victims of that
22 plundering, rather than the perpetrators. It was when we were replenishing
23 supplies for our troops on the Ubangi River that ..."

24 PRESIDING JUDGE STEINER: Court officer, go down please. Yes.

25 THE WITNESS: (Interpretation) "... that our resupplying boat was requisitioned by

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1 indisciplined Central African soldiers who plundered the foodstuffs, the uniforms,
2 the boots, and the medication. This was stated to the AFP by the head of the MLC,
3 Jean-Pierre Bemba.
4 "The MLC troops therefore reacted by going to recover the belongings that -- went to
5 recover the belongings that had been plundered by those soldiers, he stated.
6 "Witnesses and an opposition newspaper accused the men of MLC, who are allied
7 with the Central African regime against the rebellion conducted by the former Chief
8 of General Staff of the Central African Republic, i.e. the General François Bozizé, for
9 having plundered Mongoumba, a locality that comprises some 8- to 10,000
10 inhabitants located on the Ubangi River which separates the Central African Republic
11 from the Democratic Republic of Congo.
12 "The MLC troops began to withdraw from the Central African Republic on
13 15 February. According to Mr Bemba, the very last soldiers are presently 20
14 kilometres away from the border."
15 PRESIDING JUDGE STEINER: I think you skipped one paragraph, the paragraph
16 that starts by, "Mr Bemba."
17 THE WITNESS: (Interpretation) "Mr Bemba stated that an investigation about the
18 plundering that had been ordered by the Central African president, Ange-Félix
19 Patassé, punished a number of Central African officers. The MLC men began their
20 withdrawal ..." -- oh, I've already read that part.
21 PRESIDING JUDGE STEINER: Thank you, Mr Witness. Were you aware, or you
22 heard anything about Mr Bemba being informed about this incident in Mongoumba?
23 THE WITNESS: (Interpretation) Your Honour, the president of the 28th Battalion,
24 or rather the commander of the 28th Battalion, learned nothing whatsoever about all
25 those events.

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1 PRESIDING JUDGE STEINER: The brigade command never mentioned that, not
2 even in the report he sent after the -- the famous report of 4 May?

3 THE WITNESS: (Interpretation) In the battalion commander's and brigade
4 commander's report, this was not noted unless this was done individually afterwards.
5 That I do not know.

6 PRESIDING JUDGE STEINER: For my last question, I ask please the court officer to
7 turn into private session.

8 (Private session at 11.16 a.m.) * Reclassified as Open session

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

10 PRESIDING JUDGE STEINER: (Redacted)

11 (Redacted)

12 (Redacted)

13 THE WITNESS: (Interpretation) (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 THE INTERPRETER: "... (Redacted)" correction by the
18 interpreter.

19 PRESIDING JUDGE STEINER: (Redacted)

20 THE WITNESS: (Interpretation) (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 PRESIDING JUDGE STEINER: (Redacted)

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1 (Redacted)

2 THE WITNESS: (Interpretation) (Redacted)

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

4 (Open session at 11.20 a.m.)

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

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

7 Mr Haynes?

8 MR HAYNES: Thank you very much, your Honour.

9 QUESTIONED BY MR HAYNES:

10 Q. Mr Witness, I only have five or six questions to ask you arising from things that

11 other people have asked you in the last few days, okay? So we're nearly finished.

12 The first question I want to ask you is something that only Mr Zarambaud asked you

13 about, and it arises from your evidence that the units did not go through Fouh or

14 Boy-Rabé. Do you remember saying that?

15 A. Yes, Counsel for the Defence. No soldier who came from the DRC went to

16 Boy-Rabé.

17 Q. Did any units go through Fouh and Boy-Rabé and, if so, which units?

18 A. Counsel, the person who planned that operation was the authority in the

19 Central African Army, but the unit that went across, as well as the Central African

20 brothers with whom we were, in the operational order that was issued to us the

21 commanders considered that Boy-Rabé was a position where, if we defeated the

22 enemy, we would go towards Boy-Rabé. That's how things were done. I do not

23 know whether any of the loyalist forces went to Boy-Rabé since the front -- there was

24 only one front line.

25 Q. Thank you. Well, I'm finished with that subject. I just want to ask you about

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1 the newspaper you've just been looking at. Where is Kigali?

2 A. Could you please repeat the question? I didn't really understand.

3 Q. Yes. Do you know where Kigali is?

4 A. Counsel, Kigali is the capital city of the Rwandan Republic.

5 Q. And do you know how far Kigali is from Bangui?

6 A. Unless I'm mistaken, the distance must be some 3,000 kilometres.

7 Q. And are you familiar with the initials AFP as standing for Agence

8 France-Presse?

9 A. No, I'm not familiar with it.

10 Q. Okay. Do you remember we looked at the map of the Central African Republic

11 and we could see that Mongoumba was due south of Bangui?

12 A. Yes, I do. We looked at that map and I still remember that.

13 Q. So how would you react to the suggestion that Mongoumba was a town 200

14 kilometres to the east of Bangui?

15 A. Well, if they located Mongoumba 200 kilometres away, well, they're the ones

16 who know better what the distance is, but the situation of Mongoumba its location is

17 very far from the route we took in advancing and it is difficult to go from

18 Mongoumba by foot, or even reach it.

19 Q. Is Le Citoyen a Central African newspaper available in Zongo?

20 A. No, that paper isn't sold in Zongo, but perhaps somebody who comes across

21 from the other side might have bought a paper and bring it to Zongo -- brought it to

22 Zongo, but in Zongo the population isn't accustomed to reading newspapers.

23 Q. Let's be clear. Have you ever read Le Citoyen?

24 A. The witness had no opportunity to read newspapers. He had no time to read.

25 Q. Thank you. Now I just want to come to the question of the notes which were

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1 disclosed during the course of your cross-examination. Who gave you the pen and
2 paper to write the notes?

3 A. The paper and pen which I used were obtained here from the security room
4 which is nearby.

5 Q. Did you ask for a pen and paper?

6 A. Yes, I asked for it.

7 Q. Who did you ask?

8 A. I asked for those items on the day of the familiarisation exercise. I asked the
9 question of those who were helping us in that exercise. I then jotted a few things on
10 a piece of paper, but I think a piece of paper, one piece of paper, also remained on the
11 table. So on the day of the hearing, when I came back, I found that the piece of paper
12 was still on the table. Now, when I was still waiting for the hearing to begin, when I
13 was in the waiting room, the room in which I usually wait, which is some five metres
14 away from the courtroom - for those of you who are not familiar with our location
15 here - it is at that time that I started to jot down my thoughts.

16 Q. Were you alone in that room, the room where you jotted down the notes?

17 A. I was not alone. There is always a security staff with us. I was there with the
18 staff who helps me to access the courtroom.

19 Q. What's the name of that person?

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

21 (Private session at 11.34 a.m.) * Reclassified as Open session

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

23 PRESIDING JUDGE STEINER: Mr Haynes, the names of personnel in the field are
24 not to be said in public session. So you can please repeat your question.

25 MR HAYNES: Well, I'm happy to, but I don't understand that.

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1 PRESIDING JUDGE STEINER: It's local personnel and it's for their safety and
2 security and the safety and security of their families.

3 MR HAYNES: Very well.

4 Q. What was the name of the person who was in the room with you when you
5 jotted the notes?

6 A. Well, it was in the morning and I do not remember the name of the person, but I
7 could -- I could ask.

8 Q. No, we won't worry about that. We'll finish your testimony, thank you.

9 PRESIDING JUDGE STEINER: Can we turn back into open session?

10 MR HAYNES: We can, your Honour.

11 PRESIDING JUDGE STEINER: Court officer, please.

12 (Open session at 11.36 a.m.)

13 THE INTERPRETER: Correction from the interpreters: "There were three or four
14 of them, but I can't remember the name."

15 MR HAYNES:

16 Q. Did anybody else come into the security room while you were waiting to give
17 evidence?

18 A. Counsel, this is a closed and restricted environment, and apart from those who
19 are assisting the witness, no one else can enter that location.

20 Q. Okay. How did you know it was time for you to go into the room you're
21 sitting in now, to start your testimony?

22 A. Counsel, it is the court officer who usually comes to fetch me and then the
23 security officer takes me into the courtroom. You see, even when I am in the
24 courtroom, I am required to switch off my telephone. When the time comes for me
25 to go in, I access the courtroom and I switch off my phone, and at that time it is the

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1 court officer who comes to fetch me.

2 Q. Okay. And are we talking about the lady who sat next to you when you
3 commenced your evidence?

4 A. Counsel, my telephone was switched off. You see, when I enter this room, my
5 telephone must have been switched off 30 minutes before I enter the room.

6 Q. Okay. But that's not the question I'm asking you. I'm asking you whether the
7 court officer came into the security room to take you through to the witness room.

8 A. Yes.

9 Q. And was there any conversation between her and the person who was sitting
10 with you in the security room?

11 A. Yes. This is what they told me on that day before I entered the courtroom:

12 They said, "You are not allowed to come in here with a telephone." However, they
13 did not stop me from coming in with those documents that were on me.

14 Q. Well, you say they didn't stop you. Were you told anything about the notes
15 you'd been taking in the security room?

16 A. No, Counsel, I wasn't prohibited from doing so. The person who came told me
17 that it was now time to drop my telephone on the table in the room where I was,
18 because the security officer was going to show up soon. That person did not say
19 anything about the document and the paper napkins that I had on me.

20 Q. Okay. Well, I just wanted to see whether something that is recorded in the
21 transcript was accurate or not. I'll see what you have to say about it.

22 On 13 March, English transcript page 36, lines 12 to 13, in English it says, "With
23 regard to what I was told, I was asked to bring these documents in order not to go
24 next door for my references."

25 Is that what you said?

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1 A. If they had taped what I said, I would request that that recording be listened to,
2 because this is not what I said. Maybe there is an interpretation problem here. I
3 did not mention anybody's name. This is what I said: When I was jotting down my
4 ideas on a piece of paper, no one - no one - stopped me from bringing those
5 documents into the courtroom. You see, on the day of the familiarisation exercise,
6 I had been authorised to jot down the questions that I was going to put. So that is
7 what I did, and it is the same thing that I did when it came to time for the hearing.
8 My answer is this: That I did not know and I never said that they said so.

9 Q. Okay. And just to finish this off, you've told us you've never given evidence
10 before. Before you went into that room to start testifying, what did you imagine was
11 going to happen?

12 A. Counsel, I did not understand your question.

13 Q. Well, what process did you think was going to take place when you gave
14 evidence?

15 A. During the familiarisation exercise, and on that day, I mentioned that I was
16 afraid and the reason being that, as you may well know, testifying before the Judges
17 for Mr Bemba is -- is not something that was easy for me because I was asked a
18 number of questions, such as, "How did you come to know about the Court?", and
19 "How did all this begin?", but you also know that we had previously worked with
20 him, and for that reason things were not always going well for me. That is why,
21 during the familiarisation exercise, I had requested that some protection be provided
22 for me in relation to my testimony.

23 Q. Okay. I'm going to just try one more time. Yesterday, when you were being
24 asked questions, you said that you did not know that you were going to have to deal
25 with this kind of question. That's what I really wanted to know is, is what did you

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1 think was going to happen when you went into the witness room?

2 A. I did not expect those types of questions. You see, in my mind, this is what I

3 thought: I thought that the Judges were going to call me and hear my testimony

4 regarding the facts as I experienced them and that when I finish that testimony, or

5 that statement, then the Judges will begin to put questions to me. But when I got

6 here, I had to face questions which I did not expect.

7 In my mind, I thought that the Presiding Judge was going to ask me to make an

8 opening statement about everything that had happened in the Central African

9 Republic during the operations from the beginning to the end, that is what I expected,

10 but now the questions that came up, I really did not expect them.

11 Now, the fact that I mentioned a few facts and questions in that -- in those notes was

12 simply to help me in my testimony.

13 MR HAYNES: Thank you very much, Mr Witness. It's been a long and doubtless

14 difficult ordeal for you, but it's now over and I'd like to thank you for the time you've

15 taken to give evidence before this Trial Chamber.

16 PRESIDING JUDGE STEINER: Thank you, Mr Haynes.

17 Mr Witness, this now concludes your evidence, and as with all other witnesses in this

18 case, I would like to express the thanks of the Judges for the time that you have taken

19 to give evidence in this trial.

20 In order for the Judges to find the truth in this case, it is critical that we have

21 witnesses that are prepared to come before the Judges and give evidence to assist us

22 on the relevant issues of the case. We are aware that this may have been

23 inconvenient for you, you've been for a long time far from your place of work, from

24 your family, and therefore you leave us now with our thanks.

25 Before you leave, however, Mr Witness, as with all other witnesses in this case, I

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1 would like to ask you whether there is anything that you would like to address to the
2 Chamber. If you so wish, that's your opportunity.

3 THE WITNESS: (Interpretation) Thank you, Madam President. Thank you, your
4 Honours. May God protect you as you seek to discover the truth, and may the truth
5 emerge in this case.

6 I want to ask the Presiding Judge to continue to monitor my situation, because
7 something may happen to me, and if anything were to happen to me, I would be
8 asking you to protect me and to protect my family. I don't know what will happen
9 tomorrow, but I want to thank the Court for everything that it has done. It has
10 provided protection. I have had some good food, and I want to thank the Court for
11 that.

12 PRESIDING JUDGE STEINER: Mr Witness, when any witnesses in this case or in
13 any other case of the Court, when they conclude their testimonies, the Victims and
14 Witnesses Unit continues to monitor the situation of the witness in terms of safety,
15 security and well-being. You will be now in touch with VWU that will give you all
16 information you need. In any case you have any doubts, you will have a permanent
17 contact with VWU. Everything will be explained to you.

18 We again thank you very much for coming and for giving testimony before this
19 Court.

20 I thank very much the Prosecution team, the legal representatives of victims, the
21 Defence team, Mr Jean-Pierre Bemba Gombo. I thank very, very much our
22 interpreters, our court reporters, Mr Rojas that can come back to your family as well.
23 Thank you very much Mr Witness.

24 (The witness is excused)

25 PRESIDING JUDGE STEINER: This Chamber will now adjourn the hearing and we

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- 1 will resume, unless otherwise decided, on 8 April, with the next Defence witness.
- 2 This hearing is adjourned.
- 3 (The hearing ends in open session at 11.55 a.m.)
- 4 RECLASSIFICATION REPORT
- 5 Pursuant to Trial Chamber III 's Orders, ICC-01/05-01/08-2223 and
- 6 ICC-01/05-01/08-3038, the version of the transcript with its redactions becomes Public.