

Trial Hearing
Witness: CAR-D04-PPPP-0054

(Closed Session)

ICC-01/05-01/08

1 International Criminal Court
2 Trial Chamber III - Courtroom 2
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08
5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and
6 Judge Kuniko Ozaki
7 Trial Hearing
8 Thursday, 31 October 2013
9 *(The hearing starts in closed session at 9.06 a.m.) Reclassified as Open session
10 THE COURT USHER: All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE STEINER: Good morning and welcome.
14 Could, please, court officer call the case.
15 THE COURT OFFICER: Thank you, Madam President. Situation in the Central
16 African Republic, in the case of The Prosecutor versus Jean-Pierre Bemba Gombo,
17 ICC-01/05-01/08.
18 PRESIDING JUDGE STEINER: Thank you.
19 I welcome the Prosecution team, legal representatives of victims, the Defence team,
20 Mr Jean-Pierre Bemba Gombo. Good morning and welcome our interpreters, our
21 court reporters.
22 Good morning, Mr Witness. How are you today?
23 WITNESS: CAR-D04-PPPP-0054 (On former oath)
24 (The witness speaks French)
25 (The witness gives evidence via video link)

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1 THE WITNESS: (Interpretation) Good morning. I feel well. I'm okay.

2 PRESIDING JUDGE STEINER: Mr Witness, we will continue today with your
3 testimony. Before we start, I need to remind you that you are still under oath. Do
4 you understand that, sir?

5 THE WITNESS: (Interpretation) Yes, I do.

6 PRESIDING JUDGE STEINER: Mr Witness, also I wanted to remind you that,
7 because we have interpretation, we expect you to continue following the ground rules,
8 speaking slower than normal, giving the five seconds before you start giving your
9 answer, not interrupting anyone when the person is talking and being clear and
10 objective and direct in your answers in order to help us in concluding with your
11 testimony as soon as possible.

12 Can we count on you, Mr Witness?

13 THE WITNESS: (Interpretation) Yes, you can count on me.

14 PRESIDING JUDGE STEINER: Good morning, Ms Bossette.

15 THE COURT OFFICER (via video link): (Interpretation) Good morning, Madam
16 President.

17 PRESIDING JUDGE STEINER: We count on you, Ms Bossette, to from time to time
18 make some gesture to the witness just to remind you to slow down if needed.

19 Mr Witness, Maître Kilolo will continue questioning you on behalf of the Defence.

20 Maître, you have the floor.

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

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

23 Q. Good morning, Mr Witness.

24 A. Good morning, Counsel.

25 MR KILOLO: (Interpretation) I would like to ask the court officer to display

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1 document number 6 of the Defence list to the witness, and the first page is

2 CAR-DEF-0002-0001 and please display to him page CAR-DEF-0002-0010.

3 THE COURT OFFICER (via video link): (Interpretation) The document is being
4 displayed to the witness.

5 MR KILOLO: (Interpretation)

6 Q. Mr Witness, you have a document on the screen there. Can you see that it is
7 written there "Gbadolite 27/11/2002," it is at the top right-hand side, and it is written,
8 "Supplementary Report to the Officer of the Public Prosecutions Department in
9 Gbadolite"? Can you see that?

10 A. Yes, I can see it.

11 Q. There's also point 1 and it is stated, "We hereby transmit to your legal authority
12 the supplementary report related to the file of Willy Bomengo, et al." Can you see
13 that?

14 A. Yes, I can see it.

15 Q. Can you please read out point 4 of that document?

16 A. Point 4: "Similarly, he is presumed to be guilty of the offence of violation of
17 instructions provided for in Article 480 of the Code of Military Justice considering
18 that he received an instruction from his brigade commander to return all looted
19 property found with him. In his capacity as intelligence officer, he went beyond that
20 instruction by keeping with him the items mentioned above."

21 Q. Mr Witness, (Redacted)

22 (Redacted) when mention is made here of returning all goods looted and recovered, what
23 does that mean precisely?

24 A. Counsel, here reference is made to the property recovered by the FACA soldiers
25 and the ALC soldiers, that is the items that had been abandoned by Bozizé's rebels

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1 had been recovered, but this officer was hiding some of the items such as telephones
2 and so on. He was searched and items such as telephones and others were found.
3 That is what is referred to as a violation or non-compliance with instructions and it
4 was for that reason that he was arrested.

5 Q. Yesterday, you pointed out that in the ALC it was not only the Code of Conduct
6 that was a reference for the respect of human rights and humanitarian law. You
7 stated that there were also other legal instruments. Do you remember saying that?

8 A. Yes, I remember.

9 Q. I can see that in this document mention is made of the Code of Military Justice.
10 My question to you is: Why is this document referred to here?

11 A. Reference is made to the Code of Military Justice because this was the core
12 document which was referred to in the case of all offences, so the court martials at
13 that time were based on the Code of Military Justice.

14 MR KILOLO: (Interpretation) Very well. Now, we are still dealing with
15 document number 6 of the Defence list. I would like to ask the court officer to
16 display to the witness page CAR-DEF-0002-0036.

17 THE COURT OFFICER (via video link): (Interpretation) The document is now
18 being displayed to the witness.

19 MR KILOLO: (Interpretation)

20 Q. Mr Witness, at the very top of the document it is dated 27 November 2002,
21 "Before us Lubuele Mpueta, Lieutenant and Legal Adviser of the G2 General Staff
22 ALC. We are in our office and appearing before us is Ngangu Gbede, corporal."
23 Can you see that?

24 A. If you can continue that would be better, because mention is made here of the
25 General Staff, (Redacted). So maybe if you continue reading, I would

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1 be able to place it in context.

2 Q. I will read out an extract of this document to you before putting my question to
3 you. "Corporal Ngangu Gbede stated as follows ...", and he was also subject to legal
4 proceedings within the framework of the intervention of the ALC contingent in the
5 CAR. I quote, "I stopped a Central African citizen passing through the camp and,
6 when I searched him, I found 10,000 CFA francs, ten litres of diesel and 40 tablets that
7 I was not able to identify. The section commander arrived and I handed over the
8 items to him. It was at that time that a Private Second Class Ndonga arrived and he
9 advised us to wait three hours so that this money should be shared, but the Central
10 African Republic citizen returned in the meantime with soldiers of the Central African
11 Army who arrested the section commander. They were accompanied by the OTR;
12 that is the signals officer of the Congolese Liberation Army."

13 What is of interest to me here, Mr Witness, and I would like to ask you a question on
14 that, is the fact that in this extract mention is made of the arrest of an ALC soldier, the
15 head of section, who was arrested by CAR soldiers. So my question to you is as
16 follows: In the Central African Republic, if an ALC soldier was suspected of having
17 committed an offence, who was responsible for arresting that soldier?

18 A. Thank you, Counsel, for that question. If that ALC soldier was arrested by a
19 Central African Republic officer, this would have been quite normal because the
20 soldiers were under their authority. All the soldiers who were in the CAR were
21 under the responsibility of the Central African Republic soldiers, so it was logical.
22 They could not have asked Gbadolite to take action. It was their responsibility.

23 Q. Mr Witness, (Redacted), I would like to
24 know whether the commission looked into the situation in Mongoumba? More
25 specifically, was there any operation carried out by ALC troops in Mongoumba Town

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1 between October 2002 and March 2003?

2 A. (Redacted)

3 (Redacted)

4 (Redacted) In Bangui, in the CAR, there were no military operations

5 in Mongoumba. Nevertheless, the president of the commission (Redacted)

6 (Redacted)

7 (Redacted) also had information that in

8 Mongoumba it was possible that the soldiers of the former President Kolingba were

9 in Mongoumba and were intending to join up with Bozizé's soldiers so as to attack

10 Bangui from both sides, but the fact of the matter is that there were no operations in

11 Mongoumba. The operations were taking place in the direction of the north,

12 Bossembélé, Bossangoa, Sibut; that is in the direction of Chad.

13 PRESIDING JUDGE STEINER: Maître Kilolo, if you allow me just a clarification?

14 Mr Witness, when you say that you -- (Redacted)

15 (Redacted)

16 (Redacted). So you were talking that you never

17 heard about any operation in Mongoumba during the month of November, or during

18 the whole period? (Redacted)

19 (Redacted)

20 THE WITNESS: (No audible response)

21 PRESIDING JUDGE STEINER: Did you understand my question, Mr Witness?

22 THE WITNESS: (Interpretation) I understood the Presiding Judge's question. In

23 the commission (Redacted) the president of the commission, that is

24 Damango, had information from many areas in the Central African Republic, so he

25 simply informed (Redacted) that the former rebels, or rather the militia of former

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- 1 President Kolingba were intending to join up with Bozizé's rebels in order to attack
2 Bangui, to surround Bangui. (Redacted)
3 (Redacted)
4 PRESIDING JUDGE STEINER: You didn't answer to my question. My question is:
5 (Redacted)
6 (Redacted)
7 THE WITNESS: (Interpretation) Yes. (Redacted)
8 (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted)
15 One can receive information about the enemy's intention, but it has to become -- if it
16 has to become intelligence it needs time, because agents have to be sent to the field to
17 confirm (Redacted)
18 (Redacted)
19 PRESIDING JUDGE STEINER: Mr Witness, you did not answer to my question, but
20 I'll give back the floor to Maître Kilolo.
21 MR KILOLO: (Interpretation) I would like to ask the court officer to provide the
22 witness with document number 4 on the list of the Defence.
23 PRESIDING JUDGE STEINER: I'm really sorry. Before you change document,
24 I -- just for the procès-verbal as you always say, I would like to have displayed to the
25 witness in this very same document CAR-DEF-0002-0011.

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1 THE COURT OFFICER (via video link): (Interpretation) The document has been
2 displayed for the witness, your Honour.

3 PRESIDING JUDGE STEINER: Mr Witness, this is the handwritten first page of the
4 dossier. (Redacted)
5 (Redacted)

6 THE WITNESS: (Interpretation) (Redacted)

7 PRESIDING JUDGE STEINER: Thank you very much.

8 Maître Kilolo?

9 MR KILOLO: (Interpretation) I would like to ask the court officer to provide the
10 witness with document number 4 on the list of the Defence.

11 THE COURT OFFICER (via video link): (Interpretation) Mr Kilolo, could you
12 please stipulate the page?

13 MR KILOLO: (Interpretation) Page CAR-D04-0002-1687.

14 THE COURT OFFICER (via video link): (Interpretation) The document has been
15 displayed for the witness.

16 MR KILOLO: (Interpretation)

17 Q. Witness, could I ask you to read the message which is on the top left?

18 A. "Extremely urgent." It's the message of the 31st at 14.52 Alpha time zone.

19 "From: Operational cordon, Bangui. To: The Chief of General Staff of the

20 Congolese Liberation Army. Information: To: Chairman. Number:

21 025/Cordon/Operations CAR/2002. Pleased to greet you and inform you. Stop.

22 After check information according to which the military refugees Kolingba held in

23 Bokilio site. Some of them leave for Bétou, Congo-Brazzaville. Stop. Where they

24 are organising themselves to take Mongoumba. Stop. Then Bangui. Stop. Info:

25 Information to be confirmed. Stop. But the Congolese from Bétou not in agreement

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1 to let them through freely. Stop. They can be taken on board the boat September.
2 20 September. Stop. Lots of FACA soldiers from Mongoumba waiting for this
3 convoy to join them. Stop. Then recently. Stop. Have seen with each CAR boat
4 going through Nzinga. Stop. FACA men shooting towards Batanga. Stop. In
5 addition. Stop. Have noted recently in Damara and in the environs movements of
6 the people towards Bangui and Brousse. Stop. Finally. Stop. Group of attackers
7 gathering in Dumbia. Stop. In Possel. Stop. In Djoukou and in Palambo. Stop.
8 Where they are preparing for future action on Bangui. Stop. So the enemy is
9 planning to take Bangui with simultaneous action from Mongoumba to the west and
10 from Palambo in the east of Bangui. Stop. Yours respectfully in 1st January ..." --

11 THE INTERPRETER: "2013" said the witness. "2003," he corrected.

12 THE WITNESS: (Interpretation) -- "... at 1220." That is the date when this
13 message was sent." Full stop.

14 MR KILOLO: (Interpretation)

15 Q. My question, Witness, is (Redacted)?

16 A. Okay, here (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted) I think that this message which came from Bangui
20 was for information to inform the Chief of General Staff as part of the information.
21 That's what I can see, (Redacted).

22 Q. What does this message exactly say?

23 A. I'll go through it again for better understanding.

24 Q. Excuse me, Witness.

25 A. I just need to look at some of the paragraphs inside. Here the person in charge

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1 is providing information that in the level of Bokilio that the refugees - the military
2 refugees - from Kolingba that were based at the Bokilio site -- Bokilio is in the Congo,
3 isn't it? So they were with them and in the group of refugees some of them had fled.
4 It's as if they had the formation which was under a commander and some of the
5 military refugees from Kolinga, who were in Bokilio, were fleeing and were going to
6 Bétou. Bétou is a town which is on the right bank of the Ubangi River in the
7 Republic of the Congo, so the Republic of the Congo, Brazzaville, and according to
8 the information of this commander of course these men who were fleeing for
9 Brazzaville for the town of Bétou -- it's a border town. It's almost on the border with
10 the Central African Republic, so it's a town which is located almost on the border with
11 the Central African Republic. That's Bétou. And it's pointing out that they're
12 fleeing there and when they get there they're getting organised to take Mongoumba.
13 It's as if they had a target to follow. There was organisation and military action on
14 Mongoumba. That's the message. They want to take Mongoumba. That means
15 attack Mongoumba and have military occupation of it.
16 Now, Mongoumba is a town of course. It's a town in the Central African Republic
17 on the right bank of Ubangi River. So after taking Mongoumba, then -- well,
18 Mongoumba is the first target, and after occupying Mongoumba they would -- they
19 were then going to organise themselves to see how they could reach Bangui. "Reach
20 Bangui," that means attack it or open up a line there -- there so that they could get
21 through to their final objective.
22 According to the commander, he has confirmed -- he has confirmed -- he has said this
23 information has been confirmed. "Confirmed," that means he's checked it and that
24 the information available to him is authentic.
25 He also points out that the Congolese from Bétou - so these are the Congolese from

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1 Brazza, from the town of Bétou - do not agree to letting them through freely. So the
2 Congolese community, or the -- he doesn't say whether they are soldiers or the
3 community, but all the -- all the Congolese in Brazzaville Congo who live in Bétou
4 and who are informed of the situation where the ex-president, Kolingba's, men
5 wanted to get through, they were not in agreement. They did not want to give them
6 free passage to get through to Mongoumba.

7 PRESIDING JUDGE STEINER: Mr Witness - Mr Witness - just sorry to interrupt
8 you.

9 Maître Kilolo, this is exactly what you expected from the witness to read again the
10 message and explain every sentence? Because we can read, so what exactly is the
11 point of the question? Try to obtain a more objective answer from your witness,
12 please.

13 MR KILOLO: (Interpretation) Well, your Honour, I have an explanation which is
14 that the rebels of former President Kolingba were in Bokilio camp and were preparing
15 an incursion on Mongoumba. That's what the witness is explaining, going through
16 the content of the message. At least that's as I've understood it, but having said that
17 I shall move ahead.

18 Q. Witness, where exactly is Bokilio? The Bokilio refugee camp, exactly where is
19 it?

20 A. The camp of Bokilio? Bokilio is a town, it's a village we could say, in the
21 Democratic Republic of the Congo.

22 Q. Do you know exactly where it is in relation to Libenge, or Zongo?

23 A. I don't have a map, but it's inland. You've got Libenge, Zongo, Dongo, they're
24 on the left bank of Ubangi River, and Bokilio is inland. For example, when you leave
25 Gemena, you go to Bwamanda, then Équateur province, around Bangui, and you go

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1 further inland. You go deeper into the territory and that's where Bokilio is.

2 Q. The rebel members of former President Kolingba, who were refugees in Bokilio,
3 what language did they speak?

4 A. (Redacted) They spoke Sango, Lingala and French. (Redacted)
5 (Redacted)

6 MR KILOLO: (Interpretation) I have no further questions, Witness. I would like
7 to thank you for agreeing to answer the questions of the Defence.

8 PRESIDING JUDGE STEINER: Thank you very much, Maître Kilolo.

9 Mr Witness, the Defence concluded with your questioning and now we -- the
10 Prosecution will start questioning you.

11 Therefore, I give the floor to Mr Scaliotti and please feel free to remain seated if you
12 so prefer.

13 MR SCALIOTTI: Thank you, Madam President, your Honours.

14 QUESTIONED BY MR SCALIOTTI:

15 Q. Mr Witness, good morning. We met -- actually we saw each other a couple of
16 days ago during the courtesy meeting. However, I will introduce myself once again.
17 My name is Massimo Scaliotti and I represent the Office of the Prosecution. I will
18 ask you questions on behalf of the Prosecution, and I will do my best to ask you short,
19 clear questions and I would be grateful if you could answer in a focused and concise
20 manner to my questions because this would help expedite your examination.

21 I would like to start with just a few clarifications from your testimony in-chief. You
22 said that you arrived in Bangui on 30 October, am I right?

23 A. That's not correct. I arrived in Bangui in early November.

24 Q. And do you remember exactly when you left Bangui, or the Central African
25 Republic?

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1 A. Around early December.

2 Q. During this period, were you all the time in Bangui?

3 A. I was in Bangui.

4 Q. Did you visit any other location in Central African Republic, apart from Bangui?

5 A. No.

6 Q. And if my understanding is correct, after you left Bangui (Redacted)

7 (Redacted); right?

8 A. Correct.

9 Q. Mr Witness, yesterday you talked about the time when the MLC or the soldiers
10 of the ALC moved to Bangui and -- at the beginning of the conflict and I would like to
11 come back with you on the -- this particular topic. You said, if I'm not wrong, that
12 the ALC soldiers crossed to Bangui on 29 and 30 October. Is my recollection correct?

13 A. Yes, that's correct.

14 Q. And you also mentioned a soldier of the ALC, whose name is Willy Bomengo,
15 and you said that he was in Bangui only for a few hours on 26 October, then he
16 returned to DRC - to Zongo - on the same day and he moved back to Bangui on 29
17 October. Is this what you stated yesterday?

18 A. Correct.

19 MR SCALIOTTI: I would like to ask the court officer to please display document
20 number 24 in the Prosecution list of documents. It is CAR-OTP-0013-0082.

21 THE COURT OFFICER (via video link): (Interpretation) The document has been
22 displayed for the witness.

23 MR SCALIOTTI:

24 Q. Mr Witness, can you see on the screen this document?

25 A. (No audible response)

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1 PRESIDING JUDGE STEINER: Mr Scaliotti, if you could go straight to the part or
2 paragraph you want him to focus on, because otherwise he will read the whole
3 document. It will take a lot of time.

4 MR SCALIOTTI: Sure, Madam President. Actually my question was simply if he
5 had the document in front of him, because my intention was to read myself just a little
6 portion of this press article to expedite the process.

7 PRESIDING JUDGE STEINER: Mr Witness, do you have a page of a document in
8 front of you just to confirm that the document is displayed?

9 THE WITNESS: (Interpretation) Yes, I can see it here.

10 MR SCALIOTTI:

11 Q. Very well, Mr Witness. This is a press article that you have in front of you.

12 It's actually a local press article from a newspaper called Le Citoyen, as you can see at
13 the bottom of the document, and this is the issue of 5 November 2002.

14 Now, I will read a few portions of this article for you and I will start from the right
15 column. Midway you can see in bold letters (Interpretation) "Saturday
16 26 October."

17 (Speaks English) So this is a -- the portion that I am going to read concerns what
18 happened on 26 October and I'm reading, (Interpretation) "From 2 o'clock to
19 5 o'clock in the morning, the whole of Bangui was speaking about the arrival of more
20 than 300 Banyamulenge."

21 (Speaks English) It appears from the portion that I just read that on 26 October, early
22 hour of the morning, more than 300 ALC soldiers were in Bangui. Is this right?

23 A. Whatever the case, as I've just read it here these facts aren't exactly correct.

24 MR SCALIOTTI: I would like the court officer to please turn to the next page, 0083.

25 THE COURT OFFICER (via video link): (Interpretation) The document is being

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1 presented to the witness.

2 MR SCALIOTTI:

3 Q. Mr Witness, you can see in front of you the next page, and I would like to read
4 for you the second paragraph in the left column where it starts with "Vers 15 heures."
5 So we are here still on the -- in this chronology of these events we are still on
6 26 October and this press article keeps reading, (Interpretation) "Towards 3 o'clock,
7 soldiers answering the call of the staff and the support regiment and to the military
8 were humiliated. They were disarmed, they were stripped, they were put in
9 undergarments and thrown into jail by the troops of Jean-Pierre Bemba."

10 (Speaks English) So according to this press article, at 3 o'clock in the afternoon of
11 26 October we have the presence of ALC soldiers in Bangui. Is this correct?

12 A. Here -- here I go back a bit to shed a bit of light on matters for the Court, your
13 Honour. The situation on the 25th. Now, I was present on the 25th. (Redacted)
14 (Redacted) I arrived in Bangui -- sorry, in Zongo.

15 I arrived in Zongo, so I didn't know -- well, in the afternoon. There was firing. You
16 could hear explosions on the other side in Bangui. So we were asking ourselves,
17 "Well, what's happening there?" I wanted to know, "What's going wrong on the
18 other side of the river? What's happening in Bangui?" So I would say that Bangui
19 was being attacked. That was on the 25th, the afternoon.

20 On the 26th, as I've just pointed out, there was a crossing because there was a
21 government. A government was there. And the commander -- (Redacted)
22 (Redacted) the

23 commander, René Abongo, had crossed over. Well, let's say -- (Redacted)

24 (Redacted)

25 (Redacted)

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1 The troops left, they came back, took up contacts with the authorities - the Central
2 African authorities - and it was from the 27th. If you're a soldier, really you know
3 the sector. You are going to leave Bangui, leave Zongo - leave Zongo - and go to
4 Dongo going through Libenge. Well, that's a very long distance. You would know
5 that. A very long distance.

6 Now, the soldier who had to leave Libenge and go towards Zongo, leave Imese and
7 go to Dongo - Dongo, Libenge, Libenge to Zongo - well, that wouldn't just take a few
8 minutes or even just a few hours in order to arrive and you will have to -- when it
9 comes to moving troops, you really have to have -- to have transport, appropriate
10 transport.

11 THE INTERPRETER: The picture has frozen of the witness, says the interpreter.

12 (The video-link terminated)

13 (Pause in proceedings)

14 (The video-link is reconnected)

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

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

17 PRESIDING JUDGE STEINER: We lost connection and you were saying that "when
18 it comes to moving troops, you really have to have transport, appropriate transport."
19 Can you continue from there, Mr Witness?

20 THE WITNESS: (Interpretation) Yes, your Honour. I can continue. Here what
21 I see, as what I just said or what I just explained, that it was the press -- well, what the
22 press wrote. And to my knowledge on this date, the 25th, the soldiers from the ALC
23 were still in the territory, in the Congolese territory, DRC, and I can confirm that. I'd
24 just like to clarify for the Court soldiers on that date were still in the DRC.

25 So, on the 26th, a team with their commander crossed over to take up contact with the

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1 authorities. (Redacted) They came back in the evening. They came
2 back with the instructions that they had received from the authorities there, and on
3 the 27th, that was the start, when they started regrouping the soldiers in Libenge and
4 Imese. They regrouped on the 27th and 28th, and the briefing which they got from
5 their commanders, their brigade commanders, Colonel Moustapha. And on the 29th,
6 the first contingent crossed over, and then I was still in Zongo.

7 And I can see here the press is -- local press -- well, here it seems some kind of
8 campaign or detoxification or psychological welfare, if the government - the Central
9 African government - went to make this statement with regards to the officials, then I
10 could understand it, but if it's a psychological warfare to affect opinion, then the
11 situation is there, but what I do confirm is that on this date the ALC troops were in
12 Congolese territory.

13 MR SCALIOTTI:

14 Q. Mr Witness, of course you have the -- all the right to express yourself freely and
15 answer my question the way you think it is most appropriate, but at the same time I
16 would like to ask you to be possibly concise and focus on my question, as I requested
17 from you at the beginning, or I suggested to you at the beginning, because now we
18 are going through a chronology of events. So, for instance, in this case my question
19 was simply whether on 26 October, at 3 o'clock, like this report says, ALC soldiers
20 were in Bangui.

21 Now, going back to your answer, we agree on the fact that on 26 October ALC
22 soldiers were in Bangui, because my question, I repeat, was about 26 October at
23 3 o'clock and not the 25th, as you said.

24 Now, I would like to read the next portion of this press article and I will be again on
25 this left column. Going down towards the bottom of the column, you see in bold

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1 letters "dimanche 27 October, and then again I will read in French (Interpretation)

2 "Troops of the rebel troops, Jean-Pierre Bemba, took positions at the school of 36

3 Villas and in Camp Béal and the fighting continued again and it did not last."

4 It would be convenient if the court officer could please scroll down a bit the

5 document so that we can see the portion concerning -- thank you.

6 Mr Witness, I think you heard this short portion that I read, and what it says is that on

7 27 October --

8 A. Yes, I heard it.

9 Q. -- soldiers of the ALC around 4 o'clock were still in Bangui. Have you heard
10 that?

11 A. I heard it, Madam President.

12 Q. And I will continue reading another portion. First of all, I will read the title
13 midway on the mid-column:

14 (Interpretation) "General Bozizé calls for force on 25 October to Radio France
15 Internationale."

16 (Speaks English) So this was an interview given by General Bozizé to Radio France
17 Internationale on 27 October 2002. And I will read just a short exchange in this

18 interview. I will -- I'm going to read on the right column, middle of the right column:

19 (Interpretation) "Radio France Internationale. Question. The Libyans, they are
20 next to President Patassé, FACA?

21 GFB, General François Bozizé: We are fighting currently against the Libyans, against
22 the mercenaries sent by Bemba, against the Patassé militia, but never at all against the
23 Central African Army."

24 (Speaks English) From what I have read of this portion of this article, what we have
25 is that General Bozizé on 27 October 2002 is stating at Radio France Internationale that

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1 his troops are fighting against the ALC soldiers. Did you hear that?

2 A. Yes, I heard that, Madam President.

3 Q. And I guess you would agree with me that General Bozizé was supposed to
4 know who or against whom his troops were fighting?

5 A. (No audible response)

6 Q. Mr Witness, did you hear my question? I just said if you agree with me that
7 General Bozizé was supposed to know against whom his forces were fighting when
8 he said that his forces were fighting against the ALC troops?

9 A. Well, I think here it's RFI which is speaking about that and the
10 information -- well, this is information that I'm giving you and that's what I know,
11 and I was there on that date, the date that was mentioned. So if the former President
12 Bozizé on 25 October declares everything that he's declared there, well, I think
13 that -- well, I don't know. Was he on the other side, or had he already taken up
14 power? I don't know. I can't go into the facts that were taken up by the radio here.
15 And why not? Because the enemy - the enemy who's fighting - is also intelligent.
16 The enemy is intelligent. They can also carry out what we call psychological warfare.
17 So, to speak on the radio, explain things on the radio, well, I don't know if the
18 journalists from RFI were in the battle-field in order to actually see that it was true
19 these -- this information is true, and that's the question I would ask, but I -- I was
20 there. I'm saying what I experienced, what I saw, what I heard, and I'm trying to
21 shed light on matters for the Court. I really came here to clarify things for the Court.
22 What are the sources of the information? That's something I don't know. So I
23 cannot confirm things that I don't know.

24 Q. But General Bozizé at that time during the events had no interest whatsoever to
25 allege that he was fighting against the ALC on 27 October if that was not the case; is

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1 that right?

2 A. Well, there's a right to freedom of expression and this is a right which is given to
3 everybody. So, if you have to speak, well, you have to speak and you'll be listened
4 to, but if he stated that, well, I don't know. I don't know where the source of that
5 information is. Who was in the field? Who saw it? Well, it's great making
6 statements, but I don't know the source. I don't know the source of this. Perhaps
7 they arrested a soldier, an ALC soldier, who stated that and that's tangible evidence,
8 but when they just speak about something on the radio, well, how can you accept that,
9 that it was like that? No, I don't have any precisions or evidence in that regard.

10 MR SCALIOTTI: I would like now to move to page 0085.

11 Q. I would like to draw your attention to the left column, Mr Witness, and you can
12 see that the left column is still dealing with events that happened on 27 October, and
13 I'm going to read the mid-column, midway in the left column, the bold title,
14 (Interpretation) "The start of pillaging by Bemba troops at 36 Villa."

15 (Speaks English) And then down towards the bottom of the column you can see:

16 (Interpretation) "Towards 10 o'clock Gbézéra Bria was humiliated by Bemba's
17 troops."

18 (Speaks English) And then I will move to the second paragraph in the column in the
19 middle and it says:

20 (Interpretation) "Gbézéra Bria and his companions, once they had gone away
21 towards 11 o'clock, at 36 Villa were at the mercy of the saviours of the republic, the
22 Banyamulenge, and that is how all the villas, those of Silvain Patassé and others, were
23 systematically pillaged, apart from that of the Minister of State, Gbézéra Bria, and the
24 Minister of the Defence, Angoua. The FACA troops went to the minister of -- the
25 faction of the Minister of the Defence were overtaken by the Banyamulenge and they

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1 were not able to protect these -- they were just able to protect these two villas."

2 (Speaks English) Therefore, Mr Witness, contrary to what you stated about this

3 return of the ALC troops to Zongo on 26 October, according to this press article, the

4 ALC soldiers are still in Bangui on 27 October and between 10 o'clock and 11 o'clock

5 in the morning they are systematically pillaging at the location called the 36 Villas.

6 What is your reaction to this?

7 A. I have understood the question very well, Madam President, but I have the

8 message -- or the part that was read at the beginning by the Prosecutor at the start,

9 well, I didn't follow it. Perhaps he could start again at the beginning and then I

10 would be able to answer.

11 Q. Mr Witness, I think you referred to the first two lines that I read, and I will read

12 it again from the left column, (Interpretation) "Towards 10 o'clock Bria was

13 humiliated by Bemba troops."

14 (Speaks English) (Microphone not activated) ... didn't understand?

15 A. (No audible response)

16 Q. Mr Witness, did you hear my question?

17 A. Could you take that again, Madam President?

18 Q. Mr Witness, I think I can just rephrase what I read, and the question is: Is it

19 true what this press report is saying, that on 27 October, around 10 o'clock, soldiers of

20 the ALC were looting - systematically looting - at the location in Bangui called 36

21 Villas? Did you understand my question this time?

22 A. I understood the question.

23 Q. So can you please answer?

24 A. Madam President, I believe that the date that you mentioned, on that date I was

25 in Zongo. I was not in Bangui. The soldiers had crossed over in the morning and

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1 they returned in the evening. On the 26th and on the 27th, there was a briefing.
2 There were briefings. And on the 29th the battalion commander crossed over, and
3 I know it was Commander Seguin of the 28th battalion based in Libenge. They
4 crossed over.
5 I was not in the CAR to be able to confirm to you that this is what happened there.
6 What I'm telling you is that I was in Zongo and this is the place where the soldiers
7 from Imese and Libenge joined up. There was a parade there. There was a briefing
8 session and then the following day, that is the 29th, it was the Central African
9 Republic who sent their motorboats in order to start crossing over the soldiers. I
10 could see them crossing over and there were many of them, but for me to confirm to
11 you that such-and-such a thing happened at the location that you mentioned, well,
12 I'm not aware of that.

13 Q. However, Mr Witness, you said you were in Zongo. You were not in Bangui.
14 So is it true that you cannot exclude that what this press article is saying is actually
15 true and troops of the ALC were in Bangui on 27 October 2002?

16 A. Madam President, Bangui is the capital of the Central African Republic. It is
17 the political and economic capital of that country, so we are talking about an entire
18 government, a full government, including the army, the police and other security
19 services. So this is a recognised government which was democratically elected.
20 I really do not know for sure when the war started, but on the 25th it was possible to
21 hear explosions. The MLC elements crossed on the 27th for a well-specified mission
22 and, upon their arrival there, it is being said they started looting and doing all sorts of
23 things. Well, I cannot accept that at that time there was looting by ALC -- ALC
24 soldiers in Bangui at that time, and yet I know that there were Libyans there and there
25 were Bozizé rebels there. Those militiamen were there in Bangui. They had

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1 travelled from the Chadian border, from the north, to Bangui. They were there.
2 They were in Bangui town and they went up to 500 metres away from the residence
3 of the President of the Republic. So if there were offences perpetrated there, some
4 people immediately concluded that it was ALC soldiers. Well, really, Madam
5 President, if you can really look into this, these are newspapers. This is what is
6 referred to as open sources. So this is accessible to everyone, but in security circles
7 not everything is disseminated in this way. I don't know whether this is what is
8 known as psychological warfare or what, I do not know, but I do not accept this.
9 On that day, the soldiers were in Bangui not to fight -- I cannot accept that they were
10 there in Bangui not to fight but just to loot. (Redacted)
11 (Redacted) the various statements made by the members of the
12 population. They said, "Look, we are very happy. The ALC soldiers came to
13 reinforce the FACA soldiers and they kicked out Bozizé's militia." So this was a
14 feeling of joy for me. In fact, there were several forces in Bangui Town and, Madam
15 President, I really do not accept this.
16 MR SCALIOTTI: For the court officer, we don't need this document any more on the
17 screen, and now without displaying the document, I would like to make reference to,
18 just for Defence, CAR-OTP-0017-0363.
19 Q. Mr Witness, the document that I am referring to is a letter that was sent on
20 4 January 2003 by Mr Bemba to General Cissé, the Special Representative of the UN
21 Secretary-General in Bangui, and in this letter Mr Bemba stated that his troops
22 intervened in CAR on 27 October 2002. So there seems to be a contradiction
23 within -- between this date that he indicated and your evidence. Is this true,
24 Mr Witness?
25 A. I know that when (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. So what you are saying is that Mr Bemba signed this letter, an important letter

14 that was sent to General Cissé, Special Representative of the UN Secretary-General,

15 (Redacted)

16 (Redacted)? He signed, sent the letter, (Redacted)

17 is this what you are saying?

18 A. Madam President, I am saying that it is possible for an error to have been made

19 in the dates. It can happen to you also. In all administrations, people make errors.

20 That is what I'm saying.

21 MR SCALIOTTI: I would like now to have this document displayed. It's document

22 number 67 in the Prosecution list of documents and it's CAR-DEF-0002-0001.

23 THE COURT OFFICER (via video link): (Interpretation) The document is being

24 displayed to the witness.

25 MR SCALIOTTI: Can we please go to page 0002?

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1 THE COURT OFFICER (via video link): (Interpretation) The document has been
2 displayed to the witness.

3 MR SCALIOTTI:

4 Q. We have seen this document during your testimony in-chief, Mr Witness, and
5 this is the interrogation of Willy Bomengo that was conducted on 17 November 2002
6 by an officer of the ALC. Now, I would like to see a portion of the -- of the statement
7 given by Willy Bomengo and I would kindly ask the court officer to move to page
8 0003, please.

9 THE COURT OFFICER (via video link): (Interpretation) This document is being
10 shown to the witness.

11 MR SCALIOTTI:

12 Q. I will read in French the first portion of the questioning, starting from the top:
13 (Interpretation) "Question: As a soldier and S2 chief of the 28th battalion, do you
14 admit having been designated to accompany the troops 28th battalion in the Bangui
15 operation and, if yes, what was the precise date of the beginning of that operation?
16 Answer: No, I do not recall having been designated to accompany the troops in
17 Bangui. It is the two battalion commanders and his deputy who crossed with the
18 soldiers of the 28th battalion. For my part, I joined up with them 24 hours later.

19 Question: What do you have to say about the date of the commencement of
20 operations in Bangui?

21 Answer: It was precisely on 25 October 2002. That is one day before my arrival in
22 Bangui."

23 (Speaks English) Mr Witness, you heard that I read this portion of the questioning of
24 Willy Bomengo and what Mr -- what Willy Bomengo said about the date of the
25 intervention of the ALC is that the commander of the battalion and his deputy

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1 crossed to Bangui with the 28th battalion and the Bangui operation started on

2 25 October 2002. Have you heard this portion of the questioning that I read?

3 A. Yes, I have heard it.

4 Q. It is also interesting from these answers that Bomengo gave what he said, that
5 he arrived one day after the start of the operation, and he said, "I joined them," which
6 means that if he joined the troops, the troops were still in Bangui 24 hours after the
7 date of the intervention. Did you hear that?

8 A. Yes, Madam President, I heard that.

9 Q. So from what Willy Bomengo stated, it appears that there was no
10 reconnaissance mission but actually the 28th battalion, after crossing to Bangui,
11 stayed in Bangui and the operation continued. Do you agree with that?

12 A. Madam President, if you look at this closely, he mentioned 25 October 2002, the
13 25th. In my explanation, I said that the gun-shots which we heard were on the 25th.
14 I do not know whether it was on the same day that the ALC troops went to Bangui.
15 In order to move an entire unit, and this would apply to all armies in the world, you
16 really need to organise the movement, means of transport, organise briefings for the
17 soldiers, inform them about the situation before they move.

18 Now, as to Bomengo, he was arrested. He was not happy. During his questioning,
19 he could say things that were not correct. It is not because Bomengo said this that it
20 is true. No.

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 So you can question someone and he can tell you anything they want. He can give

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1 you a date which is not correct. (Redacted)

2 (Redacted)

3 (Redacted) It is mentioned here 25th, but at around 3, 4 p.m. there were gun-shots,

4 and the same day he crossed to Bangui, whereas his commander was in Libenge and

5 the other one was in Imese. So this information, Madam President, is not correct. It

6 is not true. The officer made an error there.

7 PRESIDING JUDGE STEINER: Yes, Maître Kilolo?

8 MR KILOLO: (Interpretation) I did not want to interrupt, Madam President. I

9 didn't want to interrupt the question, or the answer, but I need to object; that is

10 relating to the manner in which the question has been put to the witness because this

11 is likely to mislead him concerning the real statement of Mr Bomengo.

12 A document is being used, but further on in the same document Mr Bomengo says

13 something contrary in which he states that he does not accept the content of this

14 statement of 17 December 2002. It is the duty of the OTP to be transparent. The -- I

15 would even say they have to be fair and sincere. So, in order to ask the witness a

16 question on a particular point regarding statements that are contrary, the witness

17 should be informed that on page CAR-DEF-0002-0026 a question is put to

18 Mr Bomengo whether he stands by the statement that he made on 17 November, and

19 he clearly states that he does not stand by that statement, particularly since he did not

20 sign the statement. So I believe it is not correct to provide only partial information to

21 the witness, because this would be misleading him. And I leave that up to your

22 wisdom, Madam President.

23 PRESIDING JUDGE STEINER: Of course, I'll give the floor to Mr Scaliotti to

24 respond if he so wishes, but Maître Kilolo, in my humble view, this is a typical

25 question that should be left for the redirect moment, but in any case if you prefer to

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1 give the opportunity for the Prosecution to respond, Prosecution has the floor.

2 MR SCALIOTTI: Thank you, Madam President. You essentially anticipated my
3 answer, and I think the Prosecution has the discretion to ask and choose the
4 questioning that the Prosecution considers convenient and appropriate and of course,
5 first of all, I would like to notice that during the examination-in-chief of the witness,
6 this question could have been asked. So this could have been referred specifically to
7 this point, and this didn't happen, and in any event, as you said, the Defence will
8 have the opportunity to redirect the witness. So I don't see any basis for this
9 objection at this point in time.

10 PRESIDING JUDGE STEINER: Are you going to continue on the document, because
11 otherwise I have also a clarification question.

12 MR SCALIOTTI: Madam President, I just had one final question on this, but if you
13 wish to ask the question now, for me, it's -- it's not a problem if you want to proceed
14 with your question.

15 PRESIDING JUDGE STEINER: Since we are in the same page. Mr Witness,
16 yesterday - it was transcript 347-Conf English real-time, page 108, lines 3 to 13 - you
17 said, in relation to the arrest of Mr Bomengo, (Redacted) that
18 Bomengo was at his home at the time of the search, so he was arrested, searched and
19 arrested at his home. And here in his alleged statement he says that he was arrested
20 when he was, and I will read his answer number 8: (Interpretation) "No, I was
21 taken from the front line, PK12 towards M'Poko, by the driver Tragila, who was sent
22 for that purpose by the brigade commander."

23 (Speaks English) If it is correct that he was arrested on 30 October 2002 in PK12 near
24 M'Poko. So first is that -- (Redacted)

25 (Redacted), second, could you confirm then that on

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1 30 October 2002, he was already at the ligne de front à PK12, vers M'Poko? Could
2 you clarify that for me, please?

3 THE WITNESS: (Interpretation) Thank you, your Honour. If you can kindly
4 repeat the question. I did not quite understand it.

5 PRESIDING JUDGE STEINER: I will try to be -- let's do the following. It is exactly
6 11 o'clock.

7 Mr Witness, let's have our break, short break, half-an-hour. You can take some rest
8 and we'll be back at 11.30, when I will repeat the question I put to you.

9 We will suspend and resume at 11.30. The hearing is suspended.

10 THE COURT USHER: All rise.

11 (Recess taken at 11.00 a.m.)

12 *(Upon resuming in closed session at 11.37 a.m.) Reclassified as Open session

13 THE COURT USHER: All rise.

14 Please be seated.

15 PRESIDING JUDGE STEINER: Welcome back.

16 Welcome back, Mr Witness.

17 THE WITNESS: (Interpretation) Good morning.

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

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

20 PRESIDING JUDGE STEINER: So if the Prosecution allow me, I will just go to the
21 question that I put before the break.

22 I was saying, Mr Witness, that yesterday you mentioned (Redacted)

23 (Redacted) that Bomengo was at his home at the time of the search. He was

24 searched there where he was and all the property which has -- which was there was
25 taken automatically.

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1 On the other hand, Mr Bomengo, when he was questioned, he said that he was
2 arrested when he was - and I will read in French - (Interpretation) "On the front line,
3 PK12, near M'Poko, by the driver Tragila who was sent off for that purpose by the
4 commander of E Brigade."

5 (Speaks English) Do you have any explanation for these different informations
6 about the circumstances of Mr Bomengo's arrest?

7 THE WITNESS: (Interpretation) Your Honour, my concern here is to inform the
8 Court that Bomengo was arrested for acts he committed and which he was charged
9 with. He was arrested by his brigade commander. He was transferred to the
10 operations commander and that was the staff headquarters, and the Chief of General
11 Staff thought it was a good idea to send him back to Congo because of his misconduct.
12 That is what I wanted to say. That's what I wanted to say with everything I said
13 yesterday.

14 PRESIDING JUDGE STEINER: Mr Scaliotti?

15 MR SCALIOTTI: Thank you, Madam President.

16 Q. Mr Witness, before the break we were talking about the date of arrival of the
17 ALC troops in Bangui and we were looking at the document at the dossier page, and
18 we were at page 0003. We have seen the questioning of Willy Bomengo.

19 I would like now to move to page 0006. On this page we have the questioning of
20 another soldier that was arrested on 30 October 2002. The soldier in question is
21 Faustin Lingimba. And I would like to read just two lines, just one question and
22 answer related to his questioning, and I'm going to the fifth line from the start of the
23 questioning.

24 "Question: (Interpretation) Do you agree that you took part in the Bangui
25 operation on 25 October 2002 -- or from 25 October 2002 up to the present day?

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1 Answer: Yes."

2 (Speaks English) So we can see that even this soldier, while he was interrogated and
3 charged with the crime committed in Bangui, stated that the operation - the Bangui
4 operation - started on 25 October 2002 and lasted until today, and the officer who was
5 questioning, by "today," meant the day of the questioning; that was
6 17 November 2002. So you see that again the date of arrival of the ALC troops and
7 the start of the operation is placed even by this soldier, Faustin Lingimba, on
8 25 October. Did you see that?

9 A. (No audible response)

10 Q. Mr Witness, did you -- can you hear me?

11 A. I can hear you, but the text wasn't ready yet. Could you repeat, please, your
12 Honour?

13 Q. The court officer said that the text was in front of you. However, I will repeat
14 it once again. The question was, (Interpretation) "Do you agree that you took part
15 in the Bangui operation from 25 October 2002 until the present day?"

16 (Speaks English) "Answer: Yes."

17 Have you heard this time?

18 A. Yes, I heard you, your Honour.

19 Q. So what comes out of this questioning is that once again someone - in this case a
20 soldier arrested and questioned - placed the arrival of the ALC troops on
21 25 October 2002, and he stated that the mission lasted "until today," meaning the date
22 of the questioning, 17 November 2002. What is your reaction to that, Mr Witness?

23 A. Thank you, Madam President. I came here to enlighten the Court on what I
24 saw and observed, as I have told you. There was a crossing on the 29th and on the
25 30th, except for the reconnaissance on the 26th. If there had been other hidden

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1 crossings, if there had been other illegal or concealed crossings, I was not aware
2 of -- no, I cannot accept that it was like that. They crossed at night.

3 Q. Mr Witness, have you concluded your answer?

4 A. I have concluded. If you followed me, I said I was in Zongo, and I can tell you
5 that what happened on those days, the preparation and the crossing, I've described.
6 If there are other crossings aside of that, I was not aware of them. The soldiers
7 arrested can make mistakes with dates and particularly when they are questioned at
8 the same time, when you put one next to another, and you start asking them
9 questions, this is what happens. So I'm telling you what I experienced, what I saw,
10 what I heard.

11 Q. Mr Witness, just to sum up before we move to another topic, so I showed to you
12 a number of press articles, a letter sent by Mr Bemba, the questioning of two arrested
13 soldiers. All of these were prepared or done at the time of the events, but according
14 to your evidence, you are the only one having good recollection after ten years and
15 the dates that were put in the press article, in the letter of Mr Bemba, in the
16 questioning of these arrested soldiers, were all wrong. Is this your evidence?

17 A. Your Honour, as you've just told me, the letter written by Mr Bemba -- well, I
18 wasn't there in Gbadolite. (Redacted) The arrest of these two men -- or the
19 statements of these two men which you've just shown me, they were in Bangui
20 arrested and were sent back to the Congo, to Zongo, (Redacted)
21 (Redacted)
22 (Redacted), you could see there's a lot of
23 interference in both the content and the form. If you saw the note itself, (Redacted)
24 (Redacted) you say, "Yes"
25 and sometimes they say, "No" and there are different dates.

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. I would like to move now to something different. You stated yesterday that

7 (Redacted)

8 (Redacted) Do you confirm that, Mr Witness?

9 A. (Redacted) Yes, I confirm it.

10 Q. (Redacted)

11 (Redacted)

12 A. (No audible response)

13 Q. Mr Witness, did you hear my question?

14 A. Could you please repeat it, your Honour?

15 Q. My question was if you know what is the CCOP, the so-called centre de

16 commandement, established by the Central African authorities?

17 A. Yes.

18 Q. (Redacted)

19 (Redacted)

20 A. (Redacted) CCO is the centre for co-ordination of

21 operations. It was set up by the military authorities of the FACA and its role was to

22 get all the information on the enemy situation -- on the enemy situation, and this

23 co-ordination had a special need to know the size of the enemy force, the strength of

24 the enemy, the weapons and the direction in which they were moving and other

25 information, and with that they would study it and make a proposal to their

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1 command in charge of operations and that was part of the Chief of Staff, Chief of

2 General Staff of the FACA. (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 MR SCALIOTTI: Without displaying the document, I would like to make reference

12 to document number 45 in the Prosecution -- in the updated Prosecution list of

13 evidence, CAR-OTP-0042-0237.

14 Q. This document, Mr Witness, is a document which relates to the establishment of

15 the CCOP, or the centre of operation, and it says clearly that the purpose of the CCOP

16 is to prepare, plan and conduct military operations. So my question is: (Redacted)

17 (Redacted)

18 (Redacted)

19 A. (Redacted)

20 (Redacted) That's the question. You can see that the centre is there with its

21 members and what you've read out there is right, that's it. When you look at the

22 members, I don't know how the centre was set up, but it's universal. That's what I'm

23 saying. The centre was comprised of one person in charge first, in charge of the

24 operational unit, and we talked about the officer in charge of operations and the

25 officer in charge of intelligence. And the men who are out in the field sent in reports

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1 to the person in charge of operations that get together, study them and plan; plan
2 operations. (Redacted)
3 (Redacted)
4 (Redacted)
5 (Redacted)
6 (Redacted)
7 (Redacted)
8 (Redacted)
9 (Redacted) Captain René, who was based in the city, in the city centre, (Redacted)
10 (Redacted). He'd carry documents. (Redacted) He would get
11 documents sometimes. He was entrusted with documents and then go off and give
12 them to the brigade commander.
13 This does not mean that (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted) Never. So
17 that -- that doesn't mean that when (Redacted)
18 (Redacted) -- and what I'm
19 saying, madam, Madam President, is that (Redacted).
20 Q. You stated that (Redacted), so it appears from your testimony that
21 (Redacted). Was it the case that (Redacted)
22 (Redacted)
23 A. Yesterday, well, I don't know what the question was, but what I do remember is
24 that I was telling you that for me it was for the first time when I arrived in Bangui. I
25 said that at some time; I can't really remember in answer to what question it was. (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. And so, based on your evidence, (Redacted), according to you, still a

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 A. Sometimes documents were given to Captain René Abongo. (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 Q. Mr Witness, I would like to tell you that with regard to your evidence that (Redacted)

16 (Redacted), another Defence witness stated that (Redacted)

17 (Redacted)

18 and I am referring here to transcript 343, confidential English edited version, page 81,

19 lines 5 to 12.

20 The French version is transcript 343, confidential edited, page 74, lines 10 to 19.

21 So if this witness - if this Defence witness - stated that (Redacted)

22 (Redacted) do you mean that this witness gave wrong information to the

23 Chamber?

24 A. Well, thank you for the question, Madam President. (Redacted)

25 (Redacted)

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13 Page 37 redacted

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. Mr Witness, I'm certainly not a military expert, or an expert on military matters,

12 but from what I understand from you, you said that (Redacted)

13 (Redacted)

14 (Redacted). So wasn't it for this

15 reason that (Redacted)

16 (Redacted)

17 (Redacted)

18 A. (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted) I think

4 that's it.

5 This was -- the CCO was for the staff HQ of the FACA and no troop of the ALC was
6 in that organisation. That was purely in the case of organisation of operations of the
7 staff of the ALC, the Central African Republic.

8 Q. So, Mr Witness, I understand from your evidence that there was co-ordination
9 of operation between the FACA and ALC, and that the FACA, according to you, had
10 operational control and command over the ALC. Is this what you stated during
11 your examination-in-chief?

12 A. Yes, operational control. Here I spoke about sub-orders, sub-orders,
13 operational orders, and control as well. That's included in those sub-orders. When
14 somebody's under your orders, that means he comes underneath you. That's what I
15 said and, yeah, that's the point, your Honour.

16 Q. Is it true that President Patassé requested the military assistance of the ALC
17 troops in October 2002 to counter the attack - the attempted coup d'état - by General
18 Bozizé?

19 A. If President Patassé had asked, well, that's the Chief of General Staff, he can
20 confirm that information. (Redacted) When it comes to the Chief of General
21 Staff, well, that person can aid the Court to tell you whether it's true or false. (Redacted)
22 (Redacted) I don't know anything
23 about that. I can't imagine some kind of answer to give you on that, Madam
24 President.

25 Q. On this specific point, Mr Witness, I will make reference to document number

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1 74 in the updated Prosecution list of documents, and without displaying the
2 document, just to try to save time, the ERN is CAR-OTP-0069-0372.
3 The document that I am referring to is a book written by Mr Bemba, "Le choix de la
4 liberté," and I can read to you from page 0042, and this is Mr Bemba writing, and I can
5 read it in French:

6 (Interpretation) "At that time, President Patassé ..."

7 (Speaks English) No, I apologise. That was a wrong reference.

8 So, Mr Witness, you don't concede that the FACA army wasn't able to resist to the
9 attack carried out by General Bozizé in October 2002?

10 A. Are you asking me if the Central African Army was able or not to counter any
11 military action carried out by General Bozizé?

12 Q. What I'm asking you is that if you confirm that the ALC intervened in
13 October 2002 upon the request of President Patassé.

14 PRESIDING JUDGE STEINER: Mr Scaliotti, this question, he already said he doesn't
15 know.

16 MR SCALIOTTI: Sure, Madam President. I was simply trying to -- because he
17 asked me if that was the question, so that is why I repeated, but I think we can
18 certainly move on.

19 PRESIDING JUDGE STEINER: I think he was mentioning the last question about
20 whether FACA was able to resist the attack, in the witness's opinion. I think this was
21 the last question.

22 MR SCALIOTTI: However, I think we can just move on.

23 Q. And my question is: Are you aware of a previous intervention of the ALC in
24 Central African Republic in May 2001?

25 A. Well, these are two questions that are put. The first I tried to answer and now

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1 you are asking a second question.

2 Now, if I can -- do you want me to answer the two, or which do you want me to
3 answer, please, Madam President?

4 Q. Mr Witness, I would like you to answer my last question, so if you confirm that
5 the ALC intervened in Bangui on a previous occasion in May 2001?

6 A. The intervention of 2001, (Redacted)
7 (Redacted)

8 MR SCALIOTTI: Then to clarify this point, I can ask the court officer to please
9 display the document I was mentioning before, document 74 in the Prosecution list of
10 evidence, CAR-OTP-0069-0372.

11 THE COURT OFFICER (via video link): (Interpretation) The document is being
12 shown to the witness.

13 MR SCALIOTTI:

14 Q. Now, Mr Witness, you can see this is the document that I was making reference
15 to a few minutes ago. You can see the title, "Le choix de la liberté," and this is a book
16 that was written by Mr Bemba. Can we please go to page 0421?

17 THE COURT OFFICER (via video link): (Interpretation) The document is being
18 shown to the witness.

19 MR SCALIOTTI:

20 Q. I will read in French the last paragraph in the page towards the bottom:

21 (Interpretation) "To the aid of the Central African neighbour: On 28 May 2001, at
22 2 o'clock in the morning, the telephone rang. On the line it was President Patassé.
23 He informed me of the drama which was taking place in the heart of the Central
24 African capital. The situation is dramatic. The attackers are determined to finish
25 off with the Head of State, and the Presidential Guard is valiantly defending his

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1 modest residence."

2 (Speaks English) So we have seen here in this little portion that I read that on

3 28 May 2001, President Patassé called Mr Bemba, telling him about the attack against

4 Bangui.

5 Now, if we can move to the next page, 0422.

6 THE COURT OFFICER (via video link): (Interpretation) The document is being

7 shown to the witness.

8 MR SCALIOTTI:

9 Q. I'm going to read the second paragraph in this page, (Interpretation) "Within

10 the army of President Patassé, everything would indicate that in the night of 27 to

11 28 May 2001, troops of the Yakoma ethnic group defected in order to get behind the

12 former president, Kolingba."

13 (Speaks English) Do you see here, Mr Witness, that President Patassé was attacked

14 by forces lead by former President Kolingba? Did you follow that?

15 A. I followed, Madam President.

16 Q. And I will read a last very short portion from this page. It is from the next

17 paragraph.

18 (Interpretation) "At 7 o'clock, President Patassé called me again and informed me

19 that the troops that had stayed faithful were incapable of taking back control of the

20 situation."

21 (Speaks English) So this is what Mr Bemba wrote in his book, that in May 2001

22 President Patassé requested the assistance of the ALC troops because of the weakness

23 of his army, of the FACA army, to regain control of the situation. Is this what I just

24 read, Mr Witness?

25 A. Thank you very much, Madam President.

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1 I listened to your question with interest. If Mr Bemba wrote this, then he was talking
2 about reality. So that reality set out in the document written by Mr Bemba is based
3 on information that came from himself; that is the president.

4 You have talked about a phone call. Who called during the night? It was President
5 Patassé. He himself felt that his army was no longer in a position to counter the
6 enemy advance towards the capital. His army was not able to kick out the enemy.
7 He asked for assistance from a friend. I believe that, given that Mr Bemba was the
8 national president of the MLC, his reaction was only normal.

9 This was someone in a situation of distress. He was at risk, and if I remember
10 correctly, in 2002 the four leaders -- the three leaders in Congo, that is the former
11 government, the MLC and the RCD, were observing a period of ceasefire. At the
12 end -- or rather, there had been negotiations in Sun City for the purpose of
13 reconciliation and working together. So that had been done.

14 This means that the soldiers who were in the field had received orders to stop
15 advancing until further notice. (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 If Mr Bemba accepted to go to Bangui, that is to send his troops to Bangui in response
20 to the request of Mr Patassé, I believe this was a normal reaction as someone in a
21 position of leadership. That is when his neighbour is at risk. However, as I have
22 stated, he sent troops which he placed at the disposal of the Central African Republic
23 Army.

24 Even if you look at what happens in African countries and even in other countries in
25 the world -- for example, the United States intervened in Iraq. They intervened in

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1 Kuwait also. The French also went to Côte d'Ivoire to intervene in support of
2 Gbagbo. There was also a similar case in Algeria. And we know about these
3 situations. So it was quite normal for him to intervene in order to save a
4 democratically elected president whose government and whose population were in
5 danger. So, Madam President, I believe that Mr Bemba's reaction was only normal.
6 Thank you. That is my answer.

7 Q. Mr Witness, I would like to remind you once again to be as focused as possible
8 on my questions, because if we proceed this way it will not be easy to complete your
9 testimony. My last question was not whether or not this was a legitimate
10 intervention. I simply asked you if it was true, based on this book, that the MLC
11 troops intervened. And now, just to try to progress, so from what we read in this
12 book written by Mr Bemba, it appears that in May 2001 the FACA army was a weak
13 army and that's why President Patassé requested assistance from the ALC troops.
14 And afterwards General Bozizé, at the time in May 2001 the FACA Chief of Staff, was
15 dismissed from the FACA and he left, with a number of troops that followed him;
16 isn't it right?

17 PRESIDING JUDGE STEINER: Mr Witness, wait before you give your answer.
18 Judge Aluoch wants to intervene.

19 JUDGE ALUOCH: I'm sorry to intervene, but, Mr Scaliotti, I think your question to
20 the witness should have been whether he's aware of this. That's what I think would
21 be a more appropriate question. I'm sorry to intervene. To make it easy for the
22 witness to answer your question, are these facts that he's aware of at all?

23 MR SCALIOTTI: Sure, your Honour, I can certainly rephrase my question.

24 Q. So, Mr Witness, I'm asking you whether you are aware that after the
25 intervention of the ALC troops in May 2001, General Bozizé afterwards, in

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1 November 2001, left the CAR and the FACA army because he was dismissed, and a
2 number of soldiers followed him? Are you aware of this?

3 A. Madam President, from the very outset, I told you that during that period 2001 (Redacted)
4 (Redacted)
5 (Redacted) So I was not in Bangui, I would not have known everything that
6 happened there.

7 MR SCALIOTTI: Can the court officer please display document number 4 in the
8 updated Prosecution list of documents, CAR-OTP-0001-0034. Can we please display
9 page 0040.

10 THE COURT OFFICER (via video link): (Interpretation) The document is being
11 shown to the witness.

12 MR SCALIOTTI:

13 Q. Mr Witness, can you see the document on the screen?

14 A. Yes, Madam President, I can see the document.

15 Q. Then I will read once again for you in French, and I'm going to the left column.

16 The little title in bold is (Interpretation) "The Bozizé affair."

17 (Speaks English) And then the second paragraph reads, (Interpretation) "The
18 former FACA general was dismissed on 26 October 2001 by presidential decree for
19 complicity in the coup d'état attempt of Kolingba in May 2001. The humiliation was
20 bitter. He refused to comply with the summons or warrant presented to him on
21 3 November 2001 and put up armed resistance for a few days, after having retreated
22 to PK11.

23 Seizing the opportunity of the mediation of General Cissé, the representative of the
24 Secretary-General of the United Nations in the CAR, the loyalist forces supported by
25 the Libyans launched an offensive against Bozizé and his troops. Bozizé retreated

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1 with about 100 of his men to base themselves at the border with Chad in the area
2 known as Sahr."

3 (Speaks English) So this portion that I read to you refers to the question that I asked
4 you before. So you see that, from this report, it turns out that in November 2001
5 General Bozizé left the FACA, followed by a number of troops. Have you followed
6 this, Mr Witness?

7 A. Madam President, I followed that.

8 Q. So this means that if the FACA army in May 2001 was unable to defend
9 President Patassé and therefore was a weak army, it became even weaker after
10 General Bozizé left with a number of troops. Do you agree with that?

11 A. Yes, that is written. I agree with you.

12 Q. Which means that in October 2002, the FACA army was a very weak, almost a
13 falling apart, a collapsing, army; isn't it true?

14 A. (No audible response)

15 PRESIDING JUDGE STEINER: Mr Witness, the Prosecution is asking whether you
16 agree with what he just said. Did you understand that it was a question?

17 THE WITNESS: (Interpretation) Yes, I heard what he read out and I also saw that
18 in the document, but I was not there. I was not in Bangui and I was not in Gbadolite.
19 As I've said, (Redacted). Maybe the authorities are in a better position to
20 answer this question. The Chief of General Staff can answer, because he was the one
21 who was there in Gbadolite, so he will be better able to answer the question. I was
22 not there and I cannot comment on issues that I do not know.

23 MR SCALIOTTI:

24 Q. Mr Witness, you were in Bangui and in Central African Republic during this
25 conflict, so I think you are in a position to answer this question. And the question is:

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1 Having seen what were the conditions of the FACA army, almost the non-existent
2 army or collapsing army, how could it be that there was co-ordination between the
3 ALC deployed in the number of about 1,500 men and this collapsing army that was
4 the FACA at the time?

5 A. To be clear, I can say that the FACA army had been attacked. The FACA were
6 attacked, and if Patassé asked Mr Bemba for a military assistance or military
7 intervention, that was normal because, as part of the Sun City agreements, they were
8 in negotiations and almost everyone was together. So from 2002 efforts were made
9 to find out how the soldiers could be recycled or integrated into the same force.
10 As I have said, in 2001 I was not in Gemena, and in 2002, as I have told you, (Redacted)
11 (Redacted). So I'm
12 able to comment on the issues related to the questions - the previous questions - that
13 you put to me, but I cannot go beyond that to talk about President Patassé, President
14 Bozizé.

15 To begin with, I am not a politician and I am not even interested in politics. The
16 question that you have put to me there seems to me to be superfluous. I really
17 cannot really grasp it and there is no way for me to give you an answer because I
18 really do not have any information to give you on that, particularly since I was not
19 even present there (Redacted)
20 (Redacted). So it would be difficult for me to
21 answer that question, Madam President.

22 Q. Mr Witness, my question was essentially about the strength of the FACA and
23 given the conditions in which we have seen from Mr Bemba's book, the condition in
24 which the FACA were, how there could be co-ordination, but -- so are you saying
25 that - because I see that you have promised to answer this question - are you saying

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1 that (Redacted)

2 (Redacted)

3 A. (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted) So, Madam President, here I am limiting myself to the reliable
10 information that I gave you relating to my activities during my stay in Bangui.

11 Beyond that, I would have difficulties giving you answers, Madam President.

12 Q. Still on the topic of co-ordination between the ALC and the FACA troops, you
13 were in Bangui during at least the month of November 2002. So are you aware of
14 any incidents that occurred between the ALC troops and the FACA troops?

15 A. Incidents? What type of incidents, Madam President? I need some
16 clarification.

17 Q. I will give you a practical example, Mr Witness. For instance, Colonel Lengbe
18 testified in open session - completely in open session - before this Chamber, and he
19 recounted an incident when a soldier of the ALC was shot in Bangui and as a reaction
20 the ALC disarmed 30 FACA soldiers at their base near Camp Béal and took off their
21 uniforms.

22 The reference is transcript 182, edited English, page 35, lines 13 to 25. The French is
23 transcript 182, page 35, line 26, to page 36, line 15.

24 Mr Witness, were you aware, as you were in Bangui, were you aware of this incident
25 that I just told you?

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1 A. I heard the president of the commission talk about that and he said, "Well, such
2 incidents happen." It happened at the very beginning and shortly afterwards they
3 were working together. Shortly after that I was in Bangui, and it was difficult to know
4 that such a thing had happened. So all beginnings are always easy (sic), but in the
5 final analysis it was not a problem. They were working together. That is why you
6 can see that the operations were continuing without any problem.

7 The president of the commission said there had been an incident and this is what
8 happened, but the important thing was that they were together and working for the
9 same -- working towards the same objective. People really did not allude to that.
10 They did not take that into consideration, because it was really a small matter.

11 Q. Colonel Lengbe during his testimony recounted another incident. So the first
12 one was not isolated. And according to Colonel Lengbe, at PK13, two FACA soldiers
13 were captured and tied up by the ALC soldiers and Colonel Lengbe and General
14 Mazi had to intervene with Colonel Moustapha and they had really big problems to
15 have the two FACA soldiers released. Are you aware of this incident?

16 A. Madam President, I have fully understood the question. The problem is one
17 between the commander and his subordinates, so it was within that unit that the
18 problem occurred and that had to be resolved because there was only one objective.
19 I was not aware of that incident. I was not aware of the fact that two FACA soldiers
20 had been tied up. I am not aware of that. Maybe it happened before my arrival but,
21 Madam President, in my humble opinion, during operations in particular the
22 commander really has to be present in the field with his men.

23 As you have said, Colonel Lengbe had to report to his Chief of Staff, summon Colonel
24 Moustapha as someone under their authority so that Moustapha should provide
25 detailed explanations. They would have to take a decision because those soldiers

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1 were under their command, under their orders. So in such cases I believe it is a
2 problem of indiscipline within the unit, and there are provisions for that in military
3 regulations. They could have acted as the commanders.

4 (Redacted)

5 (Redacted)

6 (Redacted) These are issues that have to be dealt with

7 pitilessly. It is said pity does not make the strength of an army. If there is an
8 incident, it has to be reported; it has to be punished.

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted) So this was a problem of the commander and his subordinates. If they did
13 not take action, well, I was not aware of that, but I am simply telling you the
14 measures that should have been taken by the operations commander in relation to
15 this matter.

16 Q. It appears that these incidents between the FACA and the ALC were not
17 isolated. You probably remember that even this morning, when we were looking at
18 the chronology of events, we have seen a press article saying that on
19 27 November -- of October 2002, the ALC troops were pillaging at the location called
20 36 Villas and the FACA were only able to protect the houses of two FACA -- of two
21 CAR Central African ministers, which means that the FACA and the ALC were
22 basically facing each other. So that doesn't really indicate a good level of
23 co-ordination. Do you agree with me, Mr Witness?

24 A. Madam President, here I do not agree with you and quite simply because the
25 people who made these allegations could have done something. This is the capital

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1 of the Central African Republic.

2 Even a photo which could have been shown to show that that was an ALC soldier.

3 There were Bozizé's militiamen, there were South Africans, and they were mixed up
4 with the Chadian militiamen, and inside Bangui there were Kolingba's militiamen.

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 Madam President, if the Central African people had thought it was -- it was necessary
12 to have some sort of clarification of this problem or if they had to know who had done
13 what, then they should have appealed to their brothers, to the president of the
14 commission, and lodged a complaint to the commission which was there and which
15 was there permanently there conducting investigations and could charge and arrest
16 people who had been accused of such problems.

17 We've got RFI, the French international radio, that wrote information, but where did
18 that information come from? Who gave that information to RFI? Was RFI out in
19 the field with the FACA forces, with the ALC forces? Were they together with
20 Bozizé's militiamen, with Kolingba's insurgents? These are all the different
21 questions which we should look at and find answers to clarify the situation.

22 (Redacted)

23 (Redacted)

24 (Redacted) They were the police and they were

25 there with the local community. Sometimes the local community are afraid of

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1 military men or the police, but they had their Central African brothers there and there
2 were no complaints made to the commission organised and set up by the Chief of
3 General Staff, the Chief of General Staff of the FACA.

4 Madam President, I find that these charges are unfounded, and perhaps you could
5 organise a new investigation on this to clarify the situation. That would be a good
6 idea.

7 I was there. I was present. I wasn't sick. I was in good health (Redacted)
8 (Redacted)

9 (Redacted)

10 (Redacted) And RFI got this

11 information - I don't know what their source was - and they told these stories and
12 broadcast them, but I don't take this into account, Madam President. Madam
13 President.

14 MR SCALIOTTI: I mentioned these two incidents that were mentioned by Colonel
15 Lengbe during his testimony and it appears that the fact that incidents happened
16 between the FACA and the ALC is confirmed by a number of documents.

17 I would like now to have displayed document number 46 in the updated Prosecution
18 list of documents, CAR-OTP-0042-0242.

19 THE COURT OFFICER (via video link): (Interpretation) The document has been
20 displayed for the witness.

21 MR SCALIOTTI:

22 Q. Mr Witness, do you see this document in front of you?

23 A. I can see it, Madam President.

24 Q. This is a report that was sent within the structure of the FACA and it was sent
25 by the colonel of the -- the Chief of General Staff in charge of this department called

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1 the "sapeurs-pompiers," and it was sent to the general brigade Chief of General Staff
2 of the army, of the FACA. We can see the date. The date is actually not very clear,
3 but if we look down the stamp of receipt of this report, it says that it was received on
4 11 December 2002. And I will read the document in French once again:

5 (Interpretation) "Re: Report of looting of the office of the technical advisers of the
6 battalion of sapeurs-pompiers.

7 I am pleased to report as follows: One week before the events of 25 October 2002
8 occurred, the battalion of sapeurs-pompiers moved from its former base to go back to
9 Camp Béal where its staff headquarters is based after the barracks were built. All
10 that remained was the office of the technical advisers to follow through on the
11 development of the building projects cited.

12 When Bemba's forces occupied the entire support sector, they forced their way into
13 the office of the advisers to take the printer, the photocopier, some medical drugs held
14 in storage, and some co-operation documents. It was the Chief of Staff of the
15 sapeurs-pompiers with some men who reported on these events."

16 (Speaks English) So we have seen a report generated by FACA authorities saying
17 that the ALC soldiers entered the bureaux des conseillers techniques, which is an
18 office belonging to the FACA, and the ALC pillaged a number of objects, including
19 printer, photocopier machine, et cetera. And this is the Chief of Staff or General Staff
20 of the sapeurs-pompiers who verified this incident. So, again, we have an incident
21 between the two armies which doesn't certainly indicate a good co-ordination
22 between the two armies. Were you aware of this incident, Mr Witness?

23 A. Thank you, Madam President. (Redacted)

24 (Redacted)

25 (Redacted) But I note that there were other people who did what

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1 we called to flee their responsibilities, or to shirk their responsibilities.

2 (Redacted)

3 (Redacted) The commission which was already there was there to

4 investigate all cases of misconduct. Why not come along and make a report to the

5 commission and ask the commission to investigate this? So this person prefers not to

6 talk about it, to say nothing and to accuse, to make an accusation through the

7 International Criminal Court. But the --

8 PRESIDING JUDGE STEINER: Mr Witness, I'm sorry to interrupt you. The time this

9 document was signed, there was no International Criminal Court. So, please, just

10 answer to the question put by the Prosecution and stop trying to interpret what was

11 the intention of the person who signed the document.

12 THE WITNESS: (Interpretation) Thank you, Madam President.

13 I have seen the document. If these events had really occurred there, they were -- it

14 was for the Chief of General Staff to give instructions to the commission or to give

15 orders for investigations to be conducted. So I think this is a way of speaking or

16 writing of what is said. Who -- now, who forced the door open and took the

17 photocopier and other machines? Who? When they say there Jean-Pierre Bemba's

18 men, is that certain that they are really Jean-Pierre Bemba's men?

19 Now, it was the staff of the company that was in charge of security in the city, but it

20 wasn't just that. It was also the FACA forces too, and FACA forces were there too.

21 And the report is that the door was broken down and it's written down here that they

22 are Jean-Pierre Bemba's men.

23 Now, I don't know if this is a judgment, but it's not true. With all the men (Redacted)

24 (Redacted) who were disciplined and so on, I think that this really is not true. They

25 could have done something to arrest someone. (Redacted)

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1 (Redacted)

2 (Redacted) saw how

3 the soldiers behaved, and there were soldiers and their families there. How could

4 such things happen and how could ALC men come and do that? (Redacted)

5 (Redacted)

6 MR SCALIOTTI:

7 Q. The last two lines of this document say that the Chief of Staff of the

8 sapeurs-pompiers verify the facts of this report and you, Mr Witness, claim that there

9 was good co-ordination and good relationship between the FACA and the ALC. So

10 there was no reason for the -- for someone within the FACA authorities to make false

11 allegations against the ALC soldiers, am I right?

12 A. Madam, there was good co-ordination. This was in the situation of efficient

13 operations. There was good co-ordination. There were meetings of the chain of

14 command. Orders were given to the commanders, but there was also discipline.

15 There was also discipline, and that's really important, and the commander was in

16 charge. We saw that a FACA officer had arrested an ALC man, and that's good

17 because that was a person who was misbehaving. And if there hadn't been good

18 co-ordination, how could these people have worked together?

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted) That's what I wanted to say, Madam President.

4 Q. I will ask you, Mr Witness, the last question about this document. Then we'll
5 move on. Now, if the ALC, as this report says, pillaged goods belonging to the
6 FACA and so the FACA were not even able to prevent the ALC soldiers from stealing
7 the goods of the FACA, doesn't this indicate that the Central African authorities were
8 totally unable to control the ALC soldiers?

9 A. Madam, (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Perhaps the enemy was strong in its military moves, in its planning. They organised
14 small groups of men for targeted attacks, surprise attacks. This is what happens in
15 fighting. If the enemy had thought out its plans and if the enemy knew the ground
16 very well, they could succeed with their operations, but here you cannot directly
17 judge the situation and say that the army was incompetent. I don't think so. It
18 depends on the advantage you have in the field between you and the enemy.

19 PRESIDING JUDGE STEINER: Mr Witness, it's almost 1.30. We are going to
20 suspend now, have our lunch-break. You also have the opportunity to take some
21 rest. We will resume at 3 o'clock.

22 The hearing is suspended.

23 THE COURT USHER: All rise.

24 (Recess taken at 1.28 p.m.)

25 *(Upon resuming in closed session at 3.08 p.m.) Reclassified as Open session

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- 1 THE COURT USHER: All rise.
- 2 Please be seated.
- 3 PRESIDING JUDGE STEINER: Good afternoon, everyone.
- 4 Good afternoon, Mr Witness. Welcome back, Mr Witness.
- 5 THE INTERPRETER: I think the microphone's off, your Honour. It says,
- 6 "microphone off at other side." I don't think we can hear them.
- 7 PRESIDING JUDGE STEINER: Can you hear me?
- 8 THE WITNESS: (Interpretation) Yes, now -- now I can hear you, Madam
- 9 President.
- 10 PRESIDING JUDGE STEINER: I am welcoming you.
- 11 THE WITNESS: (Interpretation) Thank you. Thank you very much. Good
- 12 afternoon, your Honour.
- 13 PRESIDING JUDGE STEINER: Mr Witness, we will continue now with your
- 14 questioning, and just for your own benefit, I would remind you that if you be -- for
- 15 you to be as much objective and direct as possible in your answers, because we are
- 16 trying to conclude your testimony tomorrow afternoon. So let's try and advance.
- 17 Can we count on you?
- 18 THE WITNESS: (Interpretation) Yes, your Honour, you can count on me.
- 19 PRESIDING JUDGE STEINER: Mr Scaliotti, we also count on you for doing short,
- 20 objective and direct questions, because otherwise we won't be able to achieve our
- 21 goal.
- 22 You have the floor.
- 23 MR SCALIOTTI: Thank you, Madam President, and good afternoon.
- 24 Q. Good afternoon, Mr Witness. Can you hear me?
- 25 A. Yes, I can hear you.

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1 Q. Before the lunch-break, we were discussing incidents between the FACA troops
2 and the ALC troops. Now, before we conclude this topic, I would like to show you,
3 Mr Witness, another document, and I'm asking the court officer to please display
4 document number 52 in the updated Prosecution list of documents. It is
5 CAR-OTP-0042-0255.

6 THE COURT OFFICER (via video link): (Interpretation) The document is being
7 shown to the witness.

8 MR SCALIOTTI:

9 Q. It is another report that was exchanged between Central African authorities.
10 You can see the heading "République centrafricaine. Ministère de la Défense
11 nationale." The date of this report is 7 March 2003, and you see the title,
12 "Message - porté." The report was sent from the magistrate director-general of the
13 gendarmerie nationale to a number of recipients, including the Minister of National
14 Defence, the Chief of General Staff and the Director-General of the USP.
15 Now, I will read the text for you, Mr Witness.

16 (Interpretation) "By message number 010/2 TO.MISS.BLI of 4
17 April 2003 - stop - Chief detachment gendarmerie Boali report - stop - The 3rd
18 March 2003 towards 1500 hours - stop - Congolese friend on board vehicle container
19 marque Volvo - stop - From Bangui towards Bossangoa or Bozoum - stop - Opened
20 fire on USP troops based in Barrière Boali - stop - Troop USP named Zelba was
21 stripped - stop - A pair of Rangers and a rocket were taken - stop - Seriously beaten
22 up certain persons - stop - including someone called Mokondui Nboya was evacuated
23 or taken to the health centre - stop - Population very concerned and in
24 uproar - stop - Congolese numbers estimated at 40 to 50 men - stop - And end."
25 (Speaks English) Then you can see the stamp and the signature of the director

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1 general at the bottom of the document. So we have here another report stating that
2 ALC men going from Bangui to Bossangoa opened fire over USP forces. One USP
3 soldier was undressed. Things were stolen, including boots and a rocket, and some
4 people were harassed. So considering one more incident of this type, do you still
5 maintain, Mr Witness, that despite these incidents that we have seen, there was good
6 co-ordination between the FACA and the ALC troops?

7 A. (No audible response)

8 Q. Mr Witness, did you hear my question?

9 A. I heard. I heard the question. I heard the question, Madam President. I see
10 the message. The message comes from the person responsible for the gendarmerie
11 or the police, Bossangoa, and this -- the daily situation or sitrep's been sent. This is
12 what it is. And this is the report that's written and it's sent to the hierarchy. It's a
13 report. And if you look carefully, your Honour -- you mentioned that -- if you look
14 very carefully, if you look at the dates here, look carefully at the dates and the months
15 here, and each day you have activities. They were together. They were planning
16 things together. They were giving orders. If really that was the case, what would
17 the attitude be that the addressees of this note, or this message, would have? As a
18 commander, and you'll go to see the commander of operations, make a report, and
19 the commander of operations who had all the responsibilities for the men who were
20 in the field, whether ALC or FACA. And the Libyans would call the brigade
21 commander, Moustapha - Colonel Moustapha - and inform him of the situation and
22 behaviour of these troops, and that's the way it was. That -- that's the attitude of the
23 commander, of the commander of operations of Bangui, General -- head of General
24 Staff, Chief of General Staff.
25 If really this report got to him, to the person responsible, he had to call his

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1 commander, brigade commander, and find out about the situation, and having done
2 so, call the battalion commander and ask, "What's happening in such-and-such a
3 place? We have to investigate this."

4 (Redacted)

5 (Redacted) The troops, the troops who

6 committed this misconduct, they needed to be arrested as the others had been
7 arrested and they had to be punished. That's the procedure which had to be
8 undertaken by the commander of operations.

9 So I've a question: Did the commander of operations in Bangui, Chief of General
10 Staff, Deputy Chief of General Staff, was he aware of this event? If he was aware of
11 this event, what was his attitude towards this situation? Because there were
12 meetings that were held there, security meetings, co-ordination meetings, all of that
13 sort of thing, and these are situations that have to be debated or spoken about. The
14 troops in such cases would be arrested and they'll be punished, with full
15 responsibility.

16 (Redacted)

17 (Redacted) If it was just done at police level, it's finished. A copy
18 was made for the commission and made to Damango. Now, I don't know about that,
19 but it's the brigade commander at the time who was Colonel Moustapha. Was he
20 aware of this event? (Redacted) It's an event.

21 What was done where?

22 You have sent intelligence officers. They will go and check and gather the facts, the
23 essential elements of information that are needed to make it possible to act, to punish
24 at disciplinary level, if necessary, or to hear these people and put them in prison, if
25 necessary.

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1 These troops were travelling on the road. An event took place and the commander
2 of operations had to be informed, as I have said.

3 Q. Given the good relationship between the CAR and the -- I mean the FACA and
4 the ALC, anyway there was no reason to have any question or doubt about the fact
5 that these were genuine allegations; am I correct?

6 A. (No audible response).

7 Q. Mr Witness, did you hear me? Did you hear my question?

8 A. Could you please repeat the question, Madam President?

9 Q. Through your long answer, I had the impression that you were casting doubts
10 as to the quality or the genuineness of these allegations and my question was, given the
11 good relationship that you claiming existed between the FACA and the ALC, there
12 was no reason to cast any doubt as to the fact that these allegations made by the
13 Central African authorities were actually genuine allegations? Do you agree with
14 that?

15 A. I followed the question. As I just said, the allegations -- well, we spoke about
16 the -- about who these Congolese people were. From what unit were they?

17 PRESIDING JUDGE STEINER: Mr Scaliotti, go ahead. Otherwise, the witness will
18 continue speculating, and three more pages of his speculation, I don't see the meaning.
19 I must confess I don't see the meaning of this question, Mr Scaliotti.

20 MR SCALIOTTI: Madam President --

21 PRESIDING JUDGE STEINER: It is pure speculation, what he thinks. He will start
22 again.

23 MR SCALIOTTI: We can move on. Madam President, we can move on.

24 Q. Mr Witness, I would like to go back to something that you said yesterday, and
25 I'm referring to real-time transcript 347, English version, page 23, line 12. You said,

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1 "Mr Bemba didn't give any operational order."

2 Then at page 25, line 18, and I'm reading, you said, "You cannot conclude that

3 Mr Bemba gave orders on a regular basis to the units." So I would you to give me a

4 clarification, because I'm not very clear what you meant. So was Mr Bemba able to

5 give from time to time operational orders to his units?

6 A. No. No, Madam President.

7 Q. You also said that Mr Bemba was a civilian. Do you confirm that?

8 A. Yes, I confirm that.

9 MR SCALIOTTI: I would like the court officer to please display document number

10 74, CAR-OTP-0069-0372.

11 THE COURT OFFICER (via video link): (Interpretation) The document is being

12 presented to the witness.

13 MR SCALIOTTI: Can we please go to page 0394?

14 Q. Mr Witness, this is the book written by Mr Bemba, "Le choix de liberté," and

15 with regard to your previous answer I would like to read some portion of this book,

16 starting from this page 0394. From the second paragraph, middle of second

17 paragraph, (Interpretation) "In the night of 22 -- to 22 February, at 4 in the morning,

18 the phone rang in my hotel room. The operator informed me that Lisala was being

19 attacked by Kabila's troops. The situation was serious. I had to travel to Lisala as

20 quickly as possible.

21 President Museveni placed a C130 plane at my disposal. We took off within the

22 greatest uncertainty regarding the fate of the troops in Lisala. The landing took

23 place in the midst of heavy firing from the enemy, whose forces were advancing on

24 two fronts: The first towards the town and the second towards the airport. The

25 town was cut in two. As I got off the plane, several soldiers were shot down by

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1 enemy fire. My unexpected arrival gave courage to the soldiers who were resisting
2 the advance of the enemy."

3 (Speaks English) And then I will read another short passage from this page, the next
4 paragraph:

5 (Interpretation) "On the second day of the fighting, the uncertainty remained.

6 Three boats were shelling the town. In the air, the Antonov were bombarding our
7 positions. I continued bringing the men together and fighting back against the
8 enemy."

9 (Speaks English) From what I just read to you, Mr Bemba is describing his
10 participation in a military operation that happened in February 1999. Is this correct,
11 Mr Witness?

12 A. Madam President, Bemba was the president of the movement. He was the
13 supreme commander. He is speaking here in a situation where he was surrounded
14 by his General Staff.

15 I was present there on that day in Lisala, and Lisala is a town located in Équateur
16 province. I was there. As he said, he was not there at the beginning. He arrived.
17 He is the authority of the movement. His Chief of General Staff was present there in
18 Lisala with his General Staff. He did not say that he arrived and then proceeded to
19 issue orders on the front, no.

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted) Lisala is a town almost at the centre of the Équateur province, on
24 the left bank of the Congo River. For the geographical co-ordinates I think you can
25 refer to a map, because I cannot remember that. (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. Mr Witness, I am sorry to interrupt you, but that was definitely not my question.

12 I did not ask you to (Redacted). I simply asked you whether or not

13 it's true that, from the passage that I read, Mr Bemba was participating directly in a

14 military operation. That was my simple question. Can you please answer that?

15 A. No, he did not participate directly in the operations.

16 Q. Is it true that from his description he was on this war theatre present himself?

17 A. That is why I would like to give a few details. In a nutshell, he was not in the

18 theatre of operations. Lisala was the headquarters of the General Staff and the

19 enemy had infiltrated using its boats from Kinshasa, Mbandaka, Mo Beka, right up to

20 Lisala. The Congo River is 12 kilometres wide and the boats travelled by night until

21 they arrived Lisala and started shelling the General Staff, where the political and

22 military leaders were based. So this was not a theatre of operations. The enemy

23 infiltrated the area to come and attack the staff headquarters.

24 Q. Mr Witness, if I still take a look at the portion that I read and I go just a few lines

25 down, I can read, (Interpretation) "Moving towards Ubangi, I fell into a trap."

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1 (Speaks English) Now, in a trap or an ambush, doesn't this indicate that he was fully
2 involved in that operation?

3 A. Madam President, unfortunately, we do not have a map. (Redacted)

4 (Redacted)

5 (Redacted) When they were

6 on the right bank, seven kilometres away from Lisala, the troops came out to come

7 out -- to set up ambushes between Lisala and Binga. There is a motorable road

8 linking those two locations, so Mr Bemba fell in an ambush. The ambush was not at

9 the front. He was not commanding there. So the enemy that had infiltrated had

10 also infiltrated soldiers who set up ambushes on the road from Lisala to Binga, which

11 are two towns that are close to each other. So that would mean that he was attacked

12 at the General Staff headquarters, which was also the political headquarters of the

13 ALC. The enemy was chased out and they went towards Mbandaka.

14 MR SCALIOTTI: Can we please display page 0414?

15 THE COURT OFFICER (via video link): (Interpretation) The document is being

16 displayed to the witness.

17 MR SCALIOTTI:

18 Q. I will read only a few lines from this page. It's the third paragraph.

19 (Interpretation) "I could not abandon my men in the hands of the enemy. I ordered

20 the Simba battalion to attempt an infiltration towards the two localities separating it

21 from the 4th battalion. The operation turned out to be a success and the ALC finally

22 took over control of Nkonya and Kuka."

23 (Speaks English) Is it true that here Mr Bemba explained that he gave an order to a

24 battalion, to the Simba battalion, for a military action to be carried out?

25 A. I say no. Let me explain to you, Madam President. (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (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) Even though he actually does not command, he is there at the

20 political level, but he has his technicians in the field who are working.

21 So this is a book produced together at the level of the political and military leadership.

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 Q. Mr Witness, my question was: "Is it true that Mr Bemba gave an order to a

8 battalion here?" And your answer, "No." Apart from all the explanation you gave,

9 you said, "No." (Redacted), but I think this is a very simple

10 sentence, "I ordered a battalion to attempt an infiltration," and that to me really reads

11 like an order given by Mr Bemba. So if this was not the case, do you mean that what

12 Mr Bemba said in his book is not accurate, is not true?

13 A. Madam President, I am giving you or telling you the truth. This book was

14 prepared by his collaborators. I have just mentioned Olivier Kamitatu and his staff.

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 (Redacted) There are parameters that have
4 to be absolutely respected or complied with for the operations to be carried out
5 properly.
6 (Redacted)
7 (Redacted)
8 (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted) in this book you have the
13 activities that were carried out within the framework of the MLC, whose supreme
14 commander was Mr Jean-Pierre Bemba. That is why the word "I" is used. It is not
15 Mr Bemba who took his pen to write, "I did this. I did that." It was his
16 collaborations who used that wording to write on behalf of their leader.
17 (Redacted)
18 (Redacted)
19 (Redacted)
20 (Redacted) He
21 would not take a pen to write down, "This is what I did." No, it would be his
22 General Staff, as I have just said, Madam President.
23 This means that Mr Bemba did not issue military orders (Redacted)
24 (Redacted)
25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. So you are saying that whenever Mr Bemba said "I," in reality it was the Chief of
5 Staff. So from whom did the Chief of Staff receive the orders then?

6 A. Can you kindly repeat, Madam President? I did not quite understand the
7 question.

8 Q. You said that whenever Mr Bemba in his book said "I order" or "I did," in reality
9 it was the Chief of Staff who ordered or did. So my question is: If this is the case,
10 from whom did the Chief of Staff receive the orders?

11 A. From whom did the Chief of General Staff ... ? Well, I did not quite hear the
12 end of the question.

13 Q. I'll try to repeat once again, Mr Witness. My question was: If you are saying
14 that whenever Mr Bemba says in his book, "I order," in reality it was the Chief of Staff
15 who ordered, who gave that order. Then my question is, from whom did the Chief
16 of Staff receive the order?

17 A. Thank you for that question, Madam President. Giving orders to the Chief of
18 Staff? Well, to begin with, a Chief of Staff is someone who is selected. It is not
19 somebody picked from just anywhere. Someone who has studied military sciences.

20 This is someone who was close to President Mobutu. He was a trained officer.

21 And the appointment of the chief of military staff was something that was done after

22 a lot of consideration. It was the Chief of Staff who gave orders directly to the units
23 deployed in the field. He gave orders to the units and to the soldiers, and in order to
24 do this, for operational purposes, you also have to be a soldier.

25 Mr Bemba is a civilian, even though he was at the head of the Congolese Liberation

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1 Movement, but he is a civilian. I never heard anywhere that Bemba had graduated
2 from a military academy and that he was an officer or that he left the army to become
3 involved in politics, for example. Nowhere. I do not know whether you have any
4 information about that, but I never heard of it. So he is a civilian.

5 When a civilian directs operations, what is the terminology that he is going to use?

6 (Redacted) Whether it was the commander of the 1st brigade,

7 the 2nd brigade, or the 3rd brigade, (Redacted) all of

8 them passed through military academies. (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted) Even if you are a civilian, you have to look for a

13 soldier to direct operations because you will not be able to meet all the necessary

14 parameters to issue orders because the orders (Redacted) are carefully prepared

15 at the level of the command, and even the Chief of Staff cannot work alone. He has

16 to be surrounded by his advisers, those who are responsible for administration,

17 logistics, intelligence, signals, technicians.

18 If there is a problem in a particular area, he cannot directly take a decision. He will

19 have to ask for advice from the technical services, the competent services, and say,

20 "There is this situation here. What can we do?" And the adviser will make

21 proposals that he signs.

22 If, Madam President, the Chief of General Staff received orders from Mr Bemba, can

23 you show me any document in which orders were issued by him to the Chief of Staff,

24 just like the cases I have mentioned to you, talking about specific situations and

25 problems? As the supreme commander, he can say, "This should be told to the unit

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1 that is there," but when it is -- when it comes time to follow up, it is the Chief of Staff
2 because he is the military authority. (Redacted)

3 (Redacted)

4 (Redacted)

5 He had his political leadership. There were general secretaries. (Redacted)

6 (Redacted)

7 These people were around Mr Bemba. He had legal advisers, political advisers, and
8 he dealt with political problems, not military problems. The Chief of General Staff
9 could deal with problems in the field and see the leaders directly, see the
10 commanders, and say, "This, this and that out in the field. We need this here. We
11 have to do that so that our operations can continue," and he provides the resources
12 necessary to carry out the operations.

13 Q. So, Mr Witness, if what you are saying is true, that Mr Bemba couldn't give any
14 order to the Chief of Staff, then the MLC Statute, when it says that Mr Bemba is the
15 commander-in-chief, is not truthful because in reality the highest military authority
16 was the Chief of Staff. So the Chief of Staff was himself the commander-in-chief. Is
17 it what you are saying?

18 A. Well, I'll come back a bit, Madam President, just to make things clear. The
19 order that I was referring to (Redacted), you have the Chief
20 of General Staff and deployed units at certain points say to fight. This is in a purely
21 military setting. And he couldn't say, "You take these battalions here and fight
22 there." No, the Chief of General Staff is the one who advises the commander in-chief.
23 He sees what's happening in the field and makes proposals for moving a battalion
24 from here to there, to see what's going on there and inform him. They can say,
25 "Okay, there's an enemy incursion here. You have to send a battalion there," and

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1 he'll say, "Okay, fine." And I'm talking about a purely military setting here. That is,
2 as I have just explained, he comes with proposals because he is the technical expert.
3 He says, "Okay, there's an incursion on the other side and I suggest that we should
4 deploy a battalion there," and then you deploy the battalion there, with his
5 agreement.

6 The Chief of General Staff comes along and says, "Okay, take this battalion here, go
7 over there, deploy there," but he doesn't give those instructions. As I said, this is
8 only in a purely military setting. He is a technician. He is an experienced officer.
9 That's why he's been appointed Chief of General Staff. He sees what's happening,
10 the technical situation, comes along with the proposals to the commander in chief.

11 Q. I think your question -- your answer is already exhaustive, because I would like
12 to remind you of what Madam President said: We have to try to be more concise and
13 try to complete your testimony, and if we keep going with these long answers, I'm
14 afraid we will not complete your testimony. So, please, I recommend you once again
15 to be concise as much as possible when you give me answers.

16 Now, I would like to see just one last portion of this book and I would like to ask the
17 court officer to move to page 0420.

18 THE COURT OFFICER (via video link): Could you please repeat the page number?

19 MR SCALIOTTI: Sure. The page number is 0420.

20 THE COURT OFFICER (via video link): (Interpretation) The document has been
21 displayed for the witness.

22 MR SCALIOTTI:

23 Q. I will read only two lines and it is the third paragraph from the bottom of the
24 document -- of the page.

25 (Interpretation) "On August 8 I gave the order to the Chief of General Staff to

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1 position men as an ambush, men and a tank, at the level of the location named
2 Mawiya."

3 (Speaks English) So, Mr Witness, if, as you said, Mr Bemba was not in a position to
4 give orders to the Chief of General Staff, so do you mean that here in this portion that
5 I just read Mr Bemba didn't tell the truth, because he said that he gave an order which
6 appears to be an operational order about a military operation? What is your
7 answer?

8 A. Madam President, if this were the case -- well, perhaps I didn't state things
9 clearly. You should ask what the others do when you've got military orders; things
10 go through. They're written orders. You could ask for a copy of this order which
11 was given here, because this order has to be in writing. Even if it's been written here,
12 it says it's the Chief of General Staff, well, this has been written in the book, but this is
13 the Chief of General Staff who would have proposed it.

14 Could you provide the Court with the message of 8 August showing that Mr Bemba
15 gave the message to the Chief of General Staff? What you have here is a literary
16 work. This is really a literary work. It's just literature. It's written down there.
17 But what happened in the real situation out in the field was that everything was done
18 in writing. There were no spoken orders in the field. There's the person in charge
19 of the movement, the commander-in-chief, but it's not him. Even for visits in the
20 field, it was a whole problem.

21 (Redacted) He'd come and make inspections.

22 He'd go back. Then he'd go off to the other sector, need to come back again. (Redacted)

23 (Redacted) And you'll see other

24 photos where he's with the men. Okay, he came, but not on a regular basis. It was
25 rare for him to come. He was with the political staff and political leaders and it was

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1 the Chief of General Staff who was (Redacted) on a regular basis. Okay, it's written in
2 the first person. That's the way it's written, I know. It says, yes, "I gave the order,"
3 but he was the commander-in-chief because he was the head of the movement, the
4 party, the MLC, but you've put this forth but you can't show any message which
5 stipulates that the order was given by Mr Bemba to do this or that. There is no such
6 proof. I can state that, Madam President.

7 PRESIDING JUDGE STEINER: Mr Scaliotti, Judge Aluoch wants to put a follow-up
8 question.

9 JUDGE ALUOCH: Mr Witness, I want to put up a follow-up question from
10 yesterday's transcript. This is English version, page 24. It was Mr Kilolo who was
11 asking you questions and there was a passage that -- I'm in part of the log-book. He
12 was asking you a question on part of the log-book and this came from Defence
13 document number 3, CAR-D04-0002-1580. That was the document. And Mr Kilolo
14 then read -- you read it, Mr Kilolo read it, but then finally this is what Mr Kilolo said:
15 "Mr Witness, I shall read this message out loud." I'm reading the English translation.
16 Then he read it.

17 "From: Chairman. To: General." The words, message was, "Do not move.
18 There is no progression towards Bafwasende, towards Banalia. Be prepared to make
19 a move towards Mambasa."

20 So Mr Kilolo then asked you, this is yesterday, "In light of this message, did
21 Mr Jean-Pierre Bemba give operational orders to the commanders of operational
22 orders to the commanders of operational units with ALC?"

23 Then your answer was rather long. I will not read all of it. And you just started by
24 saying, "I shall start by saying that I have seen this message. It is a message written
25 to Mr Bemba -- written by Mr Bemba. I have seen the number of the message too."

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1 The answer is rather long and I will just pick part of it which, towards the end of your
2 answer, this is what you say, "So here you cannot conclude that Mr Bemba gave
3 orders on a regular basis to the units that were in action and being supervised and
4 knew what was happening. It was the Chief of General Staff who followed all such
5 cases."

6 So your answer of yesterday is slightly different from what you are saying today.
7 Today your answer is, "No, he did not," but yesterday your answer was, "You cannot
8 conclude that Mr Bemba gave orders on a regular basis." Thus, would you like to
9 clarify what I am talking about and the answers you have been giving just now,
10 please?

11 THE WITNESS: (Interpretation) Thank you, Madam President. Now, what I've
12 just said now was the message from the Chief of General Staff, the order. The
13 question was: "Did Mr Bemba give orders to the Chief of General Staff?" And I
14 said, "No." In this situation, which was for Banalia and that, in a meeting where the
15 Chief of General Staff and Mr Bemba's staff were together and were talking about
16 how things were going on, or the state of operations and the health of the troops, now
17 yesterday what I said was as the chief is the commander-in-chief, he can give an order
18 to a unit and the Chief of General Staff has to follow up on that because he knows
19 exactly what's happened. They've discussed things in a meeting and a message has
20 been sent off. If it's something urgent, they can say, "Take this message to the
21 director of operations and you can put that in Gemena with the Chief of General
22 Staff," but that's because they discussed it in the meeting, but it's the Chief of General
23 Staff who has to follow through on this. That's what I was saying.

24 PRESIDING JUDGE STEINER: Mr Witness, you just repeated two or three times
25 that this is the kind of order that was discussed in a meeting. How do you know

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1 that? Are you guessing that before sending this message Mr Bemba held a meeting?
2 You are guessing things, Mr Witness, so it's -- it's not useful for your testimony. You
3 should talk about the things you know, not the things that you suppose.

4 THE WITNESS: (Interpretation) Thank you, Madam President.

5 PRESIDING JUDGE STEINER: Mr Scaliotti?

6 MR SCALIOTTI:

7 Q. Mr Witness, can you tell me what authority did Mr Bemba have over his troops
8 in Central African Republic during the 2002/2003 military operation?

9 A. Could you please repeat the question, Madam President?

10 Q. What authority did Mr Bemba have over his troops in Central African Republic
11 during the 2002/2003 military operation?

12 A. I shall try to answer a bit, if I've understood the question. What was the
13 military authority that Mr Bemba made available to the Central African authorities?
14 Is that the question, Madam President?

15 Q. No, Mr Witness. My question is: What authority did Mr Bemba have over
16 his troops that were in Central African Republic for the military operation 2002/2003?

17 A. It was Colonel Moustapha. Colonel Moustapha was sent off with troops to
18 Bangui and made available to the Central African military authorities.

19 Q. Does that mean that Mr Bemba didn't have any authority over his troops in
20 Central African Republic?

21 A. Madam President, in my humble opinion and to my knowledge and with all the
22 time I spent there in Bangui, these troops were made available to the Central African
23 authorities. Mr Bemba didn't have any power over those troops, because the troops
24 sent as reinforcements were there for the logistics or the orders from the FACA staff,
25 the Chief of General Staff of FACA. And the men of Moustapha were under the

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1 Chief of General Staff, the Chief of Operations. So Mr Bemba had no authority on
2 troops sent to Bangui.

3 Q. Mr Witness, who gave the order to arrest the soldiers that were arrested within
4 the scope (Redacted)

5 A. The soldiers were arrested by their commander, by their brigade commander,
6 and they were handed over to the commander of operations in Bangui there, and after
7 the authorities in Bangui decided to send them back because of their misconduct.

8 Q. Mr Witness, sorry to interrupt you. This is on the record. You said that many
9 times. My question was not who physically arrested the soldiers. I asked you who
10 gave the order to arrest them.

11 A. Well, in any case, as I was not part of the FACA chain of command, the question
12 could be asked to the military authorities that were in the command of the operations.
13 I can't answer that question, Madam President.

14 MR SCALIOTTI: I would like to make reference to a document without putting it on
15 the screen, which seems to give the answer to this question, and I'm referring to
16 CAR-OTP-0017-0363, document number 35 in the updated Prosecution list of
17 documents.

18 Q. And the document that I'm referring to is again the letter that Mr Bemba sent to
19 General Cissé on 4 January 2003, and I'm reading what Mr Bemba said in this letter
20 that he signed, (Interpretation) "I therefore ordered the arrest as a preventive
21 measure, the arrest of eight soldiers whose behaviour in Bangui was not in
22 compliance with the orders given, both officers and non-commissioned officers,
23 before leaving Central African Republic."

24 (Speaks English) So from this letter it is Mr Bemba himself saying that he is the one
25 (Redacted); isn't it true?

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1 A. Could you please re-read the sentence, Madam President? Could you please
2 read the sentence, Madam President?

3 Q. From this letter, so it is Mr Bemba writing, and the passage was, (Interpretation)
4 "I therefore ordered that eight soldiers be arrested as a preventive measure as their
5 behaviour in Bangui was not in compliance with the orders given both for the officers
6 and members of the troops before leaving Central African Republic."

7 (Speaks English) Did you understand this time?

8 A. Yes. The problem is the verb which has been used, "I gave the order" at the
9 beginning there. Just at the beginning, Madam President. Just at the beginning, "I
10 gave the order," or what.

11 Q. I don't understand if you are asking me a question, Mr Witness, but anyway
12 I can tell you one more time that what is said is, "I ordered the arrest of eight
13 soldiers." This is what Mr Bemba said -- what Mr Bemba wrote in this letter. So I
14 will ask you once again, don't we have here the answer to the question that who gave
15 the order to arrest the soldiers? It was Mr Bemba. This is what Mr Bemba himself
16 said. Do you agree with that?

17 A. Please excuse me if I asked for a question for clarification. Now, he sent -- who
18 did he send this letter to, Madam President?

19 Q. This letter, Mr Witness, was sent to General Cissé, who was the Special
20 Representative of the Secretary-General of the United Nations in Central African
21 Republic.

22 A. Very well. Now I understand. (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted) But I confirm that you can ask the

8 president of the commission. He's there, Mr Damango. He will tell you what I'm

9 telling you, Madam President. So Bemba did not give the order to arrest people a

10 thousand kilometres away. No, no, that I do not accept.

11 Q. (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 A. (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted) I confirm that. Administrative errors

25 exist. I -- yes, he's the commander in-chief. He saw the people arrested and he

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1 could say, "No, they're arrested," but in reality it's not him. He didn't even give the
2 order. (Redacted)

3 (Redacted) So Mr Bemba to arrest these people? No, I don't know. I really don't
4 know. I wasn't even aware of that.

5 Q. With regard to the troops that were in the territory of Central African Republic,
6 did Mr Bemba have the authority to withdraw his troops during the conflict?

7 THE INTERPRETER: He says something off microphone.

8 THE WITNESS: (Interpretation) Madam President, I propose to your assembly, to
9 the Court, I propose a break, a five-minute break. A five-minute break. A
10 five-minute break.

11 PRESIDING JUDGE STEINER: Yes, Mr Witness, of course.

12 The hearing is suspended for five minutes. The parties, if they wish, may wait here
13 in the courtroom. Please feel free, Mr Witness, to leave the room for five minutes.

14 (The witness leaves the video-link room)

15 (The witness returns to the video-link room)

16 PRESIDING JUDGE STEINER: Welcome back, Mr Witness.

17 Welcome back, Mr Witness.

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

20 PRESIDING JUDGE STEINER: I suggest that Mr Scaliotti repeat his last question.

21 MR SCALIOTTI: Sure, Madam President.

22 Q. Mr Witness, before the short break, my question was: If Mr Bemba during the
23 conflict had the authority to withdraw his troops that were in Central African
24 Republic for the conflict in 2002/2003?

25 A. No, Mr Bemba did not have the authority to withdraw his troops who were in

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1 Bangui.

2 MR SCALIOTTI: Can we display, please, document number 7 in the Prosecution
3 updated list of documents, CAR-OTP-0004-0667?

4 THE COURT OFFICER (via video link): (Interpretation) The document is being
5 shown to the witness.

6 MR SCALIOTTI: Can we please have on the screen page 0690?

7 THE COURT OFFICER (via video link): (Interpretation) The document is being
8 shown to the witness.

9 MR SCALIOTTI:

10 Q. Mr Witness, you have in front of you a press article. The date of this article is
11 21 February 2003. The document is in English and I will read it for you, not entirely
12 but just some portions of this document. From the top, "AP Associated Press." Title:
13 "Congolese rebel leader turns down Patassé request for continued support from his
14 fighters." And then the text, "Sibut, Central African Republic. The head of a rebel
15 movement in neighbouring Congo has turned down an appeal from President
16 Ange-Félix Patassé to keep his fighters in the coup-prone nation after soldiers loyal to
17 Patassé's former army chief renewed their attacks, a presidential adviser said. But
18 Jean-Pierre Bemba, the leader of the Congolese Liberation Movement, or MLC - who
19 sent 1500 of his fighters to back Patassé - said Friday that he plans to go ahead with
20 the pullout, adding 'we cannot police the whole of central Africa.'"

21 And then I move to the last two paragraphs: "But Bemba insists that his troops have
22 accomplished their mission of preventing Patassé's ouster, who he says must now
23 begin reconciliation talks with his opponents to stabilize the nation. 'For us the
24 decision taken (to withdraw) is clear and irrevocable,' Bemba said at his headquarters
25 in Gbadolite in northwestern Congo. 'Everyone must take their own possibility.

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1 We have our own problems here in Congo."

2 So, Mr Witness, I read to you this press article which deals exactly with the issue of
3 withdrawing of troops, and what we have here in this article is that, in
4 mid-February 2003, President Patassé asked for the ALC troops to stay in Central
5 African Republic, but the answer of Mr Bemba was that he would go ahead with the
6 pull-out of his troops and the decision was made clear and irrevocable.

7 So, with regard to the troops that were in Central African Republic, we have, on the
8 one hand, President Patassé making a request and, on the other hand, Mr Bemba
9 making a clear and irrevocable decision. Doesn't this indicate that Mr Bemba was
10 the only person who could make a decision with regard to the withdrawal of the
11 troops from the Central African Republic?

12 A. Well, thank you, Madam President. I've understood the question.

13 Mr Bemba was not alone. When it came to taking such decisions, he would get his
14 staff together. When there were letters, this is something they discussed at political
15 level. When they discussed them at political level in the MLC and a college
16 decided -- well, he himself, he couldn't do anything else. Here I think that to clarify
17 this issue, it's desirable the advisers should be asked to come and shed light on this
18 matter. (Redacted) I can't answer this question precisely, Madam President.

19 Q. However, the statement that Mr Bemba made in this -- according to this press
20 article, is quite clear. He said that he made a decision, that the decision was made
21 despite the request of President Patassé. So with your answer do you mean that,
22 once again, Mr Bemba, in this statement, he didn't tell the truth, that he was
23 bolstering something that he didn't do?

24 A. Here, Madam President, this is a document which has come out. It comes out
25 of the political field, or arena, (Redacted). MLC politicians are better placed

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1 to shed light on this, your Honour.

2 Q. And you said yesterday that the ALC troops were under the authority of the
3 Central African authorities. Don't you agree that this document actually very clearly
4 indicates that the ultimate decision maker with regard to the troops in Central African
5 Republic was not President Patassé or other Central African authorities, but it was
6 Mr Bemba?

7 A. Well, once again, Madam President, I'll go back. Bemba is a man, but the MLC
8 is a movement; a movement composed of many people. Bemba can say, "No," in the
9 decision-making process, "I want this to be done," but if the college refuses, he can do
10 nothing. That's why I proposed to the Court to call one of the politicians at the time
11 to shed light on this matter and give some explanation in this regard. He, the
12 commander-in-chief, could not decide alone in such situations. It had to be done
13 with the advisers, the secretaries of the movement, other high-ranking figures in the
14 movement, and they decided together. If it was decided by the others, he alone
15 could do nothing, even if he didn't accept it.

16 So here, to give you a good answer, your Honour, it's better to call one of these people
17 who was there at the time who will be able to give you better explanations. (Redacted)
18 (Redacted), I cannot answer this question, but what I do know is that he alone could not
19 decide. Decisions had to be collegial. If the others decided something, he alone
20 could not say "No." He had to respect the proposals of others when it came to taking
21 decisions.

22 Q. I will ask you my last question about this document and this topic. My
23 question, Mr Witness, relates to your evidence that you gave yesterday that the ALC
24 troops in Central African Republic were under FACA authorities, or in general under
25 the authority of the Central African authorities. And so what I would like to ask you

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1 is: Based on this situation where President Patassé made a request and Mr Bemba
2 said that he decided, doesn't this show that the Central African authorities could do
3 nothing with regard to the ALC troops unless Mr Bemba approved and decided?

4 A. Madam President, before a whole brigade crosses the Ubangi River in order to
5 go to the Central African Republic, the college in the political arena of the MLC have
6 to meet. In their organisational plan, their internal organisation, they have a political
7 vision.

8 If they come together and consider it useful to withdraw, to withdraw the troops from
9 the CAR back to the Congo, in that case it is a collective collegial decision. One
10 person cannot refuse. And that's why I go for the principle that, for further
11 explanations or clarifications, please call upon one of these politicians. They can tell
12 you exactly how it worked. Was it Bemba himself, or did they have meetings and
13 did everybody contribute when it came to the soldiers going to the Congo? So he
14 didn't just do it alone. Everybody was there, lots of politicians. They were there.
15 They could see him together in the meetings. Across the road, you would see him.
16 You'd see him in the office. He was there late. What's he talking about? They
17 were talking about the situation of the movement. These people were there. One
18 individual didn't decide, no. They had to meet to take a decision together. They
19 would take a decision to withdraw. If they had seen such-and-such-and-such, they
20 would take a decision to withdraw then.

21 Q. Mr Witness, I would like now to move to another topic.

22 PRESIDING JUDGE STEINER: Mr Scaliotti, since we have only three minutes and
23 you are moving to another topic, maybe it's better if we adjourn for today.

24 Mr Witness, it's almost 5 o'clock. We thank you very much for your efforts. We
25 were informed that the heat inside the transmission room is quite problematic, so we

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- 1 thank you very much for your efforts in supporting such problems.
- 2 We hope you have a very nice evening, that you can take some rest. We will
- 3 continue tomorrow, starting at 9 in the morning sharp.
- 4 I thank you very much the Prosecution team, legal representatives of victims, the
- 5 Defence team, Mr Jean-Pierre Bemba Gombo. I thank very much as always our
- 6 interpreters, our court reporters. Thank you very much, Ms Bossette.
- 7 THE COURT OFFICER (via video link): (Interpretation) Thank you, your Honour.
- 8 PRESIDING JUDGE STEINER: The hearing is adjourned.
- 9 THE COURT USHER: All rise.
- 10 (The hearing ends in closed session at 4.58 p.m.)
- 11 RECLASSIFICATION REPORT
- 12 Pursuant to Trial Chamber III 's Orders, ICC-01/05-01/08-2223 and
- 13 ICC-01/05-01/08-3038, the version of the transcript with its redactions
- 14 becomes Public.
- 15