

Trial Hearing

(Closed Session)

ICC-01/05-01/08

Witness: CAR-D04-PPPP-0019

1 International Criminal Court

2 Trial Chamber III - Courtroom 1

3 Situation: Central African Republic

4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08

5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and Judge Kuniko Ozaki

6 Trial Hearing

7 Monday, 4 March 2013

8 *(The hearing starts in closed session at 9.10 a.m.) Reclassified as Open session

9 THE COURT USHER: All rise.

10 The International Criminal Court is now in session.

11 Please be seated.

12 PRESIDING JUDGE STEINER: Good morning. Could, please, court officer call the

13 case.

14 THE COURT OFFICER: Thank you, Madam President. Situation in the Central African

15 Republic, in the case of The Prosecutor versus Jean-Pierre Bemba Gombo,

16 ICC-01/05-01/08.

17 PRESIDING JUDGE STEINER: Thank you.

18 Good morning. I welcome the Prosecution team, legal representatives of victims. I

19 welcome Defence team, Mr Jean-Pierre Bemba. Good morning to our interpreters, our

20 court reporters. Good morning, Mr Rojas.

21 THE COURT OFFICER (DRC): (Interpretation) Good morning, your Honour.

22 WITNESS: CAR-D04-PPPP-0019 (On former oath)

23 (Redacted)

24 (The witness gives evidence via video-link)

25 PRESIDING JUDGE STEINER: Good morning, Mr Witness.

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

2 PRESIDING JUDGE STEINER: I hope you had a restful weekend, that you are feeling
3 well today, and that you are ready to continue with your testimony.

4 THE WITNESS: (Interpretation) I have a bit of a cold, your Honour, but I am ready to
5 continue.

6 PRESIDING JUDGE STEINER: Thank you very much, Mr Witness. If at any time you
7 need a break in order to take some rest, or to recover, you just let us know.
8 Mr Witness, before I give the floor to the Prosecution to continue with your questioning, I
9 need to remind you that you are still under oath; do you understand that, sir?

10 THE WITNESS: (Interpretation) Yes, I certainly have understood that, your Honour.

11 PRESIDING JUDGE STEINER: I now then give the floor to Maître Badibanga.

12 MR BADIBANGA: (Interpretation) Thank you, your Honour. Good morning, your
13 Honours.

14 QUESTIONED BY MR BADIBANGA: (Interpretation) (Continuing)

15 Q. Good morning, Witness.

16 A. Good morning, Mr Badibanga.

17 Q. Witness, up until now we have made some progress, but rather slowly, and in light
18 of your health I would suggest that I will try to ask rather short questions, and I hope
19 they'll be relatively specific, and if in turn you could provide specific replies we may be
20 able to shorten the amount of time needed for your testimony and you'll be able to take
21 rest earlier. Would this be suitable to you?

22 A. Yes, I'm pleased. Everything will depend on the way the questions are put to me,
23 and I will reply accordingly.

24 Q. Witness, would it be correct to say that other than (Redacted)

25 (Redacted) other soldiers were arrested during that

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1 entire period of time (Redacted) in the CAR, for any crime whatsoever; would that be
2 a correct assertion?

3 A. Yes, that's -- that's true.

4 Q. Would I be correct if I summed up your résumé -- correction, your testimony, by
5 saying that you may have heard a few rumours about crimes but you yourself did not see
6 any; is that correct?

7 A. Yes, that's correct.

8 Q. Amongst these various rumours, what about the information you may have heard
9 over the radio or seen in the press about crimes committed by MLC soldiers?

10 A. Yes, I did hear some information to that effect.

11 Q. Were any civilians, or members of the local population, did any of these people (Redacted)
12 (Redacted) that may have occurred?

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. So other than the radio reports, were there any other sources of information that
18 might have told you about cases of violence or abuse or crime?

19 A. I didn't tell you that I heard anything on the radio. There were various ways in
20 which I was able to receive information.

21 Q. Could you tell us more about these various ways you received information?

22 A. Before the Judges, before the Presiding Judge, I told you that (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted) I didn't have time to listen to the radio.

2 (Redacted) about cases of violence, abuse,

3 crimes? Did you have any other source of information about such a possibility?

4 (Redacted)

5 (Redacted)

6 Q. Could you remind us what General Mazi's job was at that time, what he did?

7 A. He was the commander of operations.

8 Q. And what was his rank within the Central African Republic Army?

9 A. He was a brigadier-general, that was his rank, and I think that he was the
10 commander of the land forces. That's what I think.

11 Q. Quite so. And General Bombayake, do you remember what his rank was and his
12 duties were?

13 A. He was also a brigadier-general, and he worked in the office of the president. I
14 believe he was in charge of security.

15 MR KILOLO: (Interpretation) Your Honour, I think there's an inconsistency here;
16 inconsistency within these questions put by Mr Badibanga. The witness answered,
17 saying that (Redacted)

18 (Redacted), and the witness added that

19 "It was true that nothing happened," answering the question about cases of violence and
20 abuse, but Mr Badibanga is continuing asking questions about possible violence and
21 abuse, so I think this is quite inconsistent, incoherent. The witness has said that nothing
22 happened. Could we perhaps clear this misunderstanding?

23 MR BADIBANGA: (Interpretation) Thank you, your Honour. I think the Defence
24 counsel could have been patient and this matter would be cleared up quite quickly,
25 because this is part of my line of questioning, but since the issue was raised, now, the

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1 witness may have said (Redacted)

2 (Redacted).

3 It could be said that these were just rumours, but the matter was discussed.

4 Q. Witness, indeed, this is the question I was about to ask: You mentioned two people.

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 A. I think you yourself are having problems with the MLC soldiers. I've told you right
9 from the very beginning that these were joint operations. As soon as one says that, that
10 means all the soldiers were involved. There were soldiers taking part in the operations,
11 and their leaders, and when they were asked if there had been crimes, the answer was
12 "No," and we cross-checked.

13 Q. (Redacted); have I understood
14 you correctly?

15 A. (Redacted)

16 and they came and said, "Well, this is what we heard." And we said that it would be
17 better for them to come and put questions to the population. They did so and they
18 realised that nothing at all had happened.

19 MR BADIBANGA: (Interpretation) Your Honour, I would like the witness to be shown
20 the following document, OO48-0235. This is document number 17 on the Prosecution
21 list.

22 THE INTERPRETER: Interpreter correction: CAR-OTP-0042-0235.

23 MR BADIBANGA: (Interpretation) I believe that this is one of the documents that was
24 provided to the court officer before he travelled to the field. If the court officer could
25 confirm that?

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1 THE COURT OFFICER (Redacted): (Interpretation) Yes, I can confirm that this document,
2 document CAR-OTP-0042-0235, is being shown to the witness.

3 MR BADIBANGA: (Interpretation)

4 Q. This is a hand-delivered message from the General Directorate of the National
5 Gendarmerie of the CAR, dated 18 November 2002. It is intended for the Minister of
6 National Defence, the Chief of General Staff of all forces and the Director-General of the
7 USP, and it reads as follows: "Reference. Message 20/2. General Directorate National
8 Gendarmerie from 15 March 2002. Stop. Chief of General Staff meeting. A military - a
9 Congolese military - group at PK12 says that they are being solicited by Chief of State but
10 suffering from hunger. Stop. Project. Stop. Primo." I won't repeat the "stop" that is
11 at the end of each sentence.

12 "Primo. If within 48 hours nothing done to solve this problem, will require anyone and
13 everyone to hand over means of subsistence using force. Secondly, back to the Congo,
14 will hand over their weapons to President Bemba to follow President Kabila. Report
15 provided for all practical purposes. Stop."

16 Could you remind us who was the Chief of Staff of the joint forces at that time?

17 A. Remind you of what?

18 Q. A few moments ago you mentioned General Bombayake, and I see that on this
19 document that when he writes to the General Director of the USP he mentions someone.

20 Could you remind us who the Chief of General Staff was at that time?

21 A. You should ask this question to the person who drafted this letter, because here I
22 don't see any copy for the Congolese party.

23 Q. (Redacted), who was the Chief of General Staff
24 of the Central African forces, Central African Republic army?

25 A. Ernest Betibangui.

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1 Q. Thank you. Do you remember who the Minister of National Defence was when
2 (Redacted)?

3 A. I do not remember his name.

4 MR BADIBANGA: (Interpretation) Thank you. I would like the witness to be shown
5 the following document on the Prosecution's list: CAR-OTP-0042-0236.

6 MR KILOLO: (Interpretation) Before going to the next document, I'm looking at the
7 document which is currently on the screen, CAR-OTP-0042-0235, could the Prosecution
8 produce a version which has the signature of the person who wrote this document?

9 PRESIDING JUDGE STEINER: I'm not sure this is a letter, but in any case, Maître
10 Badibanga, can you answer to --

11 MR BADIBANGA: (Interpretation) It's perfectly the point that you made; it's not a
12 letter and it doesn't have a signature. It has the seal of the general directorate of the CAR
13 army and this is the document as was provided to us.

14 Q. Witness --

15 PRESIDING JUDGE STEINER: Maître Kilolo.

16 MR KILOLO: (Interpretation) For the transcript, the Defence notes that, to its
17 knowledge, all messages of this type are always signed by the author thereof. Thank
18 you.

19 PRESIDING JUDGE STEINER: The Defence will have opportunity to make all these
20 observations when and if the document is tendered into evidence, Maître Kilolo. I would
21 prefer not to have interruptions that are not strictly necessary.

22 Maître Badibanga.

23 MR BADIBANGA: (Interpretation) Thank you. I would ask the court officer to show
24 the following document on the Prosecution list, with the reference 0042-0236. 0042-0236.

25 THE COURT OFFICER (Redacted): (Interpretation) Document CAR-OTP-0042-0236 --

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1 THE INTERPRETER: Inaudible.

2 MR BADIBANGA: (Interpretation)

3 Q. Witness, this is another memo from the directorate general of the National Army to
4 the Central African Republic and this is dated 6 December 2002 -- 5 December 2002, and
5 this time this is addressed to the Prime Minister, Chief of Government, the Minister of
6 Finance, the Minister of National Defence, Minister of the Interior, as well as the Chief of
7 Staff of the Army, and I will read the text:

8 "Reference: Message number 52/2-TO-BT.BABUA of 5 December 2002. Brigade

9 Commander Babua. Report: Transporter for the Cameroon road, Bangui. Propose to
10 stop their movements from 5 December 2002 until obtaining favourable measures.

11 Grounds: They have had all their goods taken; money, watches, jewellery, clothing, et
12 cetera. Controls carried out by Bemba troops at Yaloke and Bossembélé. At the peages
13 Bossembélé the objects have been recovered. On this date, no circulation or no
14 movement is seen on that road. Report to you for all useful purposes. Stop."

15 Witness, you mentioned that the MLC troop arrived in Yaloke and Bossembélé; is that
16 correct?

17 A. Yes.

18 MR BADIBANGA: (Interpretation) I would ask the court officer to present the next
19 document, 19, of the Prosecution list, reference CAR-OTP-0042-0242.

20 THE COURT OFFICER (Redacted): Document CAR-OTP-0042-0242 is being shown to the
21 witness.

22 MR BADIBANGA: (Interpretation) This time this isn't a hand-carried message, but this
23 is a type of note or letter which is entitled or has the subject report of pillaging of the office
24 of the technical adviser of the fire brigade. The date at the top of the document is not
25 visible, but we can see that it's December 2002, but at the bottom there is a stamp

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1 acknowledging receipt of the general HQ and it was received on 11 December 2002 by the
2 General Staff of the Army, the cabinet thereof. It's addressed to the Chief of Staff of the
3 Army, Brigadier-General, and I will read the text to you:

4 "I have the honour of reporting to you the following: One week before the arrival of the
5 events took place on 25 October 2002, the battalion of the fire brigade moved their former
6 base to get back Camp Béal where it's HQ is located following the construction of its
7 barracks. Only the office of the technical advisers remained with a view to overseeing
8 the construction thereof. When Bemba's troops occupied the whole support sector, they
9 broke into the office of the advisers to take the printer, the photocopier, some emergency
10 medication and some co-operation documents. It is the Chief of General Staff of the fire
11 brigade accompanied by some troops who noted these facts." The document is signed by
12 Mr Daniel Gbakela.

13 Witness, I would you to be -- I would like the witness to be presented the following
14 document. Actually, I would just like you to follow. I'm presenting certain documents
15 to you, and then you'll see that I will ask questions based on these documents, and then
16 you can make comments on them.

17 Next document, CAR-OTP-0042-0243, document 20 on the Prosecution list.

18 THE COURT OFFICER (Redacted): (Interpretation) Document CAR-OTP-0042-0243 is
19 being shown to the witness.

20 MR BADIBANGA: (Interpretation)

21 Q. This time, Witness, this is a document which also comes from a unit which comes
22 under the Ministry of the Interior, as was the case -- I'm sorry, it comes -- it was from the
23 gendarmerie, and here it's the police who comes under the Ministry of the Interior. So
24 it's a document that comes from DG Police.

25 So it's handwritten on it: "For information: Minister of Defence, Minister of Justice,"

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1 and I can't say what the third one is. Is it Minister of the Interior? I don't know, I'm not
2 certain of that, I cannot read it. This is a document dated 2 December 2002.
3 This is the content: "Note for the attention of hierarchical superiors. Information
4 received from two drivers of transporters coming from Douala. It appears that
5 Banyamulengue troops based in Bossembélé are carrying out body searches and searches
6 of luggage and goods during which under threat. Using their weapons, they take money
7 and objects of their choice. Unhappy with these abuses, certain drivers have left the
8 vehicles there in order to return to Bangui. They have said to have designated certain
9 representatives to meet the President of the Republic because the Banyamulengue say that,
10 after Patassé, it's Bemba. They propose striking if the USP forces prevent them from
11 meeting the Head of State for all useful purposes." And it bears the seal of the director.
12 If the court officer could present the witness document -- the following document, 21 on
13 the Prosecution list, CAR-OTP-0042-0246.
14 THE COURT OFFICER (Redacted): (Interpretation) Document CAR-OTP-0042-0246 is
15 being presented to the witness.
16 MR BADIBANGA: (Interpretation)
17 Q. Witness, this is an information note dated 12 December 2002, and it's also a
18 document from the Minister of the Interior, and in handwriting says, "Minister of Defence
19 to check." I will read the text to you: "Information taken from inhabitants of the Yembi
20 II neighbourhood, Begoua, on 11 December 2002 at 1800 hours. It appears that certain
21 uncontrolled troops of Jean-Pierre Bemba based in this neighbourhood, who fled from
22 going into the battle-field on the route of Damara -- on Damara and Bossembélé road,
23 continue to carry out abuses on persons in order to pillage their properties. For all useful
24 purposes," and then this information note also has the seal of the director of the national
25 police.

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1 So my question after this series is as follows: You tell us (Redacted)
2 (Redacted) what the reality was with regards to such crimes and they came to
3 ask the population, and when the population confirmed nothing, there was nothing.
4 I'm presenting you with reports that come from the police and the national gendarmerie,
5 (Redacted), and they are speaking about the
6 behaviour of MLC troops. The question for you is: (Redacted)
7 (Redacted)
8 A. No. This is what I think: I'm not a lawyer, Mr Badibanga, but I think that all the
9 documents that you've presented to me, well, the person who wrote those documents
10 wrote it -- wrote the documents in the way that you wanted these documents to be drafted,
11 and why? In no case did the MLC work in an isolated way, so why was it only the MLC
12 troops who are accused here, firstly?
13 Secondly, I have no information in regard to these documents. All the time (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted) That, there's nothing. I call upon
17 you once again -- I would remind you once again that all the documents that have been
18 presented to me are documents that I do not know. On a document it says, "Minister of
19 Defence," but is there any type of corroboration for what was done?
20 In order to answer your question, nothing has been done, and I would tell you what I
21 know: In a country where there is war, you get contradictory information.
22 Nevertheless, where it comes to what you've just read to me, I know nothing about that at
23 all.
24 Q. Witness, since the first day you've explained that (Redacted)
25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 A. (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted) So I think that those who drafted

9 the document did so in a way that was the way you wanted, but these are just lies.

10 Q. I'm going to take up your last phrase, "Those who drafted these documents did it in
11 the way that you wanted." (Redacted)

12 (Redacted)

13 A. I stated that I would say -- tell the truth and, your Honour, I'm still under oath and
14 this question was put to me by the Presiding Judge, so everything that is put to me is the
15 truth. However, what you've just read, that's a lie. We were part of an army which was
16 under the responsibility of a political movement. We respected our hierarchical
17 superiors, while our army was apolitical. (Redacted)

18 (Redacted)

19 MR BADIBANGA: (Interpretation) Court officer, could you present document 22 of
20 the Prosecution list, CAR-OTP-0042-0253?

21 THE COURT OFFICER (Redacted): (Interpretation) Document CAR-OTP-0042-0253 is
22 being shown to the witness.

23 MR BADIBANGA: (Interpretation)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. Do you remember the first message that I read out to you, which said that a
14 Congolese group in PK12 were making a request to the president because they were
15 hungry, and if after 48 hours their needs were not met then they would use force.

16 Now, Mr Witness, the soldiers in the Central African Republic, (Redacted), were they
17 being fed?

18 A. (Redacted) very well fed. No one ever spent the night without eating.

19 Q. I even remember that you said the soldiers had something to eat in the mornings
20 and in the evenings; is that correct?

21 A. That is correct. (Redacted)

22 Q. (Redacted)

23 Mr Witness, were the soldiers also paid?

24 A. We were never paid. I have been saying from the very beginning that we received
25 small sums of money to buy soap, cigarettes, and other items such as shavers and polish,

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1 but we were never paid.

2 Q. Is it because you were never paid that (Redacted)

3 (Redacted).

4 A. (Redacted)

5 THE INTERPRETER: And the witness repeats: (Redacted)

6 MR BADIBANGA: (Interpretation) Madam President, I would like the following

7 document to be shown to the witness, that is CAR-OTP-0013-0114, and this is document

8 15 on the Prosecution list.

9 THE COURT OFFICER (Redacted): (Interpretation) Document CAR-OTP-0013-0114 is now
10 being shown to the witness.

11 MR BADIBANGA: (Interpretation)

12 Q. Mr Witness, this is a newspaper article entitled "Mongoumba town comes under fire
13 from the men of Jean-Pierre Bemba."

14 Before I read it out to you, if I were to summarise your position regarding Mongoumba,
15 you said that there was never any incident involving MLC soldiers in Mongoumba; is that
16 correct?

17 A. Yes, that is correct.

18 Q. Now, this is an article that was published on 6 March 2003, and it states: "Who said
19 that the Nyamamulengue were being applauded by the Central African Republic
20 population in the areas liberated by these soldiers?"

21 A. Did you ask me a question?

22 Q. No, that is the article that I am reading. I know that in your statement you said that
23 (Redacted), but what I'm
24 doing here is reading out this newspaper article to you.

25 In any case, it is not by pillaging the property of a population which has been suffering

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1 that such a population would arrange such a spectacle. "Mongoumba town has been in a
2 situation of high tension ever since last Tuesday. A skirmish between the forces of
3 security and defence detachment in Mongoumba and Jean-Pierre Bemba's men, upon their
4 return from the battle using the river, this skirmish broke out last Tuesday because the
5 FACA were injured or hurt in their pride."

6 Mr Witness, this article was written on 6 March about this skirmish which allegedly took
7 place on Tuesday, 3 March. Now, during this time, were some of the Congolese troops
8 crossing the river?

9 A. Before I answer your question, I would like to say this to you: Maître Badibanga,
10 regarding the title which states that Mongoumba town had come under fire from
11 Jean-Pierre Bemba's troops, and then there is the subtitle, which says that the
12 Nyamamulengue was welcomed and applauded, and to my knowledge I do not know
13 any Nyamamulengue, any tribe, amongst the Congolese tribes known as
14 Nyamamulengue.

15 Secondly, Mr Jean-Pierre Bemba is present here. You can ask him that question. Apart
16 from the Congolese soldiers, did he have any other troops known as the Nyamamulengue?
17 (Redacted) If you have a map of the Central

18 African Republic, you will know where Mongoumba is located and you can see the road
19 (Redacted) between Bossangoa and Damara. Now, tell me the link between the Central
20 African Republic and these other locations?

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 Q. When you say 16th, 17th and 18th up to the 25th, which month are you referring to,
2 Mr Witness?
- 3 A. March 2003. (Redacted)
- 4 Q. (Redacted)
- 5 When did the first group of soldiers leave the Central African Republic?
- 6 A. I no longer remember the precise date, but the very first battalion to cross was (Redacted)
7 (Redacted)
- 8 They used the official bridge in Bangui and they were transported in boats. I no longer
9 remember whether this was at the end of February or in early March 2003. The entire
10 operation did not last more than two weeks.
- 11 Q. So the withdrawal started around the end of February; is that correct?
- 12 A. I cannot give you a precise date. In any case, it was before 15 March.
- 13 Q. Mr Witness, I'm not going to engage in a debate about dates with you, but when the
14 Defence counsel questioned you, you knew exactly who did what on 25th, the 26th, the
15 29th and 30 October, (Redacted).
- 16 (Redacted) who crossed on 26 October 2002 and what
17 they did, but now I'm asking you a question about events (Redacted)
18 (Redacted)
- 19 (Redacted) in this particular case you absolutely do not remember the dates.
- 20 Is there a reason why you remember very well details about the arrival of the troops (Redacted)
21 (Redacted), but you can't remember details about the departure of those
22 troops (Redacted)?
- 23 A. You were not satisfied by the answer I gave you. (Redacted)
24 (Redacted)
25 (Redacted)

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1 The second battalion, that is the 28th and the 5th Battalions, those two battalions crossed
2 over during the fighting of 15 March. Everyone tried to find their own way back.

3 Q. I will continue reading the document on the screen, Mr Witness. "The Central
4 African Defence and Security Forces requisitioned two boats, or detained two boats,
5 containing loot from liberated towns; Damara, Sibut, Bossembélé, Bossangoa and Bozoum.
6 There were four generators, two television sets, seven mattresses - foam mattresses - two
7 freezers, wheel-barrows, push carts, refrigerators, an amount of 1,170,000 CFA francs, and
8 so on and so forth. This was some of the property that was recovered by the valiant
9 forces of the Central African Republic. Mr Witness, did you ever hear of a fishing boat in
10 which MLC soldiers were found with the effects, items of property that I have just
11 enumerated, and these soldiers were trying to cross over?

12 A. I never heard of this. Maître Badibanga, you come from the Democratic Republic
13 of the Congo. Do you think there are no push carts in Congo, or wheel-barrows? Do
14 you think there are no fridges in Congo? Do people actually bring in mattresses from the
15 Central African Republic? So everything that you are saying is totally incorrect.

16 Q. Maybe those items of property are not acquired free of charge in Congo, Mr Witness.
17 Let me continue with the article: "And in order to reduce the nuisance capacity of
18 Nyamamulengue, who had only light weapons, Kalashnikovs, FACA soldiers used heavy
19 weapons. Having been defeated, Jean-Pierre Bemba's men surrendered and the loot was
20 recovered. Informed of the situation, the commander-in-chief of the MLC rebels
21 apparently informed President Ange-Félix Patassé of the unfriendly behaviour of the
22 FACA detachment in Mongoumba. After that discussion, the Supreme Commander of
23 the army in turn contacted the Minister of Defence and an order was apparently given to
24 the Chief of Staff to demand the release of those who saved President Patassé, and
25 probably to return the loot that had been recovered from the Nyamamulengue. This was

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1 immediately done. The Nyamamulengue were released, but their loot was not returned
2 to them."

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 A. (Redacted)

7 Q. Let me continue reading that article. "The incident in Mongoumba can be
8 explained by an answer to that question. That adventure, we thought that adventure
9 had ended; that is, these invaders with a cruel temperament, but on Wednesday, the town
10 of Mongoumba came under heavy fire again. Jean-Pierre Bemba's soldiers, who did not
11 accept defeat, re-emerged on the other side of the river and open fired on the town, not
12 only to exact revenge for the previous day but specifically to recover the two fishing boats
13 and the contents of those boats, which had been seized from them."

14 Mr Witness, once again this article was written on Thursday, 6 March, and it mentions a
15 new attack on Mongoumba on Wednesday, 5 March, with the purpose of recovering the
16 two fishing boats. (Redacted)

17 (Redacted)

18 A. You yourself, in relation to what you are reading, have just said that it is written that
19 people were released, and that they kept the loot. You then said again that the soldiers
20 went to look for the two boats, but personally, I have no idea about that.

21 Q. To be complete, Mr Witness, I will read out the last paragraph. "The entire town
22 was in panic, and from the very early hours the population started to leave and we do not
23 yet know whether this town has been invaded by those assailants, who fear neither God
24 nor man." Mr Witness, (Redacted)?

25 A. Before I answer that question, you said that on the fifth, the Central African soldiers

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1 defeated the Nyamamulengue soldiers, and I do not even know who these soldiers are.

2 You say they were severely beaten, or defeated, and that the next day they left.

3 Now, these soldiers who defeated the Nyamamulengue, were they not present on the

4 fourth day? Now, in answer to your question, I can say that in Congo there are many

5 people in Congo (Redacted) are you referring

6 to?

7 Q. I did not really prepare this but I think this must have been Witness number 6. I'm

8 not really sure but that witness explained the word "Nyamamulengue" to us. But since

9 you have raised this three times, one witness told us that the Central African population

10 had transformed the name "Banyamulengue" to "Nyamamulengue," and this was

11 deliberately insulting, in order to reflect the cruel nature of these troops. This was

12 explained to us in this way by a witness, but since you have repeatedly asked the question

13 to know what that means, I simply wanted you to know.

14 MR KILOLO: (Interpretation) Yes, I just want to have the references regarding

15 Mr Badibanga's explanation of the concept of Nyamamulengue.

16 MR BADIBANGA: (Interpretation) Your Honour, I think Mr Kilolo and myself have

17 the advantage of speaking the same language. So I have said that I did not really prepare

18 this, so this is subject to being cross-checked later. I was simply explaining because the

19 witness raised this issue several times.

20 PRESIDING JUDGE STEINER: Sorry, Mr Badibanga.

21 Mr Witness, could you please tell the Chamber what is your ethnic --

22 The connection has been cut. We need to wait.

23 Mr Witness, can you hear me?

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

25 PRESIDING JUDGE STEINER: Before we lost the connection I asked you if you could

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1 inform the Chamber what is your ethnicity, Mr Witness.

2 THE WITNESS: (Redacted)

3 (Redacted)

4 PRESIDING JUDGE STEINER: Thank you for the clarification, Mr Witness.

5 Maître Badibanga, you can proceed.

6 MR BADIBANGA: (Interpretation)

7 Q. Mr Witness, before that interruption you told us (Redacted)

8 (Redacted)

9 (Redacted) Do you remember anything

10 about that?

11 A. (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. Witness, I want to try to understand one last point regarding the crimes. You did
15 say that despite what you may have heard, you yourself did not see any crime and thus
16 you cannot confirm whether it is true or not; is that correct?

17 A. Yes. I'm saying the crime that's were committed, (Redacted)

18 (Redacted)

19 Q. (Redacted)

20 (Redacted)

21 (Redacted) Is that what you're saying?

22 A. Do you want me to respond to the allegations that I did not see myself? I can't
23 confirm something I didn't see.

24 Q. Well, this is what I'm driving at, Witness. (Redacted)

25 (Redacted)

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1 (Redacted)

2 A. (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 Q. (Redacted)

8 (Redacted)

9 (Redacted)

10 A. (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 A. (Redacted)

18 (Redacted)

19 (Redacted)

20 Q. (Redacted)

21 (Redacted) I just want this to appear very clearly on our

22 transcripts. This is why I'm asking you this question.

23 A. No, there were no acts of violence, no abuses.

24 THE INTERPRETER: "There were no other acts of violence or abuse," correction from

25 the (Redacted) interpreter.

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1 MR BADIBANGA: (Interpretation)

2 Q. I'm sorry Witness, but this is an important point. I'm not asking you whether there
3 were cases of violence or abuse. I asking you this: When you heard rumours, (Redacted)
4 (Redacted)

5 (Redacted)

6 A. I've given you an important reply. (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. Very well. (Redacted)

12 (Redacted)

13 A. (Redacted)

14 Q. (Redacted)

15 (Redacted)

16 A. (Redacted)

17 Q. (Redacted)

18 (Redacted)

19 (Redacted)

20 A. (Redacted)

21 (Redacted)

22 (Redacted)

23 Q. Well, can we say that the S2 is the person in charge of intelligence within a unit; is
24 that correct?

25 A. Yes. Yes, you could put it that way.

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1 Q. Now, this S2 person, did he also send a report to the G2 in Gbadolite during that
2 period?

3 A. (Redacted)

4 (Redacted)

5 Q. If the S2 sent a report to Gbadolite, (Redacted)

6 (Redacted)?

7 A. The intelligence service works independently. (Redacted)

8 (Redacted)

9 (Redacted)

10 MR BADIBANGA: (Interpretation) Your Honour, I'd like to make reference to a

11 statement that the witness made (Redacted), CAR-OTP-0058-0537, page 0545, at

12 line 0335.

13 Q. Witness, I would like to read out something from the statement that you gave to the

14 Office of the Prosecutor, and this was (Redacted), and this is what you said. You

15 were asked the following question: (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted) Do you remember giving that statement, Mr Witness?

25 A. Thank you for your question.

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1 Your Honour, I would like to ask -- I'd like to point out three irregularities that I've
2 noticed in the remarks made by the Office of the Prosecutor regarding the meeting we had
3 in (Redacted), and I don't know. Well, we met three times. They had some cassettes and
4 they made some video recordings.

5 My first concern, your Honour, about these documents is, first, I initialled a document,
6 they called it a signature. I did that and it was also initialled by my legal counsel.

7 However, all the documents that he's shown me, I did not see the initials of my legal
8 counsel.

9 The second thing I'm worried about here about these documents, is that the (Redacted) that is
10 to be found in these documents, I don't know whether that comes from my interpreter or
11 from me, but I think there are many remarks that were removed from the documents and
12 also some things have been added to this document.

13 My third concern is that Mr Badibanga, who asked me a number of questions, he himself
14 was interpreting, and my fourth concern is that all the documents that you gave me to
15 read here, I can confirm, your Honour, that I had appeared and I gave testimony in
16 (Redacted), but I saw some documents that have been written in French and the answers are
17 also given in French. So I'm wondering, when did I answer in French?

18 This is why I'm asking. Yes, I'm a human being, I could get something wrong, but I
19 would like to ask, since I've sworn an oath before you, your Honour, and before the Court,
20 and since I am testifying under oath, I must tell the truth. Might it be possible to play the
21 video here? Because in the video I think that you can see everything that I had said, and
22 I don't want to be told, "Oh, you said this or that." I think if we view the video, it will be
23 clearer.

24 Regarding Mr Badibanga's question, I do not wish to confirm because I have these
25 concerns here because he himself is asking the question. Maybe he wrote something

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1 different down. Maybe he changed my words. Thank you very much.

2 PRESIDING JUDGE STEINER: I think the information that is of some concern is the fact
3 that the witness has received only the translation of the transcript. This information
4 needs to be checked, because the order of the Chamber was that the witness should be
5 provided with the transcripts of his interviews. In the transcripts we have English,
6 French (Redacted). It must be reminded that these are the transcripts that should
7 have been given to the witness well in advance by Defence, and were not. But I will
8 check. I will check with VWU which copy of the transcripts was given to the witness,
9 whether it was only the one -- the translation into French, or the transcript itself.

10 And Mr Witness, be sure that the Chamber is able at any time to check the videos, to see
11 whether anything was added, whether your declarations at that time are contradictory
12 with your declarations here, or vice-versa, and to analyse and to compare the versions of
13 the facts that you give. So please be sure that the Chamber, if it deems necessary, will do
14 it.

15 For the time being, in relation to the last question put, put by Maître Badibanga, I ask,
16 please, the court officer to display document 131 of the Defence list, CAR-OTP-0058-0535
17 at page 0545, in order for the witness to read on the screen what he said or apparently
18 what he said, what was translated (Redacted). And I ask, please, Maître Badibanga,
19 to put the question again.

20 MR BADIBANGA: (Interpretation) Perhaps if we could check the exact date of
21 disclosure of this video to all parties, and I think that way the information will be -- it will
22 be quite clear and the witness will realise that the Defence also has possession of this
23 transcript.

24 Q. Witness, I read out a passage in which you were asked (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 Do you remember about -- anything about these discussions regarding the rumours
8 relating to these crimes?

9 PRESIDING JUDGE STEINER: Yes, Mr Haynes.

10 MR HAYNES: I think so that the record properly records these events, Mr Badibanga
11 read out the fact that the immediate response to, (Redacted)
12 (Redacted) is not in fact recorded in the transcript, because according to what
13 is in front of us, "Les deux lignes suivantes sont prononce'es simultanément." So there
14 is some force in what the witness says about matters being missing, but I'm content now
15 that I've read it into the transcript, we know that Mr Badibanga omitted something.

16 PRESIDING JUDGE STEINER: Mr Witness, do you have this part of the transcript in
17 front of you?

18 THE WITNESS: (Interpretation) Your Honour, I can see it on my screen, but I can't
19 read it. There's nothing in front of me. I just have what I see on the screen here.

20 PRESIDING JUDGE STEINER: Mr Witness, can you please read what is on the screen in
21 front of you?

22 THE WITNESS: (Interpretation) Your Honour, it's very difficult. It's illegible, I'm
23 sorry.

24 PRESIDING JUDGE STEINER: Could, please, Mr Rojas inform us whether the page that
25 is -- that appears on the screen is illegible.

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1 THE COURT OFFICER (Redacted): (Interpretation) Your Honour --

2 THE INTERPRETER: Inaudible.

3 THE COURT OFFICER (Redacted): (Interpretation) Because of the connection, the page,
4 the image is flickering and inaudible. But because of the connection, the page will
5 constantly be moving and I myself can't read it properly.

6 PRESIDING JUDGE STEINER: Mr Rojas, after the break, I want in front of the witness
7 the hard copies of the transcripts of his interviews in order for him to be able to check,
8 when needed, the written transcripts, not translations, the transcripts that I am informed
9 were given to the witness by -- through VWU. We are going to suspend. It's 11 o'clock.
10 Mr Witness, we'll have a break, a half-an-hour break. We'll be back at 11:30.

11 The hearing is suspended.

12 THE COURT USHER: All rise.

13 (Recess taken at 11.00 a.m)

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

15 THE COURT USHER: All rise.

16 Please be seated.

17 PRESIDING JUDGE STEINER: Welcome back.

18 I am informed that the witness had not access to the transcripts of the last part of his
19 interviews, the transcripts related to his interviews of December 2009, and it's not possible
20 to provide right now to the field office because the field office is without internet, which
21 means that I will ask, please, Prosecution, to avoid any questions related to the transcripts
22 of the interview, the interviews taken on December 2009.

23 As soon as practicable, this last part of the statements will be sent to the witness. The
24 VWU will be in charge of reading or allowing the witness to read tomorrow, since we
25 don't have hearing tomorrow, so the witness will have enough time to refresh his memory

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1 in relation to the last part of the statements.

2 The Chamber intends only to regret very much all this kind of incidents during a hearing
3 that are due to the fact that Defence has not complied with its obligations under the
4 Unified Protocol on the Practices Used to Prepare and Familiarise Witness for Giving
5 Testimony at Trial, and that the Chamber hopes very much that this does not happen any
6 more, because we are wasting a lot of time, precious time of testimony of an important
7 witness because the witness was not given access to his previous statements in order to
8 facilitate his testimony.

9 Mr Badibanga, you can continue, please.

10 MR KILOLO: (Interpretation) Excuse me?

11 PRESIDING JUDGE STEINER: Yes, Mr Kilolo?

12 MR KILOLO: (Interpretation) Your Honour, regarding the reference document,
13 namely the documents to be provided to the witness so as to refresh his memory, thereby
14 facilitating matters, and familiarising him, I make -- I would like to refer to
15 ICC-01/05-01/08-1091. This is a document entitled "Victim and Witness Unit amended
16 version of the United (speaks English) United Protocol on the Practices to Prepare and
17 Familiarise Witnesses."

18 (Interpretation) I would like to draw your attention to paragraph 83. This document is
19 very clear. It specifies that the VWU shall provide specific documents to the witness so
20 that the witness can refresh his or her memory before the hearing. That's very clear.
21 That's the first thing.

22 The sort of document in question, the first category, is interviews that have been recorded,
23 be they audio or video recordings. So in regards to this first point, I wish to inform you
24 that the Office of the Prosecutor never disclosed barely any of the video recordings that
25 were made during the interviews that they had with this witness.

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1 Furthermore, I would like the OTP to provide us with the date of disclosure of all these
2 videos, as well as the batch number that may have been used. So from that point of view,
3 the Defence cannot be criticised for not providing the witness with video recordings that
4 were never disclosed to us.

5 Secondly, the document also specifies that the witness should be provided with
6 everything, all the statements that he made to the OTP. It specifies all the statements
7 cross-signed by the or, rather, signed by the witness.

8 So we really are wondering, when the Defence is criticised for not providing statements,
9 what are we talking about here? In the final analysis, whether you wish it or not, there
10 are no witness interviews. All we have here are internal documents from the OTP that
11 can be likened to screening notes, and we have no obligation to take the OTP's internal
12 notes, or documents, and provide them to the witness and say that they are statements
13 when that is not the case at all.

14 So in light of this, we are of the opinion that it is entirely unfair to take these internal
15 documents from the OTP and to use them, saying to the witness, "Here, this is what you
16 stated" and to ask him to provide explanations about internal documents of the Office of
17 the Prosecutor, the contents thereof being controversial, and he is contesting them. So I
18 really think, your Honour, this trial needs to be held in a fair way. Thank you.

19 PRESIDING JUDGE STEINER: Maître Kilolo, from time to time the Defence has been
20 adopting the practice of, in front of a document or a text, or whatever, written document,
21 to pick and choose the information that is interesting for the Defence. I have the
22 document you mentioned in front of me, and under the subtitle "Provision of the
23 Statement," it's quite clear that it's up to the Defence to provide VWU with these
24 documents.

25 VWU has no access to the case file. It's not VWU that goes to the case file and chooses

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1 what documents are to be given to the witness, and that's why paragraph 82 orders the
2 calling party to give the documents to VWU, and it's up to VWU to read or have these
3 documents read to the witness. So don't isolate paragraph 83. It has to be read in
4 conjunction with paragraph 82, first of all.

5 Second, the understanding of the Defence that the transcripts of interviews are internal
6 notes of the Prosecution, are nothing more than an interpretation given by the Defence on
7 the transcripts of interviews. It will be for the Chamber to decide what these transcripts
8 of interview mean, whether they are just internal notes of the Prosecution. According to
9 the Rules of Procedure and Evidence, internal notes don't even need to be disclosed to the
10 parties or to the Chamber. So I'm not sure we are in front of internal notes of the
11 Prosecution.

12 We will proceed with this testimony. The Prosecution is allowed, and the Chamber will
13 do it in due time, to question the witness about what is on the transcripts of the interviews,
14 and the witness is an adult, is an educated person, is able to say by himself whether what
15 is on that excerpt is true or is something fabricated. The witness has even suggested that
16 maybe Prosecution has fabricated some of his answers and omitted others, and that will
17 be checked by the parties and participants in due time.

18 Maître Badibanga, you can proceed.

19 MR KILOLO: Excusez-moi.

20 PRESIDING JUDGE STEINER: No. Maître Badibanga, you can proceed.

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

22 Now, for the transcript, the videos were disclosed to the Defence on 18 March 2010, batch
23 31 and batch 32; the transcripts were disclosed to the Defence on 7 November 2011, batch
24 12; and also in a less redacted version on 9 November 2009, batch 21; and the translations
25 were disclosed to the Defence on 26 November 2008, batch 18.

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1 The Defence has had all the information regarding this witness, thus allowing for the
2 hearing to be conducted very smoothly. Regarding Mr Haynes' remarks --

3 PRESIDING JUDGE STEINER: Before you proceed, just for checking the record, here it
4 is that "The videos were disclosed to the Defence on 18 March 2010. The transcripts were
5 disclosed to the Defence on 7 November 2011 and in a less redacted version on
6 9 November 2009"? So the less redacted version before? I'm not sure this information is
7 correct.

8 MR BADIBANGA: (Interpretation) Your Honour, we will provide more specific
9 explanations. Indeed, those are the batches that I mentioned, and we will cross-check.
10 Indeed, we disclosed, and I believe there was a disclosure with redactions that were later
11 altered. In any event, the latest disclosure I have here is 2011, and the videos were
12 disclosed in 2010.

13 A few moments ago, Mr Haynes stated that two sentences had been uttered at the same
14 time, and I should have said that to the witness. Following your instructions, I will not
15 refer to the transcript; I will merely specify that the wording of the transcript shows that
16 the two utterances occurred at the same time and it was not possible to transcribe both,
17 and we can see this very clearly on the transcript.

18 Your Honour, if I could be given leave to use this transcript at a later date, I will hark back
19 to this particular point.

20 PRESIDING JUDGE STEINER: Maître Badibanga, I told you to refrain from putting any
21 questions that refer to the last group of transcripts.

22 MR BADIBANGA: (Interpretation) Indeed, your Honour. When I said that I would
23 hark back to this point, I do hope on Tuesday morning this will be solved, and I would
24 have a few questions for the Tuesday morning. I was a bit hasty a moment ago
25 regarding the first point. It was actually 2008 when the first disclosure occurred, batch

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1 12, and then later on 9 November 2009, batch --

2 THE INTERPRETER: Overlapping speakers.

3 PRESIDING JUDGE STEINER: Maître Kilolo, is this information enough, according to
4 Defence request?

5 MR KILOLO: (Interpretation) It might be useful to have the CAR-OTP-number
6 because the initially cross-checks don't mention the videos in question, but we will
7 cross-check on our side and revert to you after the break.

8 PRESIDING JUDGE STEINER: You can proceed, Maître Badibanga.

9 MR BADIBANGA: (Interpretation) Thank you, your Honour. Just to simplify the life
10 of the Defence, I would point out that we provided a list of documents to be used with
11 the -- this particular document and all the CAR reference numbers are to be found there,
12 in addition to ERN numbers. We've been using this list for three days now. This list
13 was disclosed last week, so I believe they have all the information they need.
14 As for the rest, it is also possible to use eCourt to find the available information.

15 Q. Witness, could we set aside this particular issue that we were talking about before
16 the break, and I would just like to ask you: Do you know a place called (Redacted)
17 (Redacted)? Have you ever been there?

18 A. (Redacted), is that a person's name? Is that a place? What is that?

19 PRESIDING JUDGE STEINER: Mr Witness, did you understand the question? I think
20 we are wasting time. If you did not understand the question, please ask the Prosecution
21 to repeat. But I think it's clear that (Redacted) appears to be the name of (Redacted),
22 doesn't it?

23 THE WITNESS: (Interpretation) Your Honour, thank you. When people talk about
24 (Redacted), I think about (Redacted)
25 (Redacted) I don't know if I've understood the question. He can repeat

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1 the question so that I can better understand. Your Honour, you just spoke and you
2 mentioned (Redacted). To my understanding, that's something having to do with
3 (Redacted)

4 MR BADIBANGA: (Interpretation)

5 Q. Have you ever been to a place called (Redacted)?

6 A. (Redacted)

7 (Redacted) This is the very first time

8 I've ever heard talk of such a place.

9 Q. Witness, do you remember saying here in this courtroom that (Redacted)
10 (Redacted)? Do you remember that?

11 (Redacted)

12 A. Yes, I remember that.

13 Q. Do you remember saying that (Redacted)

14 (Redacted)? Do you remember saying that?

15 A. Yes, I remember.

16 Q. (Redacted)

17 (Redacted)

18 A. No, I don't remember that.

19 Q. Witness, this Friday I was asking you questions about the code of conduct. This is
20 document 14 on the Defence list of documents, CAR-DEF-0001-0161. Witness, have you
21 had an opportunity to review this document over the weekend?

22 A. Yes, I received that document and I read it.

23 Q. Would it be a fair representation of your statement if I said that you explained to us
24 that this document was referring to a number of issues, including for example the manner
25 in which the development of the country was to be fostered; would that be correct?

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1 A. Please kindly repeat your question.

2 Q. Here in the courtroom on Friday you said, Mr Witness, and this is what I
3 understood, that the code of conduct provided explanations to a number of issues,
4 including the manner in which to foster development within the country, to promote
5 fraternity between citizens. You also I believe mentioned that the code of conduct
6 required that you and I should be each other's brother, and you said that the code also
7 referred to the conduct to be upheld in relation to the population. Would that be a fair
8 reflection of your --

9 THE INTERPRETER: Overlapping speakers. Overlapping speakers.

10 MR BADIBANGA: (Interpretation) I do not have the edited transcripts of Friday, but
11 in any event, your Honour, in transcript 285, that is of 26 February, English version, page
12 37, line 14, and in the French version it's at page 40, the witness said that they were taught
13 patriotism, how to read the country, how to protect people, how to protect their property,
14 how to be duty conscious as a soldier, what every soldier had to do, and so on and so
15 forth.

16 Q. Mr Witness, do you remember making such a statement to this Court?

17 A. Yes, I do remember clearly that I made such a statement.

18 Q. Now that you have had time to review the code of conduct, can you point out to the
19 Court the excerpt in the code which speaks to the development of the country, and let us
20 start with that point?

21 A. If you look at page 1, the objective of the code, reference is made here to the
22 following: "Improve military activities." And if you go further down to the second
23 dash, it says "strengthen and perfect." The content is there. You can read it for yourself.
24 Then if you turn to page 4 of the document, if I am not mistaken, at 5.5 you will see that
25 several references are made to this.

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1 Now, following the explanations (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. If we begin with the objectives at CAR-DEF-0001-0161, the objectives of the code will
5 be the following: "Improve the activities or military activities within the ALC with a
6 view to meeting the expectations and aspirations of the people - guide, strengthen and
7 perfect the army in relation to its activities in order to grow its power and capacity.

8 2. Protect soldier morale during war and uphold discipline. This code of conduct shall
9 be respected and applied at all levels of the ALC."

10 Mr Witness, the objective here therefore, or the goal, is to improve military activities
11 within the ALC and then to guide, strengthen and perfect the activities of the army. I
12 still do not see any reference to developing the country in that article. Can you please
13 explain what you mean to the Court?

14 A. My understanding of that first line, which states as follows: "Improve the military
15 activities of the ALC with a view to meeting the expectations of the people," (Redacted)
16 (Redacted), that would yield peace and activities will
17 unfold accordingly in the country. So without peace, there is no development in the
18 country. That is my understanding of that article and that is why I made that statement.
19 You see, when the army does its job, development follows.

20 Q. Witness, can you show us the part of this document which refers to protection of the
21 civilian population?

22 A. This document, at page 4, states the following: At page 4, you see reference made
23 to offences, and if you read there, you will see that it is an offence to kill a civilian. So the
24 duty is not to kill civilians, but rather to protect them. (Redacted)

25 (Redacted)

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1 Q. Apart from that point on page 5, CAR-DEF-0001-0164 for the record, apart from that
2 reference, which states that "The following offences may be punishable by death - murder
3 of a civilian or another person," apart from that reference, is there any other mention of
4 protection of civilians in the code or is this the only reference?

5 A. Military rules, even if not mentioned in this code, include the protection of civilians
6 and their property, and this is common knowledge.

7 Q. I would like us, in any event, to focus on the code of conduct, because you and other
8 witnesses have stated that all matters were sorted out in this code of conduct. You, as a
9 soldier, are familiar with this and I therefore want to discuss with you whether all matters
10 are dealt with in this code of conduct. Can you give us any reference to how prisoners of
11 war are supposed to be treated from this code of conduct? Is there any reference to that?

12 A. Please kindly repeat your question.

13 Q. Gladly. Witness, I wanted you to tell the Court of any reference in the code of
14 conduct to the manner in which prisoners of war are to be treated?

15 A. I do not understand your question. Please, could you rephrase your question?

16 Q. Witness, does the code of conduct refer to prisoners of war? If so, at what page?

17 A. Let me read through and I will provide you with the answer. I don't have exact
18 mastery of the reference, so give me some time to read through the code and I should be
19 able to provide you with an answer.

20 Q. I will help you, Mr Witness, so that the Court can gain some time. Page 3 of the
21 document, CAR-DEF-0001-0163, at point 4.8, "disobedience or disobeying orders," at point
22 (f), "killing war or prisoners of war without authorisation." Mr Witness, that is the only
23 reference to prisoners of war in this code of conduct. And my question to you is the
24 following: (Redacted)

25 (Redacted)

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1 A. (Redacted) I have already explained that all prisoners
2 of war were handed over to the Central Africans. (Redacted)
3 (Redacted) The
4 MLC army did not want to have to deal with prisoners of war.

5 PRESIDING JUDGE STEINER: Yes, Maître Kilolo.

6 MR KILOLO: (Interpretation) Quite honestly, Madam President, to be fair to this
7 witness, the question to him should be: "What training did they receive in the ALC
8 relating to civilians and prisoners of war?" But when you circumscribe the question and
9 refer exclusively to the code of conduct, that is not fair, to the extent that when a question
10 is put as to what conduct to have in relation to prisoners of war, as provided for in the
11 code of conduct, that would require that whoever answers such a question is fully aware
12 of all the laws pertaining on -- pertaining to military justice, and so on and so forth, things
13 that would necessarily lead to being unfair in the questions that would be put to this
14 witness.

15 So I think the questions should be limited to the training that the soldiers received relating
16 to the treatment of civilians and to the treatment of prisoners of war, rather than delve
17 into legal issues that the witness may not be able to handle, as he has already stated.

18 MR BADIBANGA: (Interpretation) I really wonder whether we are dealing here with
19 the testimony of Witness 19 or Mr Kilolo's testimony. You see, Mr Kilolo must
20 understand that an attempt to offer answers to the witness is clear to everyone here in the
21 courtroom, and I don't think that this is the approach we should take here. You see, on
22 25 and 26 and 27 February, Maître Kilolo put some questions to the witness, and he could
23 have asked the witness to talk about training on the code of conduct or any other manner
24 of training.

25 Now, today, as representative of the OTP, I am speaking to my case and I am raising

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1 relevant questions for that purpose, and I hope that I can be allowed to put my questions
2 properly in the same manner I have done from the time I started.

3 PRESIDING JUDGE STEINER: Maître Kilolo.

4 MR KILOLO: (Interpretation) Madam President, I think that Mr Badibanga has always
5 referred to the congenial decorum that should be upheld in this courtroom. Let me also
6 call on him to conduct himself in a manner that is worthy of a representative of the
7 Prosecutor at the ICC. I don't believe that it is at all professional for him to accuse a
8 professional colleague, by inferring that the said colleague was indirectly trying to assist
9 the witness by providing some clue to an answer to that witness. I think that that is not
10 worthy of someone who is representing the OTP before the ICC, and I am deeply sorry
11 about this.

12 PRESIDING JUDGE STEINER: One more reason, Maître Kilolo, for you to avoid
13 interrupting the Prosecution every two or three minutes and to give instructions to the
14 Prosecution on how he should conduct his questioning. The Defence will have
15 opportunity to re-direct the witness, so you will have opportunity to point out for these
16 alleged problems with the questioning of the Prosecution. Once again, Maître Kilolo, I
17 insist, please, refrain from interrupting the questioning unless there is something really,
18 really exceptional and important that cannot wait. This is again the instruction of the
19 Chamber, once again.

20 Maître Badibanga, you can proceed, please.

21 MR BADIBANGA: (Interpretation) Thank you, your Honour, Madam President.

22 Q. Witness, the only reference in the code of conduct to prisoners of war is that clause
23 which provides that killing a prisoner of war without authorisation amounts to
24 disobedience. You have been looking at the document. I want to point out to you that I
25 have not found any other reference to prisoners of war, but if you do find some, please do

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1 not hesitate to draw the Court's attention to them.

2 In any event, you have testified that you are familiar with the code of conduct. (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted) My question then to you is, do you really

7 know this code of conduct, Mr Witness?

8 A. Yes, I am familiar with the code of conduct. When I was given a copy, I -- I can say

9 that I am very familiar with it. I know the code very well, but I haven't read it. I

10 haven't looked at it over the past several years. You see, when I left the MLC (Redacted)

11 (Redacted), from that time to this day I no longer continued to operate on the

12 basis of the MLC code of conduct. That is why some of these things no longer come to

13 mind easily. (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 Q. Mr Witness, can you point to any reference in the code of conduct to what is referred

19 to as protected buildings or facilities?

20 A. Reference to -- in the code of conduct, Mr Badibanga, is not like you would find in

21 the Bible when you have referred to Matthew 7.7, but if you look, you will find, as you

22 said. It is not difficult for me to remind you of this, but I know that you have the

23 document, that you have read it carefully, but I had only last evening to look at the

24 document. I'm sure reference is made to such buildings, but I cannot tell you whether it

25 is at page 3 or page 4, so maybe you can assist me by pointing me to the relevant page.

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1 Q. Mr Witness, I will help you. There is no reference in the code of conduct to the
2 protection of sensitive buildings. Are you surprised at that? Or would you be
3 surprised if I put it to you that, in general terms, there is no reference to what is generally
4 referred to as international humanitarian law or to the Geneva Conventions? Would you
5 be surprised if I put it to you that there is no reference to those things in this code of
6 conduct?

7 A. (No interpretation)

8 THE INTERPRETER: The interpreters are losing the relay into English, sorry. Now we
9 have it.

10 THE WITNESS: (Redacted)

11 (Redacted)

12 (Redacted)

13 MR BADIBANGA: (Redacted)

14 Q. (Redacted)

15 (Redacted) Can you point us to the reference about that in this code of conduct?

16 A. At page 1, point 2.4, you can read the following: "Tribalism, sectarianism, reference
17 to those points indicate that you and I have to be like one person." Secondly, I don't
18 know where I read this, but there is reference to tribalism, there is reference in there to
19 regionalism or sectarianism. The idea behind these concepts is to point (Redacted)
20 (Redacted).

21 Q. Witness, I read through this code of conduct carefully before pointing my questions
22 to you. The point you have just raised comes up under the chapter dealing with
23 relations between soldiers, that is item number 2. Number 1 was the objectives of the
24 code; number 2, relations between soldiers; and under 2, at 2.4, the following is written:
25 "These trends are prejudicial to cohesion within the army and are therefore prohibited,"

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1 and it is under that caption that tribalism and sectarianism are prohibited, to the extent
2 that they deal with relations between soldiers for the purpose of maintaining cohesion
3 within the army.

4 I have never been a soldier of the ALC, but I have looked through, to find out whether
5 there is any reference in the code to the call that you and I should be each other's brother.
6 In your testimony, you have said that the call to fraternity should be among all persons,
7 including yourself and myself, but I put it to you that the reference is in relation to
8 soldiers, fraternity between soldiers. What do you say to that? Can you provide the
9 Court with another reference?

10 A. If you and I are like one man, as it were, within the same army, then why would one
11 not take your family in Kasii to be mine in Bakavu? There is not one single country that
12 belongs to a given military without there being civilians. If I were to take you to be my
13 brother, I could not discount your family; I would take your family under my wing, as if it
14 were my family. I believe that that is quite clear. This is what we were taught to do and
15 this is what we applied.

16 Q. Mr Witness, now, in the first chapter, here we're talking about objectives, notably
17 the improvement of the ALC, and it would seem to me that earlier on I read, and you
18 explained to me, that this was also -- it also had a wider frame of reference. Now, the
19 second chapter talks about relations between soldiers. The third chapter goes on to talk
20 about operational organs. And you have seen here that three operational organs are
21 made mention of, notably, first of all the High Command; secondly, the court martial and;
22 thirdly, the disciplinary board or council.

23 (Redacted)

24 (Redacted)

25 A. (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 THE INTERPRETER: Correction. (Redacted)

7 (Redacted)

8 MR BADIBANGA: (Interpretation)

9 Q. But the code of conduct says that the disciplinary board for each unit of the army
10 comprised a deputy commander, who was the president, a political commissioner of the
11 unit, a ranked officer within the regiment, an S1, two lower-ranking officers and a soldier.
12 So the code of conduct says that a code of discipline should be active in each unit, (Redacted)

13 (Redacted)

14 (Redacted); is that correct? Correction, (Redacted)

15 (Redacted).

16 A. I do not know what it is that you have asked here. Remember that when this
17 question was put to me, I said that (Redacted). Now, regarding the political
18 commissioner --

19 THE INTERPRETER: Inaudible.

20 THE WITNESS: (Interpretation) -- (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted).

2 Q. Yes, indeed, Mr Witness, but for the time being we're talking about the Central

3 African Republic, so I do understand therefore, from your answer, (Redacted)

4 (Redacted).

5 Now, Mr Witness, I talked to you about the first chapter, notably the objectives of the code,

6 and secondly the relations between soldiers. The third chapter covered the operational

7 organs.

8 Now, moving on to Chapter 4, these are disciplinary faults and offences, and I note that

9 these disciplinary faults are:

10 "1. Leaking information. 2. Mutiny. 3. Desertion.

11 4. Cowardice." I'm sorry, we're missing out point 3.

12 So "1. Leaking information. 2. Mutiny. 4.4. Desertion. 4.5. Cowardice. 4.6.

13 Dissimilating during an ambush. 4.7. Revealing a hiding place. 4.8. Disobeying

14 orders. 4.9. Placing the operation in danger." And I do apologies to the interpreters in

15 the (Redacted) booth, because I do not know whether it is very easy for them to interpret or

16 translate these terms which are somewhat technical in nature.

17 Now, Mr Witness, all of these faults that I have just mentioned are all associated with

18 soldiers' behaviour during operations or during military activities. There is nothing in

19 here that has anything to do with the civilian population as such or any other individual.

20 Are we in agreement on that?

21 A. This code of conduct was drafted for the soldiers. It is not a Bible. It is not a Bible

22 for civilians. It is true that there are some points herein that show us how civilians can

23 be protected. However, this is a booklet that is in the hands of the soldiers.

24 Q. Now, Mr Witness, just to be -- now, the last three chapters are -- the last three

25 chapters, number 5 notably are propaganda; number 6 is punishment and sanctions; and

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1 number 7 is miscellaneous. Mr Witness, can we say that this document contains the
2 basics, if you like, for soldiers to behave properly towards the population whilst on
3 operation? Now that you have looked at the context carefully, is that what this
4 document is all about?

5 A. This is about operations, yes, but it also covers all of the soldiers within the ALC in
6 view of the fact that we were all taking part in operations. I can tell you that had the
7 MLC -- they would have applied this code. All soldiers can use this code but here we're
8 only talking about the ALC soldiers who were engaged in operations.

9 Q. I'd like to come back now to page 4 that you mentioned, reference
10 CAR-DEF-0001-0164. Now, if you recall, you said that the murder of a civilian appeared
11 under 5.5, notably the offences. Now, this point 5.5 says as follows: "The following
12 offences may be punishable by death." First indent, "Murder of a civilian or another
13 person." Fifth indent, "Abduction and rape."

14 Now, with regard to rape, Mr Witness, would it be true to say that according to your
15 statements soldiers did not or could not have committed any rapes because they knew
16 that it was punishable by death; would that be correct?

17 A. Well, I was not personally witness to any rape, and I believe that all and sundry
18 have a basic education, and you know that in terms of military training it is just -- well, it's
19 an addition to the basic teaching that one receives in one's family. I was not personally
20 witness to any rapes within the MLC and I can confirm this fact. I can confirm that the
21 training that we received, according to which we were to respect the population, was one
22 that was of assistance to us, in addition to the education that we received from our parents
23 within our homes.

24 Q. Mr Witness, are you aware of what the MLC drafted in terms of statistics with
25 regard to convictions that were handed down between the years 2001 and 2003? This is

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1 information that the Defence -- I apologise, this is information that all the parties here
2 have access to, notably the fact that the MLC has provided statistics. Are you aware of
3 this fact?

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

5 MR BADIBANGA: (Interpretation) Now, to be fair to the witness, I would request that
6 the following document be shown to him: CAR-OTP -- these are the statistics for
7 criminality, Madam President, and I'm going give you the reference. It's the OTP
8 reference, and we have the ERN reference, I think. It's CAR-OTP - this is the
9 twenty-sixth document on the list - 0017-0351; twenty-sixth document on the list of OTP
10 documents, that is.

11 THE COURT OFFICER (Redacted): (Interpretation) Document CAR-OTP-0017-0351 is
12 currently being presented to the witness.

13 MR BADIBANGA: (Interpretation)

14 Q. Now, Mr Witness, I presume that you have never seen this document before, have
15 you?

16 A. This is the first time that I am seeing this document.

17 Q. These are statistics, and it might be somewhat longwinded for us to read through it
18 for you, but this document goes hand in hand with another document, notably document
19 25 on the list of OTP documents.

20 I don't believe that we need to change this on the screen now. I just wanted to explain
21 this to the witness.

22 THE INTERPRETER: Document 25 bears the witness -- CAR-OTP-0017-0349.

23 MR BADIBANGA: (Interpretation)

24 Q. Now, Mr Witness, in these statistics, I would just say the following, that for the
25 period 2001 to 2003, there are four cases of rape that were punished and the heaviest

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1 conviction was three years, whilst the sentences for the other three rapes respectively
2 were 10 months, 11 months and 12 months.

3 Are you aware of any other cases of rape that were prosecuted within the ALC and for
4 which the perpetrators of said rapes were convicted?

5 Did you hear my question, Mr Witness?

6 PRESIDING JUDGE STEINER: Let's wait for the connection to be re-established.

7 (Pause in proceedings)

8 PRESIDING JUDGE STEINER: Mr Witness, can you hear us?

9 THE WITNESS: (Interpretation) Yes, indeed, Madam President, I can hear you.

10 PRESIDING JUDGE STEINER: Maître Badibanga, maybe it's better if you repeat your
11 last question.

12 MR BADIBANGA: (Interpretation)

13 Q. I'm not quite sure when it was that you lost the signal, Mr Witness, but I was just
14 saying that throughout the MLC statistics that we have found there were -- there was four
15 reported issues, incidents of rape, both in the DRC and in the CAR - within the ALC that
16 is - within 2001 and 2003. Are you aware of any other cases of rape that were prosecuted
17 within the ALC for which the perpetrators were convicted?

18 A. Maître Badibanga, I am not aware of anything, not even of what you have shown me.
19 Were this to have happened, (Redacted), and I did not see it. There was no
20 occasion on which I saw people being punished for incidents of rape.

21 Q. Now, Mr Witness, I shall revisit now the code of conduct. (Redacted)
22 (Redacted)

23 A. (Redacted)

24 (Redacted)

25 Q. It's because you had already said this, Mr Witness, that I thought that you were very

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1 well -- or very familiar with this document.

2 I no longer need for this document to be on the screen. Thank you.

3 We shall now return to the Defence document number 36 on the list of

4 Defence documents.

5 PRESIDING JUDGE STEINER: I'm really sorry to interrupt you, but since you are
6 changing the subject, I wanted to ask from the witness a clarification.

7 Mr Witness, on page 48 of the transcript, when Maître Badibanga asked you about (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted) This is what you

12 said. Is that correct? The transcript is correct?

13 THE WITNESS: (Interpretation) Yes, that's right, your Honour, (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 PRESIDING JUDGE STEINER: Then I wanted you, please, to clarify the Chamber, that
19 on transcript 284-Conf English edited, page 35, line 7 to 13, when you were asked (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 THE WITNESS: (Interpretation) (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 PRESIDING JUDGE STEINER: Thank you.

6 MR BADIBANGA: (Interpretation) I'm very sorry, I apologise to the court officer, it's
7 the next document I'd like, number 37, CAR-D07-0002-1641. This is the second log-book
8 that we are dealing with here. Could we please go to page 1687, page 1687.

9 THE COURT OFFICER (Redacted): (Interpretation) Page 0002-1687 is being shown to the
10 witness.

11 MR BADIBANGA: (Interpretation)

12 Q. Witness, I would like to read out a message on the left-hand side of this page.

13 "Extremely urgent. From: Cordo Operations Bangui. To: Head of General Staff ALC.
14 Information: To the Chairman." I'll skip over the reference number. "I am honoured
15 to extend greetings and to inform you. After checking information, according to which
16 military refugee Kolingba at the Bokidio (phon) site. Some of them are fleeing, heading
17 to Betu (Congo-Brazzaville) where they intend to organise and take over Mongoumba and
18 then Bangui. Information to be confirmed, but the Congolese of Betu are not in
19 agreement and will not give them free passage. They be boarded on a boat called
20 20 September. Many FACA soldiers from Mongoumba are awaiting this convoy and to
21 then join their ranks. Then, recently, we have seen as each RCA boat go by Nzinga,
22 FACA soldiers shoot in the direction of Batanga. Furthermore, we have seen recently in
23 Damara, and surrounding areas, a number of people moving towards Bangui or moving
24 into the bush. Finally, concentration of attackers at Dumbia and Possel, Njoku and in
25 Palumbo, where they were preparing for future action upon Bangui. Thus, the enemy is

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1 considering an attack on Bangui, taking Bangui, moving simultaneously from
2 Mongoumba to the west and Palumbo to the east of Bangui. Sincerely submitted,
3 1 January 2003."

4 Witness, I wanted to read this out to you because this morning, when I asked you a
5 question about Mongoumba, you made reference to a -- you said I should look at a map of
6 the CAR, and you said that Mongoumba was lower down to the south, (Redacted)
7 (Redacted).

8 Now, this message seems to be indicating that enemy troops were moving about in the
9 Mongoumba area; is that correct?

10 A. I can't make that affirmation because (Redacted)
11 (Redacted) so it's difficult for me to provide an item of information
12 that I am unaware of.

13 Q. Who wrote this message, Witness?

14 A. On the document that I see here on the computer screen, what I read here,
15 "Co-orodo," co-ordinator, "Ops," operations, Bangui.

16 Q. Who was the co-ordinator of operations in Bangui during that period of time (Redacted)
17 (Redacted)?

18 A. It was Major Roger Bikunwakula (phon).

19 Q. Was this person from the Congo or from the CAR?

20 A. This person was also from the Congo. He's from the Congo.

21 Q. (Redacted)

22 A. (Redacted)

23 (Redacted)

24 (Redacted)

25 THE INTERPRETER: Interpreter correction: "The name of the major was Roger

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1 Dikunduakila."

2 MR BADIBANGA: (Interpretation)

3 Q. (Redacted)

4 (Redacted); is this what you are

5 saying?

6 A. (Redacted)

7 (Redacted) He reported

8 to the CCO headquarters.

9 Q. (Redacted), was Mr Dikunduakila under the

10 authority of someone within the ALC? Can you tell us who he reported to?

11 A. (Redacted)

12 (Redacted)

13 Q. Witness, my question wasn't about (Redacted); I was asking you who did he report

14 to within the MLC during the operations in the CAR?

15 A. He came under the command of the CCO. (Redacted)

16 Q. (Redacted)

17 A. (Redacted)

18 Q. (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 A. Well, if you wanted to, I suppose you could call the Head of General Staff and he

24 could answer your question. He has more information than I do. And Mr Jean-Pierre

25 Bemba is with you there, so you could ask him the same question. (Redacted)

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1 (Redacted)

2 (Redacted)

3 Q. But for the time being, since neither Mr Bemba nor the Head of General Staff are
4 giving testimony right now, I'm asking you, (Redacted)

5 (Redacted)

6 (Redacted)?

7 A. If you read the document that you have before you, you will see that he was the
8 co-ordinator of operations, but -- (Redacted)

9 (Redacted).

10 Q. So if I base myself on this message from him that is intended for the hierarchy of the
11 MLC, there was one chain of communications, a direct one, between Gbadolite and the
12 co-ordinator of operations, (Redacted)

13 (Redacted)? So were there two channels of communications, or one?

14 A. No. But it might also be possible, because his message shows, proves clearly, that
15 the recipient was Gbadolite. He had received a briefing -- he had been told to send his
16 message to Gbadolite. (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 Q. Very well. Let's set aside this question of the procedure. Now let's talk about the
22 content, Witness. The information that is being provided here, the actual content, is
23 saying that there were attackers gathering in various places, Dumbia, Posell, Njoku,
24 Palumbo, and it says that the enemy was thinking of taking Bangui from Mongoumba and
25 from Palumbo. (Redacted)

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1 (Redacted) I'm not talking about the form of the message, I'm talking about the
2 content.

3 A. I can hear you reading out this document, but this is the first time I've ever seen it.
4 If you wish, you could call the person who wrote this document and he could provide you
5 with explanations about the content of said document.

6 PRESIDING JUDGE STEINER: Maître Badibanga, we have only a few minutes before
7 the lunch-break, and Judge Aluoch would like to ask a clarification, so if you allow us
8 before we go into the break.

9 JUDGE ALUOCH: This is a clarification that I should have raised when it arose
10 immediately after the break, but I did not do so because I did not have all the documents
11 in front of me, and now I do have them.
12 One of the documents is the transcript, the edited English version, transcript of Monday
13 the 25th, when Mr Kilolo -- it all has to do with witness interviews, that's why I said I
14 should have raised it immediately after the break. This is when Mr Kilolo was
15 questioning the witness. It's transcript of Monday, 25th, and it's page 28, and this is how
16 the questioning went:

17 "Mr Kilolo: I would like to ask the court officer to show the witness document 102 from
18 the Defence list, page 0027-0073, and when I look at that document, it's transcript of
19 interview. Mr Kilolo: It's the next page, OTP-0027-0031," and it's the transcript of
20 interview of 2 August 2008. So the court officer then showed the page on the screen.
21 So the question then from Mr Kilolo was: "Witness, do you remember having been
22 interviewed by the Office of the Prosecutor on 2 August?" And the witness answered,
23 "Do you want me to answer?" And Mr Kilolo said, "If you would be so kind. Do you
24 remember having met the Office of the Prosecutor on 2 August?" "Yes, I think that
25 I remember I met the office of the OTP on three occasions." Then the part was -- all of it

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1 was quoted.

2 So I will not quote it, it's a long portion that Mr Kilolo quoted to the witness, and at the
3 end of it Mr Kilolo then asked the witness, "Witness, do you remember this statement that
4 you gave?" And the witness said, "Yes, I remember this statement." "What do you
5 mean through this statement that I've just read?" And the witness then explained, and
6 the explanation is on the transcript.

7 Now, I revert to today's transcript, page 38, today's proceedings, when -- the exchanges
8 between Mr Kilolo and Mr Badibanga and the intervention then by the Presiding Judge.

9 What Mr Kilolo said in part is the following: "All we have here are internal documents
10 from the OTP that can be likened to screening notes and we have no obligation to take the
11 OTP's internal notes or documents and provide them to the witness and say that they are
12 statements when that is not the case at all. So in light of this," Mr Kilolo continues, "we
13 are of the opinion that it is entirely unfair to take these internal documents from the OTP
14 and to use them, saying to the witness, 'Here, this is what you stated,' and to ask him to
15 provide explanations about internal documents of the Office of the Prosecutor, the
16 contents thereof being controversial and he is contesting them. So I really think, your
17 Honour," says Mr Kilolo, "this trial needs to be held in a fair way. Thank you."

18 And the intervention by the Presiding Judge: "Mr Kilolo, from time to time, the
19 Defence has been adopting the practice of -- in front of a document or a text, or whatever,
20 written documents, to pick and choose the information that is interesting for the Defence,"
21 and it continues.

22 I wanted this to be in the transcript, especially in view of Mr Kilolo's statement that this
23 trial needs to be held in a fair way, because I have just pointed from the transcript where
24 he used the same documents, and yet when the Prosecution is using the same documents,
25 he had issues with it.

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1 That's the part of the transcript that I wanted to put on record. Thank you.

2 PRESIDING JUDGE STEINER: Thank you, Judge Aluoch.

3 Mr Witness, it is exactly 1.30. As you may know, that we are continuing today. We

4 have -- we will continue with this session in the afternoon. You will now have time to

5 have a lunch, to take some rest. It's 1.30. We'll be back at 3 o'clock.

6 The hearing is suspended.

7 THE COURT USHER: All rise.

8 (Recess taken at 1.28 p.m.)

9 *(Upon resuming in closed session at 3.07 p.m.) Reclassified as Open session

10 THE COURT USHER: All rise.

11 Please be seated.

12 PRESIDING JUDGE STEINER: Good afternoon and welcome back. Welcome back,

13 Mr Witness.

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

15 PRESIDING JUDGE STEINER: Did you have lunch and had the opportunity to take

16 some rest?

17 THE WITNESS: (Interpretation) Yes, Madam President, I had something to eat and

18 I had some rest too.

19 PRESIDING JUDGE STEINER: So the Prosecution then will continue questioning you,

20 and I give the floor to Maître Badibanga.

21 MR BADIBANGA: (Interpretation) Thank you, Madam President.

22 Q. Mr Witness, at the time of the break we were talking about the co-ordinator of the

23 operations in Bangui, Mr Dikunduakila. (Redacted)

24 (Redacted)

25 A. (Redacted)

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1 (Redacted)

2 (Redacted)

3 Q. (Redacted)

4 (Redacted)

5 A. (Redacted)

6 (Redacted)

7 Q. (Redacted)

8 A. (Redacted)

9 MR BADIBANGA: (Interpretation) Court officer, please, would you show document
10 66 of the Defence list to the witness, please. That's CAR-OTP-0042-0237.

11 Q. Witness, this is a service memo from the Ministry of National Defence, CAR. As
12 you will see on the second page of this document, when it is displayed, it was signed by
13 General André Mazi. Now we are on page 1 and I simply want to point out to you the
14 information on that page. "Subject: Setting up of an operation centre at the General
15 Staff of the Army, annex list of staff of the operations centre. This document provides
16 that from the date of signing of this service memo, a permanent operations centre, CO,
17 shall be set up within the General Staff of the Army. The mission of the operations
18 centre is as follows: Placed under the direct authority of the Chief of General Staff of the
19 Armies, the operations centre shall mainly be in charge of preparing, planning, and
20 conducting military operations throughout the national territory." Then there are other
21 provisions relating to the units of this centre.

22 I would ask the court officer to go to the next page, CAR-OTP-0042-0238. And if we
23 scroll down to the lower part of the document, there is a date 18 December 2002, and a
24 signature, Brigadier-General André Mazi, Deputy Chief of Staff of the Army.

25 Mr Witness, this is my question for you: Is this the document you referred to when you

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1 told the Court that Mr Dikunduakila was a member of the co-ordinations unit?

2 A. Yes.

3 Q. I would like us now to go to the next page, CAR-OTP-0042-0239. This is the annex
4 to the service memo, captioned "List of Staff of the Operations Centre."

5 Do you see Mr Dikunduakila's name anywhere on this page, Witness, and if you do,
6 please point it out to the Court?

7 A. I do not see that name on this list.

8 MR BADIBANGA: (Interpretation) Thank you. Maybe the name is on the second
9 page, which is the next page on the list. So I'm asking the court officer to please move to
10 CAR-OTP-0042-0340 -- 0240, rather.

11 Your Honour, I'm sorry to point out that in my preparation for the examination I used the
12 unredacted version of this document, but I wasn't careful to note that the version being
13 displayed is redacted. In any event, I will abstain from continuing to examine the
14 witness on this line of questioning, but let me point out to the witness that he is not able to
15 see the names on this document, but simply tell him that Mr Dikunduakila's name doesn't
16 appear on this list.

17 PRESIDING JUDGE STEINER: I may be mistaken, but as far as I remember, this
18 document was finally disclosed without any redactions. The version I have here with the
19 registration numbers that you mentioned has no redactions at all. So I ask -- if you insist,
20 we can see whether the document without redactions can be rescued from Ringtail.

21 MR BADIBANGA: (Interpretation) Correct, your Honour. I had pointed this out to
22 my colleagues, who will be addressing it, but I simply want to take this document away
23 rather than continue and be unfair to the witness. We will revisit this point as soon as we
24 can clarify this aspect of the matter.

25 Q. Now, Witness, a few minutes ago you said, and I want to understand how this

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- 1 worked out, you said -- (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 A. (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 Q. (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 A. (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 Q. (Redacted)
- 17 (Redacted)
- 18 A. (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 Q. (Redacted)
- 23 (Redacted)
- 24 A. (Redacted)
- 25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 MR BADIBANGA: (Interpretation) My team is pointing out to me, your Honour,
5 Madam President, that we are now able to show the unredacted version of the document
6 we were looking at. If that is possible, I would like to ask the court officer to show, or to
7 display, that last page, the first page being CAR-OTP-0042-0239, and we are now looking
8 at the last page, which is 0240.

9 Q. Witness, we are now looking at the second page of the list of staff at the operations
10 centre. Can you see Mr Dikunduakila's name on that list? And if yes, please kindly
11 point it out to the Court.

12 A. I do not see his name on this page.

13 Q. Witness, the official document signed by General Mazi does not contain
14 Mr Dikunduakila's name as being staff of the CCOP. (Redacted)

15 (Redacted)

16 (Redacted)

17 A. (Redacted) Now, if what you're saying is that the
18 document you are displaying is true and correct and accurate, then maybe you should put
19 the question to Mazi because it is for him to say why they may or may have not included
20 his name on the list. Maybe they didn't know.

21 Q. Apart from that name of Dikunduakila, is there a name of any other Congolese
22 soldier you are familiar with? Is there any name among all the names that you have seen
23 that belongs to a Congolese national? And if you have one, please would you point it
24 out to the Court.

25 A. (Redacted)

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1 (Redacted). But I have a question, and this is the question: Why

2 were these names entered by computer while others are handwritten? Why?

3 Q. Witness, you have looked at the last page. Do you want me to show you the first
4 page again so that you may tell the Court whether you recognise any name on that page
5 which may belong to a Congolese soldier? Would that be useful?

6 A. Yes, please do. Please do.

7 MR BADIBANGA: (Interpretation) Court officer, please could we look at page
8 0042-0239. Thank you.

9 Q. Was that helpful to you, Mr Witness? Were you able to recognise a name?

10 A. I can see many names on this list, but I am not able to distinguish between the
11 names here that may be of Congolese or Central African origin. If you know the names,
12 maybe you could point me in the right direction and tell me that such-and-such an
13 individual is Congolese and such-and-such an individual is Central African.

14 Q. Please do not take this to heart that I do not answer you, but as I was saying,
15 Mr Witness, I cannot testify. It is your testimony that is important to us.
16 Court officer, could I please ask you to move on to the next page on the screen; that is
17 0042-0238. Thank you. That's just next to the signature. Thank you.

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 A. (Redacted)

23 Q. (Redacted)

24 A. (Redacted)

25 MR BADIBANGA: (Interpretation) Court officer, I'd like us to revisit the first page;

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1 that's 0042-0237. That would be the bottom part of the page, please.

2 Q. Now, Mr Witness, a number of cellules are given here and the operations centre is
3 structured as following, says the text: The head or chief of the CO or, in brackets CCO,
4 permanent high-ranking officer, planning cellule for future manoeuvres. Synthesis
5 situation cellule or unit, cellule de conduit, conduct unit, intelligence unit or cellule,
6 logistics unit, transmissions unit, VIP communications unit, liaison officer and secretariat
7 of the operations centre, or CO. (Redacted)

8 (Redacted)

9 A. (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 MR BADIBANGA: (Interpretation) Court officer, could we please show the witness the
21 third page of this document; that would be 0042-0239.

22 Q. Mr Witness, I believe that to the extent that you were paying attention to the names
23 themselves, you did not actually notice that the units were named, and the question that
24 I'm putting to you, Mr Witness, is, in view of the fact that this memo dates back to
25 December 2002, should we not quite simply say that there was never any co-ordination as

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1 such with the MLC troops? General Mazi, (Redacted)
2 (Redacted) and he also would have included the names of
3 the individuals who were part of the co-ordination unit. Is that not actually the fact, that
4 there was never any true co-ordination?

5 A. There was co-ordination. When you say that there was no co-ordination, well,
6 that's your opinion. As I just said to you, if we take into account what I said as being the
7 truth, then I can confirm once again that there was indeed co-ordination. (Redacted)

8 (Redacted)

9 (Redacted)

10 Q. (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 A. (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 MR BADIBANGA: (Interpretation) Court officer, could you please present to the
22 witness document 37 on the list of Defence documents; that would be the communication
23 log-book, CAR -- or the communication register, CAR-D04-0002-1641. And I would
24 request that you present to the witness page 1706.

25 Q. Mr Witness, we are here talking about the message to the bottom right-hand side of

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1 the page, and I shall read it to you: "Extremely urgent. From: Co-ordinator of
2 operations in Bangui. To: ALC General Staff, Chief of General Staff. I acknowledge
3 receipt of your TG04047EMG and am transmitting to you further information on the
4 enemy. First of all, force and armament, approximately," and I can't read the last word
5 on this sentence, "the following weapons: SMG, RPGs, 14.5 millimetres; mortars, 40
6 millimetres; mortars, 82 millimetres, and 12.7 millimetres and 80 millimetres. Secondly,
7 they probably intend to take the capital by Antoni (phon) manoeuvre. Thirdly, these
8 reinforcements probably come externally and internally and tactics used give our troops
9 the time to make some headway and gain some distance from Bangui." I'm sorry, as I
10 said -- there's a point A. "Tricks are being used. Give our troops time to gain some
11 distance from Bangui and can turn our troops and attack Bangui. Infiltration (a): Small
12 groups under cover of the transmos phenomenon which consists in the displacement of
13 herds to the north to the sort of the country."
14 And it continues on the next page, "Whilst during this period of drought and through the
15 following corridors; Bozoum-Bossembélé interval, Bossembélé-Damara, Damara-Riviera
16 or Ubangi River. Fourthly, there is confusion. This is probably a concentration of those
17 who have infiltrated is probably in Bangui and along the Ubangi River where they will
18 easily be able to gain access to Bangui via the various roads in order finally to be able to
19 conduct a combined action with the other assailants coming from the west, from the west,
20 in order to take Bangui."

21 (Redacted)

22 (Redacted)

23 A. (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 Q. (Redacted)

3 A. (Redacted)

4 Q. (Redacted)

5 (Redacted)

6 A. (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 MR BADIBANGA: (Interpretation) Court officer, could the page 1743 of this very same
11 document be presented to the witness, please, 1-7-4-3.

12 Q. Mr Witness, I shall read to you the message to the bottom left-hand side of the page

13 (Redacted)

14 (Redacted)

15 THE INTERPRETER: Correction from the interpreter: "Co-ordinator of operations."

16 THE WITNESS: (Interpretation) (Redacted)

17 (Redacted)

18 (Redacted)

19 MR BADIBANGA: (Interpretation)

20 Q. So this is the message (Redacted) on 28 January 2003: "From: Colonel

21 Mustapha. To: Chief of Staff ALC. Info: Chairman. Bangui operation/03. I have

22 the honour to salute you and to inform you that there is an enemy presence on this 28

23 January 2003 at the Bossemptéle intersection with personnel reinforcements and

24 equipment from Chad. This means that the Cameroon-Bangui line and Bozoum-Bangui,

25 all civilian population has retreated and the Cameroon-Bangui liaison has been cut off.

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1 Reinforcements. We have the intention of attacking Bossembélé from two sides via two
2 roads, Bossangoa, in the Bossembélé locality, Bozoum, Bossembélé locality. Our troops
3 have gathered in Bossembélé locality and in Damara locality. Further information in our
4 possession, reinforcements have infiltrated at Bangui via the river upstream and any
5 further situation will be communicated to you. With my fullest of respect on
6 23 January 2003."

7 Now, apart from the situation in Bossembélé and Damara, (Redacted)
8 saying that there is further information (Redacted) and that reinforcements have
9 infiltrated at Bangui upstream on the river. (Redacted) this is
10 intelligence or is it information?

11 A. Well, you know, the Ubangi River is a long river, from the frontier until the
12 Orientale province and Zemio in the Central African Republic, and of course that's where
13 the enemy was, and that was a long road. So this was indeed intelligence and (Redacted)
14 (Redacted). You should remember that this was
15 a long river between the frontiers of the DRC and the CAR. (Redacted)
16 (Redacted) This was therefore information.

17 (Redacted)

18 (Redacted)

19 Q. (Redacted)

20 (Redacted)

21 (Redacted)

22 A. Yes. Well, he's there. You can put the question to him yourself. I am testifying
23 to what I am aware of. If I call this information and not intelligence, (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 THE INTERPRETER: The (Redacted) interpreter corrects: "It is indeed intelligence and not
4 information."

5 MR BADIBANGA: (Interpretation) This is page 1746. Court officer, could you please
6 show this to the witness? And that will be the message in the top right-hand corner of
7 the page.

8 Q. The message says as follows, 1746, page 1746: "Extremely urgent. From:

9 Co-ordinator of operations in Bangui. To: Head of ALC staff for information, Colonel
10 Mustapha. Secret number 18/Cordo/2003. I acknowledge receipt of your message
11 096/ALC Chief of Staff/003 and providing you with further clarification as to the
12 enemy position along the Ubangi River. I can confirm that the enemy is concentrated to
13 the east of Bangui, along the Ubangi River."

14 Then come the various locality names, and I shan't read through them for you, because
15 this would be covering of the same ground again and repetitive for you and the Chamber,
16 but I'm going to hone in on the date. It is dated 29 January 2003. Message in.

17 Now, we just saw a message from you where you said, because Mr Dikunduakila was not
18 in copy to that message, so that he had nothing to do with this piece of information
19 therefore, and here we can see that on the very next day, 29 January, he replies, (Redacted)
20 (Redacted) and he talks about exactly the same thing, because he provides information as to the
21 enemy position along the Ubangi River.

22 (Redacted)

23 (Redacted)

24 A. (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 MR BADIBANGA: (Interpretation) Court officer, please, in the same document could
5 you show the witness page 1654.

6 Q. Witness, I'm going to read the message to you: "Urgent. From: Commander of
7 Operations in Bangui. To: Chief of ALC Staff. Cc: Chairman. Sitrep of 22 to
8 23 December 2002. Situation general is calm. Enemy situation idem. Situation friend
9 Commander René in Bossembélé, Colonel Mustapha in Damara, rearguard company in
10 Damara, logistical situation RAS. Morale of officers and troops is good. Miscellaneous:
11 This Monday 23 December 2003 Colonel Mustapha and the co-ordinator of Bangui
12 operations went to Bossembélé with a view to co-ordinating future action on Bozoum.
13 Other reports will follow 24 December 2002."

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 A. (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 Q. (Redacted)

3 (Redacted)

4 (Redacted)

5 A. (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. (Redacted)

10 (Redacted)

11 A. (Redacted)

12 (Redacted)

13 Q. (Redacted)

14 (Redacted)

15 (Redacted)

16 I would now like the witness to be shown page 1665 of the same document. The message
17 starts at the bottom left and continues on the other side.

18 Witness, once again the co-ordinator of operations in Bangui, who once again writes to the
19 Chief of General Staff of the ALC copying the chairman, and this is what he says: "Sitrep
20 of 26 to 27 December 2002. General situation is calm. Enemy situation idem. Situation
21 friend 28th Battalion in Bossembélé, one company in Bozoum. Brigade Poudrier B in
22 Damara. Situation logistical situation." I'm sorry it's not brigade, it's battalion.

23 "Logistical situation, nothing to report. Morale of the officers and troops is good.

24 Miscellaneous, the lorry of the co-ordinator has had an accident on returning to Bozoum
25 on the 26th at 1400 hours December 2002. There is negligible damage to persons and

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1 matériel. Returning to Damara on Friday the 27th at 1900 hours, December 2002. From
2 Colonel Mustapha and co-ordinator of operations." And this is dated 28 December 2002.

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 A. (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. Witness, you explained during the Defence just -- during your examination by the
17 Defence, you said it was from Bangui; is that right?

18 A. Please, could you repeat your question?

19 Q. Where were the operations in the Central African Republic directed from? The
20 (Redacted), where was that
21 organised?

22 A. In the field.

23 Q. Did Mr Bemba and Gbadolite HQ play any role in the carrying out of operations in
24 the Central African Republic?

25 A. No. (Redacted)

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1 Q. So why in all these messages that I've just read, (Redacted)

2 (Redacted), are addressed to the Chief of General Staff in Gbadolite with the
3 chairman in copy?

4 A. They were just informed to know (Redacted). If it was a message asking
5 for an order, you could see that at the end of the message. (Redacted) but this
6 was just information.

7 Q. When you say that you will see if (Redacted), does that mean if a
8 message ends, when it says, "We remain subject to your orders"?, is that what you mean,
9 when the message says that?

10 A. You speak French very well. "Subject to your orders" does not mean that you
11 receive any type of order because, you know, every subordinate is subject to the orders of
12 the superior. The oath that we take as soldiers is to respect or to be subject to orders up
13 to death.

14 Q. Therefore it was just for information that (Redacted) to the Chief of General
15 Staff and to the chairman that the situation of the enemy and of the friends, (Redacted)
16 (Redacted) about the situation of friends and enemies regularly; is that right?

17 A. Not often. (Redacted)

18 Q. And was it also to inform them just by way of information that the co-ordinator of
19 operations spoke to them about the possibilities of infiltration by enemy troops; is that
20 correct?

21 A. I say yes.

22 Q. When we saw the first message together, you know, the message from General
23 Amuli, (Redacted)
24 (Redacted), that wasn't information, that was an order; no? Wasn't it?

25 A. Please, could you re-read this message if that is possible? If you don't mind.

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1 Q. Document 36 of the Defence, 1628. From: Brigade Commander Echo. To:
2 Chairman. Info: Chief of General Staff ALC. Greeting you and with regards to our
3 conversation, I consider that if the boat could embark my troops in Imese then the
4 operation could be without value and so foot soldiers need to be sent to Dongo. And I
5 call for a hundred litres of petrol to be made available for the follow-up so that the enemy
6 won't be able to take advantage of our absence while the ALC are on maximum alert.
7 Your decision will be binding."

8 This is an order, is it not, Witness?

9 A. Who gives this order? (Redacted)

10 (Redacted) What do you call an order here, and who
11 gave this order?

12 Q. You're right, I was a bit quick in my formulation. (Redacted)

13 (Redacted)

14 (Redacted)

15 A. (Redacted)

16 (Redacted), even if -- well, I don't claim to be able to

17 teach you French. I don't have the same level as you in French. (Redacted)

18 (Redacted) Could you re-read that and then you'll understand what it means.

19 Q. (Redacted)

20 (Redacted)

21 (Redacted)

22 A. (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 Q. Thank you. Witness, I'd just like to point out that the message which I read to you,
4 the messages always had the chairman as in copy. (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 A. (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 A. (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted) I think that I want the Judges to understand me and for you to understand me.

22 MR BADIBANGA: (Interpretation) Your Honour, I would like to refer to document 73
23 of the Prosecutor's list, 020, CAR-OTP-0020-0263, and we need to go to page 268.

24 Q. Witness, I'm going to read an extract of your statement of (Redacted). This is
25 what you answer (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 A. That's the reason why I said at the start that the (Redacted) interpreter, instead of
13 writing -- well, I didn't deny that I met you, but sometimes I asked that this video which
14 had been taken be viewed. That would help us a lot.

15 Q. Let me suggest a very simple way forward for us, Witness: When I quote an
16 excerpt to you, if it doesn't correspond to what you remember or to the truth, please
17 kindly tell us that it is incorrect and then we can move on and gain time, both for the
18 Court and for you. Now, if I quote something which is correct, you can say, "Yes, that is
19 correct, that is what actually happened." In that way I believe we can move forward very,
20 very easily without much difficulty.

21 In that very document, at page 272, Madam President, line 303, this is your answer, which
22 I will now read out, Witness: (Redacted)
23 (Redacted) and the record shows that
24 some seconds of the interview are incomprehensible.

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 A. (Redacted)

16 (Redacted)

17 PRESIDING JUDGE STEINER: Maître Badibanga, I need to make a -- to point out for
18 a -- I think a problem with translation. Here, in line 14, 13 and 14 on page 95, you said,

19 (Redacted)

20 (Redacted) This is not what is in the transcript. The transcript, at least the

21 English one, says, (Redacted)

22 (Redacted)

23 MR BADIBANGA: (Interpretation) Thank you, your Honour. I was following the
24 documents in French and I don't know what is said in the other document. There might
25 be some nuances in the English version which I'm not aware of.

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1 Q. Witness, I will proceed. You say that (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 A. (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 Q. (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 Can you help the Court to clearly understand what all this is about?

22 A. I'm not sure that the translation you have is accurate. (Redacted)

23 (Redacted)

24 (Redacted)

25 When it comes to information, informing someone about how events are unfolding is

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1 different from involvement in the operations proper. (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Let me say that I cannot mislead you. I am speaking under oath. I took the solemn

7 declaration to speak the truth. (Redacted)

8 (Redacted)

9 (Redacted) You see, there is a lot that one has to take into consideration before

10 answering questions that deal with a multiplicity of issues. So I need to understand all of

11 that, too.

12 (Redacted)

13 (Redacted)

14 Q. On 26 February, that is last Tuesday, transcript 285, English version, page 45, line 24;

15 French version, page 48, from line 24, Maître Kilolo asked you the following question:

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 Do you recall this as your testimony to the Judges before this Court on 26 February,

23 Witness?

24 A. What I told the Judges is true and I stand by it. I confirm it, it is true, but what is

25 written in the document -- I would like you to play that cassette, because you are the one

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1 who put questions to me and you are explaining the issues. Why would it then not be
2 that you may have written down what you wanted to write, rather than what I said? In
3 any event, what I have told the Judges is the truth.

4 Q. (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted) I'm referring to

9 transcript 286, English version, page 48, lines 5 to 16; and in the French version, page 51,
10 lines 1 to 12.

11 Now, Witness, on the one hand, and before the Judges, in answer to Maître Kilolo's
12 question, you testified that (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 Now, Witness, where does the truth lie, in which version?

18 A. Let us stand by the version to the Judges. That is where the truth lies. The other
19 version, as I have already said, has a number of issues. The translator and the
20 interviewer were one and the same person.

21 PRESIDING JUDGE STEINER: Maître Badibanga, if you allow me.

22 Mr Witness, first, at least in relation to this part of your interview that Maître Badibanga is
23 referring to, the person who was interviewing you was Ms Petra Kneuer, and I'm sure she
24 was not translating it to French (Redacted) because she's not able to manage French (Redacted)
25 (Redacted).

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1 Second, and I would like, please, court officer to put on the screen the page 0273, in the
2 top of the page, line 421. Are you able to read it? It is (Redacted).

3 THE COURT OFFICER (Redacted): (Interpretation) Madam President, page 02 --

4 THE INTERPRETER: Inaudible.

5 THE COURT OFFICER (Redacted): (Interpretation) -- is displayed.

6 PRESIDING JUDGE STEINER: Can you read, please, Mr Witness, the first sentence on
7 line 421.

8 THE COURT OFFICER (Redacted): (Interpretation) Madam President, please mention the
9 page again. We heard page 0263 through the interpretation. Is that the page we are
10 looking at?

11 PRESIDING JUDGE STEINER: No. The page is 0276.

12 THE COURT OFFICER (Redacted): (Interpretation) Page 0276 is now being displayed to
13 the witness at line 421.

14 PRESIDING JUDGE STEINER: Can you please read it?

15 THE WITNESS: (Interpretation) Thank you, Madam President. I will read out that
16 excerpt, but as you said, Madam Petra, at the time she put the questions to me, was being
17 interpreted and the person who was interpreting could not do so. So I asked
18 Mr Badibanga to serve as Madam Petra's interpreter, and so this is what is written, "At
19 some point, he could call me four or five times per day in order to ..." I don't know what
20 follows. They are suspension marks.

21 PRESIDING JUDGE STEINER: It's enough. Thank you very much, Mr Witness.

22 Just finalising, have you said that to Ms Kneuer, or you never said such a thing?

23 THE WITNESS: (Interpretation) What I said the other day in court is correct, but what
24 is written down here, Madam President, maybe my memory is not clear enough, but the
25 truth of the matter is that I do not remember having made -- or having said that.

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1 PRESIDING JUDGE STEINER: Thank you very much.

2 Maître Badibanga, we have two minutes.

3 MR BADIBANGA: (Interpretation) Madam President, I will not delve into the matter
4 any further, but this hasn't arisen before now, but the witness has referred to what has just
5 been read, and across there is, in bold, the name of the person talking, and "PK" stands for
6 "Petra Kneuer."

7 Q. Can you show us where GGB or whatever other initial is used for Badibanga? Can
8 you point the Court to any area where reference is made to Badibanga because you have
9 just testified that you asked for a translation to be made, but we do not have a record of
10 this in the transcript. Can you please point that out.

11 A. If I understand your question, well, let me say that you are standing before the
12 Judges and I am also before these Judges and I have to tell them the truth. Mr Badibanga,
13 don't you remember having explained anything to me in (Redacted)? Don't you
14 remember that?

15 MR BADIBANGA: (Interpretation) I see, Mr Witness, that you are unable to show that
16 I was involved in any part of the proceedings of that record at that time.
17 I'll stop here, your Honour.

18 PRESIDING JUDGE STEINER: Thank you very much, Maître Badibanga.

19 Mr Witness, it's enough; it's been a long day. Tomorrow we don't have the hearing so
20 you can take some time to continue reading the last part of the transcripts. You can take
21 some time to rest. We will resume on Wednesday morning, at 9 o'clock, and just to
22 remind you, the Registry, the parties and participants, that on Wednesday we will be
23 sitting as well for two sessions of two hours each in the morning and one session of two
24 hours in the afternoon.

25 I thank very much the Prosecution team, the legal representatives of victims, the

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- 1 Defence team, Mr Jean-Pierre Bemba Gombo. I thank very, very much our interpreters
- 2 and court reporters for this extra efforts in order to allow us to advance with the
- 3 testimony of Defence witness 19.
- 4 Mr Rojas, thank you very much. Mr Witness, thank you very much again. And we will
- 5 resume on Wednesday, at 9:00 in the morning. This hearing is adjourned.
- 6 (The hearing ends in closed session at 5.01 p.m.) Reclassified as Open session
- 7 RECLASSIFICATION REPORT
- 8 Pursuant to Trial Chamber III 's Orders, ICC-01/05-01/08-2223 and
- 9 ICC-01/05-01/08-3038, the version of the transcript with its redactions becomes Public.