

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-D04-PPPP-0021

- 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 Thursday, 11 April 2013
- 8 (The hearing starts in open session at 9.09 a.m.)
- 9 THE COURT USHER: All rise.
- 10 The International Criminal Court is now in session.
- 11 Please be seated.
- 12 PRESIDING JUDGE STEINER: Good morning.
- 13 Could, please, court officer call the case.
- 14 THE COURT OFFICER: Yes, Madam President. Situation in the Central African
- 15 Republic, in the case of The Prosecutor versus Jean-Pierre Bemba Gombo, case reference
- 16 ICC-01/05-01/08, and for the record we are in open session.
- 17 PRESIDING JUDGE STEINER: Thank you.
- 18 Good morning. I welcome the Prosecution team, Maître Douzima Lawson, the legal
- 19 representatives of victims' team, Defence team, Mr Jean-Pierre Bemba. Good morning
- 20 our interpreters, our court reporters. Good morning, Ms Toumaj.
- 21 THE COURT OFFICER (DRC): (Interpretation) Good morning, Madam President.
- 22 PRESIDING JUDGE STEINER: Good morning, Mr Witness.
- 23 WITNESS: CAR-D04-PPPP-0021 (On former oath)
- 24 (The witness speaks French)
- 25 (The witness gives evidence via video link)

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1 THE WITNESS: (Interpretation) Good morning, Madam President.

2 PRESIDING JUDGE STEINER: Mr Witness, are you ready to continue with your
3 testimony?

4 THE WITNESS: (Interpretation) Yes, I am, Madam President.

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

7 THE WITNESS: (Interpretation) I do understand that perfectly, Madam President.

8 PRESIDING JUDGE STEINER: I also would like to remind you of our ground rules, that
9 you are expected to speak slower than normal, to give the five seconds after a question is
10 put to you before you start giving your answer in order to facilitate our interpreters' job
11 and that you be careful not to reveal in open session any information that could lead to
12 your identification.

13 I suppose at this time you are quite familiar with our ground rules, but it's my duty just to
14 remind you. Is that fine with you, sir?

15 THE WITNESS: (Interpretation) I have fully understood the ground rules and I will
16 comply, your Honour.

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

18 The Prosecution will continue with its questioning and for that purpose I give back the
19 floor to Maître Badibanga.

20 MR BADIBANGA: Good morning, Madam President. Good morning, your Honours.

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

22 Q. Good morning, Mr Witness.

23 A. Good morning, Counsel.

24 Q. I hope that like myself you had opportunity to get some rest, Mr Witness.

25 Yesterday, when we adjourned, we were dealing with this mission to Sibut. Do you

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1 recall that?

2 A. Yes, I do.

3 Q. Well, Witness, we have been putting a number of questions to you now over some
4 days regarding this visit. Mr Kilolo put some questions to you, as well as I did. Now,
5 did all these questions help you to remember the date on which that mission may have
6 taken place? Let me remind you that yesterday I asked you whether it could have been
7 on 20 February. Would that, to your recollection, be the date?

8 A. No, Counsel, I don't have a specific date but, as I said yesterday, 20 January may be
9 a possible date.

10 Q. Well, yesterday I said February, not January. You've just mentioned January?

11 A. No, no, I must have misspoken. I meant 20 February might have been the date.

12 Q. Witness, I have been told that we are making some good progress, but that we -- but,
13 however, we must be both of us much more careful with the five-seconds rule and refrain
14 from speaking too fast and intervening too fast. So, please, let us observe the five-second
15 rule, and I am also guilty of this breach of this rule. That's one aspect.

16 The second aspect is that both of us are speaking too fast.

17 Now, if we speak too fast and we don't observe the five-second rule that doesn't help the
18 interpreters and the court reporters, so today, both of us must make the necessary effort to
19 speak much more slowly and then also to observe the five-second rule; is that fine by you?

20 A. I have understood you clearly.

21 MR BADIBANGA: (Interpretation) Madam President, I will now request that
22 document number 41 on the OTP list be shown to the witness; reference
23 CAR-OTP-0045-0002.

24 THE COURT OFFICER (DRC): (Interpretation) Maître Badibanga, document
25 CAR-OTP-0045-0002 is being shown to the witness.

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1 MR BADIBANGA: (Interpretation)

2 Q. Witness, you have on the screen, page 1 of the document. This might not help you
3 much, but it is the first page of a register, or a log-book, from the Bangui airport. That
4 log-book contains the records of incoming and outgoing flights from the Bangui airport.
5 It covers the period under review, and if you want to be more edified as to the content of
6 the document, I would like you to see page 0045-0197; 197.

7 THE COURT OFFICER (DRC): (Interpretation) Maître Badibanga, page 0197 has been
8 shown to the witness.

9 MR BADIBANGA: (Interpretation)

10 Q. Mr Witness, you can see that on this page you have "departure" and then there is a
11 number of columns below. The first seven columns to the left indicate the date and the
12 exact time of departure. Then there is the type of aircraft and its licence number. Then
13 there's another column showing the air carrier, or the airline's company. Then there is a
14 number as well as a seventh column which indicates the number of flights -- of the flight,
15 or the flight number.

16 I decided to show you this page and this is the page for Thursday, 20 February. If you
17 were to look at this page, you would see underlined "Thursday, 20 February 2003," and
18 below that there is a first flight which is crossed. Then there is a second and third flight,
19 but I'm interested in the fourth flight for which the departure time is 9.45 - 09.45 - 09.44,
20 rather, and the type of aircraft is the MI8. Do you know what the MI8 aircraft is,
21 Mr Witness?

22 A. No, Counsel, I have no idea.

23 Q. Under the licence number column, you can see 9T Tango-Bravo-Mike-Tango. Are
24 you familiar with that licence number, Witness?

25 A. Yes, Counsel, that is the licence number of the helicopter we saw yesterday.

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1 Q. In the next column you will see carrier or owner, "MLC." I take it that I don't need
2 to ask you what "MLC" stands for?

3 A. That's correct, Counsel, not necessary.

4 Q. The next flight, that is the flight after the 9.44 flight, takes off at 10.41 and the craft is
5 an Antonov 26, An-26. The owner or carrier belongs to the MLC. Can you see that on
6 your screen?

7 A. Yes, I can Counsel. I can see it.

8 Q. Still on the same date, Thursday, 20 February, the penultimate line, that is towards
9 the bottom of the page, I can see the entry 12.52 as departure time, type of craft, MI8, and
10 as you said, for 9.44 you were able to recognise the licence number, which is 9TBMT, and
11 that would be the licence number of the MI8 and therefore the MI8, as we have said, is a
12 helicopter, according to your recognition expressed of that helicopter, and the owner is
13 the MLC, as per this document.

14 Now I would like you to look at the next page, page 0198.

15 Witness, that is a page on arrivals, Thursday, 20 February 2003. If you look at the third
16 line from the bottom, you will notice that the MI8, 9 Tango-Bravo-Mike-Tango, is entered
17 as having arrived at about 13.44. Yesterday, when I asked you at what time the flight
18 had taken place, you told us that it was late morning/early afternoon. Now, when you
19 look at this information, are you able to recollect much more specifically the time at which
20 this mission may have taken place, if you were aware of it?

21 A. Yes, Counsel. This actually does confirm what I was saying yesterday; namely,
22 that the departure from Gbadolite took place either late morning or early afternoon.

23 Q. Do you know at about what time the delegation arrived in Sibut? Was it a
24 half-hour flight? Was it a one-hour flight? Was it a two-hour flight? And at what time
25 did the delegation arrive in Sibut, having left Gbadolite late in the morning?

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1 A. Well, Counsel, off-the-cuff, I really cannot tell you but it was not a very long flight.

2 It might have lasted, if I am not mistaken, about an hour.

3 Q. Thank you. Did you have the opportunity to find out at what time the delegation
4 left Sibut to return to Gbadolite? Do you have an idea at about what time the delegation
5 left Sibut?

6 A. No, I do not know the exact time.

7 Q. Witness, it is proper for you to say that you do not know, or when you don't have an
8 answer, to please do so. That is the way we should proceed. There is no problem if you
9 do not recall anything specifically, but what I'm asking you is to give us an approximate
10 idea. Do you think that the delegation may have spent one hour, two hours or three
11 hours, and that they may have left at around 4 p.m. or at around 6 p.m.? Are we looking
12 at a departure from Sibut at around 4 p.m. or 6 p.m.? In general terms, what would it
13 be?

14 A. I would say that approximately the delegation left at about 4 p.m. or 5 p.m.

15 Q. Do you know whether on the return flight the helicopter went back to Bangui, or did
16 it fly directly to Gbadolite?

17 A. Counsel, I no -- I no longer recall, but it would seem to me that it was a direct return
18 flight, although I might be mistaken.

19 Q. We heard that on the return flight there was some kind of incident, a storm or
20 something like that, which forced the helicopter to land. Were you aware of that?

21 A. Yes, Counsel. The ambassador told me that there was a storm which forced the
22 helicopter to land around Karawa, and there they spent some time with the inhabitants
23 before flying off again.

24 Q. Do you know how long that stopover lasted, that delay? Was it 25 minutes? Was
25 it one hour? Was it two hours? How -- how long did it last, the stopover?

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1 A. It must have lasted, to my mind, about one hour, an hour-and-a-half, maybe.

2 Q. Mr Witness, you said that when the delegation returned it presented an oral or
3 verbal report to Mr Bemba and that Mr Bemba spoke with some journalists. Do you
4 know at approximately what time this report was made and this exchange was conducted
5 between Mr Bemba and the journalists?

6 A. I believe it must have been about 7.30 p.m. or 8 p.m., so it's between 7 and 8 p.m.
7 since night had already fallen.

8 MR BADIBANGA: (Interpretation) Madam President, could the court officer please
9 present the witness with document number 12 on the list of OTP documents, bearing the
10 reference CAR-OTP-0005-0147?

11 THE COURT OFFICER (DRC): (Interpretation) Maître Badibanga, the document
12 CAR-OTP-0005-0147 is currently being presented to the witness.

13 MR BADIBANGA: (Interpretation)

14 Q. Mr Witness, the document that you have before you is a report, as you can see. It is
15 actually a press article from RFI. It is entitled, "Victorious counter-offensive on the part
16 of the Congolese rebels," and I would say that after the first paragraph in bold you might
17 see that just underneath that is written -- just under "Print out article" it is written "From
18 our Special Envoy in Sibut," or, "Special correspondent in Sibut." Can you see that?

19 A. Yes, indeed, Counsel.

20 MR BADIBANGA: (Interpretation) Court officer, could you please show the witness
21 the following page which would be that bearing the document and reference number
22 ending with 148?

23 THE COURT OFFICER (DRC): (Interpretation) The following page is currently being
24 presented to the witness.

25 PRESIDING JUDGE STEINER: Yes, Maître Kilolo?

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1 MR KILOLO: (Interpretation) Madam President, I would just like to understand why it
2 is that on the first page of the document a date is mentioned, or has been written in pen?

3 This is something that has been noted or annotated on the document. Why is that?

4 MR BADIBANGA: (Interpretation) Madam President, without wanting to disclose - or
5 publicly disclose - the possible sources of the document, I would quite simply like to say
6 that this is a document which is part of a series of documents to do with RFI press releases
7 and, on each of these documents when providing them, a date was appended in
8 manuscript form by the source itself. So this is the information that is provided when
9 the document is disclosed. So a manuscript annotation of a date has been appended and
10 it is quite specific, but this date is not relevant. The text has sufficient information for us
11 to be able to identify it.

12 PRESIDING JUDGE STEINER: As far as I remember, this problem of dates added to
13 documents that were printed has been discussed and even Defence has presented
14 document and I remember -- I don't have the reference here, but I remember Mr Haynes
15 saying that the date was the date of the printing and the manuscript date was the date of
16 the publication of the article.

17 But in any case, Maître Kilolo, if and when the document is tendered into evidence, the
18 Defence of course will be able to raise any issue related to the veracity of the document, or
19 any other challenge that can be raised in relation to the existence of a date added.

20 I am informed by our efficient team that this document has already been admitted into
21 evidence, so it appears that maybe it's too late for -- this is document 12, admitted
22 pursuant to decision 2299-Conf, paragraphs 105 and 107.

23 So you can proceed with the document, Maître Badibanga.

24 MR KILOLO: (Interpretation) With your leave, it is not really a question of
25 admissibility of the document that we raised. It was for -- in order to be fair to the

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1 witness and enable him to understand why it is that an annotation has been made and
2 that he not be misled.

3 PRESIDING JUDGE STEINER: Maître Badibanga, you can call the attention of the
4 witness to this detail, please.

5 MR BADIBANGA: (Interpretation) Yes, indeed, Madam President. Even though, if
6 we are fair to the witness, I -- well, we have to be fair to him, and this annotation in
7 manuscript form has absolutely nothing to do with the points that I intended to raise with
8 the witness and so I shall come back to it as soon as I present him with the first page.

9 Q. Now, Mr Witness, you are now looking at the second page of this document and I
10 would like you to see the name of the individual who signed the article. Does this name
11 ring a bell in any way?

12 A. Yes, Counsel. This is one of the journalists who was a member of the delegation.

13 MR BADIBANGA: (Interpretation) So let us return to the first page, if you will, and I
14 thank the court officer for showing you the first page again, that is 0147.

15 THE COURT OFFICER (DRC): (Interpretation) The first page is currently being
16 presented to the witness.

17 MR BADIBANGA: (Interpretation)

18 Q. Now, on this first page, Mr Witness, as Defence counsel noted, you can see that this
19 is a document that has been printed off an internet site - this is the RFI site - and
20 underneath the "rfi actualité" title is written in manuscript form the date of "26
21 February 2003," under which we have the body of the article. We shall be concentrating
22 on its contents.

23 Mr Kahn, who is here presented as the special correspondent for RFI in Sibut, commences
24 by describing the town of Sibut in the first paragraph and then moves on in the second
25 paragraph to talking of the MLC and the soldiers of the MLC. Could you please read out

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1 the second paragraph to us?

2 A. Yes, indeed, Counsel: "The Congolese rebels of the MLC, Congolese Liberation
3 Movement, of Jean-Pierre Bemba, who took over this locality without any fighting on 14
4 February last, are driving around in an old jeep. The driver, with a Kalashnikov across
5 his shoulder, has a scarf bearing the colours of the United States. By his side his
6 commander, Major Kamis Losuna, has let -- has grown a beard Ben Laden style. This is
7 to show really how vague any reference points are here. The United States and Ben
8 Laden, one and the other, represent in the eyes of all these Congolese the symbol of
9 violence, and lacking any more elaborate ideology this gives them -- this condones their
10 actions in the eyes of the troops, principally children.

11 A part of the population of Sibut, which is terrorised by the town being taken over last
12 October by the Bozizé' rebels, were still in flight on 21 February, a week after Sibut was
13 taken over by the loyalist forces supported by the MLC Congolese, but the vicar of the
14 Parish of Sainte-Famille, one of the rare figures of authority who had the courage to
15 remain during the occupation of the town ..." --

16 THE INTERPRETER: The interpreter has not yet finished interpreting the article.

17 MR BADIBANGA: (Interpretation) It would seem that I am going fast again.

18 THE INTERPRETER: The interpreter would like to finish interpreting the article: "...
19 one of the rare figures of authority who had the courage to remain behind during the
20 occupation of the time -- of the town by the rebels for the majority Muslims of -- from
21 Bozizé would like to be reassured by this presence," end of interpretation of the article.

22 MR BADIBANGA: (Interpretation)

23 Q. So we had to give the interpreter the time to finish interpreting the -- or providing a
24 translation of the article. Now, having read the two paragraphs that you have just read,
25 can you please tell us which date was the date indicated for the take-over of the town by

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1 the soldiers of the MLC?

2 A. 14 February 2003. 14 February.

3 Q. And the description of the commander provided herein, does it correspond to the
4 reality out in the field? Had you heard people speak or had you seen any photographs
5 of this major? Does this description correspond to what you knew of him?

6 A. Yes, the major that we saw yesterday on the photograph corresponds to this
7 physical description, which means to say that he had a little goat beard, a goatee, if you
8 like, and a shaven head. Now, the author of the article considers that this beard is a Ben
9 Laden number, if you like, or looks like Ben Laden, well, that is his personal opinion.

10 Q. Now, could you please continue by reading out the second two paragraphs or the
11 following two paragraphs on this page?

12 A. "Diamonds for Africans. As an institution, the Catholic church has not wanted to
13 be dominated. We have tried to live despite the looting. We have told people to not
14 run away into the bush where there are snakes. As for the Bozizé rebels and the
15 Congolese rebels, they indeed did commit abuses, especially theft, but in an isolated
16 manner, assures Yambassa, abbé Yambassa."

17 Q. Yes, you can please go on to read the next paragraph.

18 A. "He is seated on a chair under the shade of a mango tree side-by-side with the
19 figures of authority of the town, notably the mayor of Sibut, Gabriel Dotte, who has only
20 just come out of the forest where he had hidden or had been in hiding for more than three
21 months. 'The Bozizé rebels arrived suddenly in the town last October. They took
22 everything in the house. I am naked and I have lost 25 kilos,' he explains. The alleged
23 nakedness of the mayor of Sibut was nevertheless contradicted by virtue of the fact that he
24 was wearing trousers and a shirt."

25 Q. Now, Mr Witness, does this last paragraph correspond to the video excerpt that

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1 Maître Kilolo presented to you, upon which you commented?

2 A. Yes, I do believe that this does correspond.

3 MR BADIBANGA: (Interpretation) Madam President, could we please go into private
4 session?

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

6 *(Private session at 9.48 a.m.) Reclassified as Open session

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

8 MR BADIBANGA: (Interpretation)

9 Q. Now, Mr Witness, I was requesting for us to move into private session because I
10 wanted you to read the first paragraph on the next page, that is page 148, (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Sir, could you please read the first paragraph? And I do believe the text is not visible
17 outside of the courtroom.

18 A. "A government delegation conducted by MLC soldiers arrived in Sibut last Friday
19 with journalists, in a helicopter brought in by the MLC. They wanted to reassure the
20 population. Thomas Luhaka, one of the military officials of Jean-Pierre Bemba, stated to
21 the women and children who were gathered before him that it was time for the riches of
22 Africa to be returned to Africans, notably, the diamonds. This concern is also shared by
23 Lionel Gan-Befio, a man from Brittany aged approximate -- aged in his 40s, who said that
24 he has spent 23 years in the Central African Republic and who today has the title of
25 Renaissance Palace Governor and Chargé de mission for the Presidency of the Republic.

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1 According to Lionel Gan-Befio, who spoke holding an automatic weapon in his right hand,
2 'As everybody knows, the oil found in Chad is to be found in a cauldron which is 75 per
3 cent located on the Central African territory. In the transactions conducted by the major
4 oil groups, the Central African Republic and its people were completely forgotten.
5 President Patassé requests that they benefit from part of the income from the Chadian oil
6 which is also ours.'"

7 Should I continue, or should I stop, Counsel?

8 Q. No, you may stop. Now, this title, Mr Gan-Befio, you talked about a rather
9 unusual title on a card, a business card. Does it correspond?

10 A. Yes indeed, it does correspond.

11 Q. (Redacted)

12 (Redacted)

13 A. (Redacted)

14 (Redacted)

15 Q. Mr Witness, you will recall that the Bench asked you the reasons for this mission,
16 and I asked you on a number of occasions why this mission was conducted?

17 A. Yes, I do recall.

18 Q. Now, in view of what has just been read out, did or -- did this mission have any
19 financial or economic reasons? Did it have anything to do with mineral resources or
20 anything to do with diamonds?

21 A. No, nothing to do with that at all.

22 Q. (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 A. No. In fact, this has been taken out of context, in view of the fact -- and the article
2 also acknowledges that (Redacted) was to reassure the population in Sibut with
3 regard to the ALC military mission. We came to assist a democratic elected government
4 by the Central African Republic for the Central African people to manage their own
5 business. We no longer wanted any international or exterior meddling from the outside.
6 This is the -- we really wanted the African countries to become independent, fully
7 independent, in the full sense of the term, and in talking to the population of a village, (Redacted)
8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 Q. (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 A. (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 Q. And in order to wrap up on this subject, in order to reassure the population of Sibut,
25 who had suffered abuses, or allegedly, (Redacted) that

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1 the riches of Africa should be returned to the Africans, notably diamonds, and
2 Mr Gan-Befio, representative of the republic, said that the oil should be beneficial to the
3 Central Africans themselves and not be taken by somebody else, or by Chad. Are we not
4 in reality talking about two entirely separate matters here, Mr Witness, when you say the
5 objective of the mission being one thing (Redacted)

6 (Redacted)

7 A. No, Counsel, I do believe that there has been some confusion after having read this
8 document. (Redacted)

9 (Redacted)

10 (Redacted) So these are not two

11 messages being given to the population by two individuals. (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. Let's be quite clear about this. For questions of vocabulary, MLC were foreign
18 forces in the Central African Republic. You were not a Central African Republic
19 national?

20 A. Indeed, I agree, (Redacted) speaking of Africans.

21 Q. Okay. So we could say that, because you are not a national of the Central African
22 Republic, (Redacted) is foreign interference strictly from a vocabulary, linguistic,
23 lexical point of view?

24 A. It's a foreign intervention at the request of the legally established and elected
25 authorities.

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1 Q. Could you tell us what non-African foreign interference was seen in this conflict?

2 A. Counsel, I can't follow you along these lines, because I have some ideas that I am
3 convinced of but I have no proof for them on the subject of interference.

4 Q. Mr Witness, I can assure you that the Court will not undertake actions against any
5 State. I'm just talking here about the coherence of your ideas. You have explained to
6 people that you were against foreign interference, and now I'm saying you are a foreigner
7 yourself and you said that you were referring to non-African foreign interference didn't
8 apply to Africans.

9 We've been sitting here for almost three years talking about Chadian troops, Libyan
10 troops, Congolese troops. We've talked of the FEMAC, also African forces. The Court
11 has never heard any reference to any forces from a country outside of Africa. So if you
12 want to support your argumentation, (Redacted)
13 (Redacted) that non-African interference was aimed at removing their wealth, you
14 will have to be more explicit and I would remind you that we are now in private session?

15 A. Counsel, I explained what I had to say on this subject. I have nothing further to
16 submit to the Court on this. (Redacted) the wealth of Africa should be in the hands of
17 Africans, that there were -- there was foreign interference. You can intervene in a
18 continent without actually sending forces, and I have no evidence to make accusations
19 (Redacted). I do not wish to start
20 launching accusations at certain States, members of the international community, on the
21 subject of Central African dossiers.

22 PRESIDING JUDGE STEINER: Yes, Maître?

23 MR KILOLO: (Interpretation) I was waiting for the witness to answer the question
24 himself, but I believe that this way of proceeding, rather than asking open questions,
25 Mr Badibanga gives information to the witness without giving him the basis of the

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1 information and then expecting a reply. He's therefore leading him down a false route
2 with these questions.

3 So it should be that when he says to the witness, within the context of this case, the Court
4 has never discussed the implications of involvement of a foreign country in the Central
5 African Republic conflict, we would appear to be wrong from the Defence side. I think
6 one should ask a question and await a reply and then -- one should ask a question and
7 then wait for a reply. I don't think what's happening now is very loyal to him. There is
8 information coming from the Prosecutor's files which says that some foreign countries are
9 or might have been in some way involved in the Central African conflict in 2002/2003. I
10 think we should stick to open questions.

11 PRESIDING JUDGE STEINER: Maître Badibanga?

12 MR BADIBANGA: (Interpretation) Madam President, I apologise to Maître Kilolo.
13 This is my knowledge of my dossier but, since I don't have the same information as the
14 witness, perhaps Mr Kilolo could assist us here by saying which countries are involved
15 and help us? I mentioned the troops that were in the area in the period, giving the
16 information that I have in my files. If Maître Kilolo is able to supply further information,
17 that would be very welcome.

18 With regard to the style of the questions being asked, once again, Madam President, I
19 believe that the Chamber is here to police the hearing and to ensure that we don't direct
20 the witness, lead him into a trap of some sort. I think that is a role which you are
21 performing most adequately.

22 And sometimes it is necessary to give information. When I say there were Chadian
23 troops, or Libyan troops, or Congolese troops, this I believe is information which is quite
24 clear and has already been given in this case. So in no way were we intending to mislead
25 the witness, who is of course at liberty to contradict us if we give information for which he

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1 has other ideas.

2 PRESIDING JUDGE STEINER: Maître Badibanga, I think the witness has already said
3 that he's not willing to give his opinion because he has no evidence on anything, and
4 maybe to proceed on this line of questioning in relation to the presence of other or
5 interference of other countries in the conflict loses a little bit of relevance in the present
6 context.

7 So my suggestion is that you go ahead, unless you deem that this line of questioning is
8 relevant to the case at hand.

9 MR BADIBANGA: (Interpretation) No, Madam President, I had finished with this
10 point. I wanted to move on to another point. I think this question is only relevant with
11 regard to the consistency of the witness's statements. (Redacted)

12 (Redacted)

13 Q. (Redacted)

14 (Redacted)

15 (Redacted)

16 A. (Redacted)

17 (Redacted)

18 Q. (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 A. No, Counsel, this was not the usual practice for senior officials to take a helicopter to
23 a foreign country and then come back. This was the only time that such a foreign
24 mission was undertaken, (Redacted)

25 Q. (Redacted)

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1 (Redacted)

2 (Redacted)

3 A. (Redacted)

4 Q. Does the Central African Republic -- can the Central African Republic be considered
5 a battle-field, a war theatre, or not?

6 A. In certain parts of the Central African Republic there was war.

7 Q. I'm now speaking to you (Redacted). Is it usual for an army

8 (Redacted) to go to a country where troops are engaged in an

9 armed conflict without any means of communication with headquarters? Is that normal
10 practice?

11 A. For a mission lasting only a few hours, that could be considered normal practice.

12 Q. So, when the helicopter had to land because of the storm, (Redacted)

13 (Redacted)

14 A. As far as I know, this information was not communicated.

15 Q. (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 A. (Redacted)

24 (Redacted)

25 (Redacted)

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1 may seem to you to be non-orthodox, not the way one would usually act in a rebel
2 movement, but I am just giving you the facts.

3 Q. You're quite right, Mr Witness. And in order to bring this exchange to a close, I
4 would like to say that I was sticking with this question because I wished to put forward
5 the following hypothesis. During -- and it is just a hypothesis and, of course, you can
6 contradict it if you so choose.

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 A. (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 MR BADIBANGA: (Interpretation) I would like the court officer to show the witness a
18 document 42 on the list. We are still in private session. It's CAR-OTP --

19 THE INTERPRETER: I am sorry, the interpreter missed the reference.

20 MR BADIBANGA: (Interpretation) I will repeat the reference. It's document 82 on
21 the list, CAR-OTP-0071-0068.

22 THE COURT OFFICER (DRC): (Interpretation) Counsel Badibanga, the document is
23 being shown to the witness.

24 MR BADIBANGA: (Interpretation)

25 Q. Mr Witness, do you recall that when I showed you photos yesterday, the first of

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1 those was a photo of Mr Gan-Befio leaning on a vehicle surrounded by soldiers; do you
2 remember that?

3 A. Indeed I do, Counsel.

4 MR BADIBANGA: (Interpretation) Madam President, this was document 0046-0199.
5 I'm saying that for the hearing report, court record. If you want me to say which
6 document that was on our list, it's document 43.

7 Q. So, Mr Witness, since you can recall this, you said that this photo was taken during
8 the mission. I asked you if you knew who Mr Gan-Befio was talking to on the phone.
9 I'm now asking you the question again. Has your memory improved? Do you know
10 who he was talking to on the photo, using the phone?

11 A. No, Counsel. I repeat my reply from yesterday: I do not know who this
12 gentleman was talking to at the time.

13 Q. On the right of the photo there are comments in English which I will read to you,
14 and which say: (Speaks English) "Colonel Gan-Befio, special adviser to Central African
15 Republic President Ange-Félix Patassé, talks over the phone to Congolese rebel leader
16 Jean-Pierre Bemba in Sibut, 20 February 2003. Bemba's army is present in CAR since
17 October 2002 with 1,500 troops, to bolster the elected president against an insurgency."

18 (Interpretation) I believe you've had a French translation of the caption and so,
19 Mr Witness, the paragraph here says that Mr Lionel Gan-Befio, on 20 February 2003, in
20 Sibut, was talking to Jean-Pierre Bemba. Does that jog your memory at all?

21 A. No, Counsel, I can neither confirm nor deny who Mr Gan-Befio was talking to at
22 that time. I don't know how the author of the article discovered who Mr Lionel
23 Gan-Befio was talking to.

24 Q. I asked you whether you knew the name Marco Longari, because (Redacted) a
25 number of foreign journalists there. You said there were photographers, cameramen,

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1 journalists, and since we saw earlier the report by Mr Gabriel Kahn made of the visit, this
2 is what Mr Marco Longari made of the visit. Do you recognise the name now?

3 A. It's possible that he was one of the journalists (Redacted). I remember the
4 name Gabriel Kahn because I think he was better known than Mr Marco.

5 Q. Mr Witness, (Redacted)

6 (Redacted)

7 A. (Redacted) There are a
8 number of possibilities: Either Mr Lionel Gan-Befio told the journalist Marco that he was
9 speaking to Mr Bemba or Marco apparently -- an English speaker followed the
10 conversation and I imagine that since Lionel Gan-Befio is French and Mr Bemba speaks
11 French, they spoke French, but an English-speaking journalist could have misunderstood;
12 and thirdly, he was listening in, but I cannot confirm what he's written here, saying that
13 the phone call was with Mr Bemba. And secondly, to reply directly to your question,
14 (Redacted)
15 (Redacted).

16 Q. Mr Witness, do you know whether Major Kamis, who was in Sibut at that time, had
17 communications equipment?

18 A. I don't know, Counsel, but I imagine that, as commander of an operational unit, he
19 would have had communications equipment, enabling him to contact his superiors.

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 Q. (Redacted), do you know whether there were any exchanges
24 with Mr Bemba?

25 A. No, I have no knowledge of there having been any communication between Kamis

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1 and Mr Bemba (Redacted).

2 MR BADIBANGA: (Interpretation) Madam President, could we please show the
3 witness document 50 on our list? This is a confidential document, CAR-OTP-0048-0374.

4 THE COURT OFFICER (DRC): (Interpretation) CAR-OTP-0048-0374 is being shown to
5 the witness.

6 MR BADIBANGA: (Interpretation)

7 Q. Mr Witness, during our investigations we found a lot of documents, documents
8 from archives, and we found this letter (Redacted). Does this
9 letter from 2004 seem familiar?

10 A. Counsel, I would like to ask for a moment to read through this letter before making
11 any comments on it?

12 Q. Yes, indeed. Take your time.

13 A. Counsel, I have read through the document.

14 Q. Please, Mr Witness, kindly repeat what you said.

15 A. Counsel, I said I had read through the document.

16 Q. Do you remember (Redacted) this letter, Witness?

17 A. No, I may be mistaken, but I do not remember (Redacted) this letter. What I do
18 recall is that (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 Q. (Redacted)

23 A. (Redacted)

24 (Redacted)

25 Q. You say that you remember having had discussions with him on the content of this

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1 letter. Can you tell us more about that?

2 A. When we arrived in Kinshasa I received a phone call from (Redacted), who asked
3 to meet me. I met him, or I received him, at my place, and he told me that he had some
4 (Redacted)
5 (Redacted). That was the substance of our discussion.

6 Q. What was the reason for the outstanding bills? What bills were they for?

7 A. I believe there were some bills -- three types of bills. (Redacted)
8 (Redacted)
9 (Redacted)

10 movement may have owed him some money for using those aircrafts. That must be the
11 nature of those outstanding bills for which he was seeking payment.

12 Q. Witness, do you want to read the first sentence only of this letter and go as far as
13 "MLC (Redacted)"? Please read out that sentence for the Court.

14 A. The first sentence, you say?

15 Q. Yes, the first sentence and please stop at "MLC (Redacted)."

16 A. (Redacted)

17 (Redacted) Mr Bemba regarding my

18 request for settlement of outstanding bills and for failure to respect the MLC (Redacted)
19 contract."

20 Q. Thank you, Witness. I simply wanted you to read out that sentence, which does
21 indeed confirm what you have just testified (Redacted). I have
22 shown you this document, and I wanted the record to show that there was a link -- a link,
23 rather, between that document and my question.

24 Now I would like to ask the court officer to show the witness document

25 CAR-OTP-0048-0375. 0375. That's the next document on the OTP list of documents.

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1 That would be document number 51.

2 THE COURT OFFICER (DRC): (Interpretation) Document CAR-OTP-0048-0375 is
3 being displayed to the witness.

4 MR BADIBANGA: (Interpretation)

5 Q. Witness, I will give you a few moments to read through the document.

6 A. Counsel, I have read through the document.

7 Q. In the same manner as with the previous document, we are dealing here with (Redacted)
8 the company (Redacted). Could you please explain to the Court what (Redacted) stands for?

9 A. I believe this is the company of (Redacted).

10 Q. Well, we'll again ask you to read something out, Witness, and we've done this quite
11 a lot, but I want you to read the second paragraph of this document, beginning -- at the
12 second paragraph, rather, beginning with "Il y a cinq ans ..." and then going as far as "...
13 (Redacted) Please can you read out that entire paragraph for
14 the benefit of the Court?

15 A. I will read this document, Counsel, I am here to assist you, but could you please
16 provide me a date for this document? It will enable me to understand it better.

17 Q. This is correct and, as I explained concerning the first document, we came into
18 possession of a number of documents from the archives and seizures and evidence and
19 what have you, so this document, as you can see it, is as it was when we came into
20 possession of it. If you see the reference number, "CAR-OTP-," it means that this is a
21 document that was obtained by the OTP during its investigations.

22 There is a handwritten jotting, which is the same as it was when we received it. It is a
23 document that comes with the same bundle which we received at the same time, so I have
24 no further information to provide you regarding -- to provide you with regarding this
25 document.

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1 So, apart from the manner in which we came into possession of these documents, I don't
2 have any further information that I can give you. I have no certainty as to the date on
3 which the document may have been issued, so it is being presented to you as is.

4 I don't know if this helps, Mr Witness?

5 A. Yes, that does help, but I would like to state before this Court that this is the first
6 time that I am seeing this document and its content. That having been said, let me read
7 out the paragraph you've asked me to read out.

8 Q. Thank you very much. Your clarification is on the record.

9 A. (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 PRESIDING JUDGE STEINER: Yes, Maître Kilolo.

2 MR KILOLO: (Interpretation) Madam President, with your leave, we would like to
3 seek further explanation on this document. The witness has said that he does not know
4 this document, that he's seeing it for the first time today.
5 Furthermore, we note that this document is typewritten or maybe was produced by a
6 computer and yet the name of the recipient is handwritten. There is no electronic
7 address; there is no postal address, so we would need some clarification on this
8 document.

9 PRESIDING JUDGE STEINER: Maître Kilolo, I think as Maître Badibanga has already
10 explained, that the document is exactly in the way the document was received by the
11 Prosecution, but in any way, I will give the opportunity to Maître Badibanga to give any
12 other explanation that is possible.

13 MR BADIBANGA: (Interpretation) Madam President, I think we have provided to the
14 witness all the specific and clear explanations as to how we came into possession of these
15 documents. I believe that the witness was cautious and intelligent enough to state that
16 he had not seen this document; that's his testimony and that is on the record.
17 That having been established, I think that they address the concerns that have been raised
18 by the Defence, which is already on the record, but I must say that the witness, a short
19 while ago, said that he had had discussions with the author of this document and that
20 they had discussed some of these issues, and that is why I want to use this document to
21 jog the witness's memory, in order to move on to more specific questions.

22 Q. (Redacted)

23 (Redacted) Mr Bemba to settle those
24 bills?

25 A. (Redacted) Now,

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1 whatever the outcome was, I do not know.

2 Q. Do you know whether at that time Mr Bemba may have challenged the amount of
3 the bill, stating that it was not 30,000, \$30,000? (Redacted)

4 (Redacted)

5 A. (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. (Redacted)

12 (Redacted)

13 (Redacted)

14 A. (Redacted)

15 MR BADIBANGA: (Interpretation) Could the witness be shown document number 52,
16 CAR-OTP-0048-0377.

17 PRESIDING JUDGE STEINER: Maître Badibanga, Judge Aluoch wants a clarification.

18 JUDGE ALUOCH: I notice that the witness, during the course of these answers in
19 respect of this document, he now refers to Mr Bemba as the vice-president. Can I assume
20 that this was now after the Lusaka agreement? I just want that clarification.

21 MR BADIBANGA: (Interpretation) Thank you, your Honour. I did have an answer
22 but maybe we could ask the witness to provide that clarification.

23 Q. Mr Witness, you heard the concerns of Judge Aluoch. Why do you refer to
24 Mr Bemba in this connection as the vice-president during that period?

25 A. Thank you, your Honour. Going by the date that appears on the first document,

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1 which corresponds more or less to the dates on which I had this discussion with
2 (Redacted), then this must have been happening in 2004, and in 2004 we were already in
3 Kinshasa, not in Gbadolite, and at that time Mr Bemba was already vice-president of the
4 republic. So the discussion that I had with (Redacted) actually took place in Kinshasa.

5 Q. Witness, do you remember approximately at what time, what period and what date
6 the discussions with (Redacted) took place in Kinshasa?

7 A. Not exactly, but I think the date mentioned in his first letter does actually reflect the
8 period. I do remember that. (Redacted)

9 (Redacted) so I must have met

10 (Redacted) in the year 2004.

11 Q. (Redacted)

12 (Redacted)

13 A. (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. I believe that document 52 of the OTP list, reference CAR-OTP-0048-0377, must be
17 on the screen for you now. If that is the case, please, I will give you a few minutes to
18 read through the document.

19 A. Counsel, I have read through the document.

20 Q. Witness, can you tell us who was the Minister of the Budget at the time within the
21 MLC, in 2006?

22 A. It was Mr François Mwamba Tshishimbi.

23 Q. Please kindly read out for the Court the two short paragraphs of this document.

24 A. (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 Q. (Redacted)

9 A. (Redacted)

10 (Redacted)

11 (Redacted)

12 Q. (Redacted)

13 (Redacted)

14 A. (Redacted)

15 (Redacted)

16 MR BADIBANGA: (Interpretation) Thank you, Madam President. I was looking at
17 11.30 and I don't know why, but it must be time for the break now.

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

19 (Open session at 10.59 a.m.)

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

21 PRESIDING JUDGE STEINER: Mr Witness, it's 11 o'clock. You are entitled to a break,
22 as well as our interpreters and court reporters.

23 We will suspend the hearing now and resume at 11.30.

24 The hearing is suspended.

25 THE COURT USHER: All rise.

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1 (Recess taken at 11.00 a.m.)

2 (Upon resuming in open session at 11.33 a.m.)

3 THE COURT USHER: All rise.

4 Please be seated.

5 PRESIDING JUDGE STEINER: Welcome back.

6 Maître Kilolo, another new face?

7 MR KILOLO: (Interpretation) Yes, indeed, Madam President. There is a slight change

8 in the composition of the Defence team with regard to this morning. It is Mr David

9 Berger who has joined our team as an intern.

10 PRESIDING JUDGE STEINER: Welcome.

11 Welcome back, Mr Witness. Mr Witness, can you hear me?

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

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

14 THE WITNESS: (Interpretation) Yes, indeed, Madam President. I am entirely at the

15 disposal of the Court.

16 PRESIDING JUDGE STEINER: Before I give back the floor to Maître Badibanga, I will

17 ask the Prosecution's patience in order to allow the Chamber to issue an oral instruction

18 on reclassification of two documents.

19 At the hearing on 10 April 2013, transcript 304, the Prosecution questioned Witness

20 D04-21 on two confidential documents emanating from the Prosecution:

21 CAR-OTP-0017-0349, document 18 on the Prosecution's list, which is a table of statistics of

22 criminal cases before the Gbadolite court between 2001 and 2003; and

23 CAR-OTP-0017-0351, document 19 on the Prosecution's list, which is a table of statistics of

24 criminal cases before the martial court.

25 Upon the Chamber's question on the appropriate level of confidentiality of these

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1 documents, the Prosecution submitted that both documents could be reclassified as public
2 as the tables are records of public legal proceedings. This is on page 44, lines 16 to 25, of
3 transcript 305.

4 The Defence opposed such a reclassification, arguing that the tables contain names of
5 individuals whose privacy should be preserved and that the documents are internal to
6 MLC; page 45, lines 2 to 7.

7 Accordingly, the Chamber decided on a temporary basis to keep the two documents
8 confidential pending further deliberation and decision of the Chamber.

9 After a close review of both documents, which were both admitted into evidence by the
10 Chamber's decision 2299 of 6 September 2012, the Chamber is of the view that both
11 documents should be reclassified as public with the application of appropriate redactions.

12 The Chamber notes indeed that both documents show the names of seven individuals
13 who were convicted by the martial court of Gbadolite as a result of crimes allegedly
14 committed during the Bangui operation, and who belonged to Battalion Libenge. These
15 names are relevant to the charges under examination in the present case and are
16 mentioned in document CAR-DEF-0002-0001, a case file of pillaging, which is an internal
17 document of the MLC classified as public.

18 In addition, most of these names have already been revealed to the public during
19 questioning of other witnesses in this case; for instance, transcript 267, page 57, lines 4 and
20 5. Therefore, the basis for the classification as confidential of this particular information
21 no longer exists.

22 Accordingly, and pursuant to the principle of publicity of proceedings enshrined in
23 Article 64(7) and 67(1) of the Statute, and in accordance with Regulation 23 bis (3) of the
24 Regulations of the Court, the Prosecution is instructed to apply redactions to names of
25 individuals in the column "nom du prévenu" in both documents with the exception of the

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1 seven last names of individuals referred to in document CAR-OTP-0017-0351, at page
2 0353, who were convicted as a result of crimes allegedly committed during the Bangui
3 operation.

4 The Prosecution is further instructed to upload the redacted versions of both documents
5 in the eCourt system by Friday, 12 April.

6 Maître Badibanga, you have the floor to continue questioning the witness.

7 MR BADIBANGA: (Interpretation) Thank you, Madam President. I have a few more
8 questions to put to the witness. I believe it will take me about ten minutes and we need
9 to go into private session.

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

11 *(Private session at 11.41 a.m.) Reclassified as Open session

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

13 PRESIDING JUDGE STEINER: Maître Badibanga, are we in private session? You
14 confirm that, court officer?

15 THE COURT OFFICER: Yes, Madam President, we are indeed in private session.

16 PRESIDING JUDGE STEINER: Maître Badibanga.

17 MR BADIBANGA: (Interpretation)

18 Q. Mr Witness, when we parted company at the break, I believe that the document that
19 was up on the screen was document 52 of the OTP list of documents, CAR-OTP-0048-0377.
20 I do not know whether the court officer has managed to present it to you again on the
21 screen now?

22 THE COURT OFFICER (DRC): (Interpretation) Maître Badibanga, this document is
23 currently being shown to the witness.

24 MR BADIBANGA: (Interpretation)

25 Q. Mr Witness, were you aware of the fact that (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 A. (Redacted)
- 4 (Redacted)
- 5 Q. (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 A. (Redacted)
- 9 Q. (Redacted)
- 10 (Redacted)
- 11 A. (Redacted)
- 12 (Redacted)
- 13 Q. (Redacted), could you
- 14 please tell us what year that was, if you recall?
- 15 A. No, Counsel, I no longer recall the year.
- 16 Q. Can you read the date on the document that is currently being presented on the
- 17 screen?
- 18 A. Yes, Counsel. It is 31 August 2006.
- 19 Q. And in approximate terms, could you say that your subsequent fortuitous
- 20 encounters (Redacted) during this period, or at a later or at an earlier
- 21 stage?
- 22 A. I believe that it was at a much later stage.
- 23 MR BADIBANGA: (Interpretation) Madam President, I would like for document 53 of
- 24 the OTP list of documents to be presented to the witness, CAR-OTP-0048-0383.
- 25 THE COURT OFFICER (DRC): (Interpretation) Maître Badibanga, the document

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1 CAR-OTP-0048-0383 is currently being presented to the witness.

2 MR BADIBANGA: (Interpretation)

3 Q. Mr Witness, I shall leave you a few minutes to familiarise yourself with the
4 document.

5 A. Yes, I have managed to read through the document.

6 Q. I believe, Mr Witness, that you said that you were ready, but that you were being
7 shown the following page; is that true? Are you still reading through the document?

8 A. Yes, indeed, Counsel. I am reading through the document.

9 Yes, Counsel, I have read through the documents.

10 Q. This document, Mr Witness, is one of a series of documents that we have presented
11 to you this morning, so this is a pile of documents referring to the same issue or subject, as
12 you might have realised. Now, might I ask you to read the first paragraph of this
13 correspondence, please?

14 A. (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted) the debt for a sum of

18 US\$27,552 for on-line communication over the Thuraya line number 88-216-5026-0055 for
19 which you stood security, or for which you vouched, when the line was activated."

20 Q. You read it out perfectly, with the exception of the Thuraya number. I do not have
21 before me precisely what you read out. Could you please read the Thuraya number out
22 again?

23 A. 88-216-5026-0055.

24 MR BADIBANGA: (Interpretation) I thank you. Could the court officer please
25 present the following page to the witness, whose reference finishes with 0384?

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- 1 THE COURT OFFICER (DRC): (Interpretation) The following page is being presented
2 to the witness, Maître Badibanga.
- 3 MR BADIBANGA: (Interpretation)
- 4 Q. Mr Witness, could you please read the first message at the top of the page?
- 5 A. "Mr Bemba, we have unsettled bills for Thuraya communication for which some
6 have been outstanding for more than a year and, despite a number of reminders,
7 interventions and promises for prompt settlement on your part, we have still not received
8 any payment. (Redacted), in view of
9 this fact, we shall have to launch or institute legal proceedings by referring to a number of
10 your telephone correspondence. Were you to make an immediate bank transfer, this
11 would avoid us having to have recourse to disagreeable proceedings which would be
12 disagreeable for both of us.
13 (Redacted)
14 (Redacted)
- 15 Q. As you see, Mr Witness, this an email. Now, can you tell us the date that this email
16 was sent, according to what is written on the document?
- 17 A. It was 13 May 2004.
- 18 Q. And could you please tell us who this was sent to? Could you please read out the
19 email address just above the date?
- 20 A. The address is "g"-- sorry, correction, (Redacted)
- 21 Q. And is this an address that you are familiar with, Mr Witness?
- 22 A. I believe that this could be Mr Bemba's email address.
- 23 Q. And the telephone number that you read out earlier, do you know this number?
- 24 A. No, I do not believe that this telephone number that I read out rings a bell.
- 25 Q. Do you know what code 88 corresponds to that you read this number for?

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1 A. No, I do not know what the Thuraya 88 code means.

2 Q. I might not have been explicit in my question, but in view of the fact that you have
3 said something, I shall couch my question differently. Is the number 88 a Thuraya
4 number? Is this the means of recognising that it is in fact a Thuraya communication,
5 those numbers that commence with 88?

6 A. As I have never enjoyed the use of a Thuraya, I cannot tell you whether this is the
7 Thuraya code or not.

8 Q. So, Mr Witness, I would ask you to read the last message on this page, the bottom of
9 the page, and goes on to the next page, 0384 -- 5. It starts on page 0384 and goes on to
10 page 0385. There are more portions of sentences that you might not be able to read and,
11 if so, do tell us and move on to the next part of the text.

12 A. (Redacted), I
13 am hereby returning all the details of the monthly telecommunication bills for Thuraya
14 communications. If you need any further information, please do not hesitate to contact
15 me either by email or telephone.

16 I remain at your disposal for any questions concerning Thuraya or Inmarsat
17 communications. If you would like to continue to use your Thuraya line, I would be
18 happy to re-open the line according to your instructions and establish with you the most
19 adequate means of billing."

20 Q. Now, for the following, I would request that you just read the first two lines, so that
21 is the list of bills and the line commencing "16 March" and then give us the final amount,
22 please.

23 A. "List of invoices for line 88-216-5026-0055, 16 March 2003 SIV-1626 US\$4,255.
24 16 April 2003."

25 Q. I'm sorry, I don't believe that the other details for the other months are very relevant,

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1 but if you could just indicate what the total amount is and then move on to the rest of the
2 text from "total amount," please?

3 A. "Total amount (Redacted);

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 Q. Mr Witness, the set-ups explained in these three emails with, in the first email, an
8 amount being requested (Redacted)

9 relates to telephone use by Mr Bemba (Redacted)

10 final email Mr Bemba is being asked for a payment for bills relating to the same number of
11 the US\$27,552, (Redacted)

12 A. (Redacted)

13 (Redacted) He's just said that there was an outstanding debt from

14 Mr Bemba.

15 MR BADIBANGA: (Interpretation) Madam President, with your leave, I would like

16 document 54 from the list to be presented to the witness; that is CAR-OTP-0055-0893.

17 This is a document which has already been accepted. It is indicated here as a public

18 document. I believe that in eCourt it is classified as confidential, so I will remain in

19 private session so that we can discuss this document. It is not important for the witness.

20 It is perhaps regrettable for the public.

21 THE COURT OFFICER (DRC): (Interpretation) Mr Badibanga, CAR-OTP-0055-0893 is

22 made available to the witness.

23 MR BADIBANGA: (Interpretation)

24 Q. As you can see on the screen, Mr Witness, this is a list of telephone calls. This

25 document is a follow up to the previous documents which I mentioned and which I have

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1 been showing you now for the last few minutes. This is a list of calls. It is not up to me
2 to testify, but I just want you to understand what we're talking about here. This is a list
3 of the numbers we were referring to earlier. I would like you to see page
4 CAR-OTP-0055-0905.

5 THE COURT OFFICER (DRC): (Interpretation) The document 0905 is being shown to
6 the witness.

7 MR BADIBANGA: (Interpretation)

8 Q. Mr Witness, I have asked for you to be shown this page because it covers the calls
9 made on 20 February 2003. From number 577 onwards in the left-hand column you'll see
10 "20 February" and you have a list of calls. I would like you to take a few moments to
11 look at this in case some of the numbers seem familiar to you before I continue with my
12 questioning.

13 A. No, Counsel. Having had a quick look at this list, none of the numbers means
14 anything to me.

15 Q. Line 582 gives a number also starting with 88 and finishes 5070, 5-0-7-0. Can you
16 see that there was a call to this number at -- it is on line 582. The call was made at 10.31?

17 A. Yes, I can, Counsel.

18 Q. The first column is the item. It is simply a list of the numbers. The second column
19 is the date of the calls and the third column gives the time at which the conversation
20 began. The fourth column the number called and the fifth column the length of the call.
21 So for this call you see that it lasted 2 minutes 48 seconds. Can you see that?

22 A. Yes, indeed I can, Counsel.

23 Q. You will see, Mr Witness, that from number 587 to 591 there are five calls or
24 attempts to call this same number. Can you see that?

25 A. Yes, Counsel, I can see that.

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1 Q. These calls are between 12.07 for the first and 12.54 for the last one. Can you see
2 that, Mr Witness?

3 A. Yes, Counsel, I can.

4 Q. We are in private session, Mr Witness. (Redacted)
5 (Redacted)

6 A. (Redacted)

7 (Redacted)

8 Q. Do you remember, Mr Witness, that I showed you a photo where a journalist had
9 written that Mr Gan-Befio was speaking to Mr Bemba on the phone?

10 A. Yes, I do recall that, but I remember -- but you also showed us a document that
11 showed the time at which the helicopter left Bangui, and perhaps we should compare that
12 departure time and these times so that we can have a good idea of what was happening
13 when?

14 Q. Yes, I was just first of all trying to remind you of what was said, because this is the
15 type of question that I have to ask.

16 A. This is a considerable time ago, so I can't tell you to the minute or to the hour what
17 happened when, particularly as you're putting me on the spot somewhat. This is not a
18 reproach. It's the procedure that demands this action. You have the documentation
19 and I have none.

20 Q. You're quite right about that, Mr Witness. I have a whole sheaf of documents and
21 when I ask you these questions it's because we have taken the time to verify events.

22 However, I'm trying to aid you because we have the experience of having been through
23 these events.

24 Apart from Mr Gan-Befio, did everybody -- did anybody else have a Thuraya telephone
25 with them when (Redacted) were in Sibut?

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1 A. I don't recall. I don't think that anybody in the MLC team had a Thuraya phone,
2 (Redacted) the international journalists (Redacted) whether any of
3 them had this equipment with them.

4 Q. And the representative of the MLC forces on location, Major Kamisi, did he have a
5 Thuraya?

6 A. Earlier I said I didn't know whether he had a Thuraya, but I assumed that being the
7 commander of an operational unit he would have some means of communicating with his
8 military superiors, but if you're asking me to say whether or not he had a Thuraya I'm
9 afraid I can't answer that question.

10 Q. Mr Witness, to come back to the suggestion you made earlier, I would be happy to
11 show you the document again, but if you are happy for the people present here to check
12 the court records, I can say that the aircraft departed Bangui at 0944. So, according to the
13 register which we looked at earlier this morning, we saw that line,
14 9 -- Tango-Bravo-Mike-Tango helicopter from the MLC left Bangui at 9.44 on 20 February.
15 Would you like to see that page again, or can we proceed?

16 PRESIDING JUDGE STEINER: Maître Badibanga, in accordance with the document,
17 there is another -- another information that the same helicopter left the airport at 12
18 something; am I correct?

19 MR BADIBANGA: (Interpretation) You're quite right, Madam President. We -- I was
20 going to come to this. We have an idea which we wish to put to the witness for this, but I
21 was first dealing with the other matter.

22 THE WITNESS: (Interpretation) Thank you very much, Madam President, for this,
23 because I believe that the flight (Redacted) is the second flight, at 12 something. (Redacted)
24 (Redacted)

25 MR BADIBANGA: (Interpretation)

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1 Q. Mr Witness, you said that the helicopter returned, or rather that you thought that
2 the helicopter returned immediately from Sibut. Is it possible that on the return journey,
3 the helicopter stopped at Bangui?

4 A. (Redacted)

5 Q. (Redacted)

6 (Redacted)

7 (Redacted)

8 A. It's possible, but there's another hypothesis, which is that he decided to remain in
9 Sibut.

10 Q. (Redacted)

11 (Redacted)

12 A. (Redacted)

13 Q. (Redacted)

14 A. (Redacted)

15 Q. We'll come back to this in a moment but, if you do have recall of it, please do let us
16 know. Thank you.

17 A. Yes, but, Counsel, may I ask a favour?

18 Q. I'm listening to what you have to say, Mr Witness.

19 A. Since we're dealing with this question of the timetable, could we not deal with it
20 once and for all, the time at which the helicopter left Bangui, (Redacted) and so
21 on, so that we can look at this with the documents you presented us (Redacted)
22 (Redacted)

23 (Redacted) This would enable us to get out of this tangle. Thank you.

24 Q. Thank you very much for your concern, but all the team here with me are making
25 sure that nothing gets forgotten. I showed you various items of information, the airport

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1 register that gives the helicopter movements at 9.44 and at 12.52. I also showed -- (Redacted)

2 (Redacted)

3 (Redacted) I showed you a number of calls made during the day of 20 February, and I think

4 with all this information you have given me the -- what you considered the most

5 appropriate response, and when I come back -- so we'll come back to this, it's because we

6 will be looking at it from a very different angle. So, thank you.

7 A. Thank you, Counsel.

8 Q. Mr Witness, the reason why, when showing you the page 0905 with the phone calls,

9 was because the Thuraya number I mentioned finishing with 5070 was a number called

10 seven times, or at least attempts to call it were made several times during a number of

11 times that day. There were, between 10.31 and 12.54, there were seven attempts to call

12 that number. I am quite happy to go with -- go through the whole list of calls with you,

13 but I would ask you to be so kind as to believe me that this Thuraya number was only

14 called five times between 21 February and 15 March. So there were five calls between

15 21 February and 15 March, and on the day of 20 February alone, there were seven calls or

16 at least attempts to call this number, and this was at a time when there was a particular

17 MLC activity in the CAR with a mission led by the Acting Minister of Defence. This is

18 why I'm asking you to help us identify the number or the circumstances surrounding the

19 calls made to this number.

20 A. Counsel, now I understand your reasoning, but this reasoning of yours destroys

21 completely the hypothesis you put forward earlier, according to which (Redacted)

22 (Redacted)

23 (Redacted). You see that until 12.54, there were attempts to establish

24 communications and then there was nothing, whereas according to your idea, once the

25 helicopter had to land because of the bad weather, (Redacted). That would

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1 have had to appear on the list of communications of the day, (Redacted)

2 (Redacted). Thank you.

3 Q. Your reasoning is perfect, Mr Witness. (Redacted)

4 but this is why I asked you whether (Redacted) members of the MLC on location, such as the
5 major commanding the forces, had a telephone and we have noted that you have said that
6 it is possible that a man in this position would have had means of communication, and we
7 have taken note of what you said.

8 I would like to move on to another document, Defence document 15 on the Defence
9 document list, CAR-DEF-0001-0832, and for this, Madam President, we can move back to
10 public session because we have discussed it already in public session.

11 PRESIDING JUDGE STEINER: Maître Badibanga, just if you allow me, before you go
12 ahead with moving to another topic, I am having some problems in understanding the
13 chronology of the facts. I don't have the references - I can give it later if need be - but I
14 remember Mr Witness saying that the helicopter had to encircle the region of Sibut two or
15 three times, until a white drapeau was shown? Is my recollection correct?

16 Did you hear me, Mr Witness?

17 THE WITNESS: (Interpretation) Yes, indeed I did, Madam President.

18 PRESIDING JUDGE STEINER: Is that correct, that before the helicopter landed in Sibut,
19 the helicopter had to surround the region waiting for a white flag to be shown?

20 THE WITNESS: (Interpretation) That's exactly so, Madam President.

21 PRESIDING JUDGE STEINER: (Redacted)

22 (Redacted) Can you give an estimation?

23 THE WITNESS: (Interpretation) Yes, Madam President. I may be wrong, it wasn't a
24 very long trip, but I think it would have been about an hour, unless I am mistaken.

25 PRESIDING JUDGE STEINER: The whole trip since (Redacted) Bangui, (Redacted) in Sibut

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1 and (Redacted) Sibut, this was in about one hour?

2 THE WITNESS: (Interpretation) No, Madam President. The time I gave, an hour, an
3 estimate, (Redacted)

4 (Redacted)

5 PRESIDING JUDGE STEINER: (Redacted)

6 THE WITNESS: (Interpretation) Madam President, I think I'm really just guessing here
7 12 years later trying to give an accurate time, (Redacted) shall we say two hours?

8 (Redacted)

9 (Redacted)

10 PRESIDING JUDGE STEINER: In the document shown by the Prosecutor, that is the
11 report of the airport, there are two departs from the helicopter: One at 0944 in the
12 morning and the other at 1252, but from this flight at 1252 it appears that the helicopter
13 returned to the airport less than one hour later, so how it would be possible for (Redacted)

14 (Redacted)

15 (Redacted)

16 went to Sibut in this flight that left at 9.44 in the morning?

17 THE WITNESS: (Interpretation) Madam President, you might be right, but as I already
18 told you 12 years after the events it is quite difficult to provide specific recollection of the
19 specific time of departure and arrival. I struggle with that. (Redacted)

20 (Redacted)

21 (Redacted) and maybe talk to some members of the delegation,

22 talk with them and then maybe provide the Court with more specific information. It is
23 true that for a helicopter to leave at 12 and then come -- to return one hour after that
24 would not be the flight (Redacted).

25 PRESIDING JUDGE STEINER: I don't think it would be convenient for you, Mr Witness,

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1 to discuss with anyone the content of your testimony here, so let's follow the -- the
2 Chamber needs to follow with the documentation that the Chamber already has in its
3 hands. So it was just a matter of clarification that I needed.

4 Mr Badibanga, you said that we can go into open session; is that correct?

5 MR BADIBANGA: (Interpretation) Yes, Madam President, we can return to open
6 session and (Redacted)

7 (Redacted)

8 (Redacted)

9 THE WITNESS: (Interpretation) Madam President --

10 PRESIDING JUDGE STEINER: Oui, Mr Witness, please.

11 THE WITNESS: (Interpretation) Madam President, before we return to open session, it
12 is important to note that what the Prosecution wanted to demonstrate through this
13 document was to establish who Mr Bemba was in contact with during that time and it has
14 been established that (Redacted)

15 (Redacted)

16 (Redacted)

17 PRESIDING JUDGE STEINER: Thank you, Mr Witness.

18 Court officer, please turn into open session.

19 (Open session at 12.35 p.m.)

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

21 PRESIDING JUDGE STEINER: Maître Badibanga, I apologise. What is exactly the
22 document, because I got lost in translation here?

23 MR BADIBANGA: (Interpretation) I had asked that we return to document 15 of the
24 Defence documents, a video excerpt that was shot in Sibut, reference CAR-DEF-0001-0832.

25 I would like to play two excerpts for the witness at this stage, two very short excerpts,

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1 each being five to ten seconds long. I will therefore want to ask the Court Registrar to
2 please stop the recording at a specific point and to freeze the picture on the screen. The
3 first excerpt is minute 13.35 and we will read to time 13.40, which is about five seconds.

4 THE COURT OFFICER: While the video is being prepared, I would like to remind
5 parties and participants that no transcription or interpretation will be provided.

6 MR BADIBANGA: (Interpretation) Let me avail myself of this opportunity to point out
7 to the Chamber that Maître Kilolo had already distributed the document transcript of this
8 aspect, but we are not interested in the transcript as such, we are interested in the image.
9 It is the picture that we're interested in and it is for that reason that the Prosecutor did not
10 provide a translation.

11 (Viewing of the video excerpt CAR-DEF-0001-0832)

12 MR BADIBANGA: (Interpretation) Thank you, court officer. That's exactly what I
13 wanted.

14 Q. Witness, do you see someone behind the person who is speaking?

15 A. Yes, I can see that there is someone some three to four metres behind the gentleman
16 who is talking. I see a soldier in the background.

17 Q. Going by the angle from which the picture was shot, when the soldier arrived I had
18 the impression that he was carrying a weapon. Did you have the same impression,
19 Witness, or do you want us to reply that excerpt?

20 A. Well, as far as I can recall, I think the soldier is carrying a weapon.

21 Q. I would now like you to view a second excerpt, starting at 15.35, the same video, and
22 I want you to pay close attention to what happens in the video.

23 (Viewing of the video excerpt CAR-DEF-0001-0832)

24 MR BADIBANGA: (Interpretation) I would like to request that we let the video play a
25 little further on, court officer.

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1 (Viewing of the video excerpt CAR-DEF-0001-0832)

2 MR BADIBANGA: (Interpretation) Stop there, please. Again, I just wanted to show
3 the two soldiers behind the person speaking.

4 Q. Now, Witness, did you see, as I did, those two soldiers behind the person who is
5 being interviewed?

6 A. Yes, Counsel, I did.

7 Q. Witness, maybe you do remember that I asked you whether from the reports you
8 read and the information gathered from those who participated in that meeting, I asked
9 whether those who had been interviewed were free to express themselves and I asked you
10 whether soldiers were present. Do you remember that I put that question to you?

11 A. Yes, I do remember clearly.

12 Q. Do you remember your answer to that question, Witness?

13 A. Yes, I do.

14 Q. Mindful of the two excerpts of the video that you have just viewed on the screen,
15 can we say that people were free to express themselves and that if they had any
16 complaints against the MLC soldiers they would have been free to do so?

17 A. Yes, Counsel, because some of them complained, among other things, about the
18 priest whom we saw who was there and they talked about the acts of violence committed
19 by MLC soldiers.

20 Q. So according to you, Witness, the person whom we saw on the screen with two
21 soldiers behind him was free enough to raise any complaints against the MLC soldiers?
22 Is that your testimony?

23 A. Yes, that is exactly what I am telling you, because subsequently we saw in some of
24 the documents that you produced by Mr Gabriel Kahn that the same gentleman had made
25 some complaints to him regarding the MLC soldiers.

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1 Q. Did you have opportunity to know how many MLC soldiers were present during
2 the visit of the MLC delegation to that location?

3 A. No, I wasn't aware of the number of people present in Sibut at that time.

4 Q. Now, Witness, I'm going to read out a few excerpts for you from the testimony of a
5 witness whose identity I will not disclose to you. This was his testimony, his or her
6 testimony, in relation to the events in Sibut.

7 PRESIDING JUDGE STEINER: I'm so sorry to interrupt you. I am informed by court
8 officer that we are having problems with real-time transcripts. Court officer, French or
9 English?

10 THE COURT OFFICER: Madam President, the English transcript seems to be working
11 fine now and there is still a problem with the French version which will appear hopefully
12 very soon.

13 PRESIDING JUDGE STEINER: The problem will appear hopefully very soon?

14 THE COURT OFFICER: Sorry, Madam President. The transcript, the French transcript.
15 The French transcript is not working currently.

16 PRESIDING JUDGE STEINER: So first I ask whether we should continue before -- even
17 without transcript and, second, if the parties agree that we continue, we should then go
18 into private session because, without a transcript, I cannot order redactions, if need be.
19 Maître Kilolo?

20 MR KILOLO: (Interpretation) We have no objection if we were to continue, because
21 our team is fully bilingual, but we are in the hands of the Court.

22 MR BADIBANGA: (Interpretation) The same applies for the Office of the Prosecutor,
23 but if you do wish, we can proceed in closed session or private session.

24 PRESIDING JUDGE STEINER: I am informed that if the English transcripts are working
25 properly, even the redactions can be ordered, which means that we can proceed even in

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1 open session.

2 Maître Badibanga?

3 MR BADIBANGA: (Interpretation)

4 Q. Mr Witness, I was about to read some excerpts of witness testimony -- a witness's
5 testimony here relating to the events in Sibut, touching on the conduct of the MLC troops
6 at the time. I am referring to transcript number 222, English edited version, from page 52,
7 and I will provide the relevant references as we proceed. In the French version it is page
8 55. First excerpt, transcript 222, page 55, line 18 -- lines 18 to 25.

9 For the purposes of information for the Chamber, this is Witness V-02.

10 Mr Witness, can you hear me? Are we together?

11 A. Yes, I can hear you.

12 Q. Now, this is what the witness said, "They broke down all the doors. They took all
13 foam mattresses and kitchen utensils. They tore the children's birth certificates.
14 Fortunately, there was a project set up to issue children's birth certificates. Disorder
15 reigned all over the place. Not a single household was spared. I think some three
16 convoys went from that locality to Possel. Their steering wheels were to the right. The
17 steering wheels of the vehicles were on the right-hand side, so these vehicles plied
18 between Possel and the locality." That is page 52, lines 16 to 25, in the English version.

19 Let me continue in the English version, transcript 222, page 54, lines 3 to 10. In the
20 French version, it's still transcript 222, page 55 -- page 56, rather, from lines 27 up to page
21 57, line 3, "The father's House is located at the cross-roads or junction between the father's,
22 or the priest's, house and the mayor's house. He was shot down. He was killed. We
23 went to the house to look at the dead body at around 13 hours. He had been blamed for
24 not having fled. Why did he remain in the house after the others had fled? His son
25 works ..." at a place which I will not identify "... and he was blamed for that, for not having

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1 fled."

2 Now, let me read out another excerpt for your attention. Transcript 222, English version,
3 page 54, line 15, up to page 55, line 7, and in the French version it will be from page 57,
4 lines 8 to 26, "I believe that there were several cases of rape of young girls who were
5 around ten years old. Some of them even died."

6 Question to the witness: "Do you have any idea of the approximate number of rape cases
7 by the Banyamulengue in Sibut?"

8 Answer: No, I cannot provide a number because the girls were ashamed and could not
9 declare that they had been raped. They were afraid of being stigmatised.

10 Question: You said that the Banyamulengue deployed in the entire town of Sibut. Did
11 those cases of rape occur across the town of Sibut?

12 Witness's answer: I think that there were cases of rape from Tomi to the Muslim
13 neighbourhood, to Adraman, to Mbrés and the Muslim neighbourhood number 1, Sara
14 Marba (phon), Dagba I, Dagba II and even Kanga.

15 Question: As far as you know, how did those rapes take place?

16 Answer: I think that one woman was raped by a group of persons, maybe ten, maybe 20
17 of them. That was unbearable.

18 Question: Did you perchance witness any cases of rape?

19 Answer: Although I was not present, when those girls were running, they were naked
20 and they could be seen running away. Sometimes they were abducted and forcibly held
21 for two to three days in some instances."

22 Let me read another excerpt for you, transcript number 223. That would be the next day
23 of that witness's testimony. In the English version, page 37, lines 1 to 7. In the French
24 version, we are looking at transcript 223, page 36, lines 18 to 24. "After the
25 Banyamulengue came in, I went to the house to find out what was happening. Then I

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1 went to the hospital to see the body of that man who had been shot down, or shot dead.
2 It is at the hospital that I noticed that a number of complaints were being lodged. There
3 was a girl who had fled naked and she was vomiting sperm. After those events, only the
4 Red Cross staff had come to conduct a census of the victims. Parents who had come to
5 complain were all disappointed because it was all unbearable."

6 Witness, I have just read out to you a few excerpts from a witness's testimony who
7 appeared before the Judges of this Court and talked about what happened in Sibut.
8 When you were asked why the investigation was conducted in Sibut, your answer was
9 that it was in relation to rumours. Now, what I have just read out to you, would that be
10 what you are referring to as "rumours"?

11 A. No, Counsel. The rumours did not relate to what you have just read out, but let me
12 speak to the excerpt of those -- let me speak to those excerpts that you have just read.

13 With your leave, I would like to make three comments.

14 The first comment: If those abominations actually happened, then I fully share the
15 sorrow and I sympathise entirely with the victims, and I hope sincerely that the
16 perpetrators of those abominable acts will be sanctioned and punished.

17 Secondly, I think that I read in the media that, Counsel, you had some problems with
18 some of your witnesses and it would appear that one of them, according to the media, is
19 alleged to have stated that he had been proposed some money in relation to a testimony in
20 court, and that if he were to testify that one of his daughters had been raped, he would be
21 given sewing machines and some money. I don't know whether that information is true.

22 Third comment: I want to talk about the credibility of some of these testimonies by these
23 witnesses. In your first excerpt, there was reference to soldiers on duty looting houses.
24 How would they focus on destroying birth certificates? That kind of attitude would be
25 irrational, to my mind. I do not understand how soldiers would be involved in that type

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1 of activity, and for this reason I think that the kind of testimony which talks of destruction
2 of birth certificates is rather questionable, not very plausible.

3 So those are my comments, my remarks, Counsel. Maybe you have some explanations to
4 provide me with in relation to this insistence on birth certificates?

5 PRESIDING JUDGE STEINER: Yes, Maître Kilolo?

6 MR KILOLO: (Interpretation) Well, Madam President, I wanted the witness to express
7 himself before I intervened, but I did want to note the fact that this way of reading
8 excerpts of testimony given by a victim who testified in private session due to protection
9 means, so it is a means of putting to the witness a question as to whether he had the same
10 information. That's what it comes down to and it is entirely unfair, because the witness
11 is talking here about rumours being mongered, but we are taking here testimony that has
12 been made before the Court more than ten years after the facts and he is being asked
13 whether he was aware of this information without referring to a document that would act
14 as a support to the fact that the witness would have been aware of the specific information
15 in addition to those rumours he mentioned. So we believe that this means of proceeding
16 is not at all fair.

17 PRESIDING JUDGE STEINER: Maître Badibanga?

18 MR BADIBANGA: (Interpretation) Madam President, could we go into private session
19 for me to be able to respond to Maître Kilolo, please?

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

21 *(Private session at 1.01 p.m.) Reclassified as Open session

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

23 MR BADIBANGA: (Interpretation) Now, Madam President, we have before us a
24 witness (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 So we are bringing to the Court information that contradicts what he has said, or which
12 provide him with the opportunity to further explain what he did say and consolidate his
13 testimony if this is possible. This is one of the things we have done and, with regard to
14 the information, this information is accessible to all and, if Maître Kilolo would like, I
15 could also present to the witness allegations within the International Federations of
16 Human Rights that have not been given here in the hearing, but is information that has
17 also been given by the victims. So I believe that this objection has no relevance
18 whatsoever and I do not see what Mr Kilolo's strategy is.

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

20 (Open session at 1.04 p.m.)

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

22 PRESIDING JUDGE STEINER: I cannot see any unfairness toward the witness with the
23 question put by Maître Badibanga. I can see from the transcript that Maître Badibanga
24 just asked the witness that now, and this is on page 67, line 22, "Now, what I have just
25 read to you, would that be what you are referring to as rumours?" I don't see -- I cannot

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1 see that this kind of question affects the fairness towards the witness at all because the
2 witness referred many times that the purpose of the visit of a delegation to Sibut was
3 because there were some rumours about crimes committed.

4 Second, Mr Witness, I would like you to try to answer to the questions put by the
5 Prosecution to the best of your knowledge and belief. The doubts about the credibility of
6 testimonies given before this Chamber, it's a task for the Judges of the Chamber, not for
7 yourself, so please try to abstain from making comments about yourself not deeming
8 credible the testimonies of other witnesses. This is a judicial task.

9 Maître Badibanga, you can continue.

10 MR BADIBANGA: (Interpretation)

11 Q. Now, Mr Witness, for us to be specific on this point, I'm going to put the question to
12 you once again. I know that you have answered it, but I believe that for the record it
13 would be a good idea for you to repeat your response.

14 Now, the facts or allegations that I have just read out to you, do they have any bearing, or
15 were they included in the rumours that the MLC was aware of before they made their
16 visit to -- before the visit was made to Sibut?

17 A. No, Counsel. The information that you have just provided for us was not part of
18 the rumours that were the reason for this visit.

19 Q. And the choice of the excerpts presented to you are in keeping with the following
20 logic: We are covering here the hypothesis or the theory of looting, of murder and rape.
21 These are the three crimes that are covered in the excerpts presented to you. I remember
22 that you said that of course rumours also spoke of similar abuses. Could you give us one
23 or two of the incidents that were mentioned in these infamous rumours and was the
24 reason why the delegation had to go and follow up in Sibut?

25 A. Yes. As I said, Counsel, the rumours that we heard was that MLC soldiers were

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1 committing abuses. That is the term that I used yesterday, that is the term that I retained,
2 but I do not have any further details to add to those rumours.

3 Q. And were I to ask you whether you have any details to add to the word "abuse" or
4 "abuses," could you give me any?

5 A. No, Counsel.

6 Q. And whilst the delegation was in Sibut and meeting with the population, or civilians,
7 in any of the cases that I have talked about, or any similar situations, were any similar
8 situations talked to -- mentioned to the members of the delegation, or not?

9 A. No, according to what the friends who were members of the delegation said, they
10 were not aware of these details contained in the excerpts from the testimony that you have
11 just read out.

12 MR BADIBANGA: (Interpretation) Madam President, I would like the witness to be
13 presented with the document number 29 of the list of OTP documents, bearing reference
14 CAR-OTP-0031-0120, and this is a document which is a video report and I would like it to
15 be played to the witness from the very beginning; that is from time-stamp 0 minutes
16 0 seconds.

17 This is a document that we requested reclassification of. This is a document that we
18 requested be reclassified as public, because it is an RFI documentary over the radio and
19 we requested for it to be reclassified as public.

20 PRESIDING JUDGE STEINER: Maître Kilolo, any observation on the request for
21 reclassification?

22 MR KILOLO: (Interpretation) To be honest, Madam President, we are in your hands.
23 We do not have any comment to make, really.

24 (Trial Chamber confers)

25 PRESIDING JUDGE STEINER: The document is therefore reclassified as public and it

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1 can be shown in public session.

2 MR BADIBANGA: (Interpretation) Madam President, for you to be able to follow this
3 document, on our list, every time we put a video we put the transcripts attached to this
4 video, so the English version is CAR-OTP-0057-0393, 0393, and this is document number
5 31 on our list, whereas the French version, this is document 30. The video that shall be
6 played is document 29 and the reference is CAR-OTP-0031-0120. The French version is
7 document 30, CAR-OTP-0057-0349, and the English version of the transcript is
8 CAR-OTP-0057-0393, that is the 31st list on the list of documents.

9 PRESIDING JUDGE STEINER: Both transcripts are also reclassified as public.

10 (Viewing of the video excerpt CAR-OTP-0031-0120)

11 MR BADIBANGA: (No interpretation)

12 Q. (Interpretation) Now, Mr Witness, this RFI report dates back to
13 18 February 2003. Did you hear it over the radio in Gbadolite?

14 A. No, Counsel, I never heard anyone talking about this report.

15 Q. But did this report, or any other reports of the same ilk, was it -- was this or
16 were they part of the rumours as to the abuses committed by MLC soldiers?

17 A. I do believe so, yes, because the title in the newspaper talks of these abuses on
18 the part of the government forces, the MLC, in the two localities, so I do believe that
19 this is part and parcel of what was described as "rumours" at the time because we can
20 see that the journalists are very prudent. I noted that they use the conditional tense
21 when they talked about Bemba, saying that "Bemba's men allegedly," et cetera,
22 et cetera.

23 Q. Yes, that's very true. I do believe that good journalists always take that
24 precaution, because they are reporting things said by other people. When they talk
25 about the massacred civilian population, is that what you understand by abuses,

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1 Mr Witness?

2 A. No, in terms of abuses and rumours at the time, the massacre of population -- of
3 the population was not part of those rumours being mongered at the time.

4 Q. Mr Witness, this report talks about Chadians living in the area who were
5 targeted by Jean-Pierre Bemba's men. Was there any specific reason why they would
6 have been pursued or why, more particularly, those Chadians would have been
7 targeted?

8 A. I see no reason therefore, Counsel.

9 Q. Did you hear speak of the involvement of Chadian soldiers in the situation on
10 the Congolese territory at the time?

11 A. Yes, indeed, Counsel.

12 Q. Well, we shall come back to that at an opportune moment. Do you know
13 whether the delegation heard anything about this aspect of the event or any aspect of
14 the conflict when the delegation visited Sibut?

15 A. Could you please explain your question, Counsel? I do not quite understand
16 its thrust.

17 Q. Yes, indeed, I shall couch it differently. Now, Mr Witness, this mission took
18 place on 18 February, and we can agree that this was two days before the visit of the
19 delegation to Sibut; is that correct?

20 A. You mean that this was taken from the -- you mean that this RFI report, or
21 broadcast, was two days before?

22 Q. Yes, indeed. This broadcast was made two days before the delegation visited
23 Sibut, was it not?

24 A. Yes, indeed. I totally agree with you.

25 Q. I might ask here for your understanding, or your interpretation, of the matter.

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1 How is it that, when the RFI journalists conducting investigations a few days prior
2 managed to gather this information, but when two days later a delegation arrives by
3 helicopter with RFI journalists in their midst, the same information is not gathered?
4 Could you provide us with an explanation of this or interpret the facts that enables us
5 to understand the Defence in the information gathered over this 48-hour period?

6 A. Yes, I can attempt to furnish you with an explanation, Counsel. If I did listen
7 or hear the excerpt correctly, the journalist is talking indeed about information that is
8 reaching them, or that they are receiving, so that means that they did not go out into
9 the field personally. They certainly must have received telephone calls from left,
10 right and centre, and when the delegation arrived in the field, a different type of
11 information was forthcoming. This might be the explanation of this distortion, if
12 you like. So, between anonymous phone calls that one might receive from Paris,
13 somebody saying that they're in Sibut or the surrounding area, and the information
14 gathered out in the field, you know, there can be a difference.

15 Q. We are now reaching the time for us to rise. I'm going to put one last question
16 to you and this is a theory that you can confirm, or deny. Now, soldiers: When
17 questions were put as to the presence of soldiers - armed soldiers - might this make a
18 difference in the type of answers provided by the victims?

19 A. Probably, yes, Counsel.

20 MR BADIBANGA: (Interpretation) I thank you and thank you, Madam President.

21 PRESIDING JUDGE STEINER: Thank you, Maître Badibanga.

22 Mr Witness, it's almost 1.30. We will adjourn for today and resume tomorrow
23 morning at 9 in the morning. We hope the Prosecution is very close to concluding its
24 questioning.

25 For the information to the parties, the Chamber authorised Maître Douzima Lawson

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1 to put to the witness the questions authorised by the Chamber as requested by Maître
2 Zarambaud, taking into account that Maître Zarambaud was not able to come to The
3 Hague, so Maître Douzima will be kind enough in order to submit, with the consent
4 of Maître Zarambaud, the questions requested by him, and we do hope, Mr Witness,
5 that tomorrow we'll be able to conclude with your testimony.

6 I thank very much the Prosecution team, the legal representatives of victims, Defence
7 team, Mr Jean-Pierre Bemba Gombo. I thank very much our interpreters, our court
8 reporters. Thank you very much, Ms Toumaj.

9 THE COURT OFFICER (DRC): (Interpretation) Thank you, Madam President.

10 PRESIDING JUDGE STEINER: Mr Witness, again thank you very much. Again,
11 we hope that you have some time to take some rest and that we will come -- that you
12 come tomorrow morning again ready and available to continue with your testimony.

13 This hearing is adjourned.

14 THE COURT USHER: All rise.

15 (The hearing ends in open session at 1.29 p.m.)

16 RECLASSIFICATION REPORT

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