

**Summary of Trial Chamber III's Judgment of 21 March 2016,
pursuant to Article 74 of the Statute in the case of
*The Prosecutor v. Jean-Pierre Bemba Gombo***

1. Trial Chamber III ("Chamber") of the International Criminal Court ("Court") hereby provides the following summary of today's Judgment pursuant to Article 74 of the Rome Statute ("Statute"). The Chamber notes that only the written judgment, to be issued after this hearing, is authoritative.

A. CHARGES AGAINST THE ACCUSED

2. On 24 May 2008, Mr Jean-Pierre Bemba Gombo ("Mr Bemba") was arrested by the Belgian authorities, pursuant to a warrant of arrest issued by the Court, and was surrendered to the Court on 3 June 2008. On 15 June 2009, Pre-Trial Chamber II confirmed that there was sufficient evidence to establish substantial grounds to believe that Mr Bemba is responsible within the meaning of Article 28(a) for the following crimes alleged to have been committed by MLC soldiers on the territory of the Central African Republic from on or about 26 October 2002 to 15 March 2003:

- murder as a crime against humanity under Article 7(1)(a) of the Statute;
- murder as a war crime under Article 8(2)(c)(i) of the Statute;
- rape as a crime against humanity under Article 7(1)(g) of the Statute;
- rape as a war crime under Article 8(2)(e)(vi) of the Statute; and
- pillaging as a war crime under Article 8(2)(e)(v) of the Statute.

B. BRIEF CASE HISTORY

3. By way of brief case history, the Chamber will first mention key phases of the trial proceedings and the events that had a significant impact on its course.
4. On 22 November 2010, the trial commenced with the parties and participants making their opening statements. The Accused pleaded not-guilty to each of the five charges.
5. The presentation of evidence commenced on 23 November 2010 and it initially concluded on 7 April 2014 pursuant to Rule 141(1) of the Rules of Procedure and Evidence. On 2 October 2014, upon the Defence's request, the Chamber reopened the presentation of evidence for the limited purpose of recalling one witness for further testimony. The further testimony concluded on 24 October 2014. The Prosecution, the Defence, and the Legal Representative of Victims made their closing oral statements on 12 and 13 November 2014.
6. On 21 September 2012, the Chamber issued its Decision giving notice to the parties and participants that the legal characterisation of the facts may be subject to change in accordance with Regulation 55(2) of the Regulations of the Court. On 13 December 2012, the Chamber temporarily suspended the proceedings in order to permit the Defence to prepare its case in light of the Regulation 55 Notification. On 6 February 2013, at the request of the Defence, the Chamber vacated its decision on the temporary suspension of the proceedings.
7. Throughout the proceedings, the Chamber issued 1219 written decisions, orders, notifications, and cooperation requests as well as 277 oral decisions and orders. The Chamber sat for 330 days and heard 77 witnesses, including 40 witnesses called by the Prosecution, 34 witnesses called by the Defence, two witnesses called by the Legal Representatives of Victims, and one witness called by the Chamber. Additionally, the Chamber also permitted three victims to present their

views and concerns. The Chamber admitted a total of 733 items of evidence, including 5724 pages of documentary evidence.

8. The Chamber notes that it granted 5,229 persons the status of victims authorised to participate in the proceedings. The Chamber has benefitted greatly from the views and concerns of the participating victims as expressed through their legal representatives. The Chamber thanks all the victims for their involvement and commends the Legal Representatives of Victims and their team for their contribution.

C. THE BURDEN AND STANDARD OF PROOF

9. Under Article 66(1) of the Statute, the Accused shall be presumed innocent until proved guilty. Pursuant to Article 66(2), the onus is on the Prosecutor to prove the Accused's guilt. For a conviction, each element of the crimes, contextual elements, and the mode of liability charged must be established "beyond reasonable doubt".

D. THE CHAMBER'S MAIN FINDINGS

10. In today's overview of the Judgment, the Chamber will first discuss its findings concerning the events in the Central African Republic from on or about 26 October 2002 to 15 March 2003 and its findings in relation to the crimes allegedly committed by MLC soldiers in the Central African Republic during the period of the charges. The Chamber will then turn to its findings as to Mr Bemba's alleged individual criminal responsibility as a military commander, or a person effectively acting as such, under Article 28 of the Statute.

1. The events in the Central African Republic from on or about 26 October 2002 to 15 March 2003

11. The Chamber has concluded that the forces loyal to General François Bozizé, the former Chief of Staff of the *Forces armées centrafricaines* ("FACA"), were composed of various former FACA soldiers and some Chadian nationals. The Chamber refers to the forces supporting General Bozizé as "General Bozizé's rebels". General Bozizé's rebels advanced from Chad through the Central African Republic in October 2002. They engaged FACA troops and captured various towns before entering Bangui on 25 October 2002. The FACA soldiers and other forces supporting President Patassé – including the *Unité de sécurité présidentielle* ("USP"), some Libyan troops, and other militias – responded with armed force.
12. In order to defend his government, President Patassé requested the assistance of the *Mouvement de Libération du Congo* ("MLC") and its military branch, the *Armée de Libération du Congo* ("ALC"), from Mr Bemba. The MLC was a movement based in Gbadolite, the capital of the *Équateur Province*, in the northwest of the Democratic Republic of the Congo (the "DRC"). It was established by Mr Bemba in 1998 with the goal of overthrowing the government in Kinshasa. Mr Bemba was the MLC President, Commander-in-Chief of the ALC, the MLC's figurehead, and the source of its main funding, goals, and aims. In response to President Patassé's request, Mr Bemba deployed ALC troops from the DRC to the Central African Republic to intervene in support of President Patassé.
13. The MLC contingent Mr Bemba deployed to the Central African Republic was comprised of three battalions totalling around 1,500 men. Initially two battalions crossed to the Central African Republic at the start of the conflict, while the third was deployed around the end of January 2003.
14. The Chamber found that, over the course of approximately five months, beginning on 26 October 2002, the MLC troops, with a limited number of FACA forces frequently accompanying them, advanced through various localities in the

Central African Republic, namely through Bangui, to PK12 and PK22, and along the Damara-Sibut and Bossembélé-Bossangoa axes. They attacked Mongoumba, and, on or about 15 March 2003, they withdrew back to the DRC through Bangui and other crossing points along the Oubangui River. The Chamber refers to this period as the 2002-2003 Operation.

15. After the MLC's arrival on 26 October 2002, hostilities and regular use of armed force continued between the forces supporting President Patassé and General Bozizé's rebels: in Bangui at the end of October 2002, along the road to PK22 in the first half of November 2002, around Damara in early December 2002, along the Bossembélé-Bozoum axis between mid-December and February 2003, on the road to and around Sibut in late February 2003, and along the Bossembélé-Bossangoa axis in late February or early March 2003. On or about 6 March 2003, the MLC troops began to retreat towards Bangui, engaging General Bozizé's rebels along the way until the MLC's complete withdrawal from the Central African Republic on 15 March 2003.

16. Although, there were breaks in hostilities, these were not the result of "a peaceful settlement" and were merely temporary lulls in active engagements between the parties to the conflict. At all times relevant to the charges, there was a resort to armed force and protracted violence between the forces supporting President Patassé and General Bozizé's rebels.

17. The conflict was confined to the territory of the Central African Republic, the foreign participants were not acting under the overall control of any foreign government, and the evidence demonstrated that it could not be viewed as one in which two or more states opposed each other.

18. In light of the evidence before it, the Chamber concluded that the conflict in the Central African Republic from on or about 26 October 2002 to 15 March 2003 was an armed conflict between the Central African governmental authorities, supported by other forces, including the MLC, on the one hand, and, on the other,

the organized armed group of General Bozizé's rebels. The armed conflict was not of an international character, was "protracted" within the meaning of Article 8(2)(f), and reached a sufficient level of intensity for purposes of Articles 8(2)(d) and 8(2)(f). In addition, the Chamber concluded that the MLC forces committed an attack against the civilian population within the meaning of Article 7(2)(a).

19. The evidence demonstrated that in the course of the 2002-2003 Operation MLC troops committed many acts of pillaging, rape, and murder against civilians, over a large geographical area, including in and around Bangui, PK12, PK22, Bozoum, Damara, Sibut, Bossangoa, Bossembélé, Dékoa, Kaga Bandoro, Bossemptele, Boali, Yaloke, and Mongoumba.
20. The multiple acts of rape and murder committed by the MLC soldiers constituted a course of conduct, and were not merely isolated or random acts. The victims were not taking part in hostilities at the relevant time. MLC soldiers targeted civilians, without regard for age, gender, or social status in civilian neighbourhoods and residences, on temporary MLC bases, or in isolated locations, such as the bush. Entire families were victimised; victims included the elderly, men, women, and children. The acts of murder and rape were regularly committed together with, or during the course of, the commission of acts of pillaging against the civilian population. The Chamber concluded that the civilian population was the primary, as opposed to incidental, target of the attack, and in turn, that the attack was directed against the civilian population in the Central African Republic.
21. The Chamber found that, although a policy to attack the civilian population in the Central African Republic was not formalised, the existence of such a policy was the only reasonable conclusion from a cumulative consideration of several relevant factors. The Chamber was satisfied that the failure on the part of the MLC to take action was deliberately aimed at encouraging the attack. The Chamber, in fact, found that the MLC, in particular through the actions of its

commanders on the ground, actively encouraged the attack. The Chamber concluded that the evidence demonstrated the existence of a widespread attack by MLC soldiers directed against the civilians in the Central African Republic throughout the period of the charges.

2. The crimes committed by MLC soldiers during the conflict

22. Of the underlying acts of murder, rape, and pillaging that the Chamber found to fall within the scope of the charges and of which the Defence had adequate notice, the Chamber found beyond reasonable doubt that:

MLC troops knowingly and intentionally killed the following persons:

- P87's "brother" in Bangui at the end of October 2002. A MLC soldier shot the victim during the MLC's pillaging of the victim's home;
- P69's sister in PK12 the day after the MLC's arrival in PK12. A MLC soldier shot the victim in the head when she resisted the pillaging of her money; and
- An unidentified "Muslim" man on 5 March 2003 in Mongoumba. MLC soldiers shot and mutilated the victim when he refused to give them his sheep.

MLC soldiers by force, knowingly and intentionally invaded the bodies of the following victims by penetrating the victims' anuses and/or vaginas, and/or other bodily openings with their penises:

- P68 and P68's sister-in-law in Bangui at the end of October 2002. After the victims fled their homes to escape the MLC, they were attacked by MLC soldiers, two of these soldiers raped P68, while another three raped her sister-in-law;
- Two unidentified girls aged 12 and 13 years in Bangui on or around 30 October 2002. The two girls were each raped by two MLC soldiers;

- P87 in Bangui on or around 30 October 2002. After the pillaging of her home, a MLC soldier forced the victim behind the house, threw her to the ground, and raped her. He then called to one of his companions who did the same, and then a third soldier raped her as well;
- Eight unidentified women at the Port Beach naval base in Bangui at the end of October or beginning of November 2002. A group of MLC soldiers brought the victims onto the deck of a ferry and took turns raping them;
- P23, P80, P81, P82, and two of P23's other daughters in PK12 in early November 2002. A group of MLC soldiers entered the victims' compound, three armed soldiers raped P23 in the presence of his family members and neighbour. While holding P23 at gunpoint, three soldiers raped P80, P23's wife. Four soldiers raped P81, P23's daughter, assaulting her until she bled. A soldier beat P82, P23's granddaughter, and then at least two soldiers took turns raping her. Another two of P23's daughters were also raped by MLC soldiers that same day;
- P69 and his wife in PK12 at the end of November 2002. At least four MLC soldiers raped P69's wife, when P69 protested her assault, two soldiers, holding him at gunpoint, proceeded to rape him;
- P22 in PK12 on or around 6 or 7 November 2002. While pillaging her uncle's house MLC soldiers found the victim and three of them took turns raping her;
- P79 and her daughter in PK12 several days after the MLC arrived in PK12. While one soldier held P79 at gunpoint, two others raped her. During the same attack, another soldier raped P79's daughter in the presence of other children;
- P42's daughter in PK12 around the end of November 2002. While pillaging P42's house, MLC soldiers took his 10-year-old daughter to a small shelter

behind his house, where he could hear her shouting. Two soldiers raped her;

- A woman in the bush outside of PK22 in November 2002. Three MLC soldiers attacked the woman. When she resisted, the men ripped off her clothes, pulled her legs apart, and all three men raped her;
- P29 in Mongoumba on 5 March 2003. While she was preparing to flee from the MLC, three MLC soldiers forced the victim back into her house and proceeded to rape her; and
- V1 in Mongoumba on 5 March 2003. After forcing her to serve as their interpreter, MLC soldiers raped the victim in two separate incidents. In the first, two soldiers knocked her to the ground and raped her. In the second incident, the victim was raped by twelve soldiers.

MLC soldiers knowingly and intentionally appropriated items of property from the following victims for private or personal use, without their consent:

- P68 and her sister-in-law in Bangui at the end of October 2002;
- P119 in Bangui after 30 October 2002;
- P87 and her family in Bangui on or around 30 October 2002;
- P23, P80, P81, and P82 in Bangui in early November 2002;
- P69's sister in PK12 the day after the MLC arrived;
- P69 in PK12 in November 2002;
- P108 in PK12 during the MLC's presence;
- P110 in PK12 the day after the MLC arrived;
- P112 in PK12 in November 2002;
- P22 and her uncle in PK12 on or around 6 or 7 November 2002;
- P79 and her brother in PK12 several days after the MLC's arrival;

- P73 in PK12 at the end of November 2002;
- P42 and his family in PK12 at the end of November 2002;
- A woman in the bush outside PK22 in November 2002;
- V2 in Sibut in the days after the MLC's arrival; and
- V1, a church, nuns, priests, an unidentified "Muslim" man and his neighbour, the gendarmerie, and the mayor in Mongoumba on 5 March 2003.

23. The MLC soldiers took numerous items from the victims, including administrative documents, clothing, furniture, tools, radios, televisions, items of personal value, money, livestock, food, vehicles, and fuel. In P42's words, they took "everything" and some victims were left with nothing. The consequences for victims were far-reaching, impacting various aspects of their personal and professional lives.

24. The Chamber concluded that MLC soldiers were the perpetrators of the specific underlying acts discussed above. This was based on a cumulative consideration of relevant identification criteria. These include (i) the repeated interactions between the victims and witnesses and the MLC soldiers, (ii) the clothing worn by the perpetrators; (iii) the language they spoke; (iv) the manner in which the perpetrators identified themselves to the victims; and/or (v) troop movements and the presence of the MLC in the relevant locations at the time of the crimes.

25. The Chamber was satisfied that the specific underlying acts addressed above are only a portion of the total number of crimes committed in the territory of the Central African Republic by the MLC forces in the course of the 2002-2003 Operation.

26. MLC soldiers committed the acts of murder, rape, and pillaging against civilians in the Central African Republic after the soldiers' arrival in a given area in the

context of the armed conflict between forces loyal to President Patassé and General Bozizé's rebels.

27. The acts of murder, rape and pillaging were committed consistent with evidence of a *modus operandi* employed by the MLC soldiers in the Central African Republic throughout the 2002-2003 Operation: after General Bozizé's rebels had departed an area, MLC soldiers searched "house-to-house" for remaining rebels, raping civilians, pillaging their belongings, and, on some occasions, killing those who resisted. Often, multiple perpetrators were involved in the same incidents of murder, rape, or pillaging. This *modus operandi* was apparent from the earliest days of the 2002-2003 Operation and continued consistently throughout it.
28. The evidence showed that MLC perpetrators targeted the victims in order to self-compensate for inadequate payment and rations from the MLC, and/or to destabilise, humiliate, or punish suspected rebels, rebel sympathisers, or those who resisted pillaging and rape. Specifically in relation to the crimes committed during the attack on Mongoumba, the Chamber concluded that the attack was carried out as punishment and retribution for the seizure of allegedly pillaged goods the MLC soldiers were taking by boat back to the DRC.
29. The Chamber found that the armed conflict played a major part in the MLC soldiers' decision to commit the crimes, their ability to do so, and the manner in which the crimes were committed.
30. Further, the Chamber concluded that the perpetrators were aware of the factual circumstances that established the existence of the armed conflict, namely the resort to armed force by and protracted violence between the forces supporting President Patassé and General Bozizé's rebels.
31. The Chamber also concluded that the underlying acts of murder and rape were committed by the MLC soldiers as "part of" an attack against the civilian population in the Central African Republic in the context of the 2002-2003

Operation. Further, the Chamber found that the perpetrators had knowledge of the attack, and knew that their conduct was, or intended their conduct to be, part of the widespread attack directed against the civilian population.

32. The Chamber thus found beyond reasonable doubt that the MLC soldiers committed the war crimes of murder, rape, and pillaging within the meaning of Articles 8(2)(c)(i), 8(2)(e)(vi), and 8(2)(e)(v) of the Statute and the crimes against humanity of murder and rape within the meaning of Articles 7(1)(a) and 7(1)(g) of the Statute.

3. Mr Bemba's responsibility within the meaning of Article 28(a) of the Statute

a) Mr Bemba effectively acted as a military commander and had effective authority and control over the MLC forces that committed the crimes.

33. Mr Bemba was the President of the MLC and Commander-in-Chief of the ALC from its creation and throughout the period of the charges. The members of the MLC's Political and Military Council discussed certain issues with Mr Bemba, but the evidence showed that he was the primary authority covering both the political and military spheres and took, in general, the most important decisions.

34. Mr Bemba held broad formal powers, ultimate decision-making authority, and powers of appointment, promotion, and dismissal within the MLC and its military branch. Mr Bemba additionally controlled the MLC's funding. He had direct lines of communication to commanders in the field, and a well-established reporting system. He received operational and technical advice from the MLC General Staff. Mr Bemba both could, and did, issue operational orders. He had disciplinary powers over MLC members, including the power to initiate inquiries and establish courts-martial, and had the ability to send troops to or withdraw them from the Central African Republic.

35. The MLC forces, including the contingent in the Central African Republic, communicated and co-operated with the Central African authorities throughout

the 2002-2003 Operation. However, the Chamber found that the MLC troops were not “resubordinated” to the Central African military hierarchy, insofar as this would imply that Mr Bemba’s authority over the MLC contingent in the Central African Republic was displaced.

36. The entirety of the evidentiary record showed that Mr Bemba exercised effective control over the MLC contingent in the Central African Republic at all relevant times. Mr Bemba ordered the initial deployment of the MLC troops to the Central African Republic, including, in consultation with the MLC General Staff, selecting the units and commanders to be deployed. Following deployment, Mr Bemba maintained regular contact directly with senior commanders in the field on the state of operations, and additionally received numerous detailed operations and intelligence reports. Further, the MLC hierarchy in the DRC, controlled by Mr Bemba, continued to provide logistical support and equipment to the MLC troops in the Central African Republic. The Chamber found that Mr Bemba issued direct operational orders. These orders were relayed and implemented by Colonel Moustapha, the highest ranking MLC officer in the Central African Republic during the 2002-2003 Operation and the senior officer at the brigade level.
37. Further, significantly, the Chamber found that Mr Bemba retained primary disciplinary authority over the MLC troops in the Central African Republic, including through the establishment of commissions of inquiry, powers of arrest, and the convening of courts-martial. The ALC Code of Conduct also applied to the MLC contingent in the Central African Republic throughout the 2002-2003 Operation.
38. Mr Bemba also retained the power and authority to order the withdrawal of the MLC troops in the Central African Republic. Once Mr Bemba actually ordered the withdrawal of the troops, that decision was complied with.
39. In light of the evidence as a whole, the Chamber concluded that Mr Bemba was both a person effectively acting as a military commander and had effective

authority and control over the contingent of MLC troops in the Central African Republic throughout the 2002-2003 Operation.

b) Mr Bemba knew that the MLC forces were committing or about to commit the crimes

40. Throughout the 2002-2003 Operation, Mr Bemba was predominantly based in the DRC, where the MLC was also headquartered, and was therefore remote from the operations on the ground. However, radios, satellite phones, Thurayas, mobile telephones, and other communications equipment enabled MLC commanders in the Central African Republic to communicate directly with Mr Bemba, the MLC Chief of General Staff, and the MLC headquarters in Gbadolite.

41. Through such channels of communication and throughout the 2002-2003 Operation, there was regular and direct communication between Mr Bemba and Colonel Moustapha, with Colonel Moustapha reporting the status of operations and the situation on the ground. Other MLC officials in the Central African Republic were also in direct contact with Mr Bemba by radio or Thuraya. In addition to direct communication with Mr Bemba, Colonel Moustapha and other commanders in the Central African Republic were in direct contact with the MLC Chief of General Staff, who reported information he received to Mr Bemba. Likewise, messages sent by the MLC commanders in the Central African Republic through the MLC transmissions centre in Gbadolite were recorded in logbooks, which were then taken to Mr Bemba.

42. Military and civilian intelligence services also provided Mr Bemba – either directly or through the General Staff – with information on the combat situation, troop positions, politics, and allegations of crimes. Significantly, such intelligence reports referred to various acts by “Banyamulengués” and “MLC troops”, including theft, pillaging, rape, the killing of civilians, harassment of persons, and

the transportation of looted goods, including trucks for Colonel Moustapha, back to the DRC through Zongo and Libengue.

43. From the early days of the 2002-2003 Operation, Mr Bemba followed and discussed international media reports with senior MLC officials. These reports also often included his personal reactions to allegations of crimes committed by MLC soldiers. Over the course of the 2002-2003 Operation, local and international media and other sources reported allegations of many acts of rape, pillaging, and murder by MLC soldiers in the Central African Republic, including in and around Bangui, PK12, PK22, Bozoum, Damara, Sibut, Bossangoa, Bossembélé, Dékoa, Kaga Bandoro, Bossemptele, Boali, Yaloke, and Mongoumba.
44. Mr Bemba also visited the Central African Republic on a number of occasions. As early as November 2002, after hearing reports of crimes by MLC soldiers, Mr Bemba travelled to the Central African Republic. There, he met with the UN representative in the Central African Republic, General Cissé, and President Patassé, and addressed MLC troops and Central African Republic civilians at PK12. During his speech at PK12, Mr Bemba referred to the MLC troops' "misbehaviour", "stealing", and "brutalis[ing]" of the civilian population in the Central African Republic.
45. Several steps taken by Mr Bemba in relation to allegations of crimes by MLC soldiers also demonstrate his knowledge of the allegations. The Mondonga Inquiry was established to investigate allegations of crimes. It uncovered information on acts of pillaging and rape attributed to MLC soldiers in the initial days of the 2002-2003 Operation. During the subsequent publicly broadcast Gbadolite court-martial of the soldiers investigated, Mr Bemba continued to receive information of further allegations of pillaging by MLC soldiers.
46. Similarly, the investigative Zongo Commission, was sent to Zongo, in the DRC, to collect information related to allegations that pillaged goods from the Central African Republic were entering the DRC through Zongo. The Zongo

Commission's report included information indicating that pillaging had been committed by MLC soldiers during the 2002-2003 Operation and that pillaged items had been transported from the Central African Republic to the DRC.

47. In January 2003, in correspondence with General Cissé, Mr Bemba noted some allegations concerning crimes by MLC soldiers in the Central African Republic. Further, a report by the *Fédération internationale des ligues des droits de l'Homme* ("FIDH Report"), was released on 13 February 2003 and concerned an investigative mission in Bangui. The FIDH Report included detailed accounts of alleged acts of murder, rape, and pillaging by MLC soldiers against civilians in the Central African Republic in, *inter alia*, Bangui, PK12, and PK22. In a letter to the FIDH President, dated 20 February 2003, Mr Bemba noted the FIDH Report, which contained allegations of human rights violations by MLC soldiers.
48. The Sibut Mission was sent to Sibut at the end of February 2003, in relation to media reports of MLC abuses against the civilian population in Sibut and Bozoum. Some of the people interviewed by reporters on the mission claimed that the MLC soldiers committed abuses against civilians in Sibut, in particular, pillaging.
49. Finally, in March 2003, Mr Bemba knew of and did not take any preventative or remedial action in relation to the punitive attack on Mongoumba, where only civilians were present at the time. He was in constant contact with Colonel Moustapha the day before and the day of the attack.
50. In light of the evidence as a whole, the Chamber concluded that, throughout the 2002-2003 Operation, Mr Bemba knew that the MLC forces under his effective authority and control were committing or about to commit the crimes against humanity of murder and rape, and the war crimes of murder, rape, and pillaging.

51. Having so found, the Chamber did not consider that re-characterisation of the charges pursuant to Regulation 55 of the Regulations of the Court to include the “should have known” mental element was warranted.

c) Mr Bemba failed to take all necessary and reasonable measures to prevent or repress the commission of the crimes or to submit the matter to competent authorities for investigation and prosecution

52. The Chamber concluded that despite consistent information – as reported internally within the MLC and externally in the media – of acts of murder, rape, and pillaging attributed to MLC soldiers throughout the 2002-2003 Operation, Mr Bemba’s reactions were limited to: (i) general, public warnings to his troops not to mistreat the civilian population; (ii) the creation of the two investigative commissions, (iii) the Gbadolite court-martial of seven low-ranking soldiers on charges of pillaging of goods of limited value; and (iv) the Sibut Mission, which was not an investigation. The mandates of the two investigative commissions were limited to the following allegations: pillaging committed in the initial days of the 2002-2003 Operation in Bangui and pillaged goods being transported via Zongo.

53. Further to noting that the measures set out above were not properly and sincerely executed, the Chamber found that the measures Mr Bemba took were a grossly inadequate response to the consistent information of widespread crimes committed by the MLC soldiers in the Central African Republic of which Mr Bemba had knowledge. There is no evidence that Mr Bemba took any measures in response to information transmitted internally within the MLC of crimes by MLC soldiers from, for example, the MLC intelligence services or the leads uncovered during the Mondonga Inquiry, Zongo Commission, or Sibut Mission.

54. In addition to or instead of the insufficient measures Mr Bemba did take, and in light of his extensive material ability to prevent and repress the crimes, Mr Bemba

could have, *inter alia*, (i) ensured that the MLC troops in the Central African Republic were properly trained in the rules of international humanitarian law, and adequately supervised during the 2002-2003 Operation; (ii) initiated genuine and full investigations into the commission of crimes and properly tried and punished any soldiers and commanders alleged of having committed crimes; (iii) issued further and clear orders to the commanders of the troops in the Central African Republic to prevent the commission of crimes; (iv) altered the deployment of the troops, for example, to minimise contact with the civilian population; (v) removed, replaced, or dismissed officers and soldiers found to have committed or condoned any crimes in the Central African Republic; (vi) shared relevant information with the Central African Republic authorities or others and supported them in any efforts to investigate criminal allegations and/or (vii) withdrawn MLC troops from the Central African Republic prior to the actual withdrawal in March 2003.

55. In light of the wide range of available measures at his disposal, the Chamber found that the measures Mr Bemba did take fell patently short of “all necessary and reasonable measures” to prevent and repress the commission of crimes within his material ability.

56. Finally, the Chamber noted that, as he had ultimate disciplinary authority over the MLC contingent in the Central African Republic, Mr Bemba was the competent authority to investigate and prosecute the crimes. In such circumstances, where he failed to empower other MLC officials to fully and adequately investigate and prosecute allegations of crimes, he cannot be said to have submitted the matter to the competent authorities for investigation and prosecution. He also made no effort to refer the matter to the Central African Republic authorities, or to meaningfully cooperate with international efforts to investigate the crimes, despite assertions that he would do so, in particular, in correspondence with General Cissé and with the FIDH President.

57. Accordingly, in light of the above considerations and the evidence as a whole, the Chamber found that Mr Bemba failed to take all necessary and reasonable measures to prevent or repress the commission of crimes by his subordinates during the 2002-2003 Operation, or to submit the matter to the competent authorities.

d) As a result of Mr Bemba's failure to "exercise control properly" over the MLC forces

58. Despite Mr Bemba's effective authority and control over the ALC, including authority over disciplinary matters, he failed to take any measures to remedy deficiencies in training, either prior to the deployment of troops or in response to the consistent reports of crimes occurring from the earliest days of the 2002-2003 Operation. Additionally, Mr Bemba's failures to take all necessary and reasonable measures to prevent and repress the commission of the crimes, and submit the matter to the competent authorities demonstrated that Mr Bemba failed to exercise control properly over the forces deployed to the Central African Republic.

59. The Chamber concluded that, as demonstrated by the measures Mr Bemba did take in response to allegations of crimes, including on Central African territory in the midst of the 2002-2003 Operation and despite his remote location, Mr Bemba had the authority and ability to take measures to prevent and repress the commission of crimes.

60. Taking these measures would have deterred the commission of crimes, and generally diminished, if not eliminated, the climate of acquiescence – which is inherent where troops have inadequate training, receive unclear orders, and/or observe their commanders committing or collaborating in crimes – surrounding and facilitating the crimes committed during the 2002-2003 Operation. Mr

Bemba's failures in this regard directly contributed to the continuation and further commission of crimes.

61. The Chamber concluded that the crimes against humanity of murder and rape, and the war crimes of murder, rape, and pillaging committed by the MLC forces in the course of the 2002-2003 Operation were a result of Mr Bemba's failure to exercise control properly over his troops.
62. In light of the evidence analysed as a whole, the Chamber found beyond reasonable doubt that Mr Bemba is criminally responsible under Article 28(a) for the crimes against humanity of murder and rape, and the war crimes of murder, rape, and pillaging committed in the territory of the Central African Republic by the MLC forces in the course of the 2002-2003 Operation.
63. Although Judges Steiner and Ozaki have written separate opinions on discrete legal issues, the Chamber has reached its decision unanimously.

Would the Accused please rise.

For the reasons provided in the Judgment rendered today, and relying, pursuant to Article 74(2) of the Statute, on the evidence submitted and discussed at trial and on the entire proceedings, the Chamber finds Mr Jean-Pierre Bemba Gombo **GUILTY**, under Article 28(a) of the Statute, as a person effectively acting as a military commander, of the following crimes:

- murder as a crime against humanity under Article 7(1)(a) of the Statute;
- murder as a war crime under Article 8(2)(c)(i) of the Statute;
- rape as a crime against humanity under Article 7(1)(g) of the Statute;
- rape as a war crime under Article 8(2)(e)(vi) of the Statute; and
- pillaging as a war crime under Article 8(2)(e)(v) of the Statute.

Consequently, the Chamber:

DECIDES that Mr Jean Pierre Bemba Gombo shall remain in detention until such time as a sentence is passed; and

ORDERS the Victims and Witnesses Unit to take all necessary measures to ensure the protection of victims and witnesses pursuant to Article 68 of the Statute.

64. The full Judgment will be notified shortly after this oral summary concludes. An order on the sentencing submissions timeline will also be issued later today.

65. Issues related to the reparations procedure will be addressed in due course.