

Trial Hearing
WITNESS: CAR-D30-P-4864

(Open Session)

ICC-01/14-01/18

1 International Criminal Court

2 Trial Chamber V

3 Situation: Central African Republic II

4 In the case of The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona -

5 ICC-01/14-01/18

6 Presiding Judge Bertram Schmitt, Judge Péter Kovács and Judge Chang-ho Chung

7 Trial Hearing - Courtroom 1

8 Friday, 1 March 2024

9 (The hearing starts in open session at 9.33 a.m.)

10 THE COURT USHER: [9:33:46] All rise.

11 The International Criminal Court is now in session.

12 Please be seated.

13 PRESIDING JUDGE SCHMITT: [9:34:03] Good morning, everyone. Good morning,

14 Mr Brown, again.

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16 (The witness speaks English)

17 THE WITNESS: [9:34:17] Good morning.

18 PRESIDING JUDGE SCHMITT: [9:34:22] Court officer, please call the case.

19 THE COURT OFFICER: [9:34:26] Good morning, Mr President, your Honours.

20 Situation in the Central African Republic II in the case of the Prosecutor versus Alfred

21 Yekatom and Patrice-Edouard Ngaïssona, case reference ICC-01/14-01/18.

22 And for the record, we are in open session.

23 PRESIDING JUDGE SCHMITT: [9:34:32] Thank you.

24 Ms Henderson, the team of the Prosecution is unchanged.

25 Mr Narantsetseg, you are one less -- one person less, I think, but perhaps, please, for

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1 the record.

2 MR NARANTSETSEG: [9:34:45] Good morning, Mr President, your Honours. The
3 victims of the other crimes are represented by Ms Mouhia Asso and myself, Orchlou
4 Narantsetseg. Thank you.

5 PRESIDING JUDGE SCHMITT: [9:34:52] Good morning.

6 And Mr Suprun is, of course, also there without any further aid.

7 MR SUPRUN: [9:34:59] Good morning, Mr President, your Honours. Indeed, no
8 change from my side.

9 PRESIDING JUDGE SCHMITT: [9:35:04] Thank you.

10 I turn to the Yekatom Defence which has changed, obviously.

11 MS DIMITRI: [9:35:08] Slightly.

12 PRESIDING JUDGE SCHMITT: [9:35:10] But somehow, at least.

13 MS DIMITRI: [9:35:13] Yes. We are one less, Mr Suzuki is now following from the
14 office.

15 PRESIDING JUDGE SCHMITT: [9:35:17] I understand.

16 And Mr Knoops, finally.

17 MR KNOOPS: [9:35:19] Good morning, Mr President, your Honours. Good
18 morning everyone in the courtroom. Good morning, Mr Brown. We are
19 unchanged, Mr President. Thank you.

20 PRESIDING JUDGE SCHMITT: [9:35:25] Actually a nice word, unchanged. You
21 know, when time flies by and still you can say you are unchanged.

22 Ms Henderson for the Prosecution has now the floor for her examination.

23 MS HENDERSON: [9:35:42] Thank you, Mr President.

24 QUESTIONED BY MS HENDERSON:

25 Q. [09:35:47] Good morning, Mr Brown.

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1 A. [09:35:48] Good morning.

2 Q. [09:35:49] We have met before, but just to introduce myself again quickly, my
3 name is Claire Henderson. I'm a lawyer for the Office of the Prosecutor and I'm
4 going to be asking questions to you over what I expect will be the next hour and a
5 half, so I hope to be finished in this session.

6 A. [9:36:02] Okay.

7 Q. [9:36:02] Firstly, Mr Brown, just pulling together different threads of what we
8 have heard over the last few days. I understand that CDR extracts represent
9 an extremely limited portion of the whole universe of call data that is kept by service
10 providers; would you agree with that?

11 A. [9:36:22] Yes, that is reasonable to say.

12 Q. [9:36:23] And that is because when a party requests a CDR extract from a service
13 provider, it normally defines the parameters of the data that it wishes to receive; isn't
14 that right?

15 A. [9:36:34] Yes, there's a lot of information that is just irrelevant to any analysis, so
16 it is not requested.

17 Q. [9:36:41] A common way of limiting that request would be by reference to
18 a target number, or I think you have also called it a subject number, right?

19 A. [9:36:45] Yes, it is --

20 PRESIDING JUDGE SCHMITT: [9:36:51] Just a second.

21 Ms Dimitri.

22 MS DIMITRI: [9:36:55] It's just a plea for the interpreters, it's a race for them.

23 PRESIDING JUDGE SCHMITT: [9:37:01] Yes, okay, yes. Since we all speak -- at
24 least I speak English, you speak English. Yes, please, Ms Henderson, may I remind
25 you that we still have interpretation in the room. Thank you very much.

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1 Thank you, Ms Dimitri.

2 MS HENDERSON: [9:37:09] Thank you. We often remind the witnesses but, in fact,
3 it's me who's racing and I apologise for that.

4 PRESIDING JUDGE SCHMITT: [9:37:14] Well, we know that the main perpetrators
5 are we, ourselves.

6 So, please, Ms Henderson.

7 MS HENDERSON: [9:37:20]

8 Q. [9:37:21] So my question, just to repeat, is that a common way of limiting the
9 data that a party wishes to receive is by reference to a target number or a subject
10 number that they wish to receive CDR for; that's right, isn't it?

11 A. [9:37:38] Yes, that would be the normal process.

12 Q. [9:37:41] And I believe you touched on it yesterday that it's also possible to
13 request data by reference to a target handset or EMEI?

14 A. [09:37:54] "I"MEI. Yes, that is also a normal procedure.

15 Q. [9:37:58] Thank you. Or, indeed, you can request data related to a certain cell
16 site -- that is, the traffic that has passed through that cell site?

17 A. [9:38:08] Yes. We haven't talked about that possibility previously, often called
18 a cell dump, where you can request all of the numbers that have used a particular cell
19 site in a period of time.

20 Q. [9:38:24] So, as the case may be, the data requested is often limited by reference
21 to some type of target that is requested?

22 A. [9:38:32] Yes.

23 Q. [9:38:32] Another limitation would be time frame, right, a party requests data
24 between dates X and Y?

25 A. [9:38:41] Yes, that would be normal.

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1 Q. [9:38:45] And then a third limitation would be the types or the fields of data
2 requested, and I won't go into that, but would you agree that we've seen many CDRs
3 in the last few days and you can see in the headings the different types or fields of
4 data?

5 A. [9:39:04] Yes, that's correct.

6 Q. [9:39:07] Now, I want to ask you particularly about CDR extracts that are based
7 on a target number. What they may look like, in particular. And we have seen
8 many examples over the last few days, but I just want to break these down into broad
9 categories for our understanding.

10 A. [9:39:26] Okay.

11 Q. [9:39:26] Now, firstly, in a target number CDR, it sounds obvious, but we would
12 expect to see the target number at least somewhere for each entry, wouldn't we?

13 A. [9:39:36] Yes, we would.

14 Q. [9:39:37] Now, there are different ways that the CDR extract might be composed.
15 I would suggest the following: There may be a designated column for the target
16 number, such that you see the target number appearing down the whole column?

17 A. [9:39:52] Yes, always in one column.

18 Q. [9:39:55] And let me just take you to an example.

19 If I could ask the Court Officer to pull up Ngaïssona tab 1, ERN CAR-D30-0011-0007
20 at 0011.

21 Now, Mr Brown, I think, as you are aware, this is a screenshot of the CDR rather than
22 a format of the CDR itself, but would you agree in column A, where you see the same
23 number, that's an example of the composition we were just describing?

24 A. [9:40:59] Yes. So I've also looked at column E to see that the records include
25 both incoming and outgoing types of record and that concerns that, indeed, column A

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1 is the subject mobile in its entirety.

2 Q. [9:41:16] Thank you, Mr Brown, you are anticipating my questions.

3 Moving on to a different type of composition we might expect to see for a target
4 number. There's also a composition that shows one column for the outgoing number
5 and another column for the incoming number, right?

6 A. [9:41:36] Yes.

7 Q. [9:41:37] Such that the target number appears in the outgoing column when it is
8 the number calling --

9 A. [9:41:43] Correct.

10 Q. [9:41:44] -- and the incoming column when it's the number being called?

11 A. [9:41:50] Yes, that's correct.

12 MS HENDERSON: [9:41:55] Your Honours, rather than showing an example, I'd
13 refer to a very good illustration that my learned friend, Mr Pages-Granier, did
14 yesterday at transcript 272, between 10:10 and 10:15, in the context of showing two
15 sides of the same call. And the ERNs for the Court's reference, as an example, are
16 CAR-OTP-2054-1708 and CAR-OTP-2019-2839.

17 PRESIDING JUDGE SCHMITT: [9:42:27] It's fine to do it this way. Yes, thank you.
18 Please continue.

19 MS HENDERSON: [9:42:30] I think it cuts down on the time.

20 PRESIDING JUDGE SCHMITT: [9:42:37] Absolutely. No, no, we are fine with that.
21 It is on record already, so we don't have to show it again.

22 MS HENDERSON: [9:41:40] Thank you, your Honour.

23 Q. [9:42:41] As a quick aside, Mr Brown, I want to add another dimension to the
24 composition. So far we have talked about one target number, but as we have seen
25 over the past days, you can have CDR for multiple target numbers in one extract.

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1 A. [9:42:56] Yes.

2 Q. [9:42:56] And you have told us that in terms of ordering, the order is normally
3 done chronologically, meaning that you see the data for the various numbers
4 interwoven with each other from row to row; is that correct?

5 A. [9:43:11] Yes. Not always, but that's certainly most common.

6 Q. [9:43:15] And can I suggest another possible way - and you might have seen an
7 example of this - is that the rows might be ordered by target number. So the first
8 few rows relate to one target number and then the next to another target number, and
9 so on?

10 A. [9:43:31] Yes, that's possible.

11 Q. [9:43:35] Now, let's say, Mr Brown, that there is a CDR extract for my target
12 number. In such an extract we would then normally expect to see the various phone
13 numbers that I was in contact with, right?

14 A. [9:43:50] Yes.

15 Q. [9:43:51] And just for the terminology, what would you call those other
16 numbers?

17 A. [9:43:57] They are often referred to as the other party.

18 Q. [9:44:02] Other party numbers?

19 A. [9:44:03] Yes.

20 Q. [9:44:04] Okay. Now, let's say that my phone has been in contact with your
21 phone number within the defined time period. This means that your phone number
22 is one of the other party numbers in the CDR extract, correct?

23 A. [9:44:22] Yes.

24 Q. [9:44:23] So I have the target number, that's my number, and your number is the
25 other party. That means that the extract shows communications between my phone

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1 and your phone in a given time period; is that correct?

2 A. [9:44:38] Indeed.

3 Q. [9:44:39] And it -- sorry, pause. And it also shows communications between
4 my phone and other phones in a given time period, right?

5 A. [9:44:54] Yes, I would expect it to.

6 Q. [9:44:58] But what it does not show is communication between your phone and
7 any other phones that you had contact with?

8 A. [9:45:08] No, I wouldn't expect it to.

9 Q. [9:45:13] So, in other words, if someone is interested in knowing about the
10 communications that your phone had with other phones, other than mine, in the
11 given time period, the extract from my target number is of no use; would you agree
12 with that?

13 A. [9:45:32] It can only show contact with your phone and not with other phones,
14 so very limited use in that -- in that sense.

15 Q. [9:45:43] But, more generally, it's important when you are trying to draw
16 conclusions from call data to know which numbers you have target CDR for and
17 which you only have other number CDR for, if I can put it that way?

18 A. [9:45:59] Yes, I agree.

19 Q. [9:46:03] And, in particular, when target CDR for a number is unavailable, you
20 simply cannot draw any conclusions about the absence of communications between
21 that number and other non-target numbers?

22 A. [9:46:24] I'm sorry, can you repeat that question?

23 Q. [9:46:28] Let's say target CDR for a number is simply not available.

24 A. [9:46:35] Okay.

25 Q. [9:46:37] This would mean that you can't draw any conclusions about an

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1 absence of available communication between that number and another number for
2 which you also do not have target CDR for?

3 A. [9:46:54] I think you are suggesting if you have no data on the phone, obviously
4 there is nothing you can do about it.

5 Q. [9:47:05] On the available data, yes.

6 A. [9:47:07] Indeed.

7 Q. [9:47:09] I'm going to -- that was very general. I'm going to make it a bit more
8 concrete by reference to a question that you were asked by the Ngaissona Defence
9 that you answered in your report.

10 And just to give the reference for your report, that's Ngaissona tab 3,

11 CAR-OTP-0018-0001, page 19, paragraph 5.2.1.

12 There, the Defence poses a question to you about an apparent absence in the CDR of
13 a witness. They give the scenario that the witness claims to have received a masked
14 call from a person on a certain day, yet there is an absence of such a record in the
15 witness's CDR.

16 A. [9:48:16] Yes.

17 Q. [9:48:18] And for the Chamber's assistance, this would appear to relate to the
18 testimony of 2625, transcript reference 193, between pages 42 and 48.

19 To give a bit more flesh to the scenario I am describing in general terms, I would add
20 some more information to the scenario given to you by the Defence --

21 A. [9:48:46] Okay.

22 Q. [9:48:46] -- and ask you to comment on what can usefully be concluded from the
23 absence of records and what cannot.

24 So additional piece of information 1: No target CDR is available for the number the
25 witness says he was called on, so for the receiving number in the scenario.

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1 A. [9:49:06] Okay.

2 Q. [9:49:08] Number 2: There is no indication as to what the calling number was.

3 A. [9:49:17] Okay.

4 Q. [9:49:20] Do you agree that the state of the available CDR cannot tell you
5 anything either way about the witness's claim?

6 A. [9:49:34] What CDR am I left to look at? If you don't know the calling number,
7 you don't have a CDR, and if the called number doesn't have a CDR, what
8 information do you possibly have?

9 Q. [9:49:57] Mr Witness, I will add -- Mr Brown, I will add a third piece of
10 information. As to the person calling, the witness said called, let's call him Mr X --

11 A. [9:50:09] Okay.

12 Q. [9:50:10] -- various phone numbers have been attributed to him.

13 A. [9:50:15] Right.

14 Q. [9:50:17] And target CDR is available for some but not all of them. Now,
15 would you agree that in these circumstances, all you can conclude is that the
16 supposed caller, Mr X, was very unlikely to have called using the numbers for which
17 target CDR was collected? That's the only thing you can conclude from this, would
18 you agree?

19 A. [9:50:43] Can I ask, do you have -- did the witness declare their phone number?
20 The obvious thing to do would be to check all of the CDRs you do have to see if that
21 number is ever contacted. Of course, if you don't have that number, you can't do
22 anything.

23 Q. [9:51:06] I can add in the scenario that the witness's number is known, there is
24 a stated number for the witness, but there's no target CDR for that number available.

25 A. [9:51:25] No, but Mr X's CDRs, those that are available, could be examined to see

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1 if that number was ever contacted. That may produce a result for you. If it doesn't,
2 then clearly there is a possibility a number -- a different number was used by Mr X.
3 It's simply not possible to establish whether the call was made or not, if there is no
4 record.

5 MR KNOOPS: [9:52:06] Mr President?

6 PRESIDING JUDGE SCHMITT: [9:52:08] Yes, Mr Knoops.

7 MR KNOOPS: [09:52:09] I have the transcript before me of P-2625, and if the Court
8 goes to paragraph 44, lines 19 till 23, in this example, the number of Mr X was
9 confirmed by him. The number therefore was known.

10 PRESIDING JUDGE SCHMITT: [9:52:35] Why not -- I know we have an expert here
11 who can react quickly to nearly any situation, but this was quite abstract.

12 Could you please read these lines out for us?

13 MR KNOOPS: [9:52:47] Yes, I remember, I examined 2625, if you can recall.

14 PRESIDING JUDGE SCHMITT: [9:52:50] We know -- we know who it was.

15 MR KNOOPS: [9:52:53] Yes.

16 PRESIDING JUDGE SCHMITT: [9:52:54] So if there is no information, identifying
17 information in it, then why not read this information out and then perhaps we --
18 Ms Henderson, it might become also a little bit clearer for Mr Brown what we are
19 talking about, yes? Please.

20 MR KNOOPS: [9:53:08] Because in that case, the Prosecution was suggesting that it
21 --

22 PRESIDING JUDGE SCHMITT: [9:53:13] I know --

23 MR KNOOPS: [9:53:15] -- should have been a masked number, but then we asked
24 the witness the following. It's transcript page 44, line 17 and further. Maybe I start
25 -- yes, start at line 17:

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1 "Q. And can you recall on what number Mr Ngaiissona called you on 3 [...]

2 January 2014? That must be your Bangui number, I guess."

3 Answer by the witness, line 19:

4 "A. Yes, that was the number I was using in Bangui.

5 Q. Could that have been the number 23672664046? Maybe you can recall the last
6 four digits, 4066 -- 4046.

7 A. If it was I who gave that number, that means it was the number that I was using
8 in Bangui."

9 PRESIDING JUDGE SCHMITT: [9:54:16] Thank you.

10 And from there, perhaps, Ms Henderson, we can perhaps clarify with Mr Brown what
11 you mean, really.

12 So you have understood, Mr Brown. We have a witness in the courtroom who is,
13 let's say, perhaps not 100 per cent confirming but saying, well, with other words --
14 you have just heard, this is -- if there has been this call, this was the number I have
15 been called on, yes?

16 And now Ms Henderson, from there, please, again.

17 MR WITNESS: [9:54:49] Thank you.

18 MS HENDERSON: [9:54:51] Your Honour, I believe that that's how I put it, that
19 there is a known number for the witness. So I'm not sure -- I agree with Mr Knoops
20 that that's what -- obviously, what the witness said.

21 PRESIDING JUDGE SCHMITT: [9:55:01] And now, please, for the benefit of the
22 Chamber -- please for the benefit of the Chamber, we are -- you referred initially
23 when you started that line of questioning to 5.2.1 of the expert report, mask numbers.
24 Then could you perhaps help us, what information with regard -- or simply I think
25 you wanted to know from Mr Brown if there was a possibility that such a call came

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1 from a masked number -- or what? No. Then please assist us, what is your point?

2 MS HENDERSON: [9:55:49]

3 Q. [9:55:49] Mr Brown, you have seen that the title and the question in the report
4 refers to a mask number.

5 A. [9:55:56] Yes.

6 Q. [9:55:58] And you have also provided answers about what a mask number is
7 and given information in that regard in your answers at paragraphs 5.2.1 to 5.2.5.

8 A. [9:56:17] Yes.

9 Q. [9:56:19] However, in the scenario that you have been presented with now, with
10 the extra information as well, given the lack of data from which to draw conclusions,
11 would you say that whether or not the caller used a mask number is of any relevance
12 at all?

13 A. [9:56:48] I think I would refer to the answer I gave in my report, that whilst
14 a caller can choose to mask their number to the receiver, it is not masked to the
15 network. So whilst the caller may think they have masked the number, they have
16 done so to the person they are calling. But that call record would still be created and,
17 therefore, visible in the CDRs of either of those mobile phones if they were available.
18 Of course, if neither of those are available, then it's not possible to say anything about
19 it.

20 PRESIDING JUDGE SCHMITT: [9:57:47] It may seem by you as repetitive, but at
21 least I have understood it much better now. Yes.

22 MS HENDERSON: [9:57:58] Your Honours, if my questions aren't (overlapping
23 speakers)

24 PRESIDING JUDGE SCHMITT: [9:58:00] No, no, it was not -- it simply was initially
25 -- that's not a reproach, it was quite abstract, and Mr Knoops helped with his

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1 additional information. So now we understand it, I think.

2 Yes, we can continue.

3 MS HENDERSON: [9:58:16]

4 Q. [9:58:19] Mr Witness, before I go on to my next main topic, just a quick aside on
5 attributions since we have referred to it here. You spoke yesterday morning about
6 attribution and association analysis.

7 A. [9:58:40] Yes.

8 Q. [9:58:41] When a forensic expert performs such an analysis, the purpose is to
9 make a product based on the data or information available to him or her, to
10 a defensible degree of scientific certainty; right?

11 A. [9:58:59] Yes, that is a reasonable statement.

12 Q. [9:59:02] And that is different from what a court may rightly consider in the
13 context of legal proceedings, where the purpose is different, would you agree?

14 A. [9:59:11] I -- I don't think I can comment on the court's purpose, of course,
15 logically I understand what you mean. So yes, I can understand that there's
16 a difference between the two.

17 Q. [9:59:26] And in any case, the court may have access to information that the
18 forensic expert did not. You would allow for that, wouldn't you?

19 A. [9:59:34] Of course I would, yes.

20 Q. [9:59:36] I want to move on now, Mr Brown, to call tables.

21 Recalling from your report at page 4, paragraph 1.2.5, you said that:

22 "Any analysis products created for a prosecution must be repeatable for defence
23 verification purposes."

24 A. [9:59:59] Yes.

25 Q. [10:00:04] Now, if a party was to produce call tables without providing raw

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1 source material - that is, the underlying CDR - that would make it difficult, maybe
2 even impossible, for the other parties to verify, wouldn't it?

3 A. [10:00:16] Yes, I agree.

4 Q. [10:00:18] On the other hand, if a party does provide the raw source material,
5 this would allow for verification.

6 A. [10:00:27] I would expect that to be the case.

7 Q. [10:00:33] And that would be the case particularly if the call table provides very
8 precise references to where exactly the underlying data can be found in the raw
9 source material -- in the raw CDR?

10 A. [10:00:49] Indeed, that would be useful.

11 Q. [10:00:54] So if this is done, can I suggest that the other parties would be in
12 a position to cross-check the data as presented in the call table against its source in the
13 raw CDR?

14 A. [10:01:07] Yes.

15 Q. [10:01:10] And you spoke yesterday in parts about the desire for further
16 investigation, detailed referencing would also allow that further investigation if the
17 call table raises any questions meriting it; would you agree?

18 A. [10:01:32] Yes, certainly if I wished to investigate the call table, I would normally
19 refer back to the source data, but, of course, there maybe further investigation I would
20 wish to make beyond the available call data.

21 PRESIDING JUDGE SCHMITT: [10:01:53] Mr Knoops.

22 MR KNOOPS: [10:01:54] Mr President, I think it's relevant to ask the Prosecution
23 what they understand to be the "party". Is it including a forensic expert or it is
24 a party as being the non-experts in this court for Mr Brown.

25 PRESIDING JUDGE SCHMITT: [10:02:09] Yeah, you can ask it. I think

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1 Ms Henderson has referred to the "parties". Isn't it so -- isn't it so, Ms Henderson?

2 MS HENDERSON: [10:02:22] So far, I'm using "parties" in a generic sense, your
3 Honour.

4 PRESIDING JUDGE SCHMITT: [10:02:26] Yes, yes, generic.

5 MS HENDERSON: [10:02:27] Other persons, other people.

6 PRESIDING JUDGE SCHMITT: [10:02:29] And we know, Mr Brown, that
7 Mr Knoops is alluding to that, let's assume, the party and any party, participant,
8 could cross-check that. Would this be possible without an expert?

9 MR WITNESS: [10:02:53] Yes, to a certain degree. There may, of course, be
10 questions that are beyond their capabilities. I can't say more.

11 PRESIDING JUDGE SCHMITT: [10:03:04] Yeah, and I think you -- you referred to --
12 to some of the problems that can arise, that make it then impossible for -- for -- yeah, I
13 understand that. That's also in your -- also entailed in your report, at least in some
14 parts, yeah. Thank you.

15 Ms Henderson.

16 MR KNOOPS: [10:03:23] Mr President, could your question be added with the
17 remark that this might also depend on the volume of the CDRs?

18 PRESIDING JUDGE SCHMITT: [10:03:35] Well, that -- we are now not discussing,
19 but, okay.

20 So does this -- you have heard Mr Knoops, does this also depend on the -- well, I
21 think it's self-explanatory, to the volume of the CDRs that have to be cross-checked?

22 Well, but that is something of -- about resources also. But yeah, you may -- okay, on
23 the parties' side now.

24 MR WITNESS: [10:04:04] Yes, clearly, the volume increases the size of the task. For
25 an expert such as myself, who has access to the right tools and familiarity with those

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1 tools that -- that process can be made a lot simpler. Without those tools, it can be
2 done, but I would consider it to be a very slow laborious process and possibly,
3 therefore, more prone to error because of the degree of the manual activity required.

4 PRESIDING JUDGE SCHMITT: [10:04:35] But now we give -- we let Ms Henderson
5 continue with your examination.

6 But I think this was good to clarify that.

7 MS HENDERSON: [10:04:48]

8 Q. [10:04:50] And just to continue from my questions, Mr Brown, when it comes to
9 CDR being used in a prosecution, provision of the raw source material would allow
10 the Defence to identify any errors or ambiguities in the call table and bring them to
11 the court's attention should they wish, as a general proposition; would you agree?

12 A. [10:05:16] Yes, I agree.

13 Q. [10:05:19] And, indeed, that's the gist of what you're referring to in your
14 paragraph 1.2.5 when you say that the analysis product must be repeatable for
15 defence verification purposes?

16 A. [10:05:29] Yes.

17 Q. [10:05:31] While we are on call tables, I'd refer to what you said yesterday when
18 looking at a Prosecution call table, where you said that it's preferable for the type of
19 call to be described as outgoing voice or incoming voice but not simply as voice.
20 That was yesterday's transcript 272, at 14:34:01.

21 And I'll just bring up again the call table you were looking at. I'll ask you some
22 questions about it.

23 It's D29 -- sorry, Yekatom Defence tab 46. And for the record, that's confidential
24 annex A of filing 1296 in this case, at page 6.

25 I'm not sure we are looking at the right document.

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1 I believe annex A, actually, there might be have been a corrected version and I think
2 this is the original version, but it is what was shown yesterday as tab 46.

3 PRESIDING JUDGE SCHMITT: [10:07:24] Can you help us with the ERN -- with the
4 exact, please? You know with a tab -- the reference to the tab is difficult here.

5 MS HENDERSON: [10:07:32] It's tab 46 of the Yekatom Defence.

6 (Counsel confers)

7 MS HENDERSON: [10:07:58] Sorry, your Honour, my microphone's on.

8 PRESIDING JUDGE SCHMITT: [10:08:03] Well, I know we have looked at it
9 yesterday, so -- yeah, I think that's it.

10 MS HENDERSON: [10:08:11] Yes, that's indeed it. And, yes, we're just getting to
11 page 6 now.

12 If we could just go up to where the heading is, please. Okay, that's perfect.

13 Thank you.

14 Q. [10:08:33] Now, I understand you to be saying yesterday that the word "voice"
15 in the type column does not in and of itself describe the direction of the call; was that
16 what your comment came down to yesterday?

17 A. [10:08:51] Yes, I agree.

18 Q. [10:08:53] And just to be completely clear, you're not saying that the information
19 is nowhere to be found in the call table about the direction of the call?

20 A. [10:09:00] Not exactly. My concern, to look at this particular line of
21 information, is to know whether it is information created from the outgoing record or
22 from the incoming record. So if the type said voice outgoing, that would tell me
23 whether -- which record it was created from.

24 Q. [10:09:47] I see. In terms of though being able to tell who is calling whom, can I
25 suggest that the columns "calling number" and "called number" represent that?

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1 A. [10:10:01] Yes, I assume they are correctly depicted and, therefore, that is, as you
2 say, the calling number is initiating that contact.

3 Q. [10:10:21] Now, if we can go to the final column item and for each row you can
4 see hyperlinked references to what you by now probably recognise as Prosecution
5 evidence documents, beginning with CAR-OTP.

6 A. [10:10:32] Yes.

7 Q. [10:10:33] And then these are followed by a row number in each instance.
8 Firstly, this would allow you to go to the exact row of source material to cross-check
9 the data, wouldn't it?

10 A. [10:10:42] Yes, it would.

11 Q. [10:10:50] Now, yesterday, Mr Pages-Granier showed you this page. He asked
12 if anything caught your eye and you referred to matching pairs, including a pair of
13 11-second calls?

14 A. [10:11:01] Yes.

15 Q. [10:11:02] And just to orientate everybody, that would be the fourth and fifth
16 rows, with 11 seconds coming up in duration.
17 And you said yesterday that you would want to investigate this further.

18 A. [10:11:20] Yes.

19 Q. [10:11:21] Now, firstly, would you agree that the reference given in the item
20 column, including the row numbers, would give you what you need to investigate,
21 assuming that you had access to that resource material?

22 A. [10:11:33] I would be hopeful it provided the answers I wanted.

23 Q. [10:11:38] And now if we look at the document -- or for court parlance, the ERN
24 referred to by the number CAR-OTP-2068-0034.

25 So you'll see that that document reference number appears in both of the rows that we

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1 are talking about in the item column. You can see that for the first of the rows,
2 there's a reference to -- and if I can say, an additional row number 19089.

3 Do you see that?

4 A. [10:12:13] Yes.

5 Q. [10:12:14] And then in the next entry, it refers to presumably the next row down,
6 because it's 19090.

7 A. [10:12:24] Indeed.

8 Q. [10:12:25] Now, would that indicate to you that it's not a matter of the call table
9 duplicating a single row from the source material?

10 A. [10:12:35] I would not rely on that possibility. As I've said, raw CDRs may
11 often contain multiple lines of information related to the same call, so I would need to
12 examine those two rows to reach a conclusion.

13 Q. [10:12:54] Yes, certainly, but what I mean in my question is, this is not a case of
14 the person producing this number, taking one row from the raw CDR, making some
15 kind of error and producing it twice; would you agree with that?

16 A. [10:13:14] That would seem to be the case. Again, without seeing the
17 originating rows, I can't say whether it's an error or something else.

18 Q. [10:13:30] Now, if I was to tell you that these two originating rows do, indeed,
19 show outgoing calls from the number that we see here ending 39 --

20 A. [10:13:42] Yes.

21 Q. [10:13:42] -- in the calling number column, would that be indicative to you of
22 two separate calls albeit of the same duration? I'd ask you not to answer briefly.

23 PRESIDING JUDGE SCHMITT: [10:13:54] Yeah, Mr Rowse.

24 MR ROWSE: [10:13:57] Although this item is not on the Prosecution's list of
25 materials, I think it would perhaps be better to show the item because otherwise we're

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1 (Overlapping speakers)

2 PRESIDING JUDGE SCHMITT: [10:14:06] This was exactly what I wanted to
3 suggest. Thank you very much, yeah.

4 So can't we make it, you know, also -- of course, Mr Brown can follow it in the
5 abstract, yeah. But can't you -- can't we show it simply, and then we can also follow
6 it better.

7 MS HENDERSON: [10:14:20] Yes, your Honour. Maybe I'm a bit too by the book
8 because, as Mr Rowse says, it's not on our list of evidence, but it did come up
9 yesterday so if (Overlapping speakers)

10 PRESIDING JUDGE SCHMITT: [10:14:28] No, but -- no problem with this, I'm
11 saying this.

12 MS HENDERSON: [10:14:30] If Ms Prathaban can be given evidence 2, then she can
13 display that.

14 PRESIDING JUDGE SCHMITT: [10:14:39] Yes, please.

15 You know, we can follow two and three steps, but when it then comes to four and five,
16 it becomes more and more difficult.

17 MS HENDERSON: [10:14:51] I'm just wondering, your Honour, I think that
18 evidence 2 is what the witness has -- now it has come to Ms Prathaban. Okay.

19 PRESIDING JUDGE SCHMITT: [10:15:04] No, I think it's on the screen -- on
20 evidence 2, Mr Brown.

21 MS HENDERSON: [10:15:06] Yes.

22 Q. [10:15:06] Do you see that there, Mr Brown, the two rows?

23 A. [10:15:08] I do, yes. Thank you.

24 Q. [10:15:10] For the record, that's a screenshot that we've taken from the source
25 CDR, which those in the courtroom can also check.

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1 And so what I was saying there, if I was to tell you that these two rows of source
2 material do indeed show outgoing calls from the number ending 39, firstly, would
3 you agree with me in making that statement?

4 A. [10:15:34] On this simple extract, I would agree with you. Again, I would
5 always want the full context of the rows around it. I would be examining this CDR
6 to see whether this was a common occurrence for this CDR.

7 So, yes, on this very simple two rows, I agree, it could be two separate calls. I
8 wouldn't wish to be definite in that until I'd seen more.

9 PRESIDING JUDGE SCHMITT: [10:16:06] I think the witness has answered,
10 Ms Dimitri.

11 MS DIMITRI: [10:16:09] Indeed, I think he answered. My concern is that what's
12 being shown on the screen is not the raw material, it's a screenshot.

13 PRESIDING JUDGE SCHMITT: [10:16:18] No, no. It's okay. But the witness has,
14 like always, differentiated what he can, really, from his expert knowledge, what he
15 can responsibly say and what not.

16 So, please continue, Ms Henderson.

17 MS HENDERSON: [10:16:32]

18 Q. [10:16:34] Mr Brown, I certainly understand the qualification you gave about the
19 need to examine further within the source document.

20 But can I put it this way: It's not here, or doesn't appear to be here, a case of the two
21 rows of data representing the two sides of the same call, one for each target number;
22 would you agree with that?

23 A. [10:16:56] Yes, in that both are identified as outgoing calls.

24 Sorry, if they were opposite sides of the same call, then one of those I would expect to
25 be listed as an incoming call.

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1 Q. [10:17:27] Indeed, as you might recall, as we saw yesterday from a screenshot
2 that Mr Pages-Granier showed you of two sets of pairs.

3 A. [10:17:37] Yes.

4 Q. [10:17:39] Finally on this topic of call tables, just a question in relation to the call
5 tables that the Yekatom Defence showed you yesterday.

6 I understand that you had a chance to look at the call tables they provided the night
7 before your testimony yesterday.

8 A. [10:17:55] Indeed.

9 Q. [10:18:00] But can you confirm that you were not asked to actually verify the
10 data presented in the call tables by reference to the underlying CDR?

11 A. [10:18:07] No, I was not.

12 Q. [10:18:13] And that you, in fact, did not perform that verification of your own
13 accord, let's say?

14 A. [10:18:24] No, I did not.

15 PRESIDING JUDGE SCHMITT: [10:18:27] Well, we expect a lot from the expert.
16 We should not overdo it.

17 MS HENDERSON: [10:18:31] I'm not suggesting that was expected.

18 Q. [10:18:35] Just one very quick separate topic about data integrity.

19 I want to take you to something that you said on your first day of testimony.

20 For the record, transcript 270, time stamp 10:32:09.

21 In answer to a question from Mr Knoops about data integrity, you said this:

22 "In smaller datasets, [...] it is perhaps harder to show that integrity. In larger datasets,
23 certainly you can get a feel of whether they appear to be what they purport to be."

24 My question is, what did you mean by this? Why would it be easier to get an idea of
25 data integrity in larger datasets?

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1 A. [10:19:22] In considering a larger dataset, anomalies are that much more
2 apparent. If you only have a few lines of data, you can't build up a picture, an
3 understanding of that particular CDR and what it is portraying.
4 So a larger dataset is just easier to understand because you have much more
5 information. Any -- any information that you see that perhaps doesn't quite make
6 sense, you have lots of other opportunities then to see if that is repeated and that can
7 help build towards an explanation of it.

8 Q. [10:20:17] So you're referring there to anomalies or potential issues which may
9 be explained by reference to other data within the set.

10 On the flip side of that, is it also possible that the volume of data may provide data
11 that reinforces itself, so to speak?

12 A. [10:20:44] Reinforces itself in what sense are you thinking?

13 Q. [10:20:50] Perhaps it's helpful if I put an example that -- and we've seen this in
14 the previous days, that in a larger dataset you may see two sides of the same call, for
15 example.

16 A. [10:21:01] Yes.

17 Q. [10:21:03] As one example. Would you agree that in that sense, in a larger
18 dataset you also have more opportunity for the data to reinforce itself?

19 PRESIDING JUDGE SCHMITT: [10:21:23] Mr Knoops.

20 MR KNOOPS: [10:21:24] Mr President, I think this question is rather vague because
21 it would concern also specification what type of analysis the witness is being asked --
22 is it about a user's profile, is it about attribution, is it about --

23 PRESIDING JUDGE SCHMITT: [10:21:47] Now, Mr Knoops, but -- well, the --

24 Mr Brown, I will not say took an issue, but asked rightfully, What do you mean by
25 "reinforce". And you have now given an example.

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1 So I would ask: Mr Brown, does this example help you to understand what
2 Ms Henderson means by "reinforce"; and if this is so, can you answer the question?

3 MR WITNESS: [10:22:09] Let me try this answer and counsel can decide if it's
4 enough.

5 Certainly, if there is an aspect of analysis that I have been asked to consider, a larger
6 dataset, I would think, might give me many examples of that. So the issue, therefore,
7 might become reinforced by that repetition within a large dataset.

8 I was originally thinking of the two lines of data that we -- we looked at previously,
9 where in a large dataset I may be able to see that that 11-second calls might, for
10 instance, come up many times in two lines and I would then be able to seek an answer
11 as to why that might be.

12 PRESIDING JUDGE SCHMITT: [10:23:08] Really, very basic and formulated by
13 a layperson, is this some sort of where you have a lot of data, a negative pattern
14 recognition, in a sense? I think you understand what I mean.

15 MR WITNESS: [10:23:20] Indeed, pattern recognition becomes a lot simpler the more
16 data you have.

17 PRESIDING JUDGE SCHMITT: [10:23:26] Yes, okay. Thank you.

18 And also in a -- by what I mean by "negative", is patterns which could show us or
19 indicate that something is amiss also.

20 MR WITNESS: [10:23:36] Indeed.

21 PRESIDING JUDGE SCHMITT: [10:23:37] Thank you.

22 Ms Henderson.

23 MS HENDERSON: [10:23:42]

24 Q. [10:23:43] Mr Brown, I have two more topics. Both involve asking you to
25 comment on aspects of one raw CDR.

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1 If I could ask the court officer -- well, actually, firstly, before I ask for it to be brought
2 up, I'll start with some initial questions.

3 You were asked on Wednesday about calls that divert to another number - that was
4 questioning by Mr Knoops - and what that might look like in CDR. So that's at
5 transcript reference 271, around 10:50. And that was in relation to something you
6 said in your report at paragraph 4.1.3.

7 Now you said in your answer to Mr Knoops -- I'll let you orientate yourself firstly,
8 Mr Brown.

9 A. [10:24:44] Yes, thank you.

10 Q. [10:25:08] Sorry, Mr Brown, you're ready but I'm not.

11 You said in your testimony on Wednesday about what a divergent call might look
12 like, that you may be able to see the C number - the letter C number, I think - in the
13 CDR?

14 A. [10:25:28] That's correct.

15 Q. [10:25:28] Can you firstly explain what you mean by a "C number"?

16 A. [10:25:34] Most people are probably unaware that if they have a diversion
17 service available to them on their mobile phone, what the network is technically
18 doing is transferring their number to a second phone number.

19 So all of us think we have a phone number, but in fact we probably have a second
20 number which is your message number. And your message number will show up in
21 the CDRs of some network operators. I should say, usually in a separate column.

22 Q. [10:26:24] Can you explain a little bit further that relationship between
23 a person's phone number and their -- what did you call it, I'm sorry, the diverted
24 phone number or the second phone number?

25 A. [10:26:38] The C number. Yes, so if somebody calls me and I do not answer,

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1 that call would be diverted because that's a functionality that I have allowed within
2 my phone. Of course, I can turn my phone off and that will happen also, or I can
3 actually make settings within the phone that all calls are automatically diverted.
4 Technically, the network is aware of that. If they know I wish my calls to be
5 diverted, then they simply re-route the call to that -- my other number, my voicemail
6 number in those circumstances.

7 Q. [10:27:30] In terms of diversion, would it also be the case that I could set up my
8 phone -- my mobile phone to divert calls to another number, say, of a friend if I know
9 I'm going to be unavailable during a certain period?

10 A. [10:27:50] Whilst I don't have extensive experience on that topic, within the UK
11 the networks do not want to do that because they are carrying the cost of diverting
12 that call. So it is theoretically possible on networks to do that and, indeed, some do
13 allow it. I can't comment as to how common that is allowed or not.

14 Q. [10:28:26] I take it from your answer that you don't know if that's a common,
15 let's say, network feature or allowance in the context of the Central African Republic;
16 is that right?

17 A. [10:28:38] Correct.

18 Q. [10:28:43] And still talking generally in terms of diverted number scenarios, if I
19 call an emergency services number, for example, is there a diversion at play there as
20 well?

21 A. [10:29:00] I would not expect there to be. It's not something I've ever
22 considered previously. I would think that would be a direct connection to the
23 emergency service you wish to contact.
24 Of course, I can't say that the emergency service themselves then has some system for
25 distributing the calls, which you might think of as a diversion, but effectively I would

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1 expect the network to route -- route the call directly to the service.

2 Q. [10:29:45] And in terms of how the C number might be represented in CDR, is
3 one possible way that there would be a specific column for the C number?

4 A. [10:29:58] Yes. So in my experience, certainly one of the networks or two of the
5 networks in the UK provide an additional column to show that, diverted numbers.
6 Others do put it in the called-party column on a second line of data. So they show
7 the first line of the -- if you might call it the "attempted contact", and then a second
8 line showing the re-routing to the divert number.

9 Q. [10:30:33] If we are talking about a format of their being a dedicated column for
10 the C number, where there's no diversion for a given call, you would expect to see
11 that column unpopulated, wouldn't you?

12 A. [10:30:54] Yes, is the short answer.

13 Q. [10:31:03] And conversely, when the column is populated for an outgoing call,
14 this may indicate a diversion?

15 A. [10:31:12] Yes, indeed.

16 Q. [10:31:17] Mr Brown, the Ngaissona Defence in their instructions provided you
17 with a handful of CDR -- asked you questions about them as reproduced in your
18 report. Can I just confirm that they never asked you to look at those CDR to attempt
19 to identify possible instances of diversion?

20 A. [10:31:41] No, I don't think I was asked that specific question.

21 Q. [10:31:48] Now I would like to bring up a CDR to show you. For the court officer,
22 it's at Ngaissona Defence tab 8, and the evidence number is CAR-OTP-2054-1479.
23 And I would first ask for it to be brought up so we can see the row 1 headings.
24 That's actually perfect as it is, thank you, because I can see the row 1 headings there.
25 Mr Brown, do you see that CDR?

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1 A. [10:32:37] Yes, I do. Thank you.

2 Q. [10:32:40] Now, first looking at the row 1 headings, I would ask you to note the
3 following columns: You have C, column C showing number of origin?

4 A. [10:32:55] Yes.

5 Q. [10:32:56] I'm translating that from the French. And D, showing number of
6 destination?

7 A. [10:33:04] Yes.

8 Q. [10:33:04] For column F, could I ask the court officer to expand that field so that
9 we can see the full heading, please.

10 And you can see there in English, complementary number?

11 A. [10:33:23] Yes.

12 MS HENDERSON: [10:33:26] Your Honour, I think there might have been in my
13 error in my communication to the court officer on my part. I'd actually like to show
14 a different row from the one being displayed. What I would like to show is 11081.
15 My apologies.

16 PRESIDING JUDGE SCHMITT: [10:33:54] But the headings are fine.

17 MS HENDERSON: [10:33:57] Yes, we've covered the headings, it's just a different
18 row that I would ask to be scrolled down to.

19 PRESIDING JUDGE SCHMITT: [10:34:29] Which number was it?

20 MS HENDERSON: [10:34:31] It is row 11081.

21 PRESIDING JUDGE SCHMITT: [10:35:07] I think now it appears.

22 MS HENDERSON: [10:35:12] Thank you, yes, that's sufficient how it is, thank you.
23 Yes. Perhaps if the court officer could just put the cursor over one of those fields,
24 even in column A, so we know exactly what we are looking at. 11081. Thank you
25 very much.

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1 Q. [10:35:38] Now, Mr Brown, you can see that up at row 11081, can you?

2 A. [10:35:41] I can.

3 Q. [10:35:43] Thank you. So you would observe that from the B column, we see
4 the words "OC", which would indicate an outgoing call; correct?

5 A. [10:35:53] Yes.

6 Q. [10:35:54] We see a number in the C column, the number of origin column,
7 starting with 72?

8 A. [10:36:03] Yes.

9 Q. [10:36:03] Which I think I can tell you from the court records denotes a number
10 of the Central African provider, Orange?

11 A. [10:36:12] Okay.

12 Q. [10:36:12] In the D column, the number of destination, we see a triple digit
13 number. Do you see that?

14 A. [10:36:23] I do, 116.

15 Q. [10:36:25] Yes. And in the F column, the complementary number column we
16 see another number, starting with the 72 prefix. Do you see that there?

17 A. [10:36:36] Yes.

18 Q. [10:36:38] Mr Brown, noting these features, is it your view that this row may
19 indicate a call from the calling number to a triple digit number that is diverted to
20 a third number?

21 A. [10:36:55] Yes, that would be my first thought on the subject.

22 Q. [10:37:05] What features do you have regard to when you say that?

23 A. [10:37:08] The fact that we have a complementary number shown in the column
24 F.

25 Q. [10:37:21] I want to move on to my last topic with you, Mr Brown, you'll be

1 pleased to know.

2 It's using this same CDR, but we will go up. Before I do that though, I will just
3 situate you in terms of your report. This is the question on IMSI and IMEI at part
4 5.2.6 of your report, where the Ngaissona Defence points out to you what they call an
5 anomaly that they have identified in a portion of the CDR extract.

6 A. [10:38:10] Yes.

7 Q. [10:38:11] In relation to the IMSI and IMEI numbers -- I always struggle.

8 A. [10:38:19] Yes.

9 Q. [10:38:20] And they are particularly asking you to look at rows 49 to 419.

10 A. [10:38:25] Yes.

11 Q. [10:38:26] Okay. Before we look at that extract together, I just want to quickly
12 confirm what an IMSI is and how it works. Could you tell us in brief terms, please?

13 A. [10:38:37] Of course, it is the International Mobile Subscriber Identity.

14 Q. [10:38:46] And I understand from your glossary and your annexes that that is
15 a number used by the SIM card to identify itself to the network; is that correct?

16 A. [10:38:57] In simple terms, yes.

17 Q. [10:38:58] Which is, in turn, the number related to the customer's telephone
18 number.

19 A. [10:39:05] Correct.

20 Q. [10:39:06] Is that right?

21 A. [10:39:07] Correct.

22 Q. [10:39:08] So each physical SIM card used has a specific identification number,
23 that is, the IMSI, and it also has a telephone number associated to it; is that right?

24 A. [10:39:14] Correct.

25 Q. [10:39:17] So as such there is a relationship between a certain IMSI and the

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1 associated telephone number, right?

2 A. [10:39:25] Yes.

3 Q. [10:39:27] In other words, if I see my telephone number coming up in the data, I
4 would also expect to see the IMSI associated with it?

5 A. [10:39:35] Yes, that's not always provided but, yes, it can be.

6 Q. [10:39:42] And if I've requested CDR for a certain target phone number, it also
7 wouldn't be unusual to see the same IMSI appearing in some kind of dedicated IMSI
8 column, right?

9 A. [10:39:55] Indeed, it might be.

10 Q. [10:39:57] It would be unusual or not?

11 A. [10:40:01] To -- to see that data?

12 Q. [10:40:03] Yes?

13 A. [10:40:06] Of the call data records I see on a daily basis, only one of the networks
14 regularly provides that information. I'm sure the others could if it was requested.
15 It's not normally necessary.

16 Q. [10:40:24] If an IMSI column is present, and I've requested CDR for a certain
17 target phone number, I would expect to see the same IMSI appearing in that
18 dedicated IMSI column, wouldn't I?

19 A. [10:40:41] Yes, there are circumstances where it can change. If a subscriber
20 ceases their subscription to the network, the network will recycle that number. It
21 maybe in as little as two or three weeks, more usually, a bit longer. So if there was
22 a gap in the records with a change of IMSI number between either side of that gap,
23 then I would consider that that is probably what has happened.

24 Q. [10:41:16] Again I'm perhaps being a bit abstract, so let's go to the CDR. So for
25 the record it's Ngaissona tab 8, CAR-OTP-2054-1479.

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1 And I would ask the court officer to first just bring up the initial rows so that we can
2 see them to situate us.

3 Mr Brown, you have seen this before?

4 A. [10:41:52] I have.

5 Q. [10:41:54] And then if we go down to the rows that the Defence asked you to
6 look at; so starting from row 49, please.

7 PRESIDING JUDGE SCHMITT: [10:42:23] We are there.

8 MS HENDERSON: [10:42:25] And could I ask the court officer to expand the "I"
9 column, the IMSI column, so that we can see the numbers that appear there, please.

10 Q. [10:42:59] Right, Mr Brown, I think you have previously observed when looking
11 at this, that from rows 49 downwards, you see a phone number ending in 01 that
12 shows up for each row in either the C column or the D column?

13 A. [10:43:19] Yes.

14 Q. [10:43:21] Just for the record that being the number of origin column and the
15 number of destination column.

16 A. [10:43:29] Yes.

17 Q. [10:43:30] Now in the E column, the user name translating from the French
18 column, the name of one individual appears at each populated row. Is that right?

19 A. [10:43:46] Yes, I see that.

20 Q. [10:43:49] And in the IMSI column, if I could ask the court officer perhaps to
21 click on cell "I" 49, yes? Yes. "I". Okay, thank you. Yes, that's sufficient.

22 It's a phenomenon that you discussed on another day of your testimony where we
23 have the E showing up --

24 A. [10:44:20] Yes.

25 Q. [10:44:20] -- but indeed you can see that there is the same IMSI number ending

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1 in 37 at each populated row in that column?

2 A. [10:44:33] I would assume these are all the same. If we could just format this
3 column. If I could assist, if you right click on the "I" at the head of that column, click
4 on format cells near the bottom. Click on number in the category. And take the
5 decimal places down by 2 -- that's it. Down, down to zero. And press okay.

6 Thank you.

7 Yes, I can obviously now see that they are all the same.

8 Q. [10:45:15] Thank you, Mr Brown. It's an education for all of us.

9 PRESIDING JUDGE SCHMITT: [10:45:19] And thank you to the court usher, that
10 was quick. I would have become nervous actually if I were -- but thank you very
11 much.

12 MS HENDERSON: [10:45:30] I was thinking the same, I'm very grateful for the
13 quick reflexes.

14 Q. [10:45:36] So these factors that I have pointed to, Mr Brown, about the number
15 of origin, the number of destination, the user name, the IMSI, this would all indicate
16 to you that we are looking for these rows - at least, at the CDR - for one target number
17 ending 01?

18 A. [10:45:56] Yes.

19 Q. [10:45:59] And from your previous commentary in court on this document,
20 where you said that it's for multiple target numbers, the whole CDR is for multiple
21 target numbers --

22 A. [10:46:13] Yes, I believe it is.

23 Q. [10:46:14] -- but what we're -- if you can confirm what we're looking at between
24 the rows you were asked to look at, 49 and 419, is the target CDR for one target
25 number?

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1 A. [10:46:27] Yes, what we can see at the moment is for the 101 number.

2 Q. [10:46:33] Just as an aside, that -- this is an example of one of the ways of
3 displaying multi-target CDR. The second way, as I referred to it, where you see it in
4 the blocks by target number; is that right?

5 A. [10:46:47] I believe this is blocks by target number, is it not?

6 Q. [10:46:53] Yes. Thank you for confirming that.

7 Just one moment.

8 So given that we're looking between these rows for the target number -- for one single
9 target number, you would actually expect the same IMSI to appear each time
10 irrespective of whether the calls are incoming or outgoing, wouldn't you?

11 A. [10:47:34] Yes, I would.

12 Q. [10:47:35] And therefore you would agree, I think, that there is no anomaly in
13 these rows in relation to the IMSI?

14 A. [10:47:42] I agree. Although, we do have the one IMSI exception on row 54,
15 where there's no IMSI recorded, but otherwise there is consistency.

16 Q. [10:47:59] Yes, thank you for pointing that out.

17 So that was on the IMSI, and the Defence instructions also asked you about the IMEI,
18 which I will just address now as well.

19 You already defined an IMEI for us yesterday in terms of it being a number that
20 identifies a handset?

21 A. [10:48:29] Yes.

22 Q. [10:48:30] So in effect the same way that an IMSI refers to a SIM card, an IMEI
23 refers to a handset?

24 A. [10:48:42] It does.

25 Q. [10:48:42] Now if we can look at the CDR again, but at this time the "J" column.

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1 And if we can expand that, and I'm afraid we might need to do the same formatting
2 exercise.

3 Are you able to talk us through again, Mr Brown.

4 A. [10:49:06] Yes. A right click on the "J", format cells, number, digits down by
5 two. Perfect, thank you.

6 PRESIDING JUDGE SCHMITT: [10:49:15] Well, that's incredibly quick.

7 MR WITNESS: [10:49:19] And then expand the column.

8 PRESIDING JUDGE SCHMITT: [10:49:25] Thank you very much.

9 MS HENDERSON: [10:49:30]

10 Q. [10:49:30] Now, Mr Brown, you can see that for each populated row of the "J"
11 column --

12 A. [10:49:38] Yes.

13 Q. [10:49:39] -- a number ending in 30 appears.

14 A. [10:49:42] Yes.

15 Q. [10:49:44] You can also see two instances of a zero appearing much as you
16 commented in relation to the IMSI?

17 A. [10:49:50] Indeed.

18 Q. [10:49:53] Now this would indicate to you that the same handset -- the one
19 bearing the IMEI ending 30 is being used by the target number in all calls, wouldn't
20 it?

21 A. [10:50:07] Yes, in all calls for the rows that we can see here.

22 Q. [10:50:11] Yes, certainly, and the parties and those in the courtroom can check
23 that that's indeed the case throughout the rows down to 419.

24 PRESIDING JUDGE SCHMITT: [10:50:19] We have understood that, that we can --
25 we will not go down to 400 and something.

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1 MS HENDERSON: [10:50:25] I think we all appreciate that, your Honour.

2 Q. [10:50:28] So unless -- of course, unless the user is switching the SIM card
3 between handsets, you would actually expect to see the same IMEI appearing in each
4 row, wouldn't you?

5 A. [10:50:42] You would.

6 Q. [10:50:43] And you would therefore agree with me that there is no anomaly in
7 relation to the IMEI discernible for these rows?

8 A. [10:50:56] No, there isn't.

9 MS HENDERSON: [10:50:59] Your Honours, if I can just have a moment to confer
10 with my colleagues, please.

11 PRESIDING JUDGE SCHMITT: [10:51:09] Of course.

12 (Counsel confers)

13 MS HENDERSON: [10:51:22]

14 Q. [10:51:23] Mr Brown, thank you very much. That concludes my examination.
15 Thank you, Mr President.

16 PRESIDING JUDGE SCHMITT: [10:51:30] Thank you, Ms Henderson. Mr Knoops?

17 MR KNOOPS: [10:51:36] Mr President, we would ask leave of the Court could to use
18 the break to consider whether we have any questions for re-examination.

19 PRESIDING JUDGE SCHMITT: [10:51:44] Yes, that's fine with us. Then let's have
20 the break until 11.30.

21 MR KNOOPS: [10:51:49] Thank you.

22 THE COURT USHER: [10:51:50] All rise.

23 (Recess taken at 10.51 a.m.)

24 (Upon resuming in open session at 11.32 a.m.)

25 THE COURT USHER: [11:32:54] All rise.

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1 Please be seated.

2 PRESIDING JUDGE SCHMITT: [11:33:19] Mr Knoops, do you have further
3 questions?

4 MR KNOOPS: [11:33:25] Yes, Mr President. The examination gave rise to some
5 questions.

6 PRESIDING JUDGE SCHMITT: [11:33:30] Absolutely, no problem.

7 MR KNOOPS: [11:33:31] A few will be asked by my colleague Mr Rowse, and I will
8 conclude with two questions and we will try to wrap it up in 15, 20 minutes.

9 PRESIDING JUDGE SCHMITT: [11:33:41] Okay.

10 Mr Rowse first, please.

11 QUESTIONED BY MR ROWSE:

12 Q. [11:33:47] Good morning, Mr Brown.

13 A. [11:33:48] Good morning.

14 Q. [11:33:49] Before the break, at 10:20:17 my colleague was asking you about how
15 call data records can be self-reinforcing as a body.

16 A. [11:34:03] Yes.

17 Q. [11:34:06] And my first question to you is this process of self-reinforcing is not
18 simply a matter of opening several of them and confirming that they look similar, is
19 it?

20 A. [11:34:21] I think we were discussing about that self-reinforcement within a
21 single CDR but, of course, it's a possibility to understand a CDR by looking at other
22 CDRs from the same network provider to see if the same issue is common to that
23 provider. So either are possible.

24 Q. [11:34:52] And when looking at these broader corpus of CDRs from a provider,
25 the larger that body of material is the more it may be required to conduct statistical

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1 analysis, which I think you've mentioned previously?

2 A. [11:35:23] If statistical analysis is required, there is obviously a -- perhaps a
3 minimum threshold of data that you require. It's possible on a small dataset, but is
4 clearly less valid than it would be for a larger dataset.

5 Q. [11:35:41] And we have spoken about patterns and negative patterns. Those
6 might only emerge at that stage of analysing, in some cases, millions of records?

7 A. [11:35:54] Yes, it might not be obvious until you did that analysis.

8 Q. [11:35:59] Thank you. The second point I would like to move on to also was
9 raised before the break and it concerns the repeatability of, my colleague described it
10 as, analysis products. This process, of course, at a very small scale, may be relatively
11 simple to describe, but during the course of this week you've described - and my
12 colleagues have raised with you as well - examples of renaming headers and
13 separating out columns. These are all steps which are involved in the processing of
14 that information?

15 A. [11:36:55] Indeed, they may all be necessary.

16 Q. [11:36:57] And --

17 PRESIDING JUDGE SCHMITT: [11:37:00] Ms Henderson.

18 MS HENDERSON: [11:37:02] Your Honour, my question -- my objection is that this
19 simply doesn't arise from my examination. This could have been asked at first
20 instance.

21 PRESIDING JUDGE SCHMITT: [11:37:08] Well, yeah, at least with regard to the last
22 question, Ms Henderson is right, so I would ask you -- I don't have a problem,
23 because Mr Brown has answered it, but please refrain yourself to questions that arose
24 from the examination by Ms Henderson.

25 MR ROWSE: [11:37:28] Yes.

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1 Q. [11:37:31] So, the call sequence tables are not -- sorry, when you refer in 1.2.5,
2 that the products created for Prosecution must be repeatable, we are not talking about
3 the call -- when you say "repeatable", it's not merely a presentation of that product,
4 but also a description of the process?

5 PRESIDING JUDGE SCHMITT: [11:37:53] Ms Henderson, you mentioned 1.2.5 and I
6 allow the question.

7 THE WITNESS: [11:38:04] I was intending to describe that I would wish to
8 undertake the processes that I use and to then find I have a product identical to that
9 that I am wishing to consider.
10 It's often the case that I'm not told what process the other party may have used, but if
11 I can get to that same result, I don't really mind how they've done it, as long as I can
12 repeat a process to get a matching product.

13 MR ROWSE: [11:38:48]

14 Q. [11:38:51] Thank you for that. I would now like to move on to the item -- sorry,
15 tab 8, Defence tab 8, which is CAR-OTP-2054-1479, and I would like to draw your
16 attention to column F. There it reads "complementary number", as my colleague
17 described earlier on.

18 A. [11:39:26] Yes.

19 Q. [11:39:27] And throughout this week we've been translating, as we do in a
20 bilingual court, between French to English, for columns, for example C and D.

21 A. [11:39:41] Yes.

22 Q. [11:39:52] Is the -- could this, the fact that this column is in English, be an
23 indication that there was a human involved in the production of this CDR -- that is to
24 say, it wasn't extracted automatically?

25 PRESIDING JUDGE SCHMITT: [11:40:08] Ms Henderson, actually this question I

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1 asked myself, but I didn't ask it.

2 So, Mr Brown, is there -- because it's -- if you look at it, it strikes that "any other" is in
3 the French language, of course IMEI - well, okay - but "*secondes*" G, H "*secondes*", and
4 the "complementary number" is the only one in English. Would that tell you
5 anything? Let me put it this way: Would that tell you anything?

6 THE WITNESS: [11:40:38] It is quite obviously an oddity that this one appears to be
7 in English. I have no reason to think the data might have been added at a later stage,
8 the title may have been, or just may be an oddity within the database, that that's what
9 they happened to have called it. I can't tell.

10 PRESIDING JUDGE SCHMITT: [11:41:05] Thank you. Ms Rowse.

11 MR ROWSE: [11:41:07] Thank you.

12 Q. [11:41:08] My final question on the CDR, and then I will give the floor to
13 Mr Knoop, is: In this database, I haven't been able to -- well, earlier on you had said
14 that you would expect to see an IMSI number and an IMEI number for each record
15 where there is a subject or target number request, and I very quickly -- there are
16 -- there are quite some records where we have no IMEI number or no IMSI number
17 for communications or rows within that CDR that appear to come from the same
18 provider. Would that -- what would that be an indication of?

19 A. [11:41:56] I did speculate that this particular CDR may have been created by
20 adding together a number of CDRs, in which case that would explain why one of
21 those extracts that was added in did not include the IMSI and the IMEI. So that is
22 one possibility, and the other is -- I think we looked at some of the early numbers,
23 certainly, that did not include the IMSI and IMEI. It may be there's another technical
24 explanation as to why those were not recorded against that number. Either is
25 possible.

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1 MR ROWSE: [11:42:48] Thank you.

2 PRESIDING JUDGE SCHMITT: [11:42:51] Thank you, Mr Rowse. Mr Knoops.

3 QUESTIONED BY MR KNOOPS:

4 MR KNOOPS: [11:42:54] Thank you, Mr President.

5 Q. [11:42:56] Mr Rowse, I have two questions which arose from the examination by
6 the Prosecution.

7 First, the question was put to you in the abstract on transcript page 19, line 6, if all the
8 raw data were provided, would this allow the Defence to identify any errors or
9 ambiguities in the call tables and bring them to the attention of the Court.

10 Your answer was "yes", yet the question, as mentioned, was put in the abstract, and
11 my question would be the same to you as the Prosecution asked you, but now with a
12 specific context on this case. For this we have to look again at tab 5 of the Defence
13 binder, CAR-D30-0018-0068, at 0071.

14 This page was also shown to you yesterday, Mr Brown, but now with another figure
15 which was not presented to you yet, but arose from the examination. If you would
16 be so kind to look at paragraph 2.2 under the table with the PDF, TXT, CSV, et cetera.
17 Do you see the line?

18 PRESIDING JUDGE SCHMITT: [11:44:26] I think a little bit down. I think you're
19 referring to this figure, long --

20 MR KNOOPS: [11:44:33] "Through this process".

21 PRESIDING JUDGE SCHMITT: [11:44:35] Exactly. A little bit further down. Stop,
22 please.

23 MR KNOOPS: [11:44:38]

24 Q. [11:44:38] Mr Brown, the line:

25 "Through this process, 14,593,141 records were imported into a single format and

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1 entered into the SQLite database".

2 A. [11:44:56] Yes.

3 Q. [11:44:57] First of all, do I understand it correctly, Mr Brown, that if we speak
4 about 14,593,141 records, we speak about rows, correct?

5 A. [11:45:11] Yes.

6 PRESIDING JUDGE SCHMITT: [11:45:11] Ms Henderson.

7 MS HENDERSON: [11:45:13] Mr President, my objection is similar to an objection I
8 made, I believe, on the first day of testimony about the use of the dataset that this
9 author was commenting on as opposed to, one, what this witness may have seen --

10 PRESIDING JUDGE SCHMITT: [11:45:29] I would have asked that.

11 MS HENDERSON: [11:45:31] -- and, additionally, more importantly, what the
12 Prosecution is relying on in this call sequence table.

13 PRESIDING JUDGE SCHMITT: [11:45:38] Yes, yes. First of all, the question is what
14 do you make out of this figure, the 14,593,000-odd number? This is quite a lot to put
15 it this way, as a layperson?

16 THE WITNESS: [11:45:55] Yes. Certainly not the largest set of data records I've
17 seen, but a very large number.

18 PRESIDING JUDGE SCHMITT: [11:46:05] And then what Ms Henderson is alluding
19 at, and I think we had that indeed on the first day already, the Prosecution, or in
20 another context, the Defence, now in the abstract, would not rely on all these, let's say,
21 15 -- roughly 14.5 million, 15 million records. So would this -- so they would
22 indicate on which of these records they would want to rely upon. So would this,
23 let's say, change a little bit the picture with regard to the ability to process it and to
24 verify if and to cross-check, whatsoever?

25 THE WITNESS: [11:46:59] Yes, of course, and it would depend on the definition of

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1 the task that I was asked to undertake, as to whether I needed only a small part of
2 those records or a larger part.

3 PRESIDING JUDGE SCHMITT: [11:47:08] I understand, thank you very much.
4 Mr Knoops.

5 MR KNOOPS: [11:47:10] Mr President, I think the question to the expert is still
6 important, because it's not about what the Prosecution is relying upon, it's about what
7 is disclosed, and also the Defence has to digest the material.

8 PRESIDING JUDGE SCHMITT: [11:47:32] Absolutely. Mr Knoops --

9 MR KNOOPS: [11:47:35] So the 14.5 million --

10 PRESIDING JUDGE SCHMITT: [11:47:37] I understand that, but we have to get the
11 full picture.

12 MR KNOOPS: [11:47:40] Of course.

13 PRESIDING JUDGE SCHMITT: [11:47:41] And, as you may have recognised, I did
14 not, let's say, sustain the objection by Ms Henderson, so the question is absolutely fine,
15 to put this figure to him, and then we have also to put it into relation perhaps with
16 other things, like always.

17 MR KNOOPS: [11:48:01] Yes.

18 Q. [11:48:01] Now, my question to you, Mr Brown, bearing in mind this figure
19 which is based on 47 CDRs, bearing in mind the figure that in this case 715 CDRs are
20 disclosed - we are not speaking about what the Prosecution is relying upon, it's about
21 what is given to the Defence with the apparent task the Prosecution imposes on the
22 Defence that we have to identify any errors, that this burden is on the Defence - my
23 question to you is, based on your experience in UK cases and beyond, is it, from your
24 professional opinion, realistic that a Defence counsel is able and competent to identify
25 errors in 14.5 million records and rows based on 47 CDRs in a case where, in total, 715

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1 CDRs are disclosed? So how realistic is this if you compare to your cases in the UK?

2 And I also mentioned in the first day of examination the R. v. Iqbal case of 2008 where
3 you were able to digest the integrity of CDRs as an expert for the Court of Appeal.

4 A. [11:49:28] Clearly, to assess this quantity of records, I would not think to attempt
5 to verify the accuracy of every single one. I would recommend that some extensive
6 sampling be undertaken. So, looking at what we have here, I would for each of the
7 file types I see wish to repeat the processing of each of those file types and then
8 compare my results with those that were in this, let me call it, master database that
9 had been created.

10 Certainly that, for me, is not a technically difficult task, simply because I'm familiar
11 with these materials and what to do with them. I think any counsel or team
12 members wishing to try and undertake the same record, they may or may not have
13 the necessary skills. Certainly it should not be undertaken lightly. I have to say,
14 they may need additional support with the technical aspects of checking that quantity
15 of total records.

16 Q. [11:51:04] Well, it suits that you're quite diplomatic in your answer, Mr Brown,
17 but in terms of realistic, "yes" or "no"?

18 PRESIDING JUDGE SCHMITT: [11:51:15] He cannot -- please, Mr Knoops, don't try
19 to force the witness to answer "yes" or "no", because when we talk about figures -- if
20 you put to the witness 500 million, yes or no, if it's 10 million, five million, and again
21 we have also talked about that, of course, it's clear, everything has been disclosed, this
22 14.5 million, but there are also indications on the record with regard to what the
23 Prosecution presents as evidence, that they will not rely on every of these 14.5 million
24 records.

25 MR KNOOPS: [11:51:58] Mr President is also familiar with exculpatory evidence,

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1 which might be included in the 14.5 million.

2 PRESIDING JUDGE SCHMITT: [11:52:04] Absolutely. Absolutely.

3 I understand that, yes.

4 Ms Henderson, but very shortly. No discussion, please, about the evidence. We
5 have an expert here. Yes.

6 MS HENDERSON: [11:52:13] It's a quick observation that the Chamber is aware that
7 there are -- there was an exception to disclosure for ongoing investigations, as a result
8 of which certain lines were deleted that were provided, and indeed that there might
9 be some CDR that the Prosecution has in its possession as well, that, you know, it
10 might not be that the numbers actually here --

11 PRESIDING JUDGE SCHMITT: [11:52:38] Well --

12 MS HENDERSON: [11:52:40] -- are relevant to what the Defence has received.

13 PRESIDING JUDGE SCHMITT: [11:52:42] Yes, but this is what I want to avoid here
14 at this stage, that we are discussing this now. I revert back to Mr Brown.

15 So, Mr Brown, would you want to add something in that regard?

16 THE WITNESS: [11:52:55] The only thing that occurs to me I haven't mentioned is
17 that to carry out that checking process, I would need access to that master database,
18 or a certified copy of that master database so that I could comment on its accuracy.

19 PRESIDING JUDGE SCHMITT: [11:53:14] Thank you very much. Mr Knoops.

20 MR KNOOPS: [11:53:17]

21 Q. [11:53:18] Final question, Mr Brown: In the same context, your evidence this
22 morning, based on questions of the Prosecution, was on transcript page 18, line 22,
23 that if the volume of data increases, they are more prone to error of the degree of
24 manual activity required.

25 Now, bearing in mind the figures we just presented to you, based partially on the

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1 Swiss report, tab 5, and the figure we put to you, the 715 CDRs, of which 668 were not
2 examined at all by a forensic expert, could your qualification you gave this morning
3 of "more prone" differ in terms of degree of risks of and for errors, based on your
4 experience with all your UK cases and beyond?

5 PRESIDING JUDGE SCHMITT: [11:54:29] Ms Henderson.

6 MS HENDERSON: [11:54:30] I'd ask that Mr Knoops cites the exact statement that
7 the witness made, rather than summarise it.

8 PRESIDING JUDGE SCHMITT: [11:54:37] Well, that would indeed be helpful in that
9 regard, I believe. We have enough time. Mr Knoops, please, with the help of
10 Mr Rowse, perhaps you can --

11 MR KNOOPS: [11:54:48] It's page 18.

12 PRESIDING JUDGE SCHMITT: [11:54:49] Please cite it word by word.

13 MR KNOOPS: [11:55:03] Yes. I have here in my notes page 18, line 22 of the
14 real-time. No, sorry, it's page 19, line 4 till 7:

15 "Without those tools it can be done but I would consider it a slow, laborious process
16 and possibly more prone to error because of the degree of the manual activity
17 required."

18 PRESIDING JUDGE SCHMITT: [11:56:13] I actually recall that, yes. I think it's
19 indeed better to have it word by word, your answer.

20 MR KNOOPS: [11:56:20]

21 Q. [11:56:20] So, Mr Brown, I don't have to repeat my question, I think you will
22 remember it still.

23 A. [11:56:27] I think you wanted me to comment in the light of the number of
24 records we are considering here. Clearly, this is a very large number of records.
25 We can see that at least five different file types needed to be used. Each were

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1 requiring different processes. Somebody not familiar with those processes would
2 inevitably be more likely to make mistakes. Certainly when I have -- I have made
3 many of these mistakes in the past as I learnt to use these different formats. Clearly,
4 with the large qualification of information here, mistakes are possible, and some sort
5 of verification process would help to eliminate those.

6 Q. [11:57:29] Again, a very diplomatic answer, Mr Brown. I'm used to it from
7 British experts, but I think the message is quite clear.

8 PRESIDING JUDGE SCHMITT: [11:57:33] Yes, yes.

9 MR KNOOPS: [11:57:34] These were my questions, Mr Brown.

10 Thank you.

11 PRESIDING JUDGE SCHMITT: [11:57:37] Ms Henderson, no further comments, I
12 think.

13 Thank you very much, Mr Knoops.

14 This concludes your testimony, Mr Brown. On behalf of the Chamber I would like to
15 thank you for your expert report, the annexes and also the testimony you gave in the
16 past days.

17 You have explained a complex and complicated subject in a way that was always easy
18 to comprehend and, therefore, to understand for us.

19 We thank you for that and we wish you a good trip back home.

20 THE WITNESS: [11:58:09] Thank you very much.

21 (The witness is excused)

22 PRESIDING JUDGE SCHMITT: [11:58:10] This concludes also the hearing for today.
23 It doesn't? Ms Henderson, you have an issue?

24 MS HENDERSON: [11:58:16] It's an issue caused by me, your Honour. The Court
25 Officer alerted me to some ERNs that I didn't give properly this morning, so I just

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- 1 wanted to correct that.
- 2 PRESIDING JUDGE SCHMITT: [11:58:27] Yes, then we rectify that now, yes.
- 3 MS HENDERSON: [11:58:29] So, this morning at 9:41:55 the two ERNs that I should
- 4 have referred to are CAR-OTP-2019-2839 and CAR-OTP-2019-1364. Thank you.
- 5 PRESIDING JUDGE SCHMITT: [11:58:48] Thank you very much.
- 6 This concludes the hearing for today.
- 7 The Court is adjourned.
- 8 (The hearing ends in open session at 11.58 a.m.)