

Trial Hearing
Procedural Matters

(Open Session)

ICC-01/14-01/21

1 International Criminal Court
2 Trial Chamber VI
3 Situation: Central African Republic II
4 In the case of The Prosecutor v. Mahamat Said Abdel Kani - ICC-01/14-01/21
5 Presiding Judge Miatta Maria Samba, Judge Maria del Socorro Flores Liera
6 and Judge Sergio Gerardo Ugalde Godinez
7 Trial Hearing - Courtroom 2
8 Friday, 2 February 2024
9 (The hearing starts in open session at 9.31 a.m.)
10 THE COURT USHER: [9:31:51] All rise. The International Criminal Court is now in
11 session. Please be seated.
12 PRESIDING JUDGE SAMBA: [9:32:21] Good morning, everyone.
13 Madam Court Officer, can you please mention the case.
14 THE COURT OFFICER: [9:32:27] Good morning, Madam President, your Honours.
15 This is the situation in the Central African Republic II, in the case of The Prosecutor
16 versus Mahamat Said Abdel Kani, case reference ICC-01/14-01/21. And for the record,
17 we're in open session.
18 PRESIDING JUDGE SAMBA: [9:32:46] Thank you very much.
19 Can I ask the parties to introduce representation, please, starting with the Prosecution.
20 MS MAKWAIA: [9:32:52] Good morning, your Honours. For the Office of the
21 Prosecutor this morning, myself, Holo Makwaia, senior trial lawyer; Kamran
22 Choudhry, Thomas Bifwoli, trial lawyers; Le Bailly, Brunhild, associate trial lawyer;
23 and Ms Ndagire, assistant legal officer. Thank you.
24 PRESIDING JUDGE SAMBA: [9:33:14] Thank you very much.
25 For the victims, please, Ms Pellet.

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1 MS PELLET: [9:33:17](Interpretation) Thank you, Madam President. The victims are
2 represented by Tars Van Litsenborgh, Caroline Walter, and myself, Sarah Pellet, *
3 Counsel within the Office of Public Counsel for Victims

4 PRESIDING JUDGE SAMBA: [9:33:40] Thank you very much.

5 For the Defence, please, Ms Naouri.

6 MS NAOURI: [9:33:44](Interpretation) Thank you, Madam President. Next to me is
7 Florian François-Jacquemin, and next to him, Capucine Banet. And behind me,
8 Counsel Jacobs, Enora Perrot. And I am Jennifer Naouri, lead counsel for Mr Said.

9 PRESIDING JUDGE SAMBA: [9:34:04] Thank you, Ms Naouri.

10 For the record, I note that Mr Said is in court. A very good morning to you, Mr Said.

11 MR SAID: [9:34:11](Interpretation) Good morning, Madam President.

12 PRESIDING JUDGE SAMBA: [9:34:17] Good morning.

13 Good morning, Mr Witness. I hope you had a restful night.

14 WITNESS: CAR-OTP-P-1289 (On former oath)

15 (The witness speaks French)

16 (The witness gives evidence via video link)

17 THE WITNESS: [9:34:27](Interpretation) Yes, thank you. Good morning. I'm here,
18 Madam President. Good morning.

19 PRESIDING JUDGE SAMBA: [9:34:34] So we're going to continue with your cross-
20 examination. I wish to remind you that you are still on oath to say the truth to the
21 court. I'm also going to ask yourself and Counsel Jacquemin to talk slowly. Wait for
22 counsel to put his questions, and give a few seconds before you answer so that we help
23 the interpreters and so that the record is straight, even for our comprehension, for
24 purposes of reading eventually when we're doing our judgement.

25 So, Mr Jacquemin, and the witness, please be mindful of the five-second rule again.

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- 1 Mr Jacquemin, that's your witness. Continue with your cross-examination. We are in
2 open session, please.
- 3 MR FRANÇOIS-JACQUEMIN: [9:35:35](Interpretation) Thank you, Madam President.
- 4 QUESTIONED BY MR FRANÇOIS-JACQUEMIN: (Interpretation)(Continuing)
- 5 Q. [9:35:48] Good morning, Mr Witness.
- 6 A. [9:35:49] Good morning, counsel.
- 7 MR FRANÇOIS-JACQUEMIN: [9:35:51](Interpretation) Madam President, Court
8 Officer, to continue on my line of questioning from yesterday, I need to go into private
9 session, please.
- 10 PRESIDING JUDGE SAMBA: [9:35:57] Thank you very much.
- 11 Madam Court Officer, can we go into private session, please.
- 12 (Private session at 9.36 a.m.)
- 13 THE COURT OFFICER: [9:36:05] We're in private session, Madam President.
- 14 PRESIDING JUDGE SAMBA: [9:36:07] Thank you.
- 15 Mr Jacquemin, your witness, please.
- 16 MR FRANÇOIS-JACQUEMIN: [9:36:17](Interpretation) Thank you, Madam President.
- 17 Madam Court Officer, I'd like to ask you to display tab 24 of our list, page 26. This is
18 CAR-D33-0014-0022.
- 19 Q. [9:36:39] Mr Witness, we are going to continue and finish some questions on your
20 call history. Tell me when you have in front of you the Excel table with that
21 information, please.
- 22 Do you have that table in front of you, Mr Witness?
- 23 A. [9:37:12] Yes.
- 24 Q. [9:37:16] Thank you very much. So we'll do the same thing as yesterday. We'll go
25 through the columns. Is that okay for you?

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1 A. [9:37:27] Yes.

2 Q. [9:37:30] Thank you very much. The phone number that you can see this time is

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 MR FRANÇOIS-JACQUEMIN: [9:38:11](Interpretation) Madam Court Officer, I'd like

8 you to display tab 34. This is CAR-D33-2075-1284, if you'd be so kind.

9 THE COURT OFFICER: [9:38:39] The ERN specified is for tab 33. Could you just
10 specify which tab you want to pull up.

11 MR FRANÇOIS-JACQUEMIN: [9:38:46](Interpretation) We apologise. We made a
12 mistake. It is, indeed, tab 33 that we would like displayed.

13 Q. [9:39:02] So in order to refresh your memory, Mr Witness --

14 A. [9:39:06] Yes.

15 Q. [9:39:07] (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 MR FRANÇOIS-JACQUEMIN: [9:39:46](Interpretation) Madam Court Officer, I would

22 now like you to display tab 24, D33-00 -- CAR-33-0014-022, at page 27. This is tab 24,

23 CAR-D33-0014-0022. Thank you very much, Madam Court Officer.

24 Q. [9:40:43] Mr Witness, this time the person you are in contact with is (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. [9:41:27] Thank you, Mr Witness. Did you meet this person?

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. [9:42:16] Thank you very much, Mr Witness.

15 MR FRANÇOIS-JACQUEMIN: [9:42:25](Interpretation) Madam Court Officer, * tab 24,

16 CAR-D33-0014-0022, page 29, please.

17 Q. [9:42:56] Mr Witness, this time the person you're in contact with, according to the

18 OTP, is (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted). Do you remember the conversation that you may have had with this

25 person at that time?

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1 A. [9:43:36] No. No. In my recollection, no.

2 Q. [9:43:49] Thank you very much, Mr Witness. We've almost finished with the
3 phone questions. There are two more contacts I have to ask you about.

4 MR FRANÇOIS-JACQUEMIN: [9:43:57](Interpretation) Madam Court Officer, I'd like
5 you to show us tab 24, CAR-D33-0014, to display page 25, if you'd be so kind.

6 MS MAKWAIA: [9:44:15] Excuse me, Madam President, for interrupting. Counsel has
7 been referring to a series of numbers and representing that the -- from the analysis of
8 the Office of the Prosecutor, he called this number. But in fact to the last reference,
9 what our analyst stated -- and they've got this document. Let me just read it for the
10 record. CAR-OTP-00000514-00003. It actually states something completely opposite
11 and I'm going to read.

12 "This number has been provided by P-1289. However, there is no indication that he
13 used this number in 2013."

14 So if counsel is going to -- actually, he's testifying. If he's going to make references or
15 impute certain things to the Office of the Prosecutor, then he should actually look at
16 what we provided in disclosure, and in fairness to the witness, or read it correctly,
17 because what you're saying is not necessarily the truth.

18 Thank you, Madam President.

19 PRESIDING JUDGE SAMBA: [9:45:43] Mr Jacquemin, please.

20 MR FRANÇOIS-JACQUEMIN: [9:45:45](Interpretation) Thank you, Madam President.
21 I have two observations in response.

22 First of all, I'm asking questions to the witness and he can clarify things if he disagrees.

23 The figures are in front of him.

24 The second observation is that I'm not trying to be disloyal to the Prosecutor. I'm sorry
25 if the way that I've worded things have irked them.

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1 We took the time yesterday to explain the method we are working with. We explained
2 that there was no analysis of the phone lines that had been attributed to Mr Witness.
3 And we started by asking the witness whether the phone lines that were identified by
4 the Prosecutor, were they his or not.
5 And that's why yesterday and today I asked questions about the different connections
6 we were able to make based on the OTP's analysis, and I never said that we're using the
7 Prosecutor's direct raw analysis when I'm inferring the things that I ask the witness.
8 MS MAKWAIA: [9:46:51] Not to belabour the point, but perhaps I can read counsel's
9 question, Madam President.
10 PRESIDING JUDGE SAMBA: [9:46:57] I have two of you standing. Sit down, Mr
11 Jacquemin, please.
12 Yes.
13 MS MAKWAIA: [9:47:04] Apologies for that, Madam President. I'm just going to read
14 counsel's last question that led to this comment. At line 7 to 10, the question is this:
15 "Mr Witness, this time the person you're in contact with, according to the OTP, is
16 Joachim Kokate." And then he asks him: "Can you tell us who Joachim Kokate is?"
17 And his question then follows. So he is actually referring to the OTP.
18 PRESIDING JUDGE SAMBA: [9:47:42] Okay. Madam Prosecutor, he has apologised
19 maybe for the use of the name of your office, but if you look at the document that
20 counsel was referring to, maybe looking at the tabs of the sections, columns, if he sees a
21 number from which the witness's telephone would have called, you know, it's right for
22 him to put it to the witness. Maybe he could have asked the witness himself, saying
23 that: "This is a number you called," without referring to the OTP.
24 In any event, the witness has answered. He said he never made such a call. And I take
25 note of counsel's submissions and apologies from the bar.

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1 Thank you very much. Mr Jacquemin, can you continue your cross-examination,
2 please.

3 MR FRANÇOIS-JACQUEMIN: [9:48:40](Interpretation) Thank you very much, Madam
4 President. I'll rephrase my question more carefully.

5 Q. [9:49:00] Mr Witness, according to our telephone analysis, (Redacted)
6 (Redacted)

7 (Redacted)

8 A. [9:49:28] I no longer remember, but to my knowledge, it is he who invited us to go
9 and see him. And it could be that the person who took us there may have allowed us
10 to call him. I don't know how I called him. If you tell me that it's my phone line, that
11 might be possible. But in any case we went to his place, and that is where we were
12 arrested.

13 Q. [9:50:00] Thank you, Mr Witness. You stated this in your witness statement,
14 indeed. Now, if I'm pointing out this call, it is because it was called, according to your
15 timeline of events, after this event, (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 Q. [9:50:56] Thank you, Mr Witness. Last question on the phone calls.

23 MR FRANÇOIS-JACQUEMIN: [9:51:12](Interpretation) Madam Court Officer, still tab
24 24, CAR-D33-0014-0022, page 24 this time, please.

25 Q. [9:51:30] Mr Witness, do you have the table in front of you?

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1 A. [9:51:32] Yes.

2 Q. [9:51:33] It is stated here that you were in touch with the phone number

3 (Redacted). Do you know who this phone line belongs to?

4 A. [9:51:53] Listen, what period is this?

5 Q. [9:52:04] You were in contact with this phone number on 15 May 2013, at 19:37

6 hours, and on * 16 May 2013 at 11:11 a.m. What I'm interested in here is you were in

7 touch with this number on the day of your arrest, at a time when you stated that you

8 were deprived of your freedom. And you were also in touch with this number the

9 following day, the day you were released, at 11:11. So I'm asking you whether you

10 remember this contact.

11 A. [9:52:43] The day I was arrested, I didn't have my phone. I didn't have my phone.

12 And then I was given back my phone at the moment of my release. I don't know. I

13 don't remember. I didn't call anyone with this phone number.

14 Q. [9:53:04] Thank you, Mr Witness. I have finished with the questions pertaining to

15 the phone calls. I have a last question in private session and then we can go back into

16 open session.

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 A. [9:57:37] Yes.

5 MR FRANÇOIS-JACQUEMIN: [9:57:45](Interpretation) We can now go into open
6 session. Thank you very much.

7 PRESIDING JUDGE SAMBA: [9:57:49] Thank you very much.

8 Madam Court Officer, can we go into open session, please.

9 (Open session at 9.58 a.m.)

10 THE COURT OFFICER: [9:58:00] We are back in open session, Madam President.

11 PRESIDING JUDGE SAMBA: [9:58:03] Thank you very much.

12 Mr Jacquemin, please continue.

13 MR FRANÇOIS-JACQUEMIN: [9:58:24](Interpretation)

14 Q. [9:58:24] Mr Witness, we are once again in open session, and I will ask you to be
15 careful not to say anything that might identify you. Until now we were in private
16 session this morning and you could express yourself freely, but now be very careful not
17 to provide elements that might identify you. Is that clear to you, Mr Witness?

18 A. [9:58:48] I understand.

19 Q. [9:58:49] I'd like to go back to your description of the OCRB. In the sketch, the
20 drawing that you made of the OCRB and commented yesterday, the sketch you drew
21 yourself, you said that there was a 2013 entrance and a 2017 entrance. How do you
22 know this, Mr Witness?

23 A. [9:59:26] Okay. This is quite a strange question. I am not blind. When I was taken
24 to the OCRB it was still daytime. And I'm a Central African citizen, I live in Bangui,
25 and the OCRB compound is in the centre of Bangui. And even a nine-year-old student

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1 can draw the compound of the OCRB where I was detained. So how do I know this?

2 Well, I was asked where I was detained and I tried to draw a sketch of this. I'm no
3 architect.

4 Q. [10:00:00] Thank you, Mr Witness. I'm not an architect either and I, by no means,
5 wanted to criticise your drawing. But I wanted to know how you knew there was a
6 2013 and 2017 entrance.

7 A. [10:00:16] The date that I had specified is indicative, but today, if you have
8 knowledge, and I think that the compound of the OCRB is closed on the area in 2013
9 where I had been brought and the other part is open. That's the official part. It's just an
10 indication.

11 Q. [10:00:41] I will clarify my question, Mr Witness. Did you return to the OCRB?

12 A. [10:00:55] For what reason?

13 Q. [10:00:56] That would be up to you to tell us, Mr Witness, but I would like to
14 know how you know that since 2017 there's been a different entrance.

15 A. [10:01:09] Sir, I'm Central African. I have a family, and if there's a problem, I
16 know that I can go and visit the members of my family at the OCRB, if that's what you
17 want to know. It's like you are saying, "Okay, are you going to the city hall of Bangui?"
18 And I will say, "Yes, I am going to the city hall of Bangui."

19 Q. [10:01:42] Thank you very much, Mr Witness. I will take up a part of your witness
20 statement, the basic document of what you said to the Prosecution in 2017.

21 MR FRANÇOIS-JACQUEMIN: [10:01:54](Interpretation) * This is at tab 1. Tab 2 for the
22 English version. It's CAR-OTP-2127-7632-R03, page 7644, paragraph 59.

23 THE INTERPRETER: [10:02:18] Paragraph 59, the interpreter thinks she heard.

24 MR FRANÇOIS-JACQUEMIN: [10:02:23](Interpretation) Paragraph 59, indeed.

25 THE COURT OFFICER: [10:02:26] Should this be displayed for the witness and the

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1 public?

2 MR FRANÇOIS-JACQUEMIN: [10:02:42](Interpretation) I'm not asking that it be made
3 public, but the witness can look at it if he would like. It's just so that we all have it
4 before us. I want him to be able to read the paragraph of interest to me. So I'm in your
5 hands. You tell me when I can continue.

6 Q. [10:03:13] I cite, Mr Witness:

7 "Mazangue was the head of the OCRB under the Bozizé regime when thieves were
8 detained in the building on the right and they were tortured and executed."
9 So these are your words, Mr Witness. How did you know that?

10 A. [10:03:43] These were rumours of Bangui. That's what was being said. And we
11 knew that there had been executions even there at the OCRB. So everyone in Bangui
12 knows this. It was the reputation we had given this general. He was respected with
13 regard to this. So on this day when I was brought there, I had seen him there. Yes, I
14 had seen him there.

15 Q. [10:04:09] And this feared and respected general, to quote you, do you know since
16 when he had been the head of the OCRB?

17 A. [10:04:14] For which period?

18 Q. [10:04:15] That's precisely my question. Do you know from when to when he was
19 the head of the OCRB?

20 A. [10:04:26] That was information that had been circulating, but when I was the --
21 when I was detained, he obviously did not have the real responsibilities. He was just a
22 figurehead there. He was just -- he just had a figurative role or a representative role,
23 symbolic role.

24 PRESIDING JUDGE SAMBA: [10:04:52] Sorry. Mr Jacquemin, to be fair to the witness,
25 in the paragraph you just read out, paragraph 59 of his statement, I think he stated

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1 there that that person, Mazangué, was in charge of the OCRB during the Bozizé regime,
2 during the Bozizé regime. That is what I read. I mean, do you want another period?
3 Because it's quite clear there that he was in charge of the OCRB during that particular
4 period of Bozizé, even though he went to the OCRB when he saw him. But as per the
5 period in which he was in charge of the OCRB was during the Bozizé regime. That
6 should answer your question.

7 MR FRANÇOIS-JACQUEMIN: [10:06:01](Interpretation) Indeed, Madam President.

8 I had asked him about this passage on the Bozizé period, and so I took the opportunity

9 * to ask him, to the best of his knowledge, when the presence of Mr Mazangué at the

10 OCRB had begun and when it ended.

11 Could I now ask another question?

12 PRESIDING JUDGE SAMBA: [10:06:17] Certainly. Go ahead.

13 MR FRANÇOIS-JACQUEMIN: [10:06:31](Interpretation) I would need to go into

14 private session, Madam President, for this question.

15 PRESIDING JUDGE SAMBA: [10:06:34] Madam Court Officer, can we go into private

16 session briefly, please.

17 (Private session at 10.06 a.m.)

18 THE COURT OFFICER: [10:06:48] We're in private session, Madam President.

19 PRESIDING JUDGE SAMBA: [10:06:53] Thank you very much.

20 Carry on, counsel.

21 MR FRANÇOIS-JACQUEMIN: [10:07:03](Interpretation) Thank you, Madam

22 President.

23 Q. [10:07:04] So we, Mr Witness, are now in private session, so I'm going to ask you

24 an identifying question and no one else can hear you.

25 (Redacted)

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- 1 (Redacted)
- 2 A. [10:07:22] Go ahead.
- 3 Q. [10:07:29] Do you personally know Mr Mazangue?
- 4 A. [10:07:33] No, not at all.
- 5 Q. [10:07:41] Thank you, Mr Witness.
- 6 MR FRANÇOIS-JACQUEMIN: [10:07:42](Interpretation) We can now go back into
7 open session.
- 8 PRESIDING JUDGE SAMBA: [10:07:44] Thank you very much.
- 9 Madam Court Officer, can we go back into open session, please.
- 10 (Open session at 10.07 a.m.)
- 11 THE COURT OFFICER: [10:07:53] We're back in open session, Madam President.
- 12 PRESIDING JUDGE SAMBA: [10:08:10] Thank you.
- 13 Counsel, carry on, please.
- 14 MR FRANÇOIS-JACQUEMIN: [10:08:12](Interpretation) Thank you, Madam
15 President, and Madam Court Officer.
- 16 * Madam Court Officer, could we have Tab 16 on our list, it's CAR-OTP-2069-3226.
- 17 THE COURT OFFICER: [10:09:02] Would counsel like to have this broadcast to the
18 public?
- 19 MR FRANÇOIS-JACQUEMIN: [10:09:14](Interpretation) I think there is no difficulty
20 with that, Madam Court Officer.
- 21 Q. [10:09:27] Mr Witness, we are now in open session, and I would once again
22 encourage you to be careful in the way you answer.
- 23 And I myself will be more careful in the way I ask questions. Could you tell us where
24 this photo was taken?
- 25 A. [10:09:58] At the general directorate of the police.

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1 Q. [10:10:06] Which elements of the photo enable you to recognise the place?

2 A. [10:10:11] The building.

3 Q. [10:10:27] The man in the black uniform who is shaking hands, could you give us
4 his name?

5 A. [10:10:34] I do not know his name.

6 Q. [10:11:10] Without knowing his name, do you know if he is a civil servant or do
7 you know which functions he carries out?

8 A. [10:11:19] Today, no.

9 Q. [10:11:29] And back then, that is, in 2013, had you already seen him in the past in
10 his professional functions?

11 A. [10:11:35] Perhaps I had run into him without realising who he was, but I do not
12 know him.

13 Q. [10:11:48] I thank you, Mr Witness.

14 MR FRANÇOIS-JACQUEMIN: [10:11:57](Interpretation) I'm sorry about the
15 gymnastics. Now we have to go back into private session.

16 PRESIDING JUDGE SAMBA: [10:12:03] Madam Court Officer, can we go back into
17 private session, please.

18 (Private session at 10.12 a.m.)

19 THE COURT OFFICER: [10:12:21] We are back in private session, Madam President.

20 PRESIDING JUDGE SAMBA: [10:12:24] Thank you very much.

21 Counsel, go ahead.

22 MR FRANÇOIS-JACQUEMIN: [10:12:36](Interpretation) Thank you, Madam
23 President, Madam Court Officer.

24 Q. [10:12:38] When you were at the OCRB, did you see this man who is in a black
25 uniform, Mr Witness?

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1 A. [10:12:43] No.

2 Q. [10:12:52] Take a good look at him. You have it there. The man in black uniform
3 who's shaking President Djotodia's hand, had you seen him at the OCRB?

4 A. [10:13:03] No.

5 Q. [10:13:16] I thank you. We are in private session. I will ask you some questions
6 about the Yalo brothers.

7 A. [10:13:22] Yes.

8 Q. [10:13:23] In your testimony, that is, in the witness statement, you said that they
9 had been deprived of liberty at the same time as you had been, and as far as I had
10 understood, you knew them.

11 A. [10:13:40] These are very influential people under the Bozizé regime, and most
12 Central Africans knew them. I was surprised to see them there. When I was taken
13 there, they were already there. I was not taken there with them. They were already
14 there. And I thought perhaps they had been escaping. But they themselves were very
15 surprised to see me there.

16 Q. [10:14:14] So you say they were very surprised to see you, so I deduce from that
17 that you knew them. So at that point what was your relationship with them?

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted). So

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1 as this happens, when someone is a public personality, I knew many of these people.

2 Q. [10:15:29] Thank you, Mr Witness. Did you see them again after this episode, the
3 Yalo brothers?

4 A. [10:15:35] The Yalo brothers? After what episode?

5 Q. [10:15:37] After your detention and then release.

6 A. [10:15:41] I had seen them, run into them, but not more than that. We said we,
7 thank God, are still alive. And today they are leading their private lives. I don't get
8 involved in their lives.

9 Q. [10:16:04] Thank you, Mr Witness.

10 MR FRANÇOIS-JACQUEMIN: [10:16:05](Interpretation) Court Officer, we can go back
11 into open session.

12 PRESIDING JUDGE SAMBA: [10:16:09] Thank you.

13 Madam Court Officer, can we go back into open session, please.

14 (Open session at 10.16 a.m.)

15 THE COURT OFFICER: [10:16:16] We are back in open session, Madam President.

16 PRESIDING JUDGE SAMBA: [10:16:31] Thank you very much.

17 Counsel, please continue.

18 MR FRANÇOIS-JACQUEMIN: [10:16:40](Interpretation) Thank you, Madam

19 President, Madam Court Officer.

20 Q. [10:16:43] Mr Witness, we are now in open session, so again I will not identify
21 you. I will ask you questions on your relationship with the Office of the Prosecutor of
22 the ICC. Mr Witness, do you remember when you were contacted for the first time by
23 the Office of the Prosecutor?

24 A. [10:17:12] No.

25 Q. [10:17:23] I imagine that this is not a benign event. Do you remember if you were

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1 called, someone sent you an e-mail, sent you a letter, or somebody came to see you in
2 person?

3 A. [10:17:36] I was called. I think someone called me.

4 Q. [10:17:54] Thank you, Mr Witness. As you think someone called you, do you
5 recall if the investigators told you how they had obtained your phone number?

6 A. [10:18:11] No.

7 Q. [10:18:26] Did they tell you what they wanted to discuss with you? Did they
8 indicate what they wanted to ask you questions about?

9 * A. [10:18:32] No, they did not ask me any questions. I was informed that I had been
10 arrested, yes or no, and then that I had more or less taken my case to court.

11 Q. [10:19:08] You had seized some jurisdictions, that is, some bodies, with regard to
12 what brings you here today?

13 A. [10:19:15] Yes. I had my lawyer whom I had contacted, and then he had said we
14 have to suspend this because it's not worth it. So I had a lawyer.

15 Q. [10:19:26] Before suspending these proceedings, do you know that something had
16 officially been done, the prosecutor, the police, a court?

17 A. [10:19:36] Yes. During my arrest, my parents had referred my case to the
18 prosecutor of the republic who had not seen any traces of any kind of warrant for my
19 arrest, so he had said that there was no case, no file.

20 Q. [10:19:59] Thank you, Mr Witness, but my questions related to what happened
21 after, subsequently. Did you begin some proceedings because I had understood your
22 statement --

23 MR FRANÇOIS-JACQUEMIN: [10:20:15](Interpretation) I will ask the Court Officer to
24 show an exhibit, not to the witness, but to the parties, to the Court. This is tab 22, CAR-
25 OTP-2035-0113-R02, page 0114. From paragraph 1, "Basis for contact."

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1 * Q. [10:21:00] Mr Witness, this is a document of the Office of the Prosecutor in
2 English which I will read to you in French, the part of interest to me in this document,
3 trying not to reveal any information that I cannot tell you. What's of interest to me in
4 this document is that it is said that you were contacted by the Office of the Prosecutor
5 because you might have had relevant information on the structure of the Anti-Balaka.
6 To your knowledge, why were the investigators of the Office of the Prosecutor
7 contacting you because you possibly had information and knowledge about the
8 structure of the Anti-Balaka? Relevant knowledge.

9 A. [10:22:01] I was not aware of this information or these concerns. I do not have
10 any. I was never asked any such questions.

11 Q. [10:22:16] The investigators asked you no questions about the Anti-Balaka?

12 A. [10:22:19] None.

13 MR FRANÇOIS-JACQUEMIN: [10:22:38](Interpretation) Madam Court Officer, I
14 would like to show tab 35 of the list of notifications. That's CAR-D33-0014-0030, page
15 30. And not -- this must not be disclosed to the public, please. I have said things in the
16 wrong order. I ask that this not be shown to the public.

17 THE COURT OFFICER: [10:23:18] But you wish for the witness to see it; correct?

18 MR FRANÇOIS-JACQUEMIN: [10:23:33](Interpretation) You read my mind, Madam
19 Court Officer. So the Court can see it, the witness, but not the public.

20 Q. [10:23:53] Mr Witness, I would ask that you look at the part number 3 where it
21 says: "Prefecture of Nana Mambéré," and more precisely, at the very bottom on the
22 right. Could you tell us what you read here.

23 A. [10:24:49] Yes, but I was never aware of this document.

24 Q. [10:24:51] I will explain what you have before you. It is a document of January
25 2015 that would have been drawn up by MINUSCA at the end of 2014 in order to know

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1 who the representatives of the 16 prefectures of the Central African Republic. And
2 your name appears as a representative, {ICR: (Redacted)} is indicated as a
3 representative of the armed groups. Is this document --

4 MS MAKWAIA: [10:25:29] Madam President --

5 THE WITNESS: [10:25:34](Interpretation) Yes, I'm listening.

6 MR FRANÇOIS-JACQUEMIN: [10:25:40](Interpretation) I will ask for a redaction,
7 Madam President, if I could speak.

8 PRESIDING JUDGE SAMBA: [10:25:47] Thank you. Was that your concern, Madam
9 Prosecutor?

10 MS MAKWAIA: [10:25:53] Yes, it was, Madam President.

11 PRESIDING JUDGE SAMBA: [10:25:57] Thank you.

12 Defence counsel, you may continue. Please be careful. Don't name names
13 unnecessarily, let me say.

14 MR FRANÇOIS-JACQUEMIN: [10:26:31](Interpretation) Thank you, Madam
15 President. I am sorry. I will not cite any names. I will be more careful.

16 Q. [10:27:00] As your name appears on this document, could you tell us something
17 about links with representation of armed groups? And if you would like, we can go
18 into private session in order to discuss this point.

19 A. [10:27:16] I confirm to you, and I repeat, that I have nothing to do with this list. I
20 was never in these activities. I was not in this area as you define it. I was never there.

21 Q. [10:27:42] Very well. Thank you, Mr Witness. Do you recall when you met in
22 person the investigators of the Office of the Prosecutor for the first time?

23 A. [10:27:48] No. The place, yes.

24 Q. [10:28:09] Were you asked to provide a piece of ID, Mr Witness?

25 A. [10:28:11] Yes.

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1 Q. [10:28:17] Was a copy made of this ID?

2 A. [10:28:21] Yes.

3 Q. [10:28:27] This first interview lasted how long, as far as you recall, Mr Witness?

4 A. [10:28:31] One hour.

5 Q. [10:28:45] Could you explain to us how it unfolded. Who was speaking? I'm not
6 saying name anyone. Are you being asked questions? Tell us how it unfolded in
7 general.

8 A. [10:29:06] At this point in time, I no longer recall.

9 Q. [10:29:20] Do you recall if you were made to sign a document at the end of this
10 interview?

11 A. [10:29:24] Yes.

12 Q. [10:29:31] Do you recall if the investigators would like to see you again?

13 A. [10:29:39] To the extent possible, and following investigations.

14 Q. [10:29:52] This meeting took place on 22 August 2016. Do you remember how
15 much later your next meeting took place with the investigators of the Office of the
16 Prosecutor?

17 A. [10:30:00] Counsel, I cannot tell you precisely. I have made efforts to forget this
18 period and what I lived through. So I would ask that you, to the greatest extent
19 possible, avoid bringing me back there. I am making efforts to help you to understand
20 the truth of what happened.

21 Q. [10:30:34] And I thank you for that, Mr Witness.

22 Your second meeting with the Office of the Prosecutor takes place on 29 April 2017. Do
23 you remember if you remained in contact with the Office of the Prosecutor?

24 A. [10:30:45] Yes.

25 Q. [10:30:55] How did you stay in touch?

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1 A. [10:31:05] Through telephone.

2 Q. [10:31:10] With one of your lines or were you given a dedicated telephone?

3 A. [10:31:17] It was actually with my own telephone, the lines that you're already
4 aware of.

5 Q. [10:31:28] Do you remember if the investigators helped you, jogged your memory
6 during the interviews you had with them?

7 A. [10:31:38] I don't understand your question.

8 Q. [10:31:46] If you remember -- if you did not remember a name or a place, did they
9 actually help you remember things?

10 A. [10:31:54] No.

11 Q. [10:32:02] Do you remember if you were asked yes-or-no questions, that is to say,
12 questions that you have to answer with yes or no?

13 A. [10:32:12] I was asked questions and I was supposed to give -- I gave explanations
14 by yes or no.

15 Q. [10:32:27] So you do not know if there were yes-or-no questions, so there were no
16 yes-or-no questions and these were questions that you had to provide explanations? Is
17 that how I understand you? Am I to take it that you had to provide explanations?

18 A. [10:32:49] Yes, that was it.

19 Q. [10:32:50] Thank you so much. Do you remember in what language was the
20 document you signed after the interview with the OTP?

21 A. [10:33:11] The documents were in French, but the last document was in English.

22 Q. [10:33:26] Did they explain why the language changed?

23 A. [10:33:29] Yes.

24 Q. [10:33:34] What was the reason that was given to you for the change of language?

25 A. [10:33:38] I was read the translation. There are two official languages, French and

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1 English. And I said I could read English but I couldn't understand English but -- and I
2 would rather prefer French. And I signed my -- I gave my personal consent because I
3 was explained.

4 Q. [10:34:14] Thank you so much. I'm going to ask you a few questions on your
5 contact with the OTP ever since this statement was signed. Can you tell us in a few
6 words, what were your contacts with the OTP * after your statement was taken in 2017?

7 A. [10:34:44] According to the best of my knowledge, the OTP said that my testimony
8 and -- testimony and witness statements would be used if they were retained, and they
9 would come back to me. And this is what I've understood so far.

10 * Q. [10:35:15] So after your statement was taken in 2017, do you remember if the
11 OTP asked you for your consent so that it can be used as part of the proceedings?

12 A. [10:35:25] I don't understand. If my consent --

13 Q. [10:35:39] I'm going to --

14 THE INTERPRETER: [10:35:41] Overlapping speakers.

15 THE WITNESS: [10:35:43](Interpretation) I gave my consent.

16 MR FRANÇOIS-JACQUEMIN: [10:35:49](Interpretation)

17 Q. [10:35:49] And that's exactly what I wanted to know. Do you recall that they
18 called you to inform that your previous statement was going to be used in our
19 proceedings for the Confirmation of Charges hearing in 2021?

20 A. [10:36:07] In 2021? Yes.

21 Q. [10:36:18] Did you actually follow this Confirmation of Charges hearing?

22 A. [10:36:37] No. I was ill.

23 Q. [10:36:38] Do you remember when you were called and informed that you were
24 going to be a witness before the ICC, the International Criminal Court?

25 A. [10:36:43] A few weeks ago, yes.

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1 Q. [10:36:57] How were you contacted?

2 A. [10:36:58] By telephone.

3 Q. [10:37:06] Thank you, Mr Witness. Now, in your previous statement, you
4 supplied some documents. Did the investigators contact you before and ask you to
5 bring those documents?

6 A. [10:37:22] No. I brought the documents with me, and this was related to what I
7 experienced during my arrest. And I wanted to explain that there were people who
8 were there to hurt me, and these were the documents related, and I wanted to show
9 them the documents.

10 Q. [10:37:54] Thank you so much, Witness. We are going to continue for a while in
11 open session. Please don't identify yourself.

12 So amongst documents you supplied, we were given a photocopy of the agenda of a
13 member of your family; is that right, Mr Witness?

14 A. [10:38:16] Absolutely.

15 Q. [10:38:24] Thank you so much, Witness. Did you have the whole agenda or diary
16 or just a few pages or a photocopy of the pages when you actually met with the
17 investigators?

18 A. [10:38:37] It's {ICR: (Redacted)} who gave me a copy of what he had written in his
19 diary, in his personal diary. When the events happened to me, he was trying to
20 basically look for me. And he received information on the place and he wanted to
21 know what exactly happened to me.

22 Q. [10:39:11] Thank you. Did the investigators request the full diary?

23 A. [10:39:26] No.

24 Q. [10:39:27] Did the investigators ask for the diary to be verified that it belonged to

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1 {ICR: (Redacted)}?

2 A. [10:39:36] No.

3 Q. [10:39:45] Thank you so much.

4 MR FRANÇOIS-JACQUEMIN: [10:39:47](Interpretation) I would like to move to
5 private session now, please.

6 PRESIDING JUDGE SAMBA: [10:39:49] Madam Court Officer, can we go into private
7 session, please.

8 (Private session at 10.39 a.m.)

9 THE COURT OFFICER: [10:39:58] We're in private session, Madam President.

10 PRESIDING JUDGE SAMBA: [10:40:08] Thank you very much.

11 Counsel, continue, please.

12 MR FRANÇOIS-JACQUEMIN: [10:40:22](Interpretation) Thank you, Court Officer.

13 Thank you, your Honour.

14 Q. [10:40:26] We are in private session. So this is the diary of (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. [10:42:26] To the best of your knowledge, did the OTP try and contact

7 (Redacted)

8 A. [10:42:29] I do not know that.

9 Q. [10:42:40] You gave his number to the OTP. Do you remember you were the one
10 who gave it out of your own free will, spontaneous, or did the investigators request for
11 it?

12 A. [10:42:55] I do not remember but I did give the number.

13 Q. [10:42:57] Thank you so much.

14 MR FRANÇOIS-JACQUEMIN: [10:42:59](Interpretation) Court Officer, we can move
15 on to public session.

16 PRESIDING JUDGE SAMBA: [10:43:03] Madam Court Officer, let's go into public
17 session, please.

18 (Open session at 10.43 a.m.)

19 THE COURT OFFICER: [10:43:13] We're back in open session, Madam President.

20 PRESIDING JUDGE SAMBA: [10:43:24] Thank you very much.

21 Counsel, continue, please.

22 MR FRANÇOIS-JACQUEMIN: [10:43:38](Interpretation) Thank you, Court Officer.

23 Thank you, your Honour.

24 Q. [10:43:41] So we are now in public session. Mr Witness, is everything fine? Can I
25 continue, please?

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1 A. [10:43:43] Yes.

2 Q. [10:43:45] Perfect. I have actually finished my questions on the OTP, almost
3 finished. And now I'm going to ask you a few questions on the possibility of
4 intermediary. Again, may I remind you we're in public session.

5 Witness, you gave several phone numbers in your witness statement. Do you
6 remember if you were the one who were giving these numbers spontaneously or were
7 the investigators requesting for these numbers over the course of the interview?

8 A. [10:44:15] I do not remember that. But I did not want to make a mistake, and I
9 really wanted to give a true account of what I lived through, so I gave the numbers of
10 everyone who was aware of my arrest and who intervened. So this was given to the
11 investigators just for clarity purposes so that they have a true account of what I lived
12 through. I gave them a maximum amount of information, and in order to avoid
13 making mistakes as well. And if these people were called, they could actually
14 supplement my version with additional information.

15 Q. [10:45:21] Thank you so much. To the best of your knowledge, Witness, do you
16 know if the investigators contacted or tried to meet these people whose phone numbers
17 you supplied to them?

18 A. [10:45:34] No idea at all.

19 Q. [10:45:45] Last question on this point. Do you remember having signed a
20 declaration, a statement, on the roles and responsibilities of the Prosecutor's
21 intermediary?

22 A. [10:46:00] Can you repeat that, please.

23 Q. [10:46:03] By all means. We spoke shortly a while ago about your statement to the
24 Prosecutor, and you signed a document each time and in the end you signed a
25 document in English.

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- 1 A. [10:46:22] Yes, I think so.
- 2 Q. [10:46:28] What I'm asking you is, did you sign another document that defined the
3 obligations, the role of the Prosecutor's intermediary? Does that ring a bell at all?
- 4 A. [10:46:49] I don't remember. An "intermediary," what do you mean?
- 5 Q. [10:46:55] Do not worry. So you already said that the OTP did not give you a
6 telephone, a dedicated telephone. Do you remember if the costs were covered by the
7 OTP?
- 8 A. [10:47:12] The costs?
- 9 Q. [10:47:24] Bills, medical expenses, any cost that was related to what was
10 happening.
- 11 A. [10:47:32] No, never.
- 12 Q. [10:47:42] Witness, did you receive a per diem from the OTP?
- 13 A. [10:47:45] No.
- 14 Q. [10:47:59] What about the reimbursement of your travel expenses? This is what
15 we call a per diem.
- 16 A. [10:48:04] Yes. If that's a per diem, then yes, I did receive it.
- 17 Q. [10:48:09] Do you remember the amount?
- 18 A. [10:48:17] It was 4,000 francs; 2,000 for the inward journey, 2,000 for the outward
19 journey.
- 20 Q. [10:48:25] Did you show any bills, any receipts?
- 21 A. [10:48:31] It was actually more expensive than that, and we do not have receipts
22 for transport in Bangui.
- 23 Q. [10:48:46] Thank you so much, Witness. I have finished with my questions on
24 your relations with the OTP. Now I'm at my penultimate round of questions on your
25 relations with the representatives of the victims. Is everything okay? Can I continue?

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1 A. [10:49:05] Yes.

2 Q. [10:49:33] Witness, these are the investigators of the Prosecution who explained in
3 2017 the procedure to be followed to obtain the status of a victim. Is that it?

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

5 Q. [10:49:56] It's only on * 22 February 2022 that the OTP investigators ask you if you
6 agree that your previous statement and contact be communicated to the Legal
7 Representatives of the Victims. Am I right in saying that?

8 A. [10:50:12] Yes.

9 Q. [10:50:27] So there's no contact between you and the Legal Representative of the
10 Victims or the OTP to suggest that you be a victim before the ICC between 2017 and
11 2022; is that it?

12 A. [10:50:43] I do not remember, but I think that's it.

13 Q. [10:50:55] So on 22 February 2022, you were asked if you agree, if you give your
14 consent, that your information be given to the Legal Representative of the Victims. Did
15 you give your consent? Did you agree to this transfer of contacts and information?

16 A. [10:51:15] Yes, I did. I did agree and I did do so.

17 Q. [10:51:32] So I imagine that when you met the Legal Representative of Victims, he
18 or she was in possession of your previous statement.

19 A. [10:51:40] Yes.

20 Q. [10:51:46] So it's the OTP that supplied your contact to the Legal Representative of
21 the Victims; is that right?

22 A. [10:51:55] Yes, I think so.

23 Q. [10:52:13] I'm just going to set this timeframe. So it's on 22 February 2022 that --
24 whether you accept to communicate your contacts and your previous statement to the
25 legal representatives, you accepted that. So is it a Central African counsel that

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- 1 contacted you subsequently to meet the Legal Representative of Victims?
- 2 A. [10:52:40] Yes.
- 3 Q. [10:52:52] Could you please tell us what was the name of this counsel?
- 4 A. [10:52:55] You know it. *He's a local lawyer, Maître Dibert.
- 5 Q. [10:53:13] Is it Mr Dibert-Bekoy? Is that it?
- 6 A. [10:53:22] Yes.
- 7 Q. [10:53:25] Now, during your meeting with this counsel, can you tell us who was
- 8 present?
- 9 A. [10:53:34] There was just myself and the representative of the victims.
- 10 Q. [10:53:54] What was the venue of the meeting?
- 11 A. [10:53:55] In the office of the counsel, in his office.
- 12 Q. [10:54:01] Did you know that this office is also shared by another counsel?
- 13 A. [10:54:07] Yes.
- 14 Q. [10:54:20] Could you tell us his name?
- 15 A. [10:54:22] No. I did not pay heed to that.
- 16 Q. [10:54:32] If I tell you it's Mr Nicolas Tiangaye, does that jog your memory?
- 17 A. [10:54:46] Yes.
- 18 Q. [10:54:47] What was the role of Counsel Nicolas Tiangaye in 2013?
- 19 A. [10:54:57] He was the prime minister.
- 20 Q. [10:55:03] During this meeting, Mr Witness, I imagine that you were explained
- 21 how the proceedings would take place before the ICC. Am I right in saying so?
- 22 A. [10:55:14] No. We were only talking about my file and on any possible testimony
- 23 that I might have to provide.
- 24 Q. [10:55:43] Can you tell me who was there physically and if there were people
- 25 observing all this remotely? How did this happen?

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1 A. [10:55:50] So there was the counsel and Legal Representative of the Victims who
2 was with me. There was no one else in the office.

3 Q. [10:56:07] I did not understand. Perhaps you said it and I did not follow. So the Legal
4 Representative of the Victims, *was she in the office with counsel Bekoy or was she remote?

5 A. [10:56:17] No, no, the legal representative was in the office with the counsel.

6 Q. [10:56:32] Thank you, Witness. Now, do you remember that you filled out a form
7 on an application to participate, be party to the proceedings?

8 A. [10:56:40] No, I do not remember that.

9 Q. [10:56:48] Do you remember having signed a document?

10 A. [10:56:49] Yes.

11 Q. [10:57:00] So this document is the participation form. Now, did someone help you
12 fill this out or did someone fill this out for you?

13 A. [10:57:09] No.

14 Q. [10:57:20] Did you use a computer during this meeting?

15 A. [10:57:22] No.

16 MR FRANÇOIS-JACQUEMIN: [10:57:31](Interpretation) Can you please display tab 26
17 of our list, Court Officer. It's CAR-OTP-2135-3776-R02, page 3784. It's tab 27. It's for
18 everyone except the public. So it's for the parties to the proceedings and the witness,
19 but please do not show it to the public.

20 Q. [10:58:31] Do you see the document, Witness?

21 A. [10:58:34] Yes.

22 Q. [10:58:35] Did you fill out this form?

23 A. [10:58:43] No.

24 Q. [10:58:44] Who filled out this form?

25 A. [10:58:46] This was the document I was supposed to sign, I think.

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1 Q. [10:59:04] Do you remember who drafted the content of this? Who filled out this
2 form?

3 A. [10:59:07] I think it was done in the office of the counsel.

4 MR FRANÇOIS-JACQUEMIN: [10:59:25](Interpretation) We are in the same tab, Court
5 Officer, same document. I would like to show the page 3781, please. Can you please
6 bring that page up. Thank you, Madam Court Officer. Can we display the lower part
7 of the document, please. Thank you, Madam Court Officer.

8 Q. [11:00:30] Do you recognise your signature, Mr Witness?

9 A. [11:00:33] Yes.

10 Q. [11:00:33] Did you sign any other pages other than this one, Mr Witness?

11 A. [11:00:36] No, I don't think so.

12 PRESIDING JUDGE SAMBA: [11:00:40] Counsel, I think this is a good place for us to
13 have a break.

14 So, Mr Witness, we will go away for 30 minutes and come back to court at 11.30.

15 I rise the court, please. Thank you.

16 THE COURT USHER: [11:00:53] All rise.

17 (Recess taken at 11.00 a.m.)

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

19 THE COURT USHER: [11:33:16] All rise.

20 Please be seated.

21 PRESIDING JUDGE SAMBA: [11:33:40] Good morning again to everyone.

22 Mr Witness, we are going to continue with your cross-examination by Defence counsel.

23 Mr Jacquemin, your witness, please.

24 MR FRANÇOIS-JACQUEMIN: [11:33:55](Interpretation) Thank you very much,
25 Madam President.

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1 Q. [11:34:00] Is everything okay, Mr Witness? Can we continue?

2 A. [11:34:03] Yes. Hello again.

3 Q. [11:34:05] Yes. We've almost finished.

4 MR FRANÇOIS-JACQUEMIN: [11:34:12](Interpretation) Madam Court Officer, I'd like
5 to ask you to display tab 27, CAR-OTP-2135-3776-R02, page 3784. Not for the public
6 but for the parties, the Court, and the witness, please.

7 Q. [11:34:43] Mr Witness, once the document is displayed, I will show you one of the
8 pages from the form for request for participation that we were referring to earlier.
9 On this page -- can you read it, Mr Witness? Are you able to read it?

10 A. [11:35:04] Yes.

11 Q. [11:35:19] I guess it's better with glasses. Can you see that it refers to the contact details
12 to the person in the organisation who helped the victim fill in the form, if necessary, the
13 part that is in bold at the top of the part that is displayed. Is this correct, Mr Witness?

14 A. [11:35:54] Yes.

15 Q. [11:35:54] However, on this form, on this page, there is no information pertaining
16 to the person or the organisation who would have helped you fill the form. And if I've
17 understood our exchanges earlier, you did not have a computer and it's not you
18 yourself who filled out this form. Did you not re-read this document? You did not
19 want to correct it? Why is this information not on it?

20 * MS PELLET: [11:36:29](Interpretation) Madam President.

21 R. [11:36:33] I don't know, it wasn't shown to me.

22 PRESIDING JUDGE SAMBA: [11:36:35] Yes, Ms Pellet.

23 Can you be seated, Mr Jacquemin? Let me listen to Ms Pellet.

24 MS PELLET: [11:36:46](Interpretation) Yes. Thank you, Madam President. Can Mr

25 Jacquemin specify the connection between the fact that this document is not filled in on

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1 this page and the fact that this document may not have been shown to him, *because he
2 didn't ask him whether this document had been read back to him, in fact.

3 PRESIDING JUDGE SAMBA: [11:37:15] I believe the witness's testimony is that
4 nobody helped him to complete this document, yet still he acknowledged his signature
5 on a particular page when we looked at it during the last session. Mr Jacquemin's point
6 is that this document, this particular page that we're looking at now, OTP-2135-3784,
7 shows that somebody helped him, helped the witness to complete that document. The
8 only point is that I'm not sure whether the question is fair to the witness, but I'm happy
9 to hear what the witness has to say.

10 MS PELLET: [11:38:11](Interpretation) That was exactly my point, Madam President. I
11 think that in order to have precise answers, the questions also have to be precise,
12 because the question, in the way that it was worded, implies that there was a
13 relationship between the lack of contact details on this page and the fact that the
14 document was not re-read to him, which is not correct.

15 PRESIDING JUDGE SAMBA: [11:38:41] I'm not sure I've heard Defence counsel
16 suggest that the document was not read to the witness, so let's hear what counsel has to
17 say. Can you allow the Defence counsel to put the question again in respect of this
18 particular page of this document. Thank you.

19 MR FRANÇOIS-JACQUEMIN: [11:39:11](Interpretation) Thank you, Madam
20 President. Everyone can re-check the transcript. Maybe I should have gone a bit more
21 slowly before asking my question during this second session.
22 Now, first of all, the witness stated that no one had helped him. He said this earlier.
23 And I asked him whether he had a computer in order to fill out this form that was filled
24 out by computer. Now, I'm working with what I'm hearing here. I don't have the
25 transcript in front of my eyes. He said that he did not have this document. So then

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1 afterwards I presented to him this new page of the document, asking him to explain to
2 me, on the basis of what he said, why there was no name specifying if someone helped
3 him or not. And so then I asked him did he re-read this? Did he correct this? And Mr
4 Witness stated that he had not seen this document. I don't think I'm being disloyal in
5 the way I'm dealing with the witness.

6 I am being told that in the French transcript this is page 42, lines 17 to 26.

7 PRESIDING JUDGE SAMBA: [11:40:32] I don't think Ms Pellet is saying that you are
8 being disloyal in any way, shape or form, but we also have seen that the witness did
9 sign a particular page of this document. So maybe what you want to ask him, in case
10 he did not understand your question, is to put this document to him again, especially
11 the front page and where he signed, and for him to know that this document is for his
12 representation or participation as a victim. Then he can comment on the document.
13 He could tell us then how it was completed, whether or not he was present when it was
14 completed, whether or not it was him who completed it or not. He will tell us all of
15 that. Just rephrase your question, counsel. Thank you.

16 MR FRANÇOIS-JACQUEMIN: [11:41:38](Interpretation) Thank you, Madam
17 President.

18 Q. [11:41:44] Mr Witness, I will now try to re-word my question in line with the
19 approach that was outlined by Madam President.

20 A. [11:42:02] Yes, I'm following you.

21 MR FRANÇOIS-JACQUEMIN: [11:42:17](Interpretation) Madam Court Officer, can the
22 parties, the Court, and Mr Witness, but not the public, see the first page of this request
23 for participation, please.

24 THE WITNESS: [11:42:51](Interpretation) Yes.

25 MR FRANÇOIS-JACQUEMIN: [11:42:54](Interpretation)

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1 Q. [11:42:54] This document, filled out by computer, did you fill it out yourself or did
2 someone fill it out in your name?

3 A. [11:43:02] No, it's not me who filled it out in any case. But this document was
4 presented to me for signing at the office.

5 Q. [11:43:21] Thank you, Mr Witness.

6 MR FRANÇOIS-JACQUEMIN: [11:43:22](Interpretation) Now, Court Officer, I'd like to
7 see page 3784, if you'd be so kind.

8 Q. [11:43:55] I'll let you familiarise yourself again with this page. Tell me when
9 you're ready.

10 A. [11:44:07] Yes.

11 Q. [11:44:07] Thank you, Mr Witness. So now I'll go back to the transcript, meaning
12 the notes of what we said earlier, page 42 of the French transcript, line 17, I asked you
13 on this page, I said:

14 "However, on this page, there is no information pertaining to the person or
15 organisation that helped you fill out the form. And if I've understood our exchanges
16 earlier, you did not have a computer and it was not you who filled out this form. And
17 so I'm asking you, you yourself, you didn't re-read this document and you did not
18 want to correct it? How is it that this information isn't here?"

19 And this is when your counsel asked Madam President about this, and you answered:

20 "I don't know. I was not shown it." So that's what was said.

21 Can you confirm what happened during this exchange?

22 A. [11:45:09] Yes, I can confirm that this part is -- I did not hesitate, and I did sign it,
23 as you've seen. This is the document you have in front of me.

24 Q. [11:45:26] Thank you, Mr Witness. Mr Witness, since this meeting in 2022, did you
25 see the representatives of -- the Legal Representative of Victims again; and if you did,

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1 how did this happen?

2 A. [11:45:54] Very recently - I don't have the date in mind - I was contacted to tell me
3 that the hearing would take place during this period.

4 Q. [11:46:09] Did this happen by phone or was this a physical meeting? How did this
5 take place?

6 A. [11:46:13] In person.

7 Q. [11:46:27] Thank you, Mr Witness. I've almost -- I'm almost done with this point.
8 In 2022, when you met the Legal Representative of Victims, Mr Said had already been
9 arrested. You were informed of this; is that correct?

10 A. [11:46:49] I wasn't paying attention.

11 Q. [11:47:05] I think this is something we brought up earlier, Mr Witness. A year
12 previously, the office, the investigators of the Prosecutor, informed you that there was a
13 hearing for the confirmation of the charges. We said this earlier; right?

14 A. [11:47:24] Yes.

15 Q. [11:47:27] So if, in 2021, you were called in order to inform you that there was a
16 hearing for confirmation of charges and that Mr Said was in The Hague for this
17 purpose, and that in 2022 you met the Legal Representative of the Victims, you had
18 been informed that Mr Said was arrested at this time in 2022; is this correct?

19 A. [11:47:48] Yes.

20 Q. [11:47:52] On 3 March 2022, during your meeting with the Legal Representative of
21 Victims, you made a request to participate in the proceedings and to potentially obtain
22 compensation; is this correct?

23 A. [11:48:09] Yes.

24 Q. [11:48:20] At that time, Mr Witness, you were aware that in order to be a victim
25 participating in the proceedings and to obtain compensation, Mr Said had to be

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1 convicted; is that correct?

2 A. [11:48:33] Yes.

3 Q. [11:48:42] And so on 3 March 2022, you mention Mr Said for the very first time; is
4 that correct?

5 A. [11:48:53] Excuse me, the 3rd of March of when?

6 Q. [11:48:58] During this meeting with the office of the Legal Representatives of the
7 Victims on 3 March 2022, you mention Mr Mahamat Said for the first time; is this
8 correct?

9 A. [11:49:11] Yes.

10 Q. [11:49:21] Thank you, Mr Witness. I have two questions to ask you. Do you have
11 a good memory for names, Mr Witness?

12 A. [11:49:36] The memory for words?

13 Q. [11:49:40] No, the memory for names. Some people remember figures. Some
14 people remember figures. Yes? No? Some people remember names.

15 A. [11:49:53] Not really.

16 Q. [11:49:55] In your witness statement from 2017, the document that you wrote with
17 the Office of the Prosecutor and their investigators, you have cited many names. How
18 did you choose which names to give?

19 A. [11:50:20] Well, when I was arrested, there were two main names that came to my
20 mind because there were two people that were linked to everything that I underwent.
21 The first name I gave you and the second name was when I arrived at the OCRB central
22 unit. That is how I remembered these names. And it is the person who accompanied
23 me up to the minister's office. I don't know what you're alluding to, but I cannot forget
24 those names.

25 Q. [11:51:00] Thank you, Mr Witness. So am I to understand that you gave names

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1 that seemed important to you in 2017?

2 A. [11:51:06] What do you mean?

3 Q. [11:51:08] What I mean is that {ICR: (Redacted)

4 (Redacted).} You know many names.

5 MR FRANÇOIS-JACQUEMIN: [11:51:22](Interpretation) I'm sorry, I'd like to ask that

6 that be redacted, Madam President. And I'd like to ask you to go into private session,

7 please.

8 PRESIDING JUDGE SAMBA: [11:51:38] Can we go into private session, please, Madam

9 Court Officer.

10 (Private session at 11.51 a.m.)

11 THE COURT OFFICER: [11:51:48] We're in private session, Madam President.

12 PRESIDING JUDGE SAMBA: [11:51:58] Thank you very much.

13 Yes, counsel, continue.

14 MR FRANÇOIS-JACQUEMIN: [11:52:02](Interpretation) Thank you, Madam President.

15 Q. [11:52:04] We are in private session, Mr Witness. In 2017, in your witness

16 statement to the investigators, you list -- you listed over 35 names. * You mentioned the

17 (Redacted)

18 (Redacted). You

19 mentioned Nouradine Adam. You mentioned Colonel Saleh and stated that he

20 committed acts of violence against you. You cited more than 35 names. And at no

21 moment does the name of Mr Said appear in this testimony. Why is this?

22 A. [11:52:49] I will keep answering your questions, but please avoid mentioning my

23 name because I have the impression that you're trying to denounce me. I am telling

24 you about what I experienced, and it's not my intention to falsely accuse somebody.

25 The names that I cited are in my deposition. It is exactly what I experienced, and these

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1 are the people that are involved and * how I managed to leave my house with another
2 person, only to be ambushed at the place where we were arrested.

3 When I was arrested, the leader of the people who arrested me, I remember this name
4 because they are the ones who pointed the gun at me and made me get into the car.

5 And I did not forget this name.

6 During the transport from where I was arrested, when I was taken to the destination at
7 which Mr Said was located, there were not just two people. There were other people in
8 the vehicle. There wasn't just the chief of operations. And there was another person
9 who took care of me and put me into the gaol, and another person enabled me to stay
10 alive to this day.

11 I did not cite names by accident.

12 Q. [11:54:30] I agree.

13 A. [11:54:30] You say that I cited 35 names. I do not remember having cited 35
14 names. If you've added them up, then that's a Defence secret. You have my statement.

15 Q. [11:54:52] I understand your answer, Mr Witness. I have your statement. And I'm
16 not asking you to tell us your story. We have that. We have your statement. What I'm
17 asking you is to explain to me why, in 2017, you name so many different people. If you
18 want, I can read the list to you, and yet Mr Said does not appear in this list in 2017 and
19 only appears so in 2022.

20 A. [11:55:25] Having been detained at the place which you know, and if I was asked
21 who interviewed me, whose name do you want me to say? Is it the name that I heard?
22 The person who was with me? The person who accompanied me? I did not cite the
23 names of 36 people. Of course there were other co-detainees and I didn't cite their
24 names. I only spoke about myself.

25 Q. [11:56:02] There's no misunderstanding about this, Mr Witness. I'm just

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1 mentioning a slight discrepancy or difference. One last question, then I'll be done.

2 MR FRANÇOIS-JACQUEMIN: [11:56:22](Interpretation) Madam Court Officer, I

3 would ask you to display tab 21. This is CAR-OTP-00025229-00001. This is not for the

4 witness. I will read it to him, Madam Court Officer. I've just been told that you can

5 display it to the witness. It's not a problem. This is page 00003, Madam Court Officer,

6 please.

7 Q. [11:58:27] Mr Witness, this is your preparation log. This is the log made by the

8 Prosecutor's Office of the preparatory meeting that you had with them.

9 MR FRANÇOIS-JACQUEMIN: [11:58:46](Interpretation) Can we see the middle of the

10 page, Madam Court Officer, please.

11 Q. [11:58:52] So I'm presenting this document to you, and then I'll ask you a last

12 question about the role that Mr Said played, and then we'll be done, Mr Witness.

13 In this document, it is specified that when you're shown CAR-OTP-2033-7056, which

14 was shown to you yesterday, you stated it is the interior of the OCRB.

15 "The opening that you see here goes to the main building of the OCRB, but I never

16 entered any of them whilst I was detained at the OCRB."

17 Can you confirm this, Mr Witness?

18 A. [11:59:38] Let me specify. What I said, according to my understanding, was that I

19 did not enter the inside of the main office, but I stayed in the entrance area. This is

20 where I was asked to undress and I was searched. And from there I was led outside in

21 order to be taken to another building, the other building that is within the compound.

22 Q. [12:00:36] Thank you. Due to the interpretation, we had some doubts.

23 MR FRANÇOIS-JACQUEMIN: [12:00:48](Interpretation) Madam Court Officer, could

24 you please take this document down. We can go back into open session, and I have one

25 question left for the witness.

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- 1 PRESIDING JUDGE SAMBA: [12:00:57] Madam Court Officer, can we go back into
2 open session, please.
- 3 (Open session at 12.01 p.m.)
- 4 THE COURT OFFICER: [12:01:05] We're back in open session, Madam President.
- 5 PRESIDING JUDGE SAMBA: [12:01:16] Thank you very much.
- 6 Mr Jacquemin, continue, please.
- 7 MR FRANÇOIS-JACQUEMIN: [12:01:20](Interpretation) Thank you, Madam
8 President.
- 9 We don't have to show it, Madam Court Officer.
- 10 Q. [12:01:39] But, Mr Witness, I've been talking to you about your witness statement
11 from the beginning. It is tab 1 in French, tab 2 in English, CAR-OTP-2127-7632-R03. As
12 I said to you earlier, you do not name Mr Said in your witness statement. However,
13 you speak of a person -- you speak of a person who took you to Nouradine and you
14 called him the commander. Is this -- now that your memory has been refreshed by this
15 hearing, is this Mahamat Said?
- 16 PRESIDING JUDGE SAMBA: [12:02:52] Can you refer to the paragraph of the
17 document you just referred to, please. Are you talking about paragraph 28 and maybe
18 80?
- 19 MR FRANÇOIS-JACQUEMIN: [12:03:08](Interpretation) Of course, Madam President.
20 Of course, Madam President. As far as I remember, he starts mentioning him in
21 paragraph 70 and 71 in the witness statement. And then he says the commander
22 brought him to Nouradine.
- 23 PRESIDING JUDGE SAMBA: [12:03:37] Well, I mean, counsel, to be fair to the witness,
24 you're reading from the French statement of this witness. You may want to refer him to
25 the paragraph you are talking about, if even it were to be shown on his screen, his

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1 screen alone and not the public screen, so that he could appreciate what it is in those
2 statements that you want him to comment on. Thank you.

3 MR FRANÇOIS-JACQUEMIN: [12:04:27](Interpretation) As the time of the Court is
4 precious, and so is Mr Said's because of his health, okay, we will not begin this line of
5 questioning in this way, Madam President. So we will end there.

6 Mr Witness, I thank you. And I thank you, Madam President.

7 PRESIDING JUDGE SAMBA: [12:04:48] Well, save if that is what you want to do, Mr
8 Jacquemin, I am very happy if you want to continue. If you want to put a question or
9 two so that you get a clarification, we're very happy to listen to you. But if you want to
10 end your line of cross-examination there, we'll understand.

11 MR FRANÇOIS-JACQUEMIN: [12:05:15](Interpretation) I thank you, Madam
12 President. I am in your hands, in other hands as well, but yes.

13 PRESIDING JUDGE SAMBA: [12:05:21] Okay. Well, thank you very much for your
14 time and for your questions.

15 May I ask the Prosecution whether there is any need for re-examination.

16 MS MAKWAIA: [12:05:35] No re-examination from us, Madam President.

17 PRESIDING JUDGE SAMBA: [12:05:40] Thank you very much, Madam Prosecutor.

18 Mr Witness, we have come to the end of your testimony. We want to say thank you.

19 On behalf of the Bench, I'm going to say thank you for your time and for cooperating
20 with us. I'm asking my colleagues on my left or right whether or not they have any
21 questions of you, and we have no questions for you from the Bench. So we could only
22 wish you well and wish you well in your future endeavours. Thank you very much for
23 cooperating with us.

24 Mr Said, thank you very much for your time.

25 I wish everybody a happy weekend, and we'll meet here again at Monday at 9.30.

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- 1 I'll rise the court, please.
- 2 (The hearing ends in open session at 12.06 p.m.)