

Trial Hearing

(Open Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

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 María del Socorro Flores Liera and
6 Judge Sergio Gerardo Ugalde Godínez
7 Trial Hearing - Courtroom 2
8 Monday, 4 March 2024
9 (The hearing starts in open session at 9.31 a.m.)
10 THE COURT USHER: [9:31:30] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE SAMBA: [9:31:58] Good morning, everyone.
14 Madam Court Officer, can you kindly mention the case.
15 THE COURT OFFICER: [9:32:05] Good morning, Madam President. Good
16 morning, your Honours.
17 This is the situation in the Central African Republic II, in the case of the Prosecutor
18 versus Mahamat Said Abdel Kani, case reference ICC-01/14-01/21.
19 And for the record, we're in open session.
20 PRESIDING JUDGE SAMBA: [9:32:22] Thank you very much.
21 Can I have the parties introduce themselves.
22 Ms Makwaia for the Prosecution.
23 MS MAKWAIA: [9:32:30] Thank you, Madam President, your Honours. Good
24 morning. For the Prosecution this morning, myself Holo Makwaia, senior trial
25 lawyer; Ms Sanyu Ndagire, associate legal assistant; Ms Alessia Vitiello, analysis

Trial Hearing

(Open Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 assistant; and Mr Kamran Choudhry, trial lawyer. Thank you.

2 PRESIDING JUDGE SAMBA: [9:32:47] Thank you very much, Ms Makwaia.

3 Ms Pellet for the victims, please.

4 MS PELLET: [9:32:54](Interpretation) Thank you, Madam President. The victims
5 are represented by Tars Van Litsenborgh and by myself, Sarah Pellet, counsel with
6 the Office of Public Counsel for Victims.

7 PRESIDING JUDGE SAMBA: [9:33:07] Thank you very much, Ms Pellet.

8 Ms Naouri for the Defence, please.

9 MS NAOURI: [9:33:15](Interpretation) Thank you, Madam President. Good
10 morning. By my side we have Maître Jacobs; by his side, Fiana Gantheret; behind,
11 we have Léa Allix; and I am Jennifer Naouri, lead counsel for Mr Said.

12 PRESIDING JUDGE SAMBA: [9:33:28] Thank you very much, Ms Naouri.

13 And for the record, I take note that Mr Said is in court.

14 A very good morning to you, Mr Said, I hope you had a restful weekend.

15 MR SAID: [9:33:49](Interpretation) Yes. Good morning, Madam President.

16 PRESIDING JUDGE SAMBA: [9:33:52] Thank you.

17 We note that the Prosecution is calling P-2263 as its 23rd witness.

18 The Chamber previously rejected an application by the Prosecution to introduce
19 P-2263's prior recorded testimony pursuant to Rule 68(2)(b) of the Rules in decision
20 number 556, but we granted authorisation pursuant to Rule 68(3) of the Rules.

21 The Chamber has been informed that this witness will be either testifying in French or
22 Sango, so I remind everyone of the importance of the need to speak slowly and to
23 observe the five-second rule between questions and answers.

24 The Chamber notes that the Prosecution has submitted a request to introduce
25 the annex to P-2263's witness preparation log pursuant to Rule 68(3) of the Rules of

Trial Hearing

(Open Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 Procedure and Evidence.

2 So I'll now rule on the Prosecution's request to introduce the prior recorded testimony
3 of this witness as contained in the annex to his witness preparation log. And, for
4 the record, this request is filing number 693.

5 The annex contains some corrections and clarifications to P-2263's prior recorded
6 testimony, whose introduction via Rule 68(3) the Chamber already granted. And,
7 for the record, the decision is filing number 556.

8 The Prosecution submits that the annex contains additional information that was not
9 included in P-2263's original prior recorded testimony. According to the Prosecution,
10 the new information bears sufficient indicia of reliability, is relevant and probative
11 and its introduction would expedite the proceedings.

12 In its response to the Prosecution's request, the Defence submits that it should be
13 rejected and it reiterates its general objections to the introduction of annexes to
14 witnesses' preparation logs. The Defence notes in particular that there is no means
15 of verifying whether the information provided in the log came from the witness or
16 was suggested to him by the investigators.

17 The Chamber recalls that its oral decision of 2 November 2022 only requires
18 the parties to make a request pursuant to Rule 68(3) of the Rules if the annex to
19 the witness preparation log contains additional information that was not included in
20 the prior recorded testimony previously ruled on by the Chamber or when certain
21 corrections or clarifications change the substance of the testimony. When
22 the witness only makes minor corrections or clarifications to his or her prior recorded
23 testimony during the witness preparation session, there is no need to make a request
24 pursuant to Rule 68(3) of the Rules.

25 Moreover, not every bit of new information that is provided during a witness

Trial Hearing

(Open Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 preparation session necessitates a Rule 68(3) request. This is only required when
2 the new information changes the substance of the prior recorded testimony.
3 In respect of P-2263's comment regarding paragraph 20 of his second statement,
4 the Chamber recognises that the information provided therein is not new.
5 Nevertheless, since the information potentially relates to the acts and conduct of
6 a said commander of the OCRB, the Chamber will not permit the introduction of that
7 part of the annex under Rule 68(3) of the Rules and instead instructs the Prosecution
8 to examine the witness in court in relation to these matters.
9 The Chamber finds that the other information contained in the annex to P-2263's
10 witness preparation log does not contain any information which changes
11 the substance of his prior recorded testimony. Accordingly, there was no need for
12 the Prosecution to make a request pursuant to Rule 68(3) of the Rules in relation to
13 those parts of the annex. The Prosecution merely needs to confirm with the witness
14 that he made such corrections and clarifications and seek its introduction as part of
15 the original prior recorded testimony.
16 Now, this concludes the Chamber's oral decision.
17 The Chamber also notes that the Common Legal Representative of the Victims made
18 a request to examine P-2263 for 30 minutes in relation to the following topics,
19 the harm he allegedly suffered as a result of the events falling within the scope of
20 the witness's expected testimony and reparations. The parties did not object to
21 the Common Legal Representative's request. The Chamber agrees that the proposed
22 topics relates to P-2263's interest and accordingly authorises the Common Legal
23 Representative to question the witness for no more than 30 minutes.
24 Now, before commencing, the Chamber notes briefly that protective measures are
25 confirmed for this witness by virtue of decision number 605 and that the VWU

Trial Hearing

(Open Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 recommends certain special measures.

2 Madam Court Officer, can you kindly connect us to the witness.

3 (The witness enters the video-link room)

4 PRESIDING JUDGE SAMBA: [9:41:19] Are we connected?

5 Thank you very much.

6 Good morning, Mr Witness. Can you see me? Can you hear me?

7 WITNESS: CAR-OTP-P-2263

8 (The witness speaks Sango)

9 (The witness gives evidence via video link)

10 THE WITNESS: [9:41:38](Interpretation) Good morning. I can see you and I can
11 hear you.

12 PRESIDING JUDGE SAMBA: [9:41:44] Thank you very much.

13 Now, Mr Witness, you are going to testify before the International Criminal Court.

14 So, on behalf of the Chamber, I would like to welcome you to this courtroom.

15 You should have before you the solemn declaration --

16 THE WITNESS: [9:42:09](No interpretation)

17 PRESIDING JUDGE SAMBA: [9:42:12] You should have before you the solemn
18 declaration that any witness who appears before this Court must agree to.

19 I am going to read it out to you now, Mr Witness.

20 THE WITNESS: [9:42:38](Interpretation) Thank you.

21 PRESIDING JUDGE SAMBA: [9:42:48] I solemnly declare that I will speak the truth,
22 the whole truth and nothing but the truth.

23 Now, Mr Witness, do you understand and agree to what I have just read out to you?

24 THE WITNESS: [9:43:20](Interpretation) Yes, I have understood.

25 PRESIDING JUDGE SAMBA: [9:43:24] Good. We will continue.

Trial Hearing

(Open Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 Mr Witness, let me now explain to you the protective measures that the Chamber has
2 put in place for your testimony.

3 We have in place for you voice and face distortion for the duration of your testimony.

4 This means that no one outside the courtroom can see your face or hear your real
5 voice during your testimony.

6 We also have -- we also have in place for you, Mr Witness, the use of pseudonym. In
7 accordance with that, we shall all only refer to you as "Mr Witness", to make sure that
8 the public does not know your name.

9 When you answer questions that will not give away who you are, we will do so in
10 open session. Now, that means that the public can hear what is being said in this
11 courtroom.

12 When you are asked to describe anything that relates specifically to you, or you are
13 asked to mention facts that might reveal your identity, we will do this in private
14 session.

15 Do you understand all that I have said in respect of your protective measures,
16 Mr Witness?

17 THE WITNESS: [9:46:02](Interpretation) Yes, I have understood.

18 PRESIDING JUDGE SAMBA: [9:46:04] So, lastly, I have a few practical matters you
19 should have in mind when giving your testimony.

20 Everything we say here in this courtroom is written down and interpreted. It is
21 therefore important to speak clearly and at a slow pace. Please speak into
22 the microphone and only start speaking when the person asking you the question has
23 finished.

24 To allow for the interpretation, everyone has to wait a few seconds before starting to
25 speak.

Trial Hearing

(Open Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 Do you understand, Mr Witness?

2 THE WITNESS: [9:47:11](Interpretation) Yes, it is clear.

3 PRESIDING JUDGE SAMBA: [9:47:13] Good.

4 If you yourself have any questions or if you need a break, raise your hand so that we
5 know here that you want to say something to us.

6 Furthermore, we hope that there are no issues with the video link. However, if there
7 are any issues with the technology, be rest assured that we will do our best to have
8 things sorted out as quickly as possible.

9 Have you understood all that I have said, Mr Witness?

10 THE WITNESS: [9:48:06](Interpretation) Yes, I have understood.

11 PRESIDING JUDGE SAMBA: [9:48:08] Thank you very much.

12 So we are going to start with your testimony. The Prosecution will put questions to
13 you and we will wait for your answer.

14 Thank you, Madam Prosecutor. Your witness, please.

15 QUESTIONED BY MS NDAGIRE:

16 Q. [9:48:35] Good morning, Mr Witness. My name is Sanyu Ndagire. I'm an
17 assistant associate legal officer with the Prosecution team. We met recently, last
18 week, and before that some weeks ago. I will be asking you a few questions on
19 behalf of the Prosecution.

20 And, Madam President, I request if we go into private session for a few seconds for
21 the witness to provide his name, please.

22 PRESIDING JUDGE SAMBA: [9:49:05] Thank you very much.

23 Madam Court Officer, can we go into private session briefly, please.

24 (Private session at 9.49 a.m.)

25 THE COURT OFFICER: [9:49:23] We're in private session, Madam President.

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 PRESIDING JUDGE SAMBA: [9:49:26] Thank you.

2 Ms Ndagire, please, your witness.

3 MS NDAGIRE: [9:49:34]

4 Q. [9:49:35] Mr Witness, we are now in private session and you may speak freely
5 and provide us your names, please. Could you please tell the Court your full name.

6 A. [9:49:57] Yes, I can give my full name.

7 Q. [9:50:02] Mr Witness, please, please tell the Court your full names. We are in
8 private session so you have nothing to fear. People outside cannot hear you.

9 A. [9:50:30] My name is (Redacted).

10 Q. [9:50:39] Thank you for that.

11 And what is your current occupation?

12 A. [9:51:01] I am a (Redacted).

13 Q. [9:51:13] And where did you live in 2013, Mr Witness?

14 A. [9:51:33] In the year 2013, I was living in (Redacted).

15 Q. [9:51:50] And just so we know, in which country is (Redacted)

16 (Redacted)?

17 A. [9:52:13] (Redacted)

18 (Redacted).

19 Q. [9:52:39] Thank you very much.

20 Madam President, we can now go back to open session.

21 PRESIDING JUDGE SAMBA: [9:52:46] Madam Court Officer, can we go back into
22 open session, please. Thank you.

23 (Open session at 9.53 a.m.)

24 THE COURT OFFICER: [9:53:03] We're back in open session, Madam President.

25 PRESIDING JUDGE SAMBA: [9:53:06] Thank you very much.

Trial Hearing
WITNESS: CAR-OTP-P-2263

(Open Session)

ICC-01/14-01/21

1 Madam Prosecutor, continue, please.

2 MS NDAGIRE: [9:53:10]

3 Q. [9:53:12] Mr Witness, we are now in open session. So please be careful not to
4 reveal your full names. And if at all you need to mention your name and you would
5 like us to go into private session, please feel free to inform the Court that.

6 I will now ask you a few questions based on two topics. The first is your statements
7 and then the second will be additional questions about a specific topic in your
8 statement.

9 Mr Witness, do you recall being interviewed by investigators from the Office of the
10 Prosecutor?

11 A. [9:54:25] Yes, I do remember.

12 Q. [9:54:32] Do you remember which year it was?

13 A. [9:54:50] I no longer recall the year.

14 Q. [9:54:56] That's fine. And on that occasion was a statement -- were you
15 interviewed by the investigators from the Office of the Prosecutor?

16 A. [9:55:21] That is correct, yes.

17 Q. [9:55:27] And after that process, was a statement taken down by
18 the investigators of the Office of the Prosecutor?

19 A. [9:55:53] Yes, my statement was taken down.

20 Q. [9:55:59] And after that, was your statement read back to you by
21 the investigators?

22 A. [9:56:20] Yes, my statement was read back to me.

23 Q. [9:56:27] And were you able to sign that statement after it was read back to you?

24 A. [9:56:43] Yes, I signed it.

25 Q. [9:56:50] I kindly request the court officer to please display on the witness's

Trial Hearing

(Open Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 screen tab 1 of the Prosecution binder. The ERN, for the court record, is
2 CAR-OTP-2089-1229. And the document is confidential and should not be displayed
3 in the gallery, please.

4 Mr Witness, do you see a document on the screen in front of you?

5 A. [9:57:46] Yes.

6 Q. [9:57:50] And do you recognise any of the names on this page, Mr Witness?

7 A. [9:58:08] Yes, I do recognise a name.

8 Q. [9:58:19] And without telling us the name, please tell us whose names you
9 recognise.

10 A. [9:58:37] I recognise my name. I recognise the names of my father and my
11 mother. There's also my ethnic origin.

12 Q. [9:58:51] Thank you for that.

13 Could the court officer please scroll towards the bottom of the page. Thank you.

14 Mr Witness, do you recognise any other names on this part of the page? And please
15 don't tell us whose names, if at all. Do not tell us the names themselves, just whose
16 names you recognise.

17 A. [9:59:36] I recognise these names. I recognise the three names.

18 Q. [9:59:45] And do you recognise the signatures on the page?

19 A. [10:00:01] Yes, I do recognise them.

20 Q. [10:00:07] Mr Witness, does -- you said that at the top of the page you
21 recognised your names.

22 PRESIDING JUDGE SAMBA: [10:00:16] Madam Prosecutor, you can ask him whose
23 signatures are those, please. Don't lead the witness.

24 MS NDAGIRE: [10:00:24]

25 Q. [10:00:25] Mr Witness, whose signatures do you see on this part of the page?

Trial Hearing

(Open Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 A. [10:00:43] I can see my signature and the signatures of the investigators from
2 the Office of the Prosecutor.

3 Q. [10:00:54] Thank you for that.

4 Could the court officer please turn to page 12 --

5 PRESIDING JUDGE SAMBA: [10:00:58] No, sorry, Madam Prosecutor, ask him
6 further. He says he could recognise his signature. Let us know which one is his
7 signature, of those three signatures, please.

8 MS NDAGIRE: [10:01:13]

9 Q. [10:01:13] Mr Witness, could you tell us which of the signatures that you have
10 just identified is yours?

11 A. [10:01:30] My signature is in the middle.

12 Q. [10:01:41] Thank you very much.

13 Could the court officer please turn to page 1240 of the same document. That's tab 1.

14 And this page also should not be displayed in the gallery.

15 Mr Witness, do you recognise the signature on this page on your screen?

16 A. [10:02:29] Yes, I recognise it. It's my signature.

17 Q. [10:02:38] Thank you very much.

18 Could the court officer please now display tab 5 of the Prosecution binder. And

19 the ERN, for the court record, is CAR-OTP-2091-3074. And this document is also

20 confidential and should not be displayed in the gallery.

21 Mr Witness, do you see a document on the screen in front of you?

22 A. [10:03:29] Yes, I see it.

23 Q. [10:03:35] And do you recognise any of the names on this page?

24 A. [10:03:49] Yes, I recognise them.

25 Q. [10:03:54] Whose names do you recognise?

Trial Hearing

(Open Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 A. [10:04:05] I recognise my name, the name of my father and the name of my
2 mother.

3 Q. [10:04:22] Apart from the names of your father and your mother, do you
4 recognise any other name on the page?

5 PRESIDING JUDGE SAMBA: [10:04:31] He said he recognised his name, his mum's
6 and his dad's. See if it's not in the transcript.

7 MS NDAGIRE: [10:04:42] Yes, indeed, I see it now.

8 Could the court officer please scroll down to the bottom of that page, please.

9 Q. [10:05:06] Mr Witness, do you recognise any names on that part of the page?

10 A. [10:05:22] Yes, I do.

11 Q. [10:05:29] Whose names do you recognise?

12 A. [10:05:41] I recognise my name and the names of the investigators.

13 Q. [10:05:55] Other than those names, do you recognise anything else on this part
14 of the page?

15 A. [10:06:13] No.

16 Q. [10:06:22] Do you see any signatures on this part of the page, Mr Witness?

17 A. [10:06:39] Yes, I see signatures. I see the signatures.

18 Q. [10:06:45] And if you recognise any of the signatures, please tell us which one.

19 A. [10:07:04] I recognise my signature.

20 Q. [10:07:11] And just so we are clear, where on the page does it appear?

21 A. [10:07:38] It appears on the page on the left-hand side.

22 Q. [10:07:45] Thank you very much.

23 Could the court officer please turn to page 3089 of the same document. And it also
24 should not be displayed to the gallery.

25 Mr Witness, do you recognise the signature on this part of the page?

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 A. [10:08:25] Yes, I do.

2 Q. [10:08:28] Whose signature is it?

3 A. [10:08:44] It's my signature.

4 Q. [10:08:51] Thank you very much.

5 This document may be removed from the screen.

6 Madam President, for the next series of questions I would like us to go back into
7 private session.

8 PRESIDING JUDGE SAMBA: [10:09:05] Madam Court Officer, can we go briefly
9 into private session, please.

10 (Private session at 10.09 a.m.)

11 THE COURT OFFICER: [10:09:18] We're in private session, Madam President.

12 PRESIDING JUDGE SAMBA: [10:09:23] Thank you.

13 Madam Prosecutor, carry on, please.

14 MS NDAGIRE: [10:09:28]

15 Q. [10:09:28] Mr Witness, we are now back in private session, so please feel free,
16 when I ask you certain questions, to give us names or the basis of your knowledge of
17 that information freely, as no one outside of this courtroom can hear you.

18 A. [10:09:54] Very well.

19 Q. [10:10:08] Mr Witness, do you know a place called OCRB?

20 A. [10:10:25] Yes, I know the OCRB.

21 Q. [10:10:31] Please tell the Court what the OCRB is.

22 A. [10:10:55] The OCRB is the place of detention of the *bandits*.

23 Q. [10:11:07] And how do you know it is the place of detention?

24 A. [10:11:27] I know this place because it's a known -- a place that's known by all
25 the Central African Republic people. I would pass by and I continue to pass by this

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 place. It is known by the entire public.

2 THE INTERPRETER: [10:11:45] And the interpreter corrects that this was a place of
3 detention of bandits.

4 MS NDAGIRE: [10:11:55]

5 Q. [10:11:56] And where is the OCRB located?

6 A. [10:12:17] The OCRB is located close to the central market, going towards
7 Camp de Roux. There's a crossroads which goes towards the *palais* and before
8 getting to the OCRB there is a road which goes to the DCRP.

9 Q. [10:12:57] Have you ever been to the OCRB yourself, Mr Witness?

10 A. [10:13:14] It's a place that I know very well. I pass by regularly.

11 Q. [10:13:26] Did you ever pass by there in 2013, Mr Witness?

12 A. [10:13:47] Yes, I passed through there.

13 Q. [10:13:53] Why did you pass through there, Mr Witness?

14 A. [10:14:10] Within the framework of my activities, if I had to go to Kassai or to
15 Ouango, I would pass by in front of the OCRB.

16 Q. [10:14:26] In 2013, were you ever inside the OCRB?

17 A. [10:14:49] I told you that in 2013 I passed by in front of it. I didn't enter it, but I
18 know the OCRB well.

19 Q. [10:15:08] What would happen at the OCRB, Mr Witness? If you know.

20 PRESIDING JUDGE SAMBA: [10:15:18] When?

21 MS NDAGIRE: [10:15:21]

22 Q. [10:15:22] In 2013, what would happen at the OCRB?

23 A. [10:15:40] I have no idea.

24 Q. [10:15:55] Mr Witness, at page 17 of this morning's transcript, it is recorded here
25 that you said, the interpreter corrects, that the OCRB was a place of detention of

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 bandits. And my question now is how do you know it was a place of detention of
2 bandits?

3 MR JACOBS: [10:16:32](Interpretation) Your Honour.

4 PRESIDING JUDGE SAMBA: [10:16:33] Yes, Mr Jacobs.

5 MR JACOBS: [10:16:35](Interpretation) It seems to be the case that this question has
6 already been put and the witness has already replied. And I'm looking for
7 the reference here.

8 He said that everybody knew it. I knew this place because it was a place that was
9 known by the entirely Central African population. I went by in front of this place, it
10 was known by the entire public. So that's in the French transcript, real time page 16,
11 lines 10 to 13. So the question has already been put and the witness already
12 answered it.

13 PRESIDING JUDGE SAMBA: [10:17:05] Yeah, the question was to do with the place
14 itself, the building OCRB. He said he passed by that area and everybody knew that
15 was the building.

16 The question put by counsel is how this witness got to know that it was a place for,
17 for bandits. In other words, what was done inside the OCRB. You're overruled,
18 Mr Jacobs.

19 Please, Madam Prosecutor, carry on.

20 MS NDAGIRE: [10:17:44]

21 Q. [10:17:44] Mr Witness, I'll ask you the question again. How did you know
22 the OCRB was a place of detention of bandits or for bandits?

23 A. [10:18:11] *In front of the OCRB compound there's a sign that says "l'OCRB".

24 And on both sides of the compound, there's this inscription "OCRB, Central African
25 office for the repression of banditry".

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 Q. [10:19:00] And other than the bandits, do you know who else was at the OCRB?

2 A. [10:19:25] I told you that the police were working at the OCRB. I have no idea
3 what their functions were.

4 Q. [10:19:48] Other than the police, do you know who else worked at the OCRB,
5 Mr Witness?

6 A. [10:20:14] It was the police who were working at the OCRB. I know that
7 civilians can't work there, at the OCRB.

8 Q. [10:20:26] And do you know who was in charge of the police at the OCRB?

9 PRESIDING JUDGE SAMBA: [10:20:38] Madam Prosecutor, can I ask that you
10 streamline your question in such a way that we know the time, the period which
11 you are talking about, whether it's now, or whether it's 2013, or whether it's 2018, so
12 that the witness can be maybe guided. Maybe your questions are too broad.

13 MS NDAGIRE: [10:21:02] I'm guided, your Honour. Thank you.

14 Q. [10:21:05] Mr Witness, in 2013, do you know who was in charge of the police
15 who are working at the OCRB?

16 A. [10:21:26] No, I don't know.

17 MS NDAGIRE: [10:21:39] Madam Prosecutor, on the basis of the answer just given
18 by the witness, I request if I could refresh his memory on the information he provided
19 at paragraph 20 of his second statement, whose ERN is CAR-OTP-2091-3074.

20 PRESIDING JUDGE SAMBA: [10:22:08] 3074 or 3078, you mean, for paragraph 20
21 that you just referred to? It's on page 3078, yes?

22 MS NDAGIRE: [10:22:25] Yes, indeed, 3078 is the page where paragraph 20 appears.

23 PRESIDING JUDGE SAMBA: [10:22:34] Now, I mean what about that paragraph?
24 What about that particular paragraph?

25 MS NDAGIRE: [10:22:41] At the fifth line he provides particular information about

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 who was in charge and, in the light of the response he gave just before I made
2 the request to refresh, there is an inconsistency there and so I wish to clarify -- refresh
3 his memory.

4 PRESIDING JUDGE SAMBA: [10:23:03] When we looked at that paragraph you say
5 he referred to who was in charge of, you know -- I don't see any name there. We
6 looked at that paragraph, hence our decision. But let's allow you -- let's see what
7 you want to do. I don't see any name in that particular paragraph, that's why we
8 came up with that decision I read out before we started the testimony of this witness.
9 You can ask him.

10 MS NDAGIRE: [10:23:32] Thank you, Madam Prosecutor.

11 Q. [10:23:36] Mr Witness, in one of the statements that you gave to the investigators
12 of the Office of the Prosecutor - and I'm reading from paragraph 20 of that
13 statement - you said the following at line -- at line number 3, and I quote:

14 "When the vehicle stopped in the OCRB compound the Commander of our vehicle
15 approached to Commander of the OCRB with a piece of paper."

16 Now my question to you, firstly, is do you recall this event, do you recall having gone
17 in a vehicle inside the compound of the OCRB?

18 A. [10:24:52] Yes, I remember.

19 Q. [10:24:59] And is it also correct that when the vehicle in which you were
20 approached stopped in the compound, that the commander of that vehicle
21 approached the commander of the OCRB with a piece of paper?

22 A. [10:25:32] Yes, that is correct. When our vehicle went through the gate of
23 the OCRB, the vehicle stopped. The commander who was on our vehicle got down
24 from the vehicle and the person in charge approached him. And this person who
25 was in charge provided the commander with a document, the commander who was

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 on our vehicle.

2 Q. [10:26:13] How did you know that this person who approached the commander
3 of your vehicle was the one in charge?

4 A. [10:26:43] For the entire duration of my detention, I never saw another person
5 give instructions. He was the person who gave orders for -- to beat us up. When
6 he was provided with a document, he was the one who gave instructions. Other
7 than him, there was nobody else who gave instructions, and it was for all these
8 reasons that I said that he was the person who was responsible, he was the one in
9 charge.

10 Q. [10:27:33] And just so we're clear, Mr Witness, when you say he was in charge,
11 who or what was he in charge of?

12 A. [10:27:58] He was the person in charge of the OCRB.

13 Q. [10:28:08] Thank you for that, Mr Witness.

14 I kindly request if the court officer could ...

15 Actually, we may now go back to public session, Madam President. Apology.

16 PRESIDING JUDGE SAMBA: [10:28:38] Madam Court Officer, can we go back into
17 open session, please.

18 (Open session at 10.28 a.m.)

19 THE COURT OFFICER: [10:28:51] We're back in open session, Madam President.

20 PRESIDING JUDGE SAMBA: [10:28:54] Thank you very much.

21 Madam Prosecutor, please carry on.

22 MS NDAGIRE: [10:28:59]

23 Q. [10:29:00] Mr Witness, we are back in open session, so please be careful not to
24 mention your names of any other people, and if you wish to, please let us know so we
25 can go back to private session.

Trial Hearing

(Open Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 My first question now is when was the last time you had an opportunity to read your
2 statements?

3 A. [10:29:41] That was two weeks ago.

4 Q. [10:29:49] And on that occasion were you able to provide any corrections or
5 clarifications to your statements?

6 A. [10:30:10] Yes, I provided some clarifications on my statement.

7 Q. [10:30:17] And were those clarifications recorded down by members of
8 the Office of the Prosecutor?

9 A. [10:30:43] Yes, they were recorded, and then I appended my signature to
10 the bottom of the document.

11 Q. [10:30:52] And were the clarifications that you provide -- excuse me, were
12 the clarifications that you provided, were they all truthful?

13 A. [10:31:13] Yes, it is the truth.

14 Q. [10:31:19] I kindly request if the court officer would please display tab 10 of
15 the Prosecution binder. And the ERN of that document is CAR-OTP-00036082, and
16 if page 3 of that document would please be displayed to only the witness, not in
17 the gallery.

18 Mr Witness, do you see a document on the screen in front of you?

19 A. [10:32:18] Yes, I can see it.

20 Q. [10:32:29] I apologise. Do you recognise any of the names or signatures that
21 appear on this page?

22 A. [10:32:52] Yes, I do recognise the name and the signature.

23 Q. [10:33:02] And without telling us the name, could you tell us whose name you
24 recognise, firstly?

25 A. [10:33:24] I recognise my name and my signature.

Trial Hearing

(Open Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 Q. [10:33:31] Thank you for that, Mr Witness.

2 Now, Mr Witness, the Judges can use your statements and the documents that you
3 provided together with your statements as part of the evidence in this trial in order
4 for them to decide the truth. And my question for you is: do you have any
5 objections to this process?

6 A. [10:34:21] Could you please put your question again.

7 Q. [10:34:24] Yes, of course.

8 The Judges in this trial can use your statement and the information you've provided
9 today in this hearing to help them decide the truth of this case, but they can only do
10 so if you do not object. So my question is: do you have any objection to the Judges
11 using your statement and the annexes and the testimony you have given today?

12 * A. [10:35:17] I am in agreement with the Judges using my statements and the
13 documents that I have provided.

14 Q. [10:35:29] Thank you very much, Mr Witness.

15 Madam President, that concludes my examination-in-chief. And I believe
16 I've -- we've met the procedural requirements for Rule 68(3) for the statement and
17 annexes.

18 PRESIDING JUDGE SAMBA: [10:35:49] Thank you very much, Madam Prosecutor.
19 The witness, being before the Chamber and him having agreed for the Chamber to
20 use his prior recorded testimony and the annex thereto, the Prosecution having
21 questioned the witness, the Defence and the Chamber will have an opportunity to
22 question -- question the witness, it is our decision, therefore, that the requirements of
23 Rule 68(3) of the Rules of Procedure and Evidence have been fulfilled.

24 So with that I am going to ask counsel for the victims to put questions to this witness.
25 Ms Pellet, please. Thank you.

Trial Hearing

(Open Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 MS PELLET: [10:36:50](Interpretation) Thank you, Madam President.

2 So I do maintain my request of 27 February last to put questions to this witness.

3 And in performance or compliance with the decision of this morning, as my colleague

4 from the OTP has just met the requirements of 68(3), then * my questions will be

5 limited to the harm suffered by the witness during the events of 2013 and the impact

6 of these events on him and the members of his family.

7 QUESTIONED BY MS PELLET: (Interpretation)

8 Q. [10:37:26] Good morning, Mr Witness.

9 A. [10:37:34] Good morning.

10 Q. [10:37:38] We do know each other, but for the record I would like to say that

11 I am your legal representative because you have been accepted to participate in

12 the procedure on 8 November 2023 on the basis of a form that we filled out together

13 on 5 May 2022.

14 And in this regard, Madam President, I would refer you also to paragraph 30 and 31

15 of our filings, ICC-01/14-01/21-518.

16 Mr Witness, before I start putting questions to you I would like to remind you, as did

17 indeed Madam President this morning and my colleague from the OTP, of an

18 important thing.

19 PRESIDING JUDGE SAMBA: [10:38:35] Ms Pellet, can you speak a bit louder so that

20 the interpreters can hear you well. Thank you.

21 MS PELLET: [10:38:48](Interpretation) Yes, indeed, Madam President.

22 Q. [10:38:52] So, Mr Witness, I'm going to remind you of an important matter this

23 morning, that you need, namely, to bear in mind in order to be free in your response

24 to my questions when providing us with all the information that you deem fit.

25 As Madam President and my learned friend of the OTP this morning reminded you,

Trial Hearing

(Open Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 if any of my questions might be identifying in nature I will be requesting to move into
2 private session so that only those present in the courtroom will be in a position to
3 hear the responses to my questions and that nobody will be able to identify you.

4 Now, if you are ever minded that a response to one of my questions might identify
5 you, please raise your hand and we will move into private session. Have you
6 understood, Mr Witness?

7 A. [10:39:47] Yes, I have understood only too well.

8 Q. [10:39:51] Very well. Thank you very much.

9 Now, Mr Witness, in your prior statement, and once again this morning in the French
10 version, page 21, lines 18 -- sorry, lines 8 to 10, and in English page 22 from line 5, you
11 explained that you were beaten up during your detention at the OCRB.

12 Did you benefit from any medical treatment subsequent to this beating?

13 A. [10:40:41] Not at all.

14 Q. [10:40:46] And when you were released, Mr Witness, did you benefit or receive
15 any medical treatment?

16 A. [10:41:06] No, I did not receive any medical treatment and nobody approached
17 me.

18 Q. [10:41:14] With regard to the beatings that you underwent at -- during your
19 detention at the OCRB, did they leave any aftermath or traces today?

20 A. [10:41:33] Yes, there are still indeed traces of these beatings.

21 Q. [10:41:40] Could you please explain to the Court what these -- what this
22 aftermath or these traces are?

23 A. [10:42:04] The after-effects that I suffer on a daily basis, or the repercussions, is
24 that I do not have the same level of physical strength that I had prior to the events
25 and every year the -- after what happened to me, the torture that I underwent is still

Trial Hearing

(Open Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 present in my mind. I was somebody who was not fearful of anything, but that is no
2 longer the case today. These are memories that are still very present and I still bear
3 the scars on my back of the torture that I underwent. I still have this very much in
4 my mind.

5 Q. [10:43:01] Thank you, Mr Witness.

6 Since you were released from the OCRB, have you received any psychological
7 treatment?

8 A. [10:43:28] I did not receive any and have not received any to date.

9 Q. [10:43:36] Thank you, Mr Witness. I'm now going to move on to a series of
10 questions with regard to the consequences of your detention at the OCRB and
11 the torture that you experienced on you and your family.

12 Now, Mr Witness, I would like to remind you once again that we are in open session
13 and that I can at any moment, if you so wish, move into private session so that you
14 will be free to express yourself when answering my questions; all right?

15 A. [10:44:19] Very well.

16 Q. [10:44:25] So we are still in open session.

17 What were the consequences upon your family of your arrest and detention during
18 the events of 2013?

19 A. [10:44:59] The consequences with regards to my family are multiple. Firstly, I
20 lost my father, because I am an only child and when I was arrested he couldn't deal
21 with it. He had a high blood pressure event and then, once I was released, he passed
22 away.

23 Secondly, I was the chief of the household and I had a number of people who were
24 dependent upon me. When I was arrested, I had a young girl, my niece, who had to
25 give up school and fell pregnant at the age of 14.

Trial Hearing

(Open Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 I also lost my equipment. Everything was looted, which meant that I ended up with
2 nothing. So those are the consequences of my arrest.

3 Q. [10:46:36] Thank you, Mr Witness.

4 Mr Witness, what do you expect of the trial against Mr Said?

5 A. [10:47:00] My expectations of the trial against Mr Said are that everything that I
6 lost, whether it be the death of my father, or my niece who gave up schooling and fell
7 pregnant, and all of the property that I lost, will be, to some extent, compensated for.
8 That is what I expect of in terms of justice.

9 Q. [10:47:44] And why did you want to participate in the proceedings as a victim
10 and why did you seek to testify today?

11 A. [10:47:58] I accepted to testify because I would like to help the -- help justice in
12 my country, for human rights to be respected and in order for such treatment never to
13 happen again. And that those who intend to commit such acts in the future can
14 understand that justice does exist. That is why I decided to testify, for justice and
15 human rights to be respected for everyone the world over.

16 Q. [10:48:58] Thank you, Mr Witness.

17 Madam President, I have no further questions and I thank you.

18 PRESIDING JUDGE SAMBA: [10:49:07] Thank you very much, Ms Pellet.

19 Now, Mr Witness, we are going to allow counsel for the Defence, for Mr Said, to put
20 some questions to you in cross-examination.

21 Ms Naouri, you may start your cross-examination now and we'll continue during
22 the next session. Thank you.

23 MS NAOURI: [10:49:35](Interpretation) Thank you, Madam President.

24 The cross-examination for this witness will be led by Mr Jacobs.

25 PRESIDING JUDGE SAMBA: [10:49:45] Thank you very much.

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 Mr Jacobs, then, your witness, please.

2 MR JACOBS: [10:50:13](Interpretation) Thank you, Madam President.

3 QUESTIONED BY MR JACOBS: (Interpretation)

4 Q. [10:50:18] Good morning, Mr Witness.

5 A. [10:50:25] Good morning.

6 Q. [10:50:27] My name is Dov Jacobs and I'm going to be putting a number of
7 questions to you today on behalf of the Defence for Mr Said. As the Presiding Judge
8 explained, everything that we say is being interpreted and transcribed, so it is
9 important for us to speak slowly and for us to wait a little bit after my question, your
10 response, and my next question, for everything to be taken down into the record.

11 Is that all right, Mr Witness?

12 A. [10:51:07] Absolutely.

13 (Counsel confers)

14 MR JACOBS: [10:51:29](Interpretation) So, I believe it would be preferable for us to
15 move into private session for the first series of questions, please, Madam President.

16 PRESIDING JUDGE SAMBA: [10:51:44] Madam Court Officer, can we go briefly
17 into private session, please.

18 (Private session at 10.52 a.m.)

19 THE COURT OFFICER: [10:52:05] We're in private session, Madam President.

20 PRESIDING JUDGE SAMBA: [10:52:07] Thank you very much.

21 Mr Jacobs, your witness, please.

22 MR JACOBS: [10:52:10](Interpretation) Thank you.

23 Q. [10:52:17] So, Mr Witness, when did you start to work (Redacted)?

24 What year was that?

25 A. [10:52:34] I started to work as (Redacted) in the year 1995.

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 Q. [10:52:47] And did you always work for yourself independently or did you
2 work for somebody else?

3 A. [10:53:12] I started working for somebody before setting myself up
4 independently.

5 Q. [10:53:28] When did you open your own (Redacted), in which year?

6 A. [10:53:39] I opened my own (Redacted) in the year 2005.

7 Q. [10:53:56] Who financed the opening of your (Redacted), Mr Witness?

8 A. [10:54:11] I started saving money when I was working for somebody else, and
9 then I (Redacted).

10 THE INTERPRETER: [10:54:31] Correction: I (Redacted)
11 (Redacted).

12 MR JACOBS: [10:54:37] (Interpretation)

13 Q. [10:54:38] Thank you, Mr Witness.

14 So I am quoting transcript 9, page 5 of the French transcript, you say that you are still
15 working (Redacted), so you have been working
16 continuously, as such, since 2013; is that correct?

17 A. [10:55:03] That is correct.

18 Q. [10:55:10] And today your (Redacted) is still in the same location, is it?

19 A. [10:55:22] No, my (Redacted) is no longer in the same location.

20 Q. [10:55:48] Did you have the (Redacted) alone or with somebody else,
21 Mr Witness?

22 A. [10:56:02] I run the (Redacted) alone.

23 Q. [10:56:16] Just to be clear, apart from being (Redacted), did you have
24 any other trade?

25 A. [10:56:30] No, I didn't have another trade.

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 Q. [10:56:46] Very well, Mr Witness.

2 Now, whilst we are still in private session, could you please tell us whether you have
3 any brothers?

4 A. [10:57:06] I think I told you that I am an only son.

5 (Counsel confers)

6 MR JACOBS: [10:57:29](Interpretation)

7 Q. [10:57:31] Very well, Mr Witness.

8 Madam Courtroom Officer, could we please bring up tab 12 of our list of evidence,
9 please. That is CAR-OTP-00036089. But if you could just show it to the courtroom,
10 please, and not to the witness, for reasons of confidentiality, please.

11 So, Mr Witness, we have an investigator's report from the OTP that has attributed
12 a number of telephone numbers to you, and I just wanted to check those telephone
13 numbers with you; all right?

14 A. [10:58:54] Very well.

15 Q. [10:58:56] So the first number that appears on this document, could we please
16 scroll down, just for the record, it is page 00003, so that's the third page of
17 the document, please.

18 So the first number that appears is the (Redacted). Do you recognise that number,
19 Mr Witness?

20 A. [10:59:38] I do recognise it.

21 Q. [10:59:45] Is this a number that you were using in the year 2013, Mr Witness?

22 A. [10:59:56] Yes, that was the number that I was using during that period of time.

23 Q. [11:00:08] Thank you.

24 The second number is (Redacted). Do you recognise this number, Mr Witness?

25 A. [11:00:27] I do recognise it. That was my very first number and I was using it

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 well before the 72 number and I'm still using it today.

2 Q. [11:00:46] So just to be clear, you were also using that number in 2013, were
3 you?

4 A. [11:00:57] Yes. That's clear. I was using those two numbers.

5 Q. [11:01:05] Thank you very much, Mr Witness.

6 And one last number, so that's (Redacted), does that number ring a bell?

7 A. [11:01:27] Yes, that is my Azure number and I was using it at the time, but
8 the operating company closed its doors. But at that time I was also using that
9 number.

10 Q. [11:01:53] Thank you, Mr Witness.

11 Madam President, I can see what time it is. It might be a good time to take the break.

12 PRESIDING JUDGE SAMBA: [11:02:00] Yes, certainly.

13 Mr Witness, we are going to have a short break. We will come back at 11.30, to
14 continue with your cross-examination.

15 So I rise the Court and ask that we come back at 11.30, please.

16 THE COURT USHER: [11:02:15] All rise.

17 (Recess taken at 11.02 a.m.)

18 (Upon resuming in private session at 11.32 a.m.)

19 THE COURT USHER: [11:32:05] All rise.

20 Please be seated.

21 PRESIDING JUDGE SAMBA: [11:32:25] Good morning again, everyone.

22 Good morning, Mr Witness. We are going to continue with your cross-examination
23 by counsel Jacobs.

24 Mr Jacobs, your witness, please. Cross-examination continues. Just so you know,
25 we're in private session. We're still in private session.

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 MS MAKWAIA: [11:32:53] I beg your indulgence, Madam President, before counsel
2 continues. We've just been joined by our legal intern, Mr Mamadou Fofana, at the
3 back of counsel table, for the information of the Court.

4 PRESIDING JUDGE SAMBA: [11:33:13] Thank you very much, Ms Makwaia.
5 Welcome, Mr Fofana. Hope you enjoy the proceedings. Thank you very much.
6 Mr Jacobs, continue, please.

7 MR JACOBS: [11:33:23](Interpretation) Thank you, your Honour.

8 Q. [11:33:28] Good morning once again, Witness.

9 A. [11:33:41] Good morning.

10 Q. [11:33:50] As the Presiding Judge indicated, we are in private session and I am
11 going to continue with my questions. So I would like to go back a moment to the
12 events that led to the judgment that you were subject to. In your statement, your
13 previous statement, you indicated that you were released after your judgment,
14 Witness. That is correct, is it not?

15 A. [11:34:20] Yes, that's correct. That's the way it went.

16 Q. [11:34:28] Very well. If I understand well, you were released. The judges
17 considered that you were innocent?

18 A. [11:34:39] Yes, that's correct.

19 Q. [11:34:54] Very well. And the judgment was on (Redacted), was it not,
20 Mr Witness?

21 A. [11:35:16] Yes, that is correct.

22 Q. [11:35:20] Very well.

23 Court officer, could we show tab 33 of our list of notification, that is the item
24 CAR-OTP-2135-3202, and this item can be shown to the witness. So the page -- if
25 you could show the page 3232.

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 Perfect, thank you.

2 Witness, do you see a document?

3 A. [11:36:25] Yes, I can see a document on the screen.

4 Q. [11:36:35] Very well. Now, this is a register of the tribunal of *grande instance* in

5 Bangui where they transcribe different decisions issued by the tribunal in Bangui, in

6 (Redacted), and we can see -- do you see, Witness, (Redacted)

7 (Redacted)?

8 A. [11:37:15] Yes, I can see it.

9 THE INTERPRETER: [11:37:18] (Redacted), corrects the interpreter.

10 MR JACOBS: [11:37:25] (Interpretation) If we can go a bit further down in the page.

11 Q. [11:37:31] Do you remember if other people who were tried with you were

12 released?

13 A. [11:37:43] Some people were released and others were sentenced.

14 Q. [11:38:07] Very well. And so your co-detainees, (Redacted), were they also

15 released? (Redacted), was he, like you, also released?

16 A. [11:38:29] I was with (Redacted). * The person who I do remember being

17 released was (Redacted) and myself. (Redacted), where it concerns him, I think he

18 was sentenced, as well as other people, but I do remember (Redacted)

19 (Redacted) and myself, we were released.

20 Q. [11:39:11] Very well. If we could move the document to the right, you can see

21 the name (Redacted). And if we go -- and there you can read (Redacted)

22 (Redacted). Does that refresh your memory,

23 Witness?

24 A. [11:39:44] Yes. Yes, it does remind me of something.

25 Q. [11:40:23] Now, Witness, you've just spoken to us about (Redacted).

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 Could the court officer show us tab 13. This is the document CAR-OTP-2042 -- and
2 this document can be shown to the witness. CAR-OTP-2043-0479. It can be shown
3 to the witness.

4 Thank you, court officer. So if we could zoom in on the document -- the top of the
5 document.

6 Witness, can you see the document?

7 A. [11:41:43] Yes, I can see it on the screen.

8 Q. [11:41:50] This is a judgment of the decision of the correctional tribunal
9 concerning (Redacted), and the decision indicates that he was released.

10 If we can just go down a bit. Thank you.

11 Did you have a similar document after your judgment, a written out document such
12 as this?

13 A. [11:42:42] After our trial, we were released. After that, I also received a
14 document like this, a liberation document or a freeing document.

15 Q. [11:43:02] Indeed, we're going to speak about that in a moment. But you didn't
16 receive a document such as this, which is the decision of -- on release concerning
17 yourself?

18 A. [11:43:28] Yes, I did receive this type of decision with regard to my release.

19 Q. [11:43:41] Very good, Witness. On the screen, if you have a look, the first name
20 to be seen that we can see at the top - and I will help you read it - is Yolande
21 Mamia-Yamathia. Yolande Mamia-Yamathia. Do you see it, Witness?

22 A. [11:44:16] Yes, I can see it.

23 Q. [11:44:24] Do you remember who that was?

24 A. [11:44:44] I don't remember very well. I don't remember this name very well.

25 But I do remember at the time that this was a lady who was the prosecutor when we

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 were being tried.

2 Q. [11:44:59] Yes, that's exactly correct. "MP" that you can see is *ministère public*, in
3 French; prosecutor, in English. So she was the prosecutor, as you say.

4 Do you remember if she was present during the entire proceedings?

5 A. [11:45:27] Can you go back to your question. You were speaking about the
6 lady. I don't understand your question well. Please, could you go back and repeat
7 your question.

8 Q. [11:45:40] Yes, Witness. I was speaking about the lady, the lady that you
9 indicated as being the prosecutor during your trial. Was she present in the
10 courtroom with you and the judges?

11 A. [11:46:02] Yes, she was there. She was playing her role in the prosecution team.

12 Q. [11:46:31] Thank you, Witness. Now, to the best of your knowledge, did this
13 lady, did she remain as prosecutor after 2013? If you know.

14 A. [11:46:46] No, after I was released, I don't know anything. I have no
15 information about her.

16 Q. [11:47:06] Thank you, Witness.

17 Now, if we could once again show tab 33 on our list of notification,

18 CAR-OTP-2135-3202.

19 And you have pages 32 -- page 3233.

20 And this document can be shown to the witness.

21 Witness, I don't know if you can see the document.

22 A. [11:48:11] Yes, I can see it.

23 Q. [11:48:24] Do you see your name on this document, Witness?

24 A. [11:48:34] Yes, I see my name.

25 Q. [11:48:47] Witness, do you know for what crime or offence you were being

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 prosecuted for?

2 A. [11:49:02] I'd been arrested and afterwards I was put -- we were put in prison.

3 We were told that it was because of flyers that we were put in detention.

4 Q. [11:49:27] Thank you, Witness.

5 Now, in the document that you've got in front of you, we can see that it's written "act
6 which compromises national security." Do you see that, Witness?

7 A. [11:49:53] Yes, I can see it.

8 Q. [11:50:05] Very well. Do you know what that means, Witness?

9 A. [11:50:24] Yes, I've understood it well.

10 Q. [11:50:46] Thank you, Witness.

11 Court officer, could you show tab 29 of our list of notification, CAR-OTP-2001-3199

12 and page 3243 thereof. That document can be shown to the witness. If we can

13 zoom in on Article 295, which is a bit further down, if you would be so kind.

14 Thank you very much.

15 Do you see the document?

16 A. [11:52:06] Yes, I can see it.

17 Q. [11:52:11] So this is the Central African criminal code adopted in 2010. And if
18 you look at Article 295, I'm going to help you to read it. It states:

19 "Any manoeuvre or act of a nature to compromise public security or to give rise to
20 serious political trouble, provoking hatred of the government, breaching the laws of
21 the country, will be punished by an imprisonment of five years."

22 MS MAKWAIA: [11:52:51] Sorry, Madam President. I think the article he read
23 states, "from one year to five."

24 THE INTERPRETER: "... will be punished with a sentence of imprisonment from
25 one to five years."

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 PRESIDING JUDGE SAMBA: [11:53:17] Thank you very much, Mr Interpreter.

2 Thank you.

3 (Counsel confers)

4 PRESIDING JUDGE SAMBA: [11:53:30] Yes, carry on.

5 MR JACOBS: [11:53:31](Interpretation) Thank you, your Honour. Yes, perhaps there

6 was a problem with the interpretation indeed. That's what's written there in

7 Article 295, that -- a sentence from one to five years. I confirm that.

8 Q. [11:53:57] So, Witness, what I've just read to you is the definition of what you

9 were accused of. Do you recognise this provision?

10 A. [11:54:19] These are the accusations against me, but I have not committed these

11 acts.

12 Q. [11:54:35] Thank you, Witness.

13 We can remove the document, court officer.

14 Indeed, Witness, as we discussed earlier, you were released following the judgment.

15 Could you tell us a bit more about the reasons as to why you were released.

16 A. [11:55:17] They released me because there was no evidence. I wasn't the one

17 who had done all of that. After -- according to their investigations, they concluded

18 that I'd done nothing, and I was released.

19 And that's the reason why I was given the all clear and that's the reason why I was

20 released. I was exonerated.

21 THE INTERPRETER: [11:55:45] Corrects the interpreter.

22 MR JACOBS: [11:55:48](Interpretation)

23 Q. [11:55:49] Very well. So you told us that other people were released at the

24 same time as you. Do you remember the reasons as to why they were released, if

25 you remember?

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 A. [11:56:13] I don't know why they were released or why they had been arrested.

2 Q. [11:56:56] Perfect. So, Witness, you told us a minute ago, and this is page 39,
3 line 1, that there was an issue related to pamphlets or flyers. With regards to these
4 flyers, did that come up at the hearing? Were they presented during the hearing?

5 A. [11:57:29] They didn't show anything during the trial. Didn't show anything,
6 they didn't speak about what I had done. I didn't see these flyers.

7 Q. [11:57:43] Very well. So nobody discussed these flyers during the hearing, or
8 the content of the flyers, or if there was a paper document that was discussed during
9 your trial?

10 A. [11:58:11] Nobody brought a document or the flyers in question.

11 Q. [11:58:34] Thank you, Witness.

12 So you were released with other people. Now, for the people who were sentenced,
13 do you remember the reasons given by the judge at the hearing?

14 A. [11:59:01] I don't remember.

15 Q. [11:59:15] Thank you.

16 Court officer, if you could show once again tab 33 of the list, this is the same register.
17 I will give you the ERN once again, CAR-OTP-2135-3202. If we could go to
18 page 3232.

19 Thank you. If we could please scroll down a little bit further.

20 Mr Witness, we can see here that one of your co-accused, (Redacted), appealed. Can
21 you see the word "*appel*" written in red?

22 A. [12:00:36] Yes, I can see it on the screen.

23 Q. [12:00:46] Very well.

24 Could we please go on to the next page, please, Madam Courtroom Officer. So if we
25 could please scroll down to the bottom of the page. Thank you.

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 Mr Witness, can you see that we can see that (Redacted), another of

2 your co-accused, also appealed. Can you see that, Mr Witness?

3 A. [12:01:34] Yes, I can see that.

4 Q. [12:01:43] Very well.

5 Madam Courtroom Officer, could we please move on to the next page.

6 Thank you.

7 So, you can see that other of your co-accused also appealed.

8 If we could please scroll down on that page.

9 Mr Witness, can you see that?

10 A. [12:02:42] Yes, I can see that up on the screen.

11 Q. [12:02:51] Thank you.

12 Madam Courtroom Officer, could we please move on to the next page, I believe that's

13 3235. If we could please scroll down on this page.

14 So, Mr Witness, you can see that your co-accused appealed. Can you see that from

15 the page?

16 A. [12:03:29] Yes, I can see their names on the screen.

17 Q. [12:03:38] Very well.

18 And last page, please, page 3236, Madam Courtroom Officer.

19 Mr Witness, can you see that your co-accused on that day also lodged an appeal?

20 A. [12:04:13] Yes, I can see it and I have seen their names.

21 Q. [12:04:23] Very well.

22 So, Mr Witness, to your knowledge, how did the appeals proceedings unfold for all of

23 these individuals?

24 MS MAKWAIA: [12:04:32] Objection, Madam President.

25 Counsel has delineated the names of individuals who launched an appeal following a

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 process, and it's clear from this list that this witness did not appeal. Our objection is
2 he's calling to this witness to speculate in the manner in which the appeals proceeded.
3 He is not one of the appellates.

4 PRESIDING JUDGE SAMBA: [12:05:02] Well, I think this -- anyway, Mr Jacobs,
5 please respond.

6 MR JACOBS: [12:05:20](Interpretation) Thank you, Madam President. Well, I
7 asked the witness whether to his knowledge he knew how the appeals proceedings
8 unfolded. I didn't ask him to speculate. If he knows, he can respond. If he does
9 not know, then he can't, Madam President.

10 PRESIDING JUDGE SAMBA: [12:05:39] Well, definitely, if he does not know he will
11 say so. But I do recall this witness say that after his release -- I think at paragraph 57
12 of his second statement he did mention the three of them who were released, as
13 you've rightly referred to in this particular exhibit, tab 33, that we are looking at now.
14 But he did say that after he's released -- his release, you know, he knows nothing
15 about what happened at his place of detention, whether it was the Ngaragba prison or
16 the -- it was no longer the OCRB, but definitely if he followed the proceedings, he
17 could tell us, Madam Prosecutor. If he did not follow, he will also tell us. I
18 understand, I appreciate your objection, but let's allow the witness to tell us.
19 Mr Jacobs, please.

20 Mr Witness, do you know what happened during the appeal of these, your
21 co-detainees, at the period concerned? If you don't know, you can tell us. If you
22 know, tell us also. Thank you.

23 THE WITNESS: [12:07:18](Interpretation) When they lodged an appeal, I was not
24 there, nor did I even know that they had lodged an appeal.

25 PRESIDING JUDGE SAMBA: [12:07:28] Thank you very much.

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 Mr Jacobs, continue, please.

2 MR JACOBS: [12:07:33](Interpretation)

3 Q. [12:07:54](Microphone not activated)

4 THE INTERPRETER: [12:08:00] Microphone, please, counsel.

5 PRESIDING JUDGE SAMBA: [12:08:05] Can you speak into the microphone,

6 Mr Jacobs.

7 MR JACOBS: [12:08:14](Interpretation) Yes, I don't know what happened. I had
8 switched it on. So I shall repeat my question, yes.

9 Q. [12:08:22] Mr Witness, did you remain in contact with most of your co-accused
10 after the year 2013?

11 A. [12:08:43] No, I no longer have any contact with them and I have not contacted
12 anybody.

13 Q. [12:08:55] Very well.

14 So, Mr Witness, when your second statement was taken in October 2018, you
15 provided the Office of the Prosecutor with a list of 12 individuals.

16 That's annex 2 to your statement, that's tab 8 on our list of evidence. Could it please
17 be brought up. So it is CAR-OTP-2091-3092.

18 Thank you very much, Madam Courtroom Officer.

19 THE COURT OFFICER: [12:10:17] Counsel, do you want the evidence to be shown
20 to the witness?

21 MR JACOBS: [12:10:25](Interpretation) Yes, indeed, Madam Courtroom Officer, this
22 document can be shown to the witness. Could we please scroll down to the bottom
23 of the document, please.

24 Q. [12:10:51] Can you see this, Mr Witness?

25 A. [12:10:58] Yes, I can see the document very well.

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 Q. [12:11:01] Do you recognise your signature, Mr Witness?

2 A. [12:11:07] Yes, I do recognise my signature.

3 Q. [12:11:13] Very well.

4 Could we please scroll up, Madam Courtroom Officer, scroll up the document.

5 So you can see it is written in English at the top that you provided the list of

6 individuals detained with yourself in relation to the pamphlet incident, in English,

7 and there's a list of names here with telephone numbers.

8 Can you confirm that you supplied this list of names and telephone numbers to the

9 OTP in 2018?

10 A. [12:12:14] Yes, that is correct. I am the one who handed this list over.

11 Q. [12:12:31] And so when in 2018 you furnished this list of names to the OTP you
12 say that you have not spoken to those individuals between 2013 and 2018; is that what
13 you were telling us, Mr Witness?

14 A. [12:12:56] Yes.

15 Q. [12:13:08] So in the year 2018 when the OTP asked you to provide the names,
16 you remembered all the first names and family names and all the telephone numbers
17 of those individuals by heart, did you?

18 A. [12:13:31] Yes, indeed. After we were released, when we were leaving the
19 prison, we exchanged numbers, so I noted down all these telephone numbers in my
20 little book and then I consulted my little book, my notebook, in order to give those
21 numbers to the OTP.

22 Q. [12:14:04] Could we please scroll down. Well, that's perfect. Thank you.

23 PRESIDING JUDGE SAMBA: [12:14:19] Mr Jacobs, do you still want us to remain in
24 private session?

25 MR JACOBS: [12:14:30](Interpretation) Well, it's difficult to say so in advance,

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 Madam President, but in view of the matters I'm going to be broaching, his detention,
2 his co-accused, I find it somewhat delicate to go into open session because it's the
3 witness's personal experience. You never know, we cannot anticipate when he
4 might say something that is identifying, Madam President.

5 PRESIDING JUDGE SAMBA: [12:15:00] That's fine. Carry on with your questions,
6 please.

7 MR JACOBS: [12:15:12](Interpretation)

8 Q. [12:15:12] Mr Witness, can you see the entries here.

9 One moment, Madam Courtroom Officer, please don't bring up the document again.

10 Yes, I do apologise. I do apologise, Madam Courtroom Officer. You can indeed
11 bring up the document again. I do have one more question to put to the witness.

12 Would you like me to provide you with the reference again? Oh, there it is. Could
13 you please scroll down to the bottom.

14 Mr Witness, with regard to entry number 11, it's written in English and I'm going to
15 translate it: "(Redacted), doesn't know his number."

16 So, Mr Witness, how did you know where (Redacted) lived in the year 2018?

17 A. [12:16:51] When we were arrested, we were all together and when we were
18 talking to each other, each person would say where they were living, their
19 neighbourhood, and that's when (Redacted) told us about his neighbourhood. That
20 was because we were all arrested together. And during that period, he did not have
21 a telephone. That's what I know.

22 Q. [12:17:25] Very well, Mr Witness.

23 So we can see entry number 12, "(Redacted), he
24 doesn't have a phone." So is that a piece of information that you had in the year 2018,
25 Mr Witness?

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 A. [12:17:46] Well, (Redacted), we were all retained together. I would repeat the
2 same thing. Because we would say where we were living, each and every one of us
3 would say where we were living. That's how I know some numbers and I know
4 some neighbourhoods.

5 Q. [12:18:13] Very well, Mr Witness.

6 We can withdraw the document, Madam Courtroom Officer. Thank you.

7 Now, Mr Witness, to your knowledge, did the individuals who were convicted, your
8 co-accused who were convicted, did they do any prison, that is to say after the
9 judgment, did they return to prison?

10 A. [12:19:16] No, I do not have any information about them.

11 Q. [12:19:34] Now, Mr Witness, is it also the case for (Redacted) whom you knew
12 beforehand, did you not?

13 A. [12:20:15] Yes, that is true. I knew (Redacted) well beforehand.

14 Q. [12:20:29] Very well. So you knew (Redacted) well beforehand and he helped
15 you in your (Redacted); is that correct?

16 A. [12:20:43] Yes, that is correct.

17 Q. [12:20:50] So you're saying that after your release, you did not have any further
18 contact with (Redacted); is that correct?

19 A. [12:21:07] After my release, I might have met (Redacted), but we were no longer
20 together as we were in the past. I did see him after my release, that is true.

21 Q. [12:21:26] Thank you, Mr Witness.

22 So, Madam Court Officer, could we please bring up tab number 15 on our list. So
23 that is CAR-OTP-2136-0699. And this document can be shown to the witness. I do
24 apologise, I should have told you that.

25 So that would be page 0704, Madam Court Officer.

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 So, we have seen that your judgment was handed down on (Redacted),

2 Mr Witness. Do you remember when your trial took place?

3 A. [12:23:44] I do remember.

4 Q. [12:23:53] What date was that, Mr Witness?

5 A. [12:24:06] As to the precise date of the trial, I no longer recall.

6 Q. [12:24:15] Very well.

7 So, Madam Courtroom Officer, could we please scroll down towards the bottom of

8 the page, the page that we have before us, please. Thank you.

9 So you can see, Mr Witness, written "(Redacted)

10 (Redacted)". Can you see that, Mr Witness?

11 A. [12:24:48] Yes, I can see that.

12 Q. [12:25:00] Does that refresh your memory with regards to the date, Mr Witness?

13 A. [12:25:08] Yes, it does enable me to remember.

14 Q. [12:25:25] Very well, Mr Witness.

15 Now, could we please bring up page 0708, please.

16 Thank you very much, Madam Courtroom Officer. Could we please scroll down a

17 little bit further. Thank you.

18 Mr Witness, can you recognise a name on that page?

19 A. [12:26:16] Yes, I do.

20 Q. [12:26:34] Sorry, I didn't hear the interpretation. It might be an issue.

21 THE INTERPRETER: [12:26:41] Repeated from the English booth: The witness said,

22 "Yes, I do."

23 MR JACOBS: [12:26:52](Interpretation)

24 Q. [12:26:53] Mr Witness, can you see this well?

25 A. [12:26:58] Yes, I can.

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 Q. [12:27:14] Well, we'll try, but there's no longer any lights and I no longer know
2 which channel I'm on anymore.

3 Well, let's continue like this.

4 So, we have here the notes taken by the court clerk during your trial.

5 And I would like for us to please bring up the next page, 0709, Madam Courtroom

6 Officer, please. Could we zoom in on the top. Yes, thank you.

7 So, at the top, we see that during your hearing there was a counsel who acted on your
8 behalf, Maître Morouba. Can you see that, Mr Witness?

9 A. [12:28:32] Yes, I can see that.

10 Q. [12:28:36] So that is counsel who assisted you at the hearing during your trial; is
11 that correct?

12 A. [12:28:55] That is correct.

13 Q. [12:28:58] Thank you, Mr Witness.

14 Could you tell us a little bit more about how you came to choose said counsel?

15 A. [12:29:08] When we were arrested, there was a procedure where lawyers were
16 placed at our disposal. * And it was the state who placed them at our disposal. They
17 were court appointed.

18 Q. [12:29:55] Very well. And to your knowledge, were there any other lawyers –
19 you say that there were a number of lawyers that were appointed by the court. I see
20 the name of Morouba here. Were there any others who were assigned by the court?

21 A. [12:30:44] Yes, there were other lawyers.

22 Q. [12:30:57] Thank you.

23 If you can remember, could you provide us with their names?

24 A. [12:31:09] There was a counsel by the name of Denis Modemade and there was
25 also Maître Sarasengue. There was Maître Madoukou was also present.

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 I think that those are the individuals that I remember.

2 * Q. [12:32:19] So subsequent to your judgment on (Redacted), you were
3 immediately released; is that correct?

4 A. [12:32:46] Yes. I was immediately released after the judgment.

5 Q. [12:33:12] Now, you told us a moment ago, I'm sorry, I don't have the exact
6 reference, but that you had papers linked to your release.

7 I would like the court officer to show -- yes, tab 4 of our notification list. And this is
8 the document CAR-OTP-2089-1242 and this document can be shown to the witness.

9 Do you see the document, Witness?

10 A. [12:34:19] Yes, I can see the document.

11 Q. [12:34:28] Very well. And is this the document that you were speaking about a
12 moment ago when you spoke about a document relating to your release?

13 A. [12:34:43] Yes, this is the document I was speaking about.

14 Q. [12:34:54] Do you know who wrote this document, Witness?

15 A. [12:35:18] Well, the document was drafted by the tribunal of grand instance of
16 Bangui after the judgment. After the judgment, we were provided with this
17 document and we were released. And it was the tribunal that wrote this document.

18 Q. [12:35:41] Very well, Witness. Just to have understood this well.

19 Now, you were provided with this certificate of release. The tribunal -- it was the
20 tribunal that did that directly; is that correct?

21 A. [12:36:11] Yes, that was after the judgment, we were provided with this
22 document.

23 Q. [12:36:28] And with this certification of release, did they also provide you with a
24 copy of the judgment?

25 A. [12:36:48] No, I didn't receive any other document.

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 Q. [12:37:04] Very well.

2 And would you confirm that you gave this document to the investigators of the Office
3 of the Prosecutor, Witness?

4 A. [12:37:16] Yes, that's correct. I'm the person who provided them with this
5 document.

6 Q. [12:37:35] Witness, you can see on the screen this is a photograph of the
7 document. Do you still have the original of this document?

8 A. [12:38:01] Yes, I have it.

9 Q. [12:38:14] Very well. Would you agree, if necessary, for the original to be
10 consulted by the Court?

11 A. [12:38:34] Yes, I agree.

12 Q. [12:38:46] Thank you, Witness.

13 Now, you just told us, Witness, and this is on page 53, line 5, "No, I didn't receive
14 another document." Would you confirm that you said that, Witness?

15 A. [12:39:17] Yes. All the documents that were given to me I still have in my
16 possession. If I'm asked to present them, I'm going to do so.

17 Q. [12:39:44] Thank you, Witness.

18 I'm just going to put the question to you again to be sure that everything has been
19 well noted, Witness.

20 Now, you've just said in the French version, it is written "all the documents" in plural,
21 "All the documents that were given to me are still in my possession." Could you tell
22 us clearly what documents were provided to you.

23 A. [12:40:23] Certain documents I was provided with are not with me for the
24 moment. But if you want, I can bring them with the originals. The documents
25 which you've shown on the screen and other documents as well, I can go into my

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 archives to find them and bring them, if you wish that I do so.

2 Q. [12:40:55] Absolutely, Witness. It's very useful for the Court to have all the
3 documents that you have linked to your trial and your judgment, so if you have any
4 other documents in addition to those on the screen, then we would be very grateful if
5 you could bring -- show them to us -- provide us with them.

6 A. [12:41:33] No problem. I can bring you all the documentation that was
7 provided to me when I was released. There is no problem.

8 Q. [12:41:48] Thank you very much, Witness.

9 Now, on the subject of documentation, I would now, Court Officer, like for tab 16 on
10 our notification list to be shown. This is CAR-OTP-00025571 and it can be shown to
11 the witness. And we have to show page 13 thereof.

12 Do you see the document, Witness?

13 A. [12:42:55] Yes, I see the document. This document -- well, I still have the
14 original of this document.

15 Q. [12:43:13] Very well.

16 So what we can see here, for the record, that this is a release order. It's a document
17 which concerns you, does it not?

18 A. [12:43:29] Yes, this document concerns me, yes.

19 Q. [12:43:39] Can you see the date on the document, Witness?

20 A. [12:43:50] Yes, I can see it.

21 Q. [12:44:01] It's (Redacted), is it not, Witness?

22 A. [12:44:13] Yes, that's correct.

23 Q. [12:44:25] At what time or when did you obtain this document, Witness?

24 A. [12:44:35] When it was the same day as my release. I got it on the day that
25 I was released.

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 Q. [12:45:07] You didn't provide this document to the Office of the Prosecutor
2 when you met them in 2018. Why not, Witness?

3 * A. [12:45:29] Because I wasn't asked for this document. I provided it after being
4 questioned. I told them that after my release, I was given such documents. They asked
5 me if I could bring the documents. I answered yes and I gave them the documents
6 thereafter.

7 Q. [12:46:07] We can remove the document, Court Officer. Thank you.
8 Thank you, Witness. Once again, it's just to be sure that everything is clear. You
9 state, "They asked me the question could I bring documentation, I answered yes, and I
10 provided this documentation afterwards." So just to be sure that I've understood,
11 this would mean that after your statement was taken, you saw the -- you saw the
12 investigators again and provided them with the documentation; is that correct,
13 Witness?

14 A. [12:47:01] That's correct.

15 Q. [12:47:14] Do you remember how much time had passed since your statement or
16 how long after it was? * Your statement was in September and October 2018, so how
17 long afterwards was it that you provided the investigators of the Office of the
18 Prosecutor with these documents?

19 A. [12:47:37] I don't know. I've forgotten.

20 Q. [12:48:03] Very well, Witness.

21 Now, I will put a few questions on your provisional detention and I'll read a part
22 from your statement at tab 1.

23 This is tab 5 for the French version and 6 for the English version, CAR-OTP -- so this
24 is CAR-OTP-2127-9708, page 9719.

25 Thank you, Court Officer.

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 So if we can go down to paragraph 39.

2 Thank you very much.

3 So I'll read the paragraph, Witness. So it's written:

4 "It became apparent later that we were the first prisoners to have been kept there
5 since the arrival of the Seleka in Bangui. I know this because there was nobody else
6 there and because our discussions with the guards confirmed this."

7 So if we go up a bit to show some of the context, we can see - a bit further - you are
8 speaking about Ngaragba prison.

9 No, that was fine.

10 Would you confirm that, Witness?

11 A. [12:50:42] Yes, I agree.

12 Q. [12:50:53] Witness, do you understand the sense of provisional detention?

13 A. [12:51:25] Could you explain that to me, then I could understand it better.

14 Q. [12:51:40] Very well, Witness.

15 Court officer, if we could show tab 32 on our list of notification, and that is

16 CAR-OTP-2001-3189, and this document can be shown to the witness.

17 CAR-OTP-2001-3199 and page 3694 thereof.

18 So that, that page is 3694. I'm sorry if I did not give it previously. Thank you very
19 much.

20 And now if we could zoom in on the article on the left, 91. Thank you.

21 I'll help you Witness. You can see Article 91 of the Code of Criminal Procedure in
22 the Central African Republic and it is written that -- Article 91 states that:

23 "In correctional matters, if the sentence undergone is equal to or superior to a year in
24 prison and if the obligations of judicial control are insufficient with regard to the
25 conditions defined in article 97 of the present code, provisional detention may be

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 ordered or maintained:

2 - When provisional detention of the accused is the only means to conserve evidence or
3 materials, or to prevent either pressure on witnesses or victims, or a fraudulent
4 agreement between accused and accomplices;

5 - When this detention is necessary to preserve public order from trouble that would
6 be caused by the crime or offence, in order to protect the accused, and to put an end
7 to the crime or offence or to prevent it from occurring once again or to guarantee the
8 maintenance of the accused at the disposal of justice."

9 Do you understand better the meaning of provisional detention -- provisional
10 detention now I have read the Code of Criminal Procedure?

11 A. [12:55:20] Yes, I have understood it.

12 Q. [12:55:39] Very well, Witness.

13 During your provisional detention, were you presented to an investigating
14 magistrate?

15 A. [12:56:04] Our statements were taken and we were told if -- we weren't told
16 whether it was an investigating magistrate or whatever, but when we were arrested,
17 before being taken to the tribunal from the OCRB, when we arrived there, we were
18 heard, we were questioned and then we were taken there to Ngaragba.

19 Q. [12:57:11] Court officer, could you show tab 17 on our notification list, and this
20 is CAR-OTP-2135-3192, page 3201. And the item can be shown to the witness.

21 Do you see the document \t, Witness?

22 A. [12:58:08] Yes, I can see it on the screen.

23 Q. [12:58:13] So if we can zoom in on the first half of the page, if you would be so
24 kind.

25 Very well. So if we go a bit further up in order to start.

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 * So at the top of the page can you see a summons to bring, "MANDAT D'AMENER",
2 or arrest warrant?

3 A. [12:58:55] Yes, I can see it.

4 Q. [12:58:56] And this document concerns, as you can see on the screen, (Redacted),
5 who was one of your co-accused. Would you confirm that?

6 A. [12:59:13] Yes, I see the name, (Redacted).

7 * Q. [12:59:20] And you can see here that this is a warrant of arrest for (Redacted)
8 from the 3rd *juge d'instruction*, that is the investigating magistrate. Do you see that,
9 Witness? To bring (Redacted) before the 3rd judge of the tribunal of grand instance
10 in Bangui. Do you see that, Witness?

11 A. [12:59:45] Yes, I see that.

12 Q. [12:59:47] Does this document refresh your memory, Witness? Were you
13 brought before an investigating magistrate as (Redacted) was?

14 A. [13:00:03] (Redacted) left differently, on a different day. I went on another day.

15 Q. [13:00:27] Very well, Witness. So when you say, "I went on another day", so
16 you did go to see an investigating magistrate but it was on a different day to the day
17 on which (Redacted) went; is that right, Witness?

18 A. [13:00:47] Yes, because we were questioned separately.

19 Q. [13:00:53] Thank you, Mr Witness.

20 MR JACOBS: [13:01:02](Interpretation) Madam President, I can see the time.

21 PRESIDING JUDGE SAMBA: [13:01:06] Yes. Thank you very much, Mr Jacobs.

22 Although you will have to -- I know we meet again with this witness on Wednesday.

23 How much more time would you want with this witness?

24 Sorry, Mr Jacobs. Let me just listen to the Prosecutor.

25 MS MAKWAIA: [13:01:31] I think you said Wednesday, Madam President. Isn't it

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

1 Tuesday? No? Okay. I stand corrected.

2 PRESIDING JUDGE SAMBA: [13:01:40] It's Wednesday.

3 Yes, Mr Jacobs.

4 MR JACOBS: [13:01:44](Interpretation) Thank you, Madam President. It's always
5 difficult to assess, but I think in view of how far we've come, it will be difficult to do it
6 in less than one session. I think I'll need the first full session and then part of the
7 second session.

8 PRESIDING JUDGE SAMBA: [13:02:04] That's okay. That's noted.

9 Mr Witness, we're going to stop your testimony here for today, but we'll continue
10 with your cross-examination by Mr Jacobs on Wednesday, that is the day after
11 tomorrow. So I'm going to remind you -- first of all, let me ask that we go into -- are
12 we in open session? Yes, can we go into open session, please.

13 (Open session at 1.02 p.m.)

14 THE COURT OFFICER: [13:02:47] We're back in open session, Madam President.

15 PRESIDING JUDGE SAMBA: [13:02:50] Okay, thank you very much.

16 So, Mr Witness, as I was saying, we'll end your testimony for today here at this point,
17 but we'll meet again on Wednesday, that is the day after tomorrow, so that counsel
18 for Mr Said can continue his cross-examination with you. I'm going to remind you
19 that you will still be on oath so whatever we've done here today, whatever you've
20 said here today, questions put to you here today by counsel for the Prosecution and
21 the Legal Representative for the victims and Mr Jacobs for the Defence must not be
22 discussed with any other person until we meet here again on Wednesday and we will
23 continue our discussion.

24 Counsel, I'm going to ask that -- I'm going to rise the Court and ask that we come

Trial Hearing

(Open Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2263

- 1 again on Wednesday at 9.30.
- 2 So this Court stands adjourned, please.
- 3 THE COURT USHER: [13:03:55] All rise.
- 4 (The hearing ends in open session at 1.03 p.m.)