

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 Tuesday, 30 January 2024
9 (The hearing starts in open session at 9.30 a.m.)
10 THE COURT USHER: [9:30:50] All rise.
11 The International Criminal Court is now in session. Please be seated.
12 PRESIDING JUDGE SAMBA: [9:31:19] Good morning, everyone.
13 Can I ask the Court Officer to please call out the case.
14 THE COURT OFFICER: [9:31:28] Good morning, Madam President, your Honours.
15 The situation in the Central African Republic II, in the case of The Prosecutor versus
16 Mahamat Said Abdel Kani, case reference ICC-01/14-01/21. And we are in open
17 session.
18 PRESIDING JUDGE SAMBA: [9:31:43] Thank you very much.
19 May I ask the parties to introduce themselves, beginning with the Prosecution, please.
20 * MS MAKWAIA: [9:31:51] Good morning, Madam President. For the Prosecution this
21 morning, myself, Holo Makwaia, senior trial lawyer; Ms Le Bailly, Brunhild, associate
22 trial lawyer; Mr Kamran Choudhry, Ms Marie-Jeanne Sardachti, Mr Thomas Bifwoli,
23 and Ms Sanyu Ndagire, trial lawyers. Thank you.
24 PRESIDING JUDGE SAMBA: [9:32:12] Thank you very much, Ms Makwaia.
25 Ms Pellet, for your team, please, for victims.

Trial Hearing

(Open Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2241 (On former oath)

1 MS PELLET: [9:32:19](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 the Victims.

4 PRESIDING JUDGE SAMBA: [9:32:39] Thank you very much.

5 Ms Naouri, please, for the defence.

6 * MS NAOURI: [9:32:42](Interpretation) Thank you, Madam President. On my right, Léa
7 Allix, and on my left, Dov Jacobs, just like yesterday. And behind us, Élina Legat and Me
8 Florian François-Jacquemin. As for me, I'm Jennifer Naouri, lead counsel for Mr Said.

9 PRESIDING JUDGE SAMBA: [9:33:05] Thank you very much. I didn't hear mention of
10 Mr Jacobs. Did you announce his representation?

11 MS NAOURI: [9:33:14](Interpretation) Yes, I had. Perhaps -- maybe too quickly, but I
12 had introduced Counsel Jacobs who is just on my left.

13 PRESIDING JUDGE SAMBA: [9:33:21] Thank you very much.

14 And for the record, I note that Mr Said is in court. A very good morning to you, Mr
15 Said.

16 MR SAID: [9:33:36](Interpretation) Yes. Good morning, your Honour.

17 PRESIDING JUDGE SAMBA: [9:33:41] Thank you very much.

18 Good morning, Madam Witness.

19 WITNESS: CAR-OTP-P-2241 (On former oath)

20 (The witness speaks Sango)

21 (The witness gives evidence via video link)

22 THE WITNESS: [9:33:53](Interpretation) Good morning.

23 PRESIDING JUDGE SAMBA: [9:33:55] Yes. Now, we are going to continue with your
24 testimony. Ms Naouri will continue her cross-examination, questioning you on behalf
25 of Mr Said. Do you understand?

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2241 (On former oath)

- 1 THE WITNESS: [9:34:18](Interpretation) Yes, I understand.
- 2 PRESIDING JUDGE SAMBA: [9:34:20] So I wish to remind you that you're still on oath
- 3 to say the truth to the court.
- 4 So, Ms Naouri, your witness, please.
- 5 MS NAOURI: [9:34:43] Thank you, Madam President. For the first very first questions
- 6 this morning, we should go into private session because they could be somewhat
- 7 identifying. So I would ask that we go into closed session or private session.
- 8 PRESIDING JUDGE SAMBA: [9:34:54] That's okay.
- 9 Madam Court Officer, can we go into private session, please.
- 10 THE COURT OFFICER: [9:35:07] We are in private session, your Honours.
- 11 (Private session at 9.35 a.m.)
- 12 PRESIDING JUDGE SAMBA: [9:35:16] Thank you.
- 13 Ms Naouri, continue, please.
- 14 MS NAOURI: [9:35:21] Thank you, your Honour.
- 15 QUESTIONED BY MS NAOURI: (Interpretation)(Continuing)
- 16 Q. [9:35:22] Good morning, Madam Witness. I hope that you are doing well. So we will
- 17 continue with the questions on a new topic, if you will, which is how you came into contact
- 18 with the investigators of the Office of the Prosecutor of the ICC. In your witness statement,
- 19 and this is CAR-OTP-2127-9406, and on page 9411, paragraph 1 and 2. This is tab 1 of our
- 20 list of notifications for the French version, and tab 2 for the English version.
- 21 You said that:
- 22 "I was informed by my uncle (Redacted) that the ICC investigators wanted to talk to me
- 23 about certain events I witnessed and experienced as a victim of events that took place
- 24 in 2013."
- 25 When you said that (Redacted), could you explain what your

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2241 (On former oath)

1 uncle said to convince you to come and give your testimony? So what did you say to
2 each other about the possibility of meeting the ICC investigators from the Office of the
3 Prosecutor, Madam Witness?

4 A. [9:37:03] My uncle came to say that he had been called, and I told the investigators
5 that I was a victim. And it was in coming to see me that he was arrested. That's how
6 the information was given to me.

7 Q. [9:37:40] Just to clarify, Madam Witness, your uncle, did he explain within which
8 context he was called upon, within which context he had been called upon to cooperate
9 with the investigators of the Office of the Prosecutor?

10 A. [9:37:59] He did not give me an explanation. He merely said to me that he would
11 come. He set a day to come and get me and drive me to see the investigators of the
12 Office of the Prosecutor.

13 Q. [9:38:29] Okay. So he explained why you were to speak to the investigators of the
14 Office of the Prosecutor?

15 A. [9:38:35] No. He said to me that the Office of the Prosecutor had contacted him,
16 and he talked about what had happened with me at the Office of the Prosecutor and
17 said that the investigators of the Office of the Prosecutor wanted to meet with me.

18 Q. [9:39:13] Okay. And did he give you details as to what he said to the investigators
19 of the Office of the Prosecutor when you say that "he told them what had happened to
20 me"?

21 A. [9:39:24] We did not talk about this. He simply accompanied me. He left and I
22 spoke with the investigators. But he did not say anything to me about this prior to that.

23 Q. [9:39:50] Okay. And prior to that date, before going to meet with the investigators
24 of the Office of the Prosecutor, did you speak together about what had happened at the
25 OCRB?

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2241 (On former oath)

1 A. [9:40:00] When I was released, I was in (Redacted) and he was living in
2 (Redacted), and we didn't have the opportunity to talk about what happened to me.

3 Q. [9:40:27] Okay. And subsequently did he come back to the neighbourhood
4 (Redacted)? That is, I'm referring to your uncle (Redacted).

5 A. [9:40:37] He was living in the (Redacted) neighbourhood, and after that he moved
6 to (Redacted).

7 Q. [9:40:52] Okay. And when you were in (Redacted) at the same time, did you talk
8 to him about what had happened to you at the OCRB?

9 A. [9:41:01] No. We did not talk about this again.

10 Q. [9:41:21] Okay. So how long had it been since you had not seen your uncle before
11 he called to you tell you that the investigators of the Office of the Prosecutor wanted to
12 see you?

13 A. [9:41:30] We had had the opportunity to see each other, but to say that we had
14 talked about what happened to me, we had never done so.

15 Q. [9:41:56] Okay. Did you discuss it with any other members of your family,
16 Madam Witness?

17 A. [9:42:02] No, I did not talk about it with members of my family because it is a very
18 traumatising story, and nobody dares to talk about it with me.

19 Q. [9:42:31] Okay. Thank you for those clarifications. Witness, you said your uncle
20 (Redacted) accompanied you. Did he stay during the visit? Explain to us how this first
21 meeting with the investigators of the Office of the Prosecutor unfolded.

22 * A. [9:43:06] He waited for me at the meeting place. I called him by phone. He drove
23 me. He led me into the fence, and then I discussed things with the investigators, so he
24 was not present. When I came out, he was gone.

25 Q. [9:43:31] Okay. Very well. So you yourself went to the meeting place indicated by

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2241 (On former oath)

1 your uncle to meet with the investigators of the Office of the Prosecutor. Did I
2 understand that correctly?

3 A. [9:43:43] I told you that I did not know where. He waited for me at the meeting
4 place. I arrived there. I called him and he said I had to cross over. I crossed. He
5 brought me into the compound. And he indicated the door where I should go and then
6 he left.

7 Q. [9:44:19] Okay. But in order to get to this meeting place with your uncle
8 (Redacted), how did you get there? Did you take a taxi? A bus? Did you go on foot?

9 MS MAKWAIA: [9:44:33] What's the relevance of that question? The witness has
10 already answered. She went to a meeting point where she agreed with her uncle and
11 then proceeded to meet with the investigators.

12 PRESIDING JUDGE SAMBA: [9:44:43] Yes, Ms Naouri, what's the relevance?

13 MS NAOURI: [9:44:47](Interpretation) The relevance is that, depending on the mode of
14 transport, there are witnesses who said that they had received a per diem from the
15 Office of the Prosecutor. So depending on how she went, the idea was to know
16 whether the Office of the Prosecutor had covered the costs of transport. This is a
17 question we typically ask of witnesses to see whether they've received per diem. It is a
18 question to understand the relationship the witness had with the investigators of the
19 Office of the Prosecutor. This is an issue of credibility. I have answered before the
20 witness, but perhaps I've influenced her, but that's not too serious. There you go.

21 PRESIDING JUDGE SAMBA: [9:45:42] No, you've not influenced her because, of
22 course, if she received a per diem, those would have been disclosed to you. But
23 actually, couldn't you have put the question directly, whether she received anything
24 from the OTP? I don't think you influenced her in any way, but just be mindful also of
25 the VWU's recommendation as how to deal with this witness, please. Thank you very

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2241 (On former oath)

1 much.

2 You may continue with your questioning, please. Let's stick to the relevance of the
3 purpose why we are here. Thank you.

4 MS NAOURI: [9:46:25](Interpretation) Thank you, your Honour.

5 Q. [9:46:26] Madam Witness, were you compensated for costs of transport during this
6 first meeting with the representatives of the Office of the Prosecutor?

7 A. [9:46:48] I myself covered my transport costs, and it was at the end of the meeting
8 that they paid for my transport, or upon the return --

9 THE INTERPRETER: [9:47:04] "For the return," corrects the interpreter.

10 MS NAOURI: [9:47:14](Interpretation) Okay. Thank you.

11 Q. [9:47:14] Do you remember how much this compensation was?

12 A. [9:47:16] 4,000 CFA francs.

13 Q. [9:47:21] Okay. Now still on that question, we see in your statement that you met
14 with the investigators of the Office of the Prosecutor, we see that you met with them
15 more than once. So each time were your transport costs covered?

16 A. [9:47:36] Yes, that is the case. Indeed, the investigators of the Office of the
17 Prosecutor paid for the return trip.

18 Q. [9:47:55] And every time the amount was 4,000 CFA francs?

19 A. [9:47:59] It varied.

20 Q. [9:48:12] Do you remember approximately for the second meeting -- you spoke of
21 the first meeting of the month of (Redacted), that was 4,000 CFA francs. * For the
22 second meeting that took place on (Redacted) 2018, do you remember how much the
23 compensation was for transport costs? If you recall, of course?

24 A. [9:48:49] During the first meeting, they gave me 6,000 francs. During the second
25 meeting, they gave me 4,000 CFA francs.

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2241 (On former oath)

1 Q. [9:49:00] Okay. Thank you for that clarification. During the third meeting on
2 (Redacted) 2018, do you recall the amount?

3 A. [9:49:12] Yes, I remember.

4 Q. [9:49:24] Okay. Then tell us how much, Madam Witness.

5 A. [9:49:29] They gave me 6,000 francs.

6 Q. [9:49:36] Okay. And on (Redacted) 2018, how much did they give you?

7 A. [9:49:55] The last meeting, we began it in the morning, and it went all the way to 6
8 p.m. They gave me 10,000 francs in order to cover my transport costs.

9 Q. [9:50:19] Okay. Thank you for those clarifications. Did the Office of the
10 Prosecutor cover other costs, such as medical costs?

11 A. [9:50:26] I did not understand your question.

12 Q. [9:50:45] No problem. I will reword it. Did the investigators or representatives of
13 the Office of the Prosecutor cover fees because you needed medical treatment for
14 asthma or other health problems that you could have had?

15 A. [9:51:07] No, they did not cover my expenses.

16 Q. [9:51:27] Very well. Thank you, Witness. Now let's go back to this first meeting
17 with the representatives of the Office of the Prosecutor. Did they explain to you what
18 topic was of interest to them? Did they already know about certain things that had
19 happened to you, for instance?

20 A. [9:51:45] They did not know anything about it.

21 Q. [9:51:58] Okay. Very well. So then explain to us somewhat how this first meeting
22 went. Did they ask you questions, for instance, where you had to answer yes or no?

23 A. [9:52:11] They asked me questions and I gave them answers about what I had
24 lived through.

25 Q. [9:52:36] Okay. Did they help you to recall certain things, for example, to

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2241 (On former oath)

1 remember names?

2 MS MAKWAIA: [9:52:41] That question has already been asked. She just rephrased it
3 in a different manner. The witness has answered her question. "They asked me
4 questions and I gave them answers."

5 PRESIDING JUDGE SAMBA: [9:52:57] Yes, Ms Naouri.

6 MS NAOURI: [9:52:58](Interpretation) These are very different questions. The first is
7 to know whether there were leading questions, to which you answer yes or no; and the
8 second is, did we help the witness remember things. These are two distinct questions.
9 We have a witness statement that was accepted under 68(3), so it's important for us to
10 understand how this witness statement came to be.

11 PRESIDING JUDGE SAMBA: [9:53:30] Maybe you can ask her which kind of questions
12 were put to her. "Which type of questions were put to you?" If you say, "You were
13 asked questions. Which type of questions were put to you." Instead of, you know,
14 assuming that leading questions were asked. Maybe not. I know it's cross-
15 examination, but let's lead the witness on the right path.

16 MS NAOURI: [9:54:10](Interpretation) Thank you, your Honour. In a cross-
17 examination, it's important for us to guide the witness.

18 Q. [9:54:20] Madam Witness, could you answer the question. Do you remember, did
19 they ask you questions that helped you remember certain things, such as names?

20 A. [9:54:26] No, they did not help me remember names. It was more open questions.
21 And I gave them explanations with regard to my arrest and everything else that had
22 happened to me.

23 Q. [9:55:05] Okay. Thank you, Madam Witness. I have another question for you,
24 Witness. Do you remember that someone had you -- rather, someone read out to you
25 the document which they had noted down the day of your first interview?

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2241 (On former oath)

1 A. [9:55:33] I remember.

2 Q. [9:55:34] Very well. According to your recollection, how long did it take?

3 MS MAKWAIA: [9:55:44] Sorry for the interruption. Can we get a bit more precision
4 which document is being referred to?

5 PRESIDING JUDGE SAMBA: [9:55:52] Actually, that's what I wanted to ask but then
6 the witness answered. I think she means her witness statement of the first interview
7 with the investigators. That's how I understand it.

8 Am I correct, Ms Naouri?

9 MS NAOURI: [9:56:04](Interpretation) The first time they meet, where it's explained
10 that there is a testimony given, because in (Redacted), we see in the witness statement,
11 and there are other meetings in (Redacted). So I'm trying to know if, in (Redacted), the
12 statement that she had given was re-read to her, and the witness says that this was
13 indeed the case. Thank you, Madam President.

14 Q. [9:56:43] Now, Madam Witness, are you asked to give a piece of ID when you
15 meet with the representatives of the Office of the Prosecutor in (Redacted) 2018?

16 A. [9:56:51] Yes, they asked me for some.

17 Q. [9:57:07] Okay. Thank you. Then you did not see the investigators of the Office of
18 the Prosecutor for some months. So what did you do in the interim between when you
19 met the representatives of the Office of the Prosecutor in (Redacted) and the month of
20 (Redacted)? I will clarify my question. It's a bit broad. Okay?

21 So what explains that there was such a long break? Is it that you were working, you
22 were not available? Do you remember why it took so long before you met a second
23 time with the representatives of the Office of the Prosecutor?

24 A. [9:57:47] It was the investigators of the Office of the Prosecutor who contacted me
25 every time, so they would call me and ask that I go and meet with them, and that's

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2241 (On former oath)

1 what I did.

2 Q. [9:58:19] Okay. Thank you for that clarification, Witness. So from your witness
3 statement, which the representatives of the Prosecutor, * you saw them again on
4 (Redacted) and (Redacted) 2018. Every time you see the investigators of the Office of
5 the Prosecutor, did you sign a document, or is it only at the end of all these meetings
6 that you signed the document?

7 A. [9:58:50] It was at the end that I signed.

8 Q. [9:59:07] Okay. And you signed a version in English. Do you remember, Witness,
9 that what you signed was the English version and not the French version?

10 A. [9:59:14] Yes, I remember that.

11 Q. [9:59:27] Thank you, Witness. Now some other questions. When do you learn
12 that Mr Said had been transferred to the International Criminal Court?

13 A. [9:59:38] I did not hear that Said had been arrested. One day, when the
14 investigators contacted me, I came to have an interview with them, and only
15 subsequently I learned that Said had been arrested.

16 Q. [10:00:21] When did this meeting with the OTP take place, when you were
17 informed that Mr Said had been arrested?

18 A. [10:00:24] When I met them for the first time.

19 Q. [10:00:43] Madam Witness, you met the investigators of the Office of the
20 Prosecutor for the first time on (Redacted) 2018, according to the information that we
21 have at hand. Mr Said had not been arrested at that juncture. So in January -- so 24
22 January 2021 is when he was arrested, so that was several years after you met with the
23 members of the OTP.

24 So my question is when did you find out about Mr Said? Was it when you met the
25 representatives of the Office of the Prosecutor or was it by some other means?

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2241 (On former oath)

1 A. [10:01:48] I met the investigators of the Office of the Prosecutor and they did not
2 talk to me about the arrest of Mr Said. They asked me questions which I answered.

3 And after this, they showed me photographs and I identified him on one of these
4 photographs. But before that, they did not tell me that Said had been arrested.

5 Q. [10:02:30] All right. So you have told us that you talked about the fact that Mr
6 Said had been arrested during your preparatory meeting. Were you in touch with the
7 representatives of the Office of the Prosecutor between that time?

8 MS MAKWAIA: [10:02:48] Madam President, I have an objection.

9 PRESIDING JUDGE SAMBA: [10:02:53] I didn't get your objection, Madam Prosecutor.

10 MS MAKWAIA: [10:02:56] I'm objecting to the way the counsel is now paraphrasing
11 the witness's evidence. So she, at line 16, and I'm quoting:

12 "So you have told us that you talked about the fact that Mr Said had been arrested
13 during your preparatory meeting." So she is referring to the meeting with the
14 investigators. That is incorrect. That is not the witness's evidence.

15 PRESIDING JUDGE SAMBA: [10:03:25] It depends on what is written in French. But
16 from what I hear, the evidence of the witness, she has not said that she was so informed
17 during the preparatory meeting with the Office of the Prosecutor.

18 MS NAOURI: [10:03:47](Interpretation) Thank you, your Honour. It's stated in the
19 French transcript: "I met the investigators of the OTP. They did not talk to me about
20 the arrest. They asked me questions and I answered these questions."

21 I'm sorry, this is maybe the wrong -- no.

22 "They asked me to identify myself. They showed me photographs. I identified him on
23 these pictures. And at this point they had not told me that Said had been arrested."

24 So for me, this identification of photographs was in the preparatory meeting. This is
25 the information that we all have at hand, that we all have at our disposition.

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2241 (On former oath)

1 So if I finish my question, but I was interrupted, I would have asked if it was during
2 this meeting or at another time that they spoke about these incidents. So I did it the
3 other way around. I gave options to the witness. But I wanted to ask was it was during
4 this preparatory meeting or at another moment that they were given this information,
5 and it is up to the witness to answer the question, being free to do so as they see fit.

6 Thank you, Madam President.

7 PRESIDING JUDGE SAMBA: [10:04:58] You may want to ask that question and give
8 her a timeframe, because our understanding is that the preparatory meetings took
9 place maybe a week or two weeks, just quite recently, when she -- when the Office of
10 the Prosecutor contacted her again. I don't want her to think that the time you're
11 talking about was in 2018, in (Redacted) or the, you know, days in (Redacted) 2018.
12 Try to distinguish those dates to when she had the preparatory meeting with the
13 lawyers of the Office of the Prosecutor. Thank you.

14 MS MAKWAIA: [10:05:41] Thank you, your Honour.

15 MS NAOURI: [10:05:43](Interpretation)

16 Q. [10:05:43] So we'll continue, Madam Witness. If I've understood correctly, you
17 had a preparatory meeting a few days ago. My question is, before this meeting or at
18 any other time before this preparatory meeting, and we have explanatory documents --

19 PRESIDING JUDGE SAMBA: [10:06:09] No, no, no, Ms Naouri. No, Ms Naouri. You
20 know, let's ask the questions one at a time so that the witness understands. If you are
21 asking about the preparatory meetings, let her understand that this is the timeframe
22 you're talking about. Thank you.

23 MS NAOURI: [10:06:29](Interpretation) Okay. I understand where the
24 misunderstanding comes from. I'm not really interested in the preparatory meeting,
25 quite honestly. I want to know if apart from this meeting, outside of that, whether she

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2241 (On former oath)

1 met with the investigators of the OTP between 2018 and the preparatory meeting. I'm
2 not focused -- I am not interested in the preparatory meeting as such, because without
3 trying to skew what the witness has said, she stated they did not talk about this during
4 the preparatory meeting.

5 PRESIDING JUDGE SAMBA: [10:07:01] Okay. So why not ask her whether she met
6 with the Office of the Prosecutor after 2018 in any way, whether it's by telephone,
7 whether they met in the field. Ask her and she will tell you.

8 MS NAOURI: [10:07:14](Interpretation) With pleasure, Madam President.

9 Q. [10:07:17] Madam Witness, were you in contact with representatives of the Office
10 of the Prosecutor between your last meeting in 2018 and your preparatory session?

11 A. [10:07:25] I did not understand your question.

12 Q. [10:07:39] Madam Witness, when you finished your statements in 2018, if, after
13 that time -- after that time, did you speak with representatives of the Office of the
14 Prosecutor, for example, by telephone? Did they contact you? Did they try and get in
15 touch with you at any time after that? And when was it, if that indeed took place?

16 A. [10:08:04] After I was contacted by telephone, but I cannot remember the date.

17 Q. [10:08:24] So without giving us a precise date, can you tell us if it was a year later?
18 Two years later? Three years later?

19 A. [10:08:32] I cannot recall the dates exactly, the year. But I do know that they did
20 contact me by telephone, but I do not recall the dates.

21 Q. [10:09:07] Did they contact you often?

22 A. [10:09:10] No, not very often.

23 Q. [10:09:20] Did they inform you that there was a Confirmation of Charges meeting
24 with Mr Said in October 2021?

25 A. [10:09:32] Yes, they told me this. But after that, they informed me that he was ill.

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2241 (On former oath)

1 Q. [10:09:50] When did they inform you that he was ill?

2 A. [10:09:52] I think that in all my answers I stated that I did not recall the dates. I
3 can only tell you that I received telephone calls in order to provide me with certain
4 information. And to find out what time, at what dates, I could not.

5 Q. [10:10:23] Last question on this topic. Did you give your authorisation for your
6 written statement, the one we're talking about today, for it to be used before the trial?
7 So, for example, in the very -- in a public hearing for the confirmation of the charges, if
8 you remember this or not.

9 Madam Witness, are you still with us?

10 A. [10:11:07] Yes, I'm still with you.

11 Q. [10:11:13] This is my last question about your relationship with the OTP. Do you
12 remember if you gave -- do you remember if you gave the authorisation for your
13 written statement, the document that we have of your written statement, to be used not
14 during a large trial but during the important hearing which is that of the confirmation
15 of the charges? Do you remember this? If you don't remember this, please tell us.

16 A. [10:11:52] I'm not sure I have understood your question.

17 Q. [10:11:56] That's not a problem. We'll skip this question, then. Thank you very
18 much.

19 So can you tell us how you were informed that you could ask to be a victim that
20 participates in the proceedings?

21 A. [10:12:18] It is the investigators of the Office of the Prosecutor who had, first of all,
22 met with my uncle who introduced me, and that is what has led me here to my
23 statement in front of you today.

24 Q. [10:12:47] Ma'am, we have a document, CAR-OTP-2135-3895, which is tab 16 on
25 our list, which is your request to participate as a victim in these proceedings. The

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2241 (On former oath)

1 document will be displayed on the screen.

2 And I'd like you to display page 2135-3900.

3 Can you see this page, Madam Witness?

4 A. [10:13:46] Yes, I see it.

5 Q. [10:13:57] And the signature that is on this page, is it yours?

6 A. [10:13:59] It is mine.

7 Q. [10:14:09] All right. So you signed -- you signed a request to participate as a
8 victim. So my question is to know how did you know that this was a possibility, to be
9 a victim in this procedure? Is it the investigators that told you that? Is it someone else?
10 Explain to us how you found out that you could participate in this trial but as a victim.

11 A. [10:14:51] The investigators of the Office of the Prosecutor had told me what the
12 procedure to follow was.

13 Q. [10:15:00] Okay. Thank you, Madam Witness. So you were asked questions by
14 the victims representatives, * and this is the real-time transcript of 29 January 2024,
15 page 18, starting at line 14. And on this transcript it is stated that you were in the office
16 of Mr Bekoy. * End of quote:

17 Can you explain to us how this was organised, how this meeting with Bekoy was
18 organised?

19 A. [10:15:43] They were at the office. They called me and said that Mahamat Said
20 was ill. They then informed me that the proceedings would continue once he felt
21 better.

22 Q. [10:16:24] Madam Witness, your request to participate is signed on * 21 March
23 2022. Mr Said was not ill at that time.

24 PRESIDING JUDGE SAMBA: [10:16:37] You see, that's why she's confused. If you give
25 her the dates that you're talking about, then she'll give you the precise answer, if at all

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2241 (On former oath)

1 she has any.

2 MS NAOURI: [10:16:55](Interpretation) Your Honour, she has a document in front of
3 her dated * 21 March 2022 that she signed herself, and I asked where this meeting took
4 place when she signed this document. She said Mr Said was ill. So for reasons of
5 credibility and understanding, I ask her to clarify this because what I'm basing myself
6 on is a document signed by the witness. And I'm being extremely careful because the
7 witness is illiterate, so I'm giving them the opportunity to explain themselves. And so
8 this is the document that they signed. So I hope you understand this.

9 PRESIDING JUDGE SAMBA: [10:17:25] Your question to the witness was whether or
10 not that was her signature which she identified. You did not draw her attention to the
11 date, and yet still you and I know these are important when it comes to evidence and
12 exhibits. So she may not have drawn her attention to that. That's why she keeps telling
13 you about Mr Said's illness, which you and I know is quite -- well, not too recent, it
14 must be after the date that is on the victim's form. Let her know that you are talking
15 specifically about that document and at that period.

16 I'm sorry, Ms Pellet, do you have anything to say? Thank you.

17 MS PELLET: [10:18:05](Interpretation) Yes, thank you, your Honour. *Maybe there are
18 other questions to be put to her, such as perhaps she went several times to Counsel
19 Bekoy's office, and maybe that would explain why she's mixing up the dates.

20 PRESIDING JUDGE SAMBA: [10:18:24] Thank you very much. She will say so if that
21 is what happened based on Ms Naouri's questions. Let's allow the cross-examination
22 to carry on.

23 Ms Naouri, please.

24 MS NAOURI: [10:18:39](Interpretation) Thank you, Madam President.

25 Q. [10:18:40] So let's pick up where we left off, Madam Witness. The document that

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2241 (On former oath)

- 1 you have in front of you, that you signed, it is dated * 21 March 2022, and it bears your
2 signature. You were kind enough to tell us that this is, indeed, the case, that you signed
3 it. Where did you sign this document, please?
- 4 A. [10:19:02] I signed it in the office of counsel.
- 5 Q. [10:19:15] Which counsel? I don't know if it was the interpretation, but we didn't
6 hear the name of the counsel.
- 7 A. [10:19:25] I do not remember the name of the counsel.
- 8 Q. [10:19:36] All right. So how many times did you visit the counsel's office?
- 9 A. [10:19:39] I went to the counsel's office on three occasions.
- 10 Q. [10:19:57] Okay. So the first time you went there, who invited you to go to the
11 counsel's office? Who helped you -- who took you there?
- 12 A. [10:20:19] It is the Office of the Prosecutor who contacted the counsel, and then the
13 counsel contacted me by telephone and gave me the address of the place I was to go to.
- 14 Q. [10:20:29] Okay. And the counsel, is it a Central African man?
- 15 A. [10:20:41] It is indeed a man.
- 16 Q. [10:20:47] Okay. And so you went to his office for the first time, to the counsel's
17 office. What happened? Were you asked questions on what had happened to you?
- 18 A. [10:20:59] Counsel did not ask me questions. It is the Office of the Prosecutor who
19 contacted me, and we had a telephone interview.
- 20 Q. [10:21:21] Okay. I'd like to focus on the meeting at the counsel's office. Was it
21 during the first meeting at that office that you signed the document you have in front of
22 you, the one with your signature that says 21 March 2022, at Bangui? Where was this
23 signed?
- 24 A. [10:21:37] On each occasion I met representatives of the Office of the Prosecutor or
25 the counsel, I signed documents, so I cannot recall which document you are specifically

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2241 (On former oath)

1 referring to.

2 Q. [10:22:16] Madam Witness, a last question. Were you at any time asked for any
3 proof of your asthma through the Office of the Prosecutor or through your legal
4 representatives?

5 A. [10:22:32] They asked me for no document.

6 Q. [10:23:02] Okay. Do you have any document that can attest to you suffering from
7 asthma?

8 A. [10:23:07] I am asthmatic, and every time I fall ill I go to the hospital.

9 PRESIDING JUDGE SAMBA: [10:23:33] Counsel, really, what's the relevance of that
10 evidence? I think the evidence before us is that she was born asthmatic. She says the
11 Prosecution never gave her any money for her medicals in respect of that illness, so
12 really, what's the relevance of that question?

13 MS NAOURI: [10:23:51](Interpretation) Thank you, Madam President. That was my
14 last question. But to answer your question, there might potentially be a discussion on
15 reparations. We need to see the harm done. We only have the word of the witness to
16 say that she's asthmatic and no medical proof. So it's our responsibility to ask this
17 question to see if there is any proof. If I don't ask this question today, I won't be able to
18 do it later. Thank you, your Honour.

19 PRESIDING JUDGE SAMBA: [10:24:15] I agree with you but, I mean, the evidence
20 before us is that she was born asthmatic. She didn't get asthma as a result of being
21 arrested or detained by the parties concerned. But anyway, thank you. Did you say
22 that was your last question, Ms Naouri?

23 MS NAOURI: [10:24:34](Interpretation) Yes, indeed, Madam President. This was my
24 last question, and this ends the Defence's cross-examination.

25 PRESIDING JUDGE SAMBA: [10:24:42] I thank you very, very much, and I thank you

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2241 (On former oath)

1 for managing the time in respect of your cross-examination.

2 Prosecution, any re-examination, please, may I ask?

3 MS MAKWAIA: [10:24:52] Just one or two questions, with your leave, Madam

4 President.

5 QUESTIONED BY MS MAKWAIA:

6 Q. [10:25:02] Good morning, Madam Witness.

7 A. [10:25:04](No interpretation).

8 Q. [10:25:08] You were asked by counsel for Mr Said -- in fact, you were told that you
9 signed a statement which was in English. Do you remember that?

10 A. [10:25:20] Yes, I remember that.

11 Q. [10:25:31] So before you signed this statement that was in English, was it read back
12 to you, Madam Witness?

13 A. [10:25:37] Yes, it was read back to me.

14 PRESIDING JUDGE SAMBA: [10:25:51] Again, counsel, the testimony before us is that
15 each time, each of those three or four times that investigators met this witness in 2018,
16 her statements were read over to her and she signed, each and every time. That's the
17 evidence we have.

18 MS MAKWAIA: [10:26:10] Just the final question to this line, Madam President.

19 Q. [10:26:14] And can you tell the Court, please, Witness, in which language was it
20 read back to you?

21 A. [10:26:21] It was read back to me in the French language.

22 Q. [10:26:40] And when it was read back in French, was there interpretation to you
23 into Sango?

24 A. [10:26:50] Yes, the person who read back my statement to me also interpreted it
25 into Sango.

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2241 (On former oath)

1 Q. [10:27:07] Thank you, Witness. You were asked about expenses that you were
2 paid in terms of your transportation when you came to meet the investigators. Do you
3 remember that?

4 A. [10:27:28] Yes, I remember this.

5 Q. [10:27:31] Now, if you know, is it correct to say that 6,000 CFA is about 8 euros?

6 PRESIDING JUDGE SAMBA: [10:27:54] Excuse me, Madam Witness, who are you
7 talking to in the room where you're at? Are you talking to somebody in the room?

8 THE WITNESS: [10:28:06](No interpretation).

9 THE INTERPRETER: [10:28:21] The interpreter did not hear the answer of the witness.

10 PRESIDING JUDGE SAMBA: [10:28:28] Madam Witness, were you talking to
11 somebody in the room where you are at now?

12 THE WITNESS: [10:28:49](Interpretation) No, I'm alone. I just turned my head. You
13 thought that I was speaking to someone.

14 PRESIDING JUDGE SAMBA: [10:28:55] Thank you very much for that answer.

15 Do you want to answer counsel's question, if at all you know? I don't know the
16 relevance but ...

17 Yes, Ms Naouri.

18 MS NAOURI: [10:29:14](Interpretation) I'm sorry, Madam President. I think it's a very
19 leading question when it comes to the point of how much it is in euros.

20 PRESIDING JUDGE SAMBA: [10:29:32] Yes, I agree it's leading, and I'm sure that
21 figure you gave, Ms Makwaia, would be for now. I don't know about 2013 -- or is it
22 2018? Well, that's leading. Can you ask another question if you have any at all.

23 MS MAKWAIA: [10:29:55] No, Madam President. That ends my re-ex with this
24 witness.

25 PRESIDING JUDGE SAMBA: [10:30:06] Thank you very much, Ms Makwaia.

Trial Hearing

(Private Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-2241 (On former oath)

1 Now, Madam Witness, I'm asking my colleagues on my left and right whether or not
2 they have any question for you. I don't have any. So I'll start by asking Judge Socorro
3 whether or not she has any questions for you.

4 JUDGE FLORES: [10:30:37] Thank you. I don't have any questions either.

5 PRESIDING JUDGE SAMBA: [10:30:41] Thank you very much, Judge.

6 And Judge Ugalde.

7 JUDGE UGALDE: [10:30:48] Thank you, Judge. I do have one question.

8 Good morning, Madam Witness. In your statement dated (Redacted) 2018, which I
9 believe is annex 2 of the Defence's list of evidence, at paragraph 100, you stated the
10 following:

11 "In total, my family paid 750,000 CFA francs to the Seleka, but they never released me."

12 So the question is at what point in time were you free? And what I mean to say is, we
13 know that you were at the hospital at that time. Your family, as you stated, paid this
14 money, but you said that you were never released. At what point do you leave the
15 hospital? So I would like to know if you have -- if you remember that. Thank you.

16 THE WITNESS: [10:32:27](Interpretation) Despite the money that had been given, I
17 was not released. It was when I was hospitalised that the doctors said that my
18 detention was no longer possible. So it was starting at the hospital that I was able to
19 then return home directly.

20 JUDGE UGALDE: [10:32:44] Thank you, Madam Witness. I have nothing further.

21 PRESIDING JUDGE SAMBA: [10:33:09] Thank you very much, Madam Witness, for
22 your support to the Court in respect of these proceedings. We wish you well in your
23 future endeavours. Take care of yourself, and try best, as you've done through the
24 years, throughout these years, as you say, not to discuss what has happened in your
25 past life in respect of what happened in your country with other people. So I wish you

Trial Hearing
Procedural Matters

(Private Session)

ICC-01/14-01/21

1 well on behalf of the Chamber, and I'll ask the Court Officer to disconnect the link now.
2 (The witness exits the video link room)
3 THE COURT OFFICER: [10:34:34] Your Honours, the witness is now escorted out of
4 the transmission room. Thank you.
5 PRESIDING JUDGE SAMBA: [10:34:41] Thank you very much, Court Officer.
6 Now, it is the Chamber's understanding that the next witness, I think that would be the
7 Prosecution's eighteenth witness, cannot start until Thursday. Going forward, the
8 Chamber expects the Prosecution and the VWU to liaise more closely in advance to
9 make sure there are no gaps between the witnesses.
10 Last, can I inquire about the status of the disclosure of the video recording that the
11 Chamber ordered yesterday? Madam Prosecutor, please.
12 MS MAKWAIA: [10:35:25] Thank you, Madam President. We shall ensure there will
13 be no further gaps between witnesses.
14 With respect to your ruling of yesterday, we immediately e-mailed our evidence unit to
15 have the audio and video processed so that we can disclose it. As we speak, we haven't
16 heard back from them yet. The moment court is adjourned, I will follow this diligently
17 in the hope of disclosing it today.
18 PRESIDING JUDGE SAMBA: [10:35:51] Thank you very much, Ms Makwaia. And
19 please do so that the Defence would have an opportunity to look at it, and whatever
20 the concern -- their concerns are can be dealt with.
21 On that note, I thank all the parties, and I thank Mr Said also --
22 Yes, Ms Naouri.
23 MS NAOURI: [10:36:14](Interpretation) Yes, Presiding Judge, excuse me, but as we are
24 talking about organisational matters, I am taking the liberty very quickly because last
25 Friday and we then sent a reminder yesterday to our colleagues of the Prosecution to

Trial Hearing
Procedural Matters

(Private Session)

ICC-01/14-01/21

1 know when will we have a list of witnesses from 26 February, since, depending on
2 your decision on the conduct of the proceedings, we must make our... our best efforts
3 to inform the other party within... within one month - paragraph 10 of your decision
4 479 - and so it is becoming quite urgent for us to know, from 26 February, who the next
5 witnesses will be, so that we can organise the work of the Defence.

6 We want to bring this up so that we can get organised as soon as possible. Thank you,
7 your Honour.

8 PRESIDING JUDGE SAMBA: [10:37:00] Thank you very much, Ms Naouri.

9 Ms Makwaia, do you want to give a response to that, please?

10 MS MAKWAIA: [10:37:07] Thank you, Madam President. As counsel is aware, we
11 were adjourned for a fairly long time, and with your order of resumption of trial
12 occurring on 15 December, we did our best to ensure we were producing witnesses
13 even during the session. Irrespective of that, your Honours, we are working diligently
14 and very hard to secure witnesses whom we've been contacting again as of last week,
15 after your ruling that an additional week was added to this session. As of yesterday,
16 we were speaking to a number of individuals. Unfortunately, they also have their lives
17 and we have to schedule our order of appearance in function of their availability.
18 By the end of the day, I expect to send at least five names to the Defence with respect to
19 individuals we intend to call until 28 March.

20 Thank you, Madam President.

21 PRESIDING JUDGE SAMBA: [10:38:08] Well, that would be very much appreciated so
22 that at least the Defence can also do what they have to do in defence of their client.
23 That would be the position, Ms Naouri. You know we are not scheduled to sit, I think,
24 for that period, so I do appreciate what the Prosecution is now saying. But as Ms
25 Makwaia has promised, by the close of business today, she will send you some more

Trial Hearing
Procedural Matters

(Private Session)

ICC-01/14-01/21

1 names of witnesses who they will be putting on the witness stand for that period

2 concerned.

3 So I don't think there's any more -- anything else that we have to discuss in respect of

4 housekeeping.

5 I'll adjourn this session and ask that we come again on Thursday, appreciating that we

6 don't have any other witness for this afternoon. So I rise the court and ask that we

7 come again on Thursday, at 9.30, please.

8 THE COURT USHER: [10:39:10] All rise.

9 (The hearing ends in private session at 10.39 a.m.)