

Trial Hearing
WITNESS: CAR-OTP-P-0306

(Private Session)

ICC-01/14-01/18

- 1 International Criminal Court
- 2 Trial Chamber V
- 3 Situation: Central African Republic II
- 4 In the case of The Prosecutor v. Alfred Rombhot Yekatom and Patrice-Edouard
- 5 Ngaïssona - ICC-01/14-01/18
- 6 Presiding Judge Bertram Schmitt, Judge Péter Kovács and
- 7 Judge Chang-ho Chung
- 8 Trial Hearing - Courtroom 1
- 9 Wednesday, 29 September 2021
- 10 (The hearing starts in private session at 10.22 a.m.) *(Reclassified partially in public)
- 11 THE COURT USHER: [10:22:52] All rise.
- 12 The International Criminal Court is now in session.
- 13 Please be seated.
- 14 PRESIDING JUDGE SCHMITT: [10:23:17] Good morning, everyone.
- 15 Could the court officer please call the case. And I think we are in private session.
- 16 Are we? Okay.
- 17 THE COURT OFFICER: [10:23:28] Good morning Mr President, your Honours.
- 18 Situation in the Central African Republic II, in the case of The Prosecutor versus
- 19 Alfred Yekatom and Patrice-Edouard Ngaïssona, case reference ICC-01/14-01/18.
- 20 And for the record, we are in private session.
- 21 PRESIDING JUDGE SCHMITT: [10:23:44] Thank you.
- 22 Perhaps we have to explain to the witness that he does not hear at the moment what
- 23 we are saying because the Chamber wants to address one or two matters where
- 24 it -- we find it perhaps better if he does not listen. Perhaps simply explain that the
- 25 tone will be connected later on for him so that he is not confused. Please do that.

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1 In the meantime, where we take the presence, I start with the Prosecution.

2 MR IVERSON: [10:24:16] Good morning, your Honours. Maria Berdennikova,

3 Yassin Mostfa, Kweku Vanderpuye, and Eric Iverson for the Prosecution.

4 PRESIDING JUDGE SCHMITT: [10:24:24] Thank you.

5 Legal representatives of the victims.

6 MR FALL: [10:24:27](Interpretation) Thank you, Mr President. The representatives

7 of the victims today are Mr Enrique Carnero, Madam Mouhia Asso, and myself, Yaré

8 Fall.

9 PRESIDING JUDGE SCHMITT: [10:24:48] Thank you very much.

10 Mr Suprun.

11 MR SUPRUN: [10:24:50] Good morning, Mr President, your Honours. The former

12 child soldiers are represented by myself, Dmytro Suprun, counsel at the Office of

13 Public Counsel for Victims. Thank you.

14 PRESIDING JUDGE SCHMITT: [10:25:00] Thank you.

15 Then I turn to the Defence, Ms Dimitri first.

16 MS DIMITRI: [10:25:04] Good morning, Mr President. Good morning, your

17 Honours. Good morning, everyone. Mr Yekatom, who is present in the courtroom,

18 is represented this morning by Mr Gyo Suzuki, Ms Léa Benoit, Ms Yousra

19 Lamqaddam, and myself, Mylène Dimitri.

20 PRESIDING JUDGE SCHMITT: [10:25:19] Thank you.

21 Mr Knoops, please.

22 MR KNOOPS: [10:25:22] Morning, Mr President, members of the Bench. We are

23 represented today by Ms Chiara Giudici, case manager, and Mathilde Couloigner,

24 and myself. Mr Ngaïssona is present in the courtroom.

25 PRESIDING JUDGE SCHMITT: [10:25:36] Thank you very much.

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1 As I already indicated, before we now continue with the witness, two short matters.

2 First of all I ask the Prosecution, I think you don't have any objections to the adding of

3 this additional item to the list of evidence of the Defence, also in light of recent other

4 events I would simply assume. Is this -- is this okay?

5 MR IVERSON: [10:25:59] No, no objection, your Honour.

6 PRESIDING JUDGE SCHMITT: [10:26:01] Okay.

7 So noting the explanation provided by the Ngaïssona Defence, and in the absence of

8 any objections by the other participants, the Single Judge grants the request.

9 The participants, however, are reminded to make efforts to send these requests as

10 much in advance of the hearings as possible, but there was no problem here.

11 Second thing, and that is the reason why we did not connect to the witness. (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

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13 And we can -- do you hear me, Mr Witness?

14 WITNESS: CAR-OTP-P-0306 (On former oath)

15 (The witness speaks Sango)

16 (The witness gives evidence via video link)

17 THE WITNESS: [10:29:27](Interpretation) Yes, I can hear you.

18 PRESIDING JUDGE SCHMITT: [10:29:28] So then we continue with your

19 examination.

20 I give Mr Iverson the floor.

21 QUESTIONED BY MR IVERSON: (Continuing)

22 Q. [10:29:39] Good morning, sir. This morning I would like to follow up on a

23 series of questions that I asked yesterday just to start out.

24 And if you --

25 A. [10:29:50] (No interpretation)

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1 Q. [10:29:52] If you recall I was asking you a series of questions having to do with
2 the larger Anti-Balaka group behind the hills in Bangui from 1 to 4 December and the
3 various subgroups. And the question that I asked had to do with the
4 neighbourhoods in Bangui to which these subgroups were assigned to attack.

5 And in the context of those questions you mentioned that one group was to attack the
6 neighbourhood of Cattin, and so I wanted to ask you a few questions about that.

7 Do you know which group was assigned to attack Cattin and whether you know the
8 leader or the leaders of that group?

9 PRESIDING JUDGE SCHMITT: [10:31:28] It looks a little bit as if the witness has not
10 heard the question.

11 MR VANDERPUYE: [10:31:41]

12 Q. [10:31:41] Sir, just doing a sound check here. Are you able to hear me?

13 A. [10:32:00] Yes, I can hear you. Thank you, but before I answer, Mr President of
14 the Court, your Honours, Mr Prosecutor, before I answer, Mr President, can you
15 kindly authorise me to explain a situation? If you authorise me, I will do that well
16 before we continue with the examination or with the questioning.

17 PRESIDING JUDGE SCHMITT: [10:32:49] Yes, Mr Witness, you may explain,
18 perhaps shortly what you want to tell the Court. Please continue.

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Pursuant to the Trial Chamber V's Initial Directions, ICC-01/14-01/18-631, dated 26 August 2020, the public-reclassified and lesser redacted version of this transcript is filed in the case.

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15 (Redacted)

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19 (Redacted)

20 (Redacted)

21 (Redacted)

22 So with that, I'll go back to my first question. I'll start back with that. And that

23 was -- and I'll just repeat it because I think it bears repeating.

24 So yesterday I was asking you a series of questions having to do with the larger

25 Anti-Balaka group behind the hills in Bangui from 1 to 4 December, and asking you

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1 questions about subgroups and where those subgroups were designated to attack
2 within Bangui, the neighbourhoods within Bangui. And in the context of that
3 questioning, you mentioned that there was a group designated to attack in the
4 neighbourhood of Cattin. And so it's that particular group and neighbourhood that
5 I'm interested in and I'd like to know from you whether you know the group that was
6 designated to attack that neighbourhood, Cattin, and if you know the leaders of that
7 group.

8 MS DIMITRI: [10:40:04] Mr President, I'm slightly concerned with the last part of the
9 question because it's as if -- I understand that my learned friend is quoting from the
10 witness's answer yesterday, I do not believe the witness said there was a group that
11 was designated to attack the neighbourhood of Cattin.

12 PRESIDING JUDGE SCHMITT: [10:40:22] Actually, I think you're right. Of course
13 I have not cross-checked it, but it's always better if we put only one question at a time.
14 So perhaps start with your first question and then we look to what this leads us. But
15 I also think I haven't heard from the witness that people were designated. He later
16 on in the afternoon said something where he was with his group, so as -- if I recall it
17 correctly, as an additional information, but I'm relatively sure not about other groups,
18 so.

19 MR IVERSON: [10:41:03] Well, I'm going -- I'm going to have to disagree because
20 I'm looking exactly at the transcript yesterday.

21 PRESIDING JUDGE SCHMITT: [10:41:09] Then please disprove me.

22 MR IVERSON: [10:41:12] And he says what happened is that -- and this is on
23 page 16 from lines 10 to lines 19: "What happens is that we all came down on the
24 main roads" - so "we" meaning the entire Anti-Balaka group is how I took that to
25 mean and I think that's a reasonable interpretation - "and the roundabouts and

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1 whenever we ran into the Seleka we would attack them in Ouango -- Kasai, Ouango
2 and Cattin, so we would attack the Seleka at their base."

3 And this is in the context of asking about the subgroups in the neighbourhood. So I
4 don't (Overlapping speakers)

5 PRESIDING JUDGE SCHMITT: [10:41:49] So I'm not -- I'm happy that I'm not
6 completely disproven because it is not -- it does not -- it does not say that certain
7 groups were assigned to certain parts of the town. But I think we should shorten
8 this.

9 You can simply ask him if he knows if certain groups of this larger group were
10 attacking certain parts of the town and, if so, what the leaders were. So that would
11 be a correct thing --

12 MR IVERSON: [10:42:23] Of course I can ask that. I was trying to just place it in
13 context. And I don't think that I was in any way mischaracterising the context in
14 which (Overlapping speakers)

15 PRESIDING JUDGE SCHMITT: [10:42:30] No, it is -- this is not a -- this is of course
16 not a reproach, not at all. Your interpretation is possible, and if I were a party I
17 would interpret it of course for my purposes this way, but you can also see it
18 differently.

19 So please, please simply split the questions into two. The first question would be of
20 these larger groups, were chunks of it attacking certain parts of the town and, if so,
21 then you continue. Okay?

22 MR IVERSON: [10:43:02] All right. I don't intend to split hairs. I will follow your
23 instruction to the letter.

24 PRESIDING JUDGE SCHMITT: [10:43:10] Okay, good. Good.

25 MR IVERSON: [10:43:24]

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1 Q. [10:43:25] Let me just put it this way, sir. You mentioned the locality of Cattin
2 in an answer yesterday. So I want to ask you, do you know whether an Anti-Balaka
3 group or subgroup attacked that locality, the locality of Cattin?

4 PRESIDING JUDGE SCHMITT: [10:43:42] That's okay.

5 THE WITNESS: [10:44:07] Thank you, Mr President. I think that in my testimony
6 yesterday I did not mention the name Cattin. I told you that on the 5th we attacked
7 Bangui. We went to different sectors. I mentioned Kasai. Cattin is not a military
8 base, neither is it a Seleka base. I repeat, I did not mention the name Cattin.

9 And when you talk about certain Anti-Balaka subgroups that are supposed to have
10 attacked certain neighbourhoods, I didn't say that, I didn't mention those
11 neighbourhoods. I said we launched an overall attack against the capital without
12 mentioning the neighbourhoods. (Redacted)

13 (Redacted) That is what I said yesterday.

14 That is the answer that I can give you for the time being, Mr President, so that you can
15 understand well.

16 PRESIDING JUDGE SCHMITT: [10:45:26] Like it turns out, so I think this was
17 an answer and you can move on from there.

18 MR IVERSON: [10:45:33] I have my answer and I --

19 PRESIDING JUDGE SCHMITT: [10:45:34] And it accords also with what the witness
20 largely, I would say, if I have it in mind what the witness yesterday said.

21 MR IVERSON: [10:45:41] I don't intend to go down a road when I see a dead-end,
22 your Honour, so I'll move on.

23 PRESIDING JUDGE SCHMITT: [10:45:48] Yes.

24 MR IVERSON:

25 Q. [10:45:51] Okay, sir, so there's a few individuals and I'd like to ask you about

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1 them. What I'd like to know about these individuals is just whether you know them

2 and to what extent you had a relationship with them or interactions and if you could

3 describe those.

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

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9 Q. [10:54:07] And can you tell the Court whether Maxime Mokom ever ordered or
10 instructed you to do anything as -- under the banner or the auspices of Anti-Balaka?

11 A. [10:54:42] It's not a good thing to lie. Our supreme leader was Edouard
12 Ngaïssona. I do not need to lie on Mr Mokom's back or about Mr Mokom. He is
13 the one who gave the orders, that is Mr Ngaïssona, and we implemented those orders.
14 Mokom also received orders from Mr Ngaïssona and he went on to implement the
15 orders he had received from Mr Ngaïssona.

16 (Redacted)

17 (Redacted)

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5 MR IVERSON: [12:45:37]

6 Q. [12:45:37] Sir, I want to ask you whether you're aware of the presence of
7 children under the age of 15 within the -- the larger Anti-Balaka group?

8 A. [12:46:34] No. No. I have no knowledge of any such information. This is
9 what I would like to say to the President of the Court. I do not have any knowledge
10 of the thing that you have referred to.

11 Q. [12:47:01] And just one other question on that topic, sir. If you know, are you
12 aware whether children under the age of 15 fought in the attack on 5 December in
13 Bangui on behalf of the Anti-Balaka, or dates following? So 5 December to
14 26 January.

15 A. [12:47:58] Never. I never saw any such thing with my own eyes. And I'm not
16 going to lie before the President of the Court.

17 Q. [12:48:10] All right. So just -- I'm getting to my last series of questions and then
18 I'll be finished asking you questions, sir. I just want to go back briefly to that point
19 in time where --

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

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17 (Redacted)

18 MR IVERSON: [12:50:30] I would ask, if you could please, just can you describe

19 Mr Ngaïssona's demeanour on that day. How was he acting?

20 A. [12:51:45] I want to thank the President of the Court and the Judges. He

21 behaved like a leader, a chief. He behaved like the general coordinator would.

22 And finally, I would like to specify that he is the one who was the supreme leader of

23 the Anti-Balaka. Even when the whites of the Sangaris operation stopped him from

24 becoming president, people continued to call him president or chief. So he was

25 always the general coordinator of the Anti-Balaka up until the time of his arrest, up

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1 until you over there arrested him.

2 THE INTERPRETER: [12:52:59] Message from the Sango booth: There are a few

3 technical problems with the link to *the witness.

4 Continuing.

5 THE WITNESS: [12:53:21](Interpretation) No one else controlled the movement.

6 He was our supreme leader.

7 That is what I would like to say to the President of the Court so that he may

8 understand properly.

9 PRESIDING JUDGE SCHMITT: [12:53:39] Yeah, and I think it's -- we have heard this

10 now several times, so I think we can move on.

11 MR IVERSON: [12:53:57] Sir, that ends my questioning. I have no more questions

12 to you. I just wanted to thank you for your patience and being attentive to my

13 questions. Thank you.

14 PRESIDING JUDGE SCHMITT: [12:54:08] Thank you, Mr Iverson.

15 Any questions by the Representatives of the Victims?

16 MR FALL: [12:54:15](Interpretation) Yes, Mr President. We have some questions.

17 PRESIDING JUDGE SCHMITT: [12:54:22] I give you the floor.

18 MR FALL: [12:54:29](Interpretation) Thank you, Mr President.

19 PRESIDING JUDGE SCHMITT: [12:54:32] Perhaps firstly I explain to the witness

20 what's going on now.

21 Mr Witness, you have recognised that the Prosecution has finished its questioning.

22 And we have other participants here in the courtroom, we have Legal Representatives

23 of Victims, and of course the Defence will come later. And now one of the Legal

24 Representatives of the Victims has -- wants to ask you a couple of questions, and that

25 is what is happening now. So that you can follow and understand what's going on

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1 here.

2 So another person will question you and he is a Legal Representative of the Victims.

3 Yeah.

4 You may proceed, please, with your questioning.

5 MR FALL: [12:55:30](Interpretation) Thank you, Mr President.

6 QUESTIONED BY MR FALL: (Interpretation)

7 Q. [12:55:37] Good afternoon, Witness. Do you hear me?

8 A. [12:55:39] Good afternoon. Yes, I can hear you.

9 Q. [12:55:41] The president has explained to you that I am a member of a team of
10 lawyers who in this trial are representing victims who were authorised to participate.
11 Before I proceed I would like, first of all, to ask you to forgive me for not initially
12 introducing myself to you before we met this morning. I didn't have the
13 opportunity to do so. I was on my way to this hearing.

14 Now let me turn to the questions that we intend to put to you.

15 My first question is as follows: (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

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Trial Hearing
WITNESS: CAR-OTP-P-0306

(Private Session)

ICC-01/14-01/18

- 1 (Redacted)
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- 20 (Redacted)
- 21 (Redacted)
- 22 (The hearing ends in private session at 4.14 p.m.)