

Trial Hearing
WITNESS: CAR-OTP-P-0876

(Open Session)

ICC-01/14-01/18

- 1 International Criminal Court
- 2 Trial Chamber V
- 3 Situation: Central African Republic II
- 4 In the case of The Prosecutor v. Alfred 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, 15 December 2021
- 10 (The hearing starts in open session at 11.30 a.m.)
- 11 THE COURT USHER: [11:30:26] All rise.
- 12 The International Criminal Court is now in session.
- 13 Please be seated.
- 14 PRESIDING JUDGE SCHMITT: [11:30:53] Good morning, everyone. Court officer,
- 15 please call the case.
- 16 THE COURT OFFICER: [11:31:00] Good morning, Mr President, your Honours.
- 17 Situation in the Central African Republic II, in the case of The Prosecutor versus
- 18 Alfred Rombhot Yekatom and Patrice-Edouard Ngaïssona, case reference
- 19 ICC-01/14-01/18.
- 20 And for the record, we are in open session.
- 21 PRESIDING JUDGE SCHMITT: [11:31:15] Thank you.
- 22 The appearance of the parties.
- 23 For the Prosecution, Mr Leddy, please.
- 24 MR LEDDY: [11:31:20] Good morning, Mr President, your Honours.
- 25 Today the Office of the Prosecutor is represented by myself, Nicholas Leddy, Kweku

Trial Hearing

(Open Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 Vanderpuye, Pierre Belbenoit-Avich and Yassin Mostfa.

2 PRESIDING JUDGE SCHMITT: [11:31:32] And Representatives of the victims.

3 Ms Rabesandratana first, please.

4 MS RABESANDRATANA: [11:31:38](Interpretation) Good morning, Mr President.

5 Good morning, your Honours.

6 Today the legal representatives of the other crimes are Madam Anne Grabowski,

7 Madam Mouhia Asso, and myself, Elizabeth Rabesandratana.

8 PRESIDING JUDGE SCHMITT: [11:32:00] Thank you.

9 Mr Suprun.

10 MR SUPRUN: [11:32:01] Good morning, Mr President, your Honours.

11 The former child soldiers are represented by myself, Dmytro Suprun, counsel at the

12 Office of Public Counsel for Victims. Thank you.

13 PRESIDING JUDGE SCHMITT: [11:32:10] Thank you.

14 I turn to the Defence. We start with Ms Dimitri, like always.

15 MS DIMITRI: [11:32:14] Thank you, Mr President.

16 Good morning, Mr President. Good morning, your Honours. Good morning to

17 everyone.

18 Mr Yekatom, who's present in the courtroom, is represented today by Mr Florent

19 Pages-Granier, Mr Victor-Louis Lapointe Saint-Pierre, Ms Laurence Hortas-Laberge,

20 and myself, Mylène Dimitri.

21 PRESIDING JUDGE SCHMITT: [11:32:33] Thank you.

22 Mr Knoops.

23 MR KNOOPS: [11:32:36] Good morning, Mr President, your Honours. Good

24 morning everyone in the courtroom.

25 The Defence of Mr Ngaïssona is today before the Chamber with Ms Sara Pedroso, on

Trial Hearing

(Open Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 my right side. And my second row, Ms Barbara Szmatala. And the Defendant is
2 here as well. Mr Omissé Landry is following the proceedings from the field office,
3 Mr President.

4 PRESIDING JUDGE SCHMITT: [11:32:56] Thank you.

5 And we note the presence of counsel for the witness, Ms Cariolou, good morning.

6 And also, good morning to Mr Witness.

7 We have now the so-called redirect examination by the Prosecution.

8 Mr Leddy, you have the floor.

9 MR LEDDY: [11:33:20] Thank you, Mr President.

10 Just to give you a preview, I expect --

11 Good morning, Mr Witness.

12 Just to give you a preview, I expect to go into approximately five or six categories of
13 questions this morning, and I hope to finish before the lunch break.

14 WITNESS: CAR-OTP-P-0876 (On former oath)

15 (The witness speaks French)

16 QUESTIONED BY MR LEDDY:

17 Q. [11:33:36] So, Mr Witness, I'd like to clarify a few matters that were discussed on
18 examination by counsel for Mr Ngaïssona and Mr Yekatom. My first question
19 relates to your statement last week in response to counsel for Yekatom where you
20 seem to indicate that Yekatom was part of a nonviolent pacifist group, yet you
21 indicated in your statement to the Office of the Prosecutor that Yekatom targeted the
22 Muslims and you discuss unnecessary slaughters along the Mbaïki and Bangui axis,
23 and that Yekatom and others killed Muslims systematically.

24 Can you please help us understand this discrepancy between what you said last week
25 and what you said in your prior statement.

Trial Hearing
WITNESS: CAR-OTP-P-0876

(Open Session)

ICC-01/14-01/18

1 MS DIMITRI: [11:34:25] Mr President.

2 PRESIDING JUDGE SCHMITT: [11:34:27] Ms Dimitri.

3 MS DIMITRI: [11:34:29] Mr President, I object to the question. The 68(3) statement,
4 which is lengthy, is part of the examination-in-chief. This was in the 68(3). It was
5 foreseen by my colleague. It's part of the summary and it's part of an additional
6 examination by my colleague last Tuesday, I believe, where he specifically asked the
7 question to the witness to comment on those specific aspects.

8 In fairness to us, I built the examination based on what was said by this witness,
9 specifically on Mr Yekatom. If my learned friend has now a second chance to go
10 back on these issues, I believe it would be unfair.
11 That's my objection.

12 PRESIDING JUDGE SCHMITT: [11:35:08] Actually, there is a difference here.
13 A Rule 68(3) witness, if you have a full live witness, the Prosecution can address the
14 issue with the witness and can refer to the former statement and can clarify if what
15 the witness says in the courtroom appears to be not - let me put it this way - exactly
16 the same what the witness said, let's say, three years ago when he was questioned by
17 the investigators of the Prosecution. When the witness statements are introduced via
18 Rule 68(3), and on questioning by the Defence, for example, the witness deviates
19 significantly, the situation is different, the Prosecution had not had a chance to
20 address this issue, so I allow it.

21 Please, Mr Leddy.

22 MR LEDDY: [11:36:01] Thank you, Mr President.

23 Q. [11:36:04] So, Mr Witness, my question to you is how to understand this
24 discrepancy between your answers in your questioning by counsel for Mr Yekatom
25 and in the statement that you gave to the Office of the Prosecutor in 2016.

Trial Hearing

(Open Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 A. [11:36:34] There is clearly no discrepancy between what I said in 2016 and what
2 I said here. In 2016 I said that I was told and the media was saying that, and this is
3 not in relation to what I saw. So it is what we heard. We heard that Yekatom's
4 group was carrying out exactions, but I didn't see it. And I said that in order to
5 distinguish between what I saw and what I did not see.

6 Now turning to my statement -- or, rather, what I said, that Mr Yekatom's group
7 represented a pacifist group, that is in relation to the time when we did not know
8 ourselves, but I went to discuss with them prior conditions that object to war and
9 appeal for dialogue within the country. And so, automatically, this group agreed
10 with the principle of returning to constitutionality without fighting, and that was its
11 position. It accompanied me all the way through to the international community in
12 its objection to the spirit of war. That is why I termed the group as a pacifist group.
13 But when it comes to crimes committed against Muslim communities or people of
14 Muslim typology, I was not a direct witness. I did not experience that, and this is
15 what I said in my statement as having been carried in the media.

16 But what I said here or also is that, what the media was saying and the knowledge
17 that I had of Mr Yekatom, there was a gap between the two. So that is the
18 clarification that I can provide.

19 Q. [11:39:07] Thank you, Mr Witness.

20 So last Friday, during examination for counsel for Mr Yekatom, you seem to agree
21 with the proposition supported by an article that Kamezolaï and Yekatom's groups
22 was well disciplined and not known for harassing civilians. And the transcript cite
23 for that is transcript 87 of the English, page 17, lines 1 through 17.

24 But last week you said something different. You said that -- you described how you
25 confronted Yekatom about his crimes based off of what you heard on the media,

Trial Hearing

(Open Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 specifically over the radio, about Yekatom killing civilians.

2 So help us understand. Was Yekatom known for harassing civilians by what you

3 heard over the radio, or was he not known for this?

4 PRESIDING JUDGE SCHMITT: [11:40:05] Ms Dimitri.

5 MS DIMITRI: [11:40:06] Mr President, this specific question about confronting

6 Mr Yekatom about alleged crimes was led during the examination.

7 PRESIDING JUDGE SCHMITT: [11:40:16] That's correct. In that instance, you're

8 right.

9 MS DIMITRI: [11:40:19] Thank you.

10 PRESIDING JUDGE SCHMITT: [11:40:20] In that instance, this is correct, Mr Leddy.

11 I wonder, by the way -- I address it now since we had this interpretation. We

12 had -- there is a decision by this Chamber, or by the Single Judge, which granted

13 protective measures to the witness. Are you going to address these issues later on,

14 or do you plan to do that?

15 MR LEDDY: [11:40:43] Yes, your Honour.

16 PRESIDING JUDGE SCHMITT: [11:40:45] Okay. Good. Then please continue.

17 MR LEDDY: [11:40:48]

18 Q. [11:40:48] So the root of my question, Mr Witness, was about what you heard

19 over the radio. You indicated you heard descriptions of Yekatom's crimes against

20 civilians over the radio. It seems inconsistent with what you said about him not

21 being known for harassing civilians. Can you explain that difference for us.

22 MS DIMITRI: [11:41:15] Mr President, again, the -- what the witness heard on the

23 radio was part of the examination last Tuesday. It was -- it was not only anticipated.

24 It was a question put, the answer was given, and it's in that context that I dealt with it

25 in -- during my examination.

Trial Hearing

(Open Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 PRESIDING JUDGE SCHMITT: [11:41:38] Yeah, I think, Mr Leddy, Ms Dimitri is
2 right here. Because, you know, what I said in principle is the following -- and I
3 repeat it because I think it's important because the procedural issue might arise with
4 future witnesses too. So I said, and I think this is logical, if we have a Rule 68(3)
5 witness, and you have not addressed the issue at all in your direct examination
6 because the whole purpose of introducing via Rule 68(3) is to spare time, to avoid a
7 full direct examination, so to speak. And then, via examination by the Defence, the
8 witness appears to state things that do not, in your view, comply fully with what is
9 stated in the Rule 68(3) statement, then out of fairness now to the Prosecution, you
10 have to be able to address that because you haven't had the chance to address it on a
11 direct examination yet.

12 So to make an example, if the witness was a full live witness, and you address an
13 issue, and he says something - just hypothetically - says something completely
14 different to what he has said in a 2016 statement, then you can on the spot try to
15 figure out what the -- why -- why this difference. You cannot do that if it is a
16 Rule 68(3) witness. So this is, I think, quite logical.
17 So also for all future witnesses, be it Prosecution or Defence witness, I think we can
18 establish this on redirect. Redirect can also be later on by -- by Defence, of course.
19 Yeah

20 So, Mr Leddy.

21 MR LEDDY: [11:43:29] Thank you, Mr President. And just to -- I appreciate the
22 discrepancy you mentioned. It certainly makes sense. My question was -- was
23 more to clarify a discrepancy that was elicited on cross-examination. But I
24 appreciate the distinction and I'll -- I'll move along.

25 PRESIDING JUDGE SCHMITT: [11:43:53] So just -- just -- the -- I have explained it

Trial Hearing

(Open Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 quite clearly and I think it's understandable, but -- but just one -- one additional
2 thought on that.

3 We -- we push you, rightfully so, I think, to shorten your direct examination when we
4 have a Rule 68(3) witness. Then it would not be fair to not let you give a chance if
5 discrepancies, or alleged discrepancies, have occurred. So this is, for the Defence,
6 this is the mindset behind it.

7 Please, Mr Leddy.

8 MR LEDDY: [11:44:44]

9 Q. [11:44:44] So, Mr Witness, last Friday, in response to questions by counsel for
10 Mr Yekatom, you were showed a video from France 24 depicting gendarmerie
11 visiting PK9 with Yekatom present, and you seem to indicate there was a degree of
12 cooperation between the gendarmerie and Yekatom's group.

13 And the transcript reference here is number 87 of the English real-time, page 12 to 14,
14 and this is citing a video from the Yekatom list of materials number 43.

15 So my question to you, Mr Witness, were you aware of allegations that Yekatom also
16 attacked the gendarmerie in Mbaïki and took their weapons?

17 MS DIMITRI: [11:45:40] Mr President, I object again. It's a -- it's a -- it's a complete
18 new subject that was not addressed in cross. My question was very limited to
19 cooperation with gendarme at that time on the video. Now, an event later on
20 disconnected with that video is just, in my respectful opinion, a way to bring a new
21 subject in examination.

22 PRESIDING JUDGE SCHMITT: [11:46:07] No, but I -- I don't agree. The
23 witness -- was shown to the witness on examination by the Defence and it -- the
24 purpose was to find out information about a potential cooperation between the
25 gendarmerie, Mr Yekatom.

Trial Hearing

(Open Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 And Mr Leddy is addressing that and I think, since it came out of the Defence
2 examination, you can continue. Please ask the question.

3 MR LEDDY: [11:46:41]

4 Q. [11:46:41] So, Mr Witness, my question to you, having seen that video and given
5 your statement last Friday, were you aware also of allegations that Yekatom attacked
6 gendarmerie in Mbaïki and took their weapons?

7 A. [11:47:05] First of all, the video that was shown, my reaction to that video was
8 that it was an initiative from the prime minister's office. The gentleman from the
9 gendarmerie Colonel Lingisana (phon), who is a general today, was the general
10 director of the gendarmerie at the time.

11 So in my answer I said that it was the gendarmerie and that the initiative for that
12 meeting came from the prime minister's office. On that video, the DDR adviser from
13 the prime minister's office could be seen, so the question did not in any way relate to
14 the attack of a gendarmerie base at any location which I may or may not be aware of.
15 So whether there was cooperation or not between Mr Yekatom and this group and the
16 gendarmerie, and in answer to the question which dealt with the presence of some
17 personalities on a video which was displayed, I was able to immediately recognise the
18 representative of the prime minister's office. I was able to recognise the general
19 director of the gendarmerie. Now, if there were to be cooperation or any kind of
20 liaison between Mr Yekatom and the gendarmerie, that question I think should be put
21 directly to the general director of the gendarmerie.

22 Now, when it comes to the attack of the gendarmerie base where Mr Yekatom is
23 alleged to have recovered weapons, I was not a witness, so I cannot come here and
24 say that during that meeting there was an issue of cooperation and talk about
25 weapons of -- and talk about weapons having been recovered from the gendarmerie

Trial Hearing
WITNESS: CAR-OTP-P-0876

(Private Session)

ICC-01/14-01/18

1 by Mr Yekatom.

2 So I answered a question in a given context and I did not address the issue of

3 cooperation between the gendarmerie and Yekatom's group.

4 Q. [11:49:32] Thank you, Mr Witness. My question was quite specific. It wasn't

5 whether you saw it happen yourself, it's whether you had knowledge of it, whether

6 you were told about it at the time.

7 A. [11:49:55] I was not necessarily aware of everything that happened in the

8 Central African Republic. No one spoke to me about this.

9 Q. [11:50:11] I do have one question for you, Mr Witness, about the timing of some

10 meetings.

11 And for this I'd request private session because I believe it could identify the witness.

12 PRESIDING JUDGE SCHMITT: [11:50:20] For how long do you think we have to

13 go?

14 MR LEDDY: [11:50:21] One, maybe two questions.

15 PRESIDING JUDGE SCHMITT: [11:50:24] Okay. For the benefit of some

16 people -- for public, better to say.

17 Private session.

18 (Private session at 11.50 a.m.)

19 THE COURT OFFICER: [11:50:42] We are in private session, Mr President.

20 MR LEDDY: [11:50:47] Thank you.

21 Q. [11:50:48] Now, Mr Witness, I'd like to talk about the chronology of some of the

22 meetings you referenced in your statement and on cross-examination or examination

23 by counsel for Yekatom.

24 Now, this was touched on at transcript 86, page 59, and in this statement on

25 examination by counsel for Yekatom, you indicated how a (Redacted)

Trial Hearing

(Private Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 (Redacted), and you said the SMS you sent
2 him started your relationship. This is on page 107 of the same transcript. Now I
3 just want to clarify, am I to understand correctly that you did not have contact with
4 (Redacted)'s group prior to the 5 December 2013 attack? And that your meetings at
5 (Redacted) took after 5 December; is that correct?

6 A. [11:51:57] In any event, in terms of time, my contact with (Redacted)'s group
7 started after (Redacted). And from the first SMS that I
8 sent, and I don't remember the exact date on which I sent, it is from that moment that
9 a relationship developed. Before then, I did not know them and I wasn't even aware
10 of their existence.

11 Q. [11:52:37] Just to be clear, do you recall meeting (Redacted) prior to
12 the 5 December attack on Bangui?

13 A. [11:53:02] Meeting (Redacted)? Well, my first meeting with (Redacted)'s group
14 was after the two or three SMSs.
15 Now, to place it whether it was before or after the attacks, I think that you may have
16 the necessary resources. Just as you did with locating other calls, you have the
17 resources to be able to know. What I know is that I met with the (Redacted) group
18 (Redacted).

19 Q. [11:53:47] I'm glad you brought up the call detail records, Mr Witness. Does it
20 refresh your recollection if I put to you that these records indicate the first contact
21 between the phone number you provided and the phone number of (Redacted) as
22 around the time of 25 December 2013?

23 MS DIMITRI: [11:54:07] Mr President, my only issue with that question - and I
24 understand my learned friend is trying to clarify - but my only issue is that the -- the
25 basis of this question demonstrate an attribution, so to -- from one telephone number

Trial Hearing

(Private Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 to (Redacted), and whether or not this was the only phone number he used at the time
2 to contact the witness.

3 PRESIDING JUDGE SCHMITT: [11:54:34] So I think you are half right, I would say.

4 The call data records might be right or wrong, or the information. You can say,
5 perhaps, we have these records that might indicate that your first contact has been
6 25 December, so and I -- I'm quite sure what the witness is going to say, but please ask
7 him.

8 MR LEDDY: [11:54:58] Thank you, your Honour.

9 Q. [11:55:01] Mr Witness, as you -- as you heard, my question to you is: We have
10 call detail records that seem to indicate that the first contact between these two phone
11 numbers, between the phone number you provided and the phone number attributed
12 to (Redacted), is on or about 25 December 2013, that's what they seem to indicate.

13 Does that refresh your recollection as to the timing of your meeting with (Redacted)?

14 A. [11:55:38] If the document is already mentioning contact after 5 December, the
15 date on which the attack on Bangui took place, well, the question as to whether we
16 met before 5 December is, therefore, no longer relevant. If you already know that
17 my contacts with those two numbers took place after 5 December, then that is it. I
18 only contact those groups after the first two SMSs.

19 Now, but after all the time that has gone by, I am not able to locate that contact before
20 or after 5 December. What I remember is that I had telephone contact with them
21 later on (Redacted).

22 Now, later on I met with the other group. And I think the document speaks for itself
23 already.

24 PRESIDING JUDGE SCHMITT: [11:56:51] Please move on from here.

25 MR LEDDY: [11:56:54] We can go back to open session, your Honour.

Trial Hearing

(Open Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 PRESIDING JUDGE SCHMITT: [11:56:57] Open session.

2 MR LEDDY: [11:56:58] Thanks.

3 (Open session at 11.57 a.m.)

4 THE COURT OFFICER: [11:57:09] We are back in open session, Mr President.

5 MR LEDDY: [11:57:16] Thank you.

6 Q. [11:57:17] Now, Mr Witness, my next question relates to the structure of the
7 Anti-Balaka. I want to clarify something you said in this regard during questioning
8 for counsel for Mr Yekatom. And this is transcript 86, page 16.

9 You described a lack of structure. You described a lack of structure in the popular
10 uprising against the Seleka. And I want to clarify about the structure, because in
11 your statements you were quite clear in describing a pyramid-like structure.

12 PRESIDING JUDGE SCHMITT: [11:57:53] Could you please provide so that
13 everybody can follow the reference to that.

14 MR LEDDY: [11:57:58] Sure.

15 PRESIDING JUDGE SCHMITT: [11:57:59] Mr Knoops.

16 MR KNOOPS: [11:58:00] Mr President, this is already in the statement of the witness,
17 the lack of structure. It's nothing new. So this was discussed even during the
18 examination itself. The Defence didn't raise this as a new topic. It's the statement.
19 The witness was clear in the statement. There was no -- I confronted him myself
20 during my examination. There was -- aside from the statement, he confirmed this.
21 There was no organisation, there was no structure, and --

22 PRESIDING JUDGE SCHMITT: [11:58:29] Okay. Then -- it's okay. Then let me
23 ask a question in that regard. So I think you're right, Mr Knoops. So the
24 contradiction, so to speak, might be in the statement already.

25 So Mr -- and I -- I know exactly what Mr Leddy is referring to, because over several

Trial Hearing

(Open Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 pages, then the pyramid structure is explained, what it means, the foot
2 soldiers - okay - the intermediaries, and all of that.
3 So, Mr Witness, there seems to be in your statement and also in your -- in your
4 Rule 68(3) statement and also what you said, something that has to be clarified, to put
5 it this way. So, on the one hand, you speak of a pyramid structure and then you
6 explain what this pyramid structure consisted of, starting from the bottom, the foot
7 soldiers and then there were intermediaries and then people at the top too, but as
8 counsel for Mr Ngaïssona has rightfully pointed out, and you said it also in your
9 examination, I think, last week, it seems to indicate that you said there was no clear
10 structure. Could you please help us to understand this, because it seems not to be
11 easily to be reconciled these two parts of your statement. Thank you.

12 THE WITNESS: [12:00:05](Interpretation) I believe that things are being mixed up in
13 people's minds right now. That mix up or confusions relates to two questions,
14 different two different questions. I answered the questions separately, but the
15 answers were conflated into one.

16 Now, the first question was whether there was a structure at the national level of the
17 Anti-Balaka as such, and I clearly stated that the Anti-Balaka were self-defence
18 groups which came together for different reasons, from one village to another, but for
19 the purpose of defending the inhabitants of a village, a town, or a neighbourhood.
20 At that time no one could speak of a structure of the Anti-Balaka. Now, that's the
21 first question.

22 The second question relates to the empirical representation. And this was not a
23 structured entity as such. I was asked, "What do you think of the organisational
24 architecture of the Anti-Balaka group and of the general coordination?" That
25 question arose when I made a distinction to the investigators between the two groups.

Trial Hearing

(Open Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 And that question only dealt singularly with Ngaïssona's coordination.

2 So you see clearly in the answers and in the questions that this only related to Mokom
3 and Konate, and all those who were of Ngaïssona's group. Therefore, quite clearly,
4 there could not have been a pyramid structure of the national or general coordination
5 of the Anti-Balaka.

6 So these are the two questions that I believe have been conflated into one. And my
7 two answers have also been conflated when it is said that I talked about an
8 Anti-Balaka structure. I talked about the structure of the general coordination and,
9 of course, in empirical terms. So there was really no evidence. Now, if you read
10 the question carefully, "Where do I situate Ngaïssona? Where do situate Mokom?"
11 I was being asked to situate them in a structure.

12 Well, that was not a coordination that existed. And so this is the clarification that I
13 can provide to this confusion.

14 PRESIDING JUDGE SCHMITT: [12:03:32] But what does -- what sense does a
15 coordination and speaking about a coordination make at all if there is no structure?
16 Could you explain.

17 You know, this was a very long answer, but, actually, it's not so easily to understand
18 from the content, frankly speaking. Do we speak of different points in time? What
19 are we -- what are you talking about?

20 THE WITNESS: [12:04:10](Interpretation) Why did I talk about coordination?

21 Everybody knows that a coordinator, a general coordinator existed. And the
22 question was about the general coordinator. My answer was, there was no structure
23 of single command for the Anti-Balaka. But I was asked, "How can you present the
24 Anti-Balaka to us?"

25 The interviewee's question was asking me to make a representation of the general

Trial Hearing

(Open Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 coordination and also the general coordinator was Mr Ngaïssona. It was,
2 therefore -- empirically I answered the question. I answered the question of the
3 interviewees who asked me to make a representation of the coordination. And I
4 gave them specific information that where I said there was no single coordination for
5 the Anti-Balaka. We are talking here, of course, of two different periods.

6 PRESIDING JUDGE SCHMITT: [12:05:25] Okay.

7 Mr Leddy, please continue.

8 MR LEDDY:

9 Q. [12:05:31] Just to clarify, what are those two different periods?

10 A. [12:05:44] The two periods: The first period where there was an Anti-Balaka
11 movement, the birth, the proliferation of the Anti-Balaka. The second period is
12 when there was a general coordination. Those are the two periods.

13 PRESIDING JUDGE SCHMITT: [12:06:07] Well, that could have been quicker, but
14 it's not your fault, of course.

15 MR LEDDY:

16 Q. [12:06:14] And your understanding of the time period of this general
17 coordination, Mr Witness, could you give us dates.

18 A. [12:06:30] You have the documents signed by General Essongo, or in his office,
19 and I said that this coordination only lasted maximum two hours. That is the
20 document, and the date of his signature was the date of that general coordination.

21 Q. [12:06:59] Well, speaking of documents that discuss the coordination, I'd like to
22 remind you of document 17 on the Yekatom list of materials. This is
23 CAR-OTP-2084-0049. This is the 14 February 2014 declaration.
24 And I'd ask that it be shown to the witness but not the public.

25 MR LEDDY: [12:08:03] Your Honour, I've been informed we can actually show this

Trial Hearing
WITNESS: CAR-OTP-P-0876

(Open Session)

ICC-01/14-01/18

1 publicly.

2 PRESIDING JUDGE SCHMITT: [12:08:08] Okay. Then we do it. Yeah, why not,
3 indeed.

4 MR LEDDY:

5 Q. [12:08:12] So, Mr Witness, now looking at this document today, you can see here
6 there are signatures of over 20 individuals, and they all refer in this document to
7 Ngaïssona as their general coordinator. You see signatures of coordination numbers
8 like Mokom, Wenezoui, Yagouzou, and then over a dozen *chef de battalion*, including
9 Mbele, Donon and Mokpem.

10 Now, would you agree with me, this document indicates a degree of coordination in
11 the Anti-Balaka under Ngaïssona in the time period of February 2014?

12 PRESIDING JUDGE SCHMITT: [12:09:00] I think he has answered that. I think you
13 can move on. And it is a document, and nobody has put into doubt the authenticity
14 of this document.

15 MR LEDDY:

16 Q. [12:09:43] Mr Witness, I'd like to touch base about the relationship between the
17 ComZones and the Anti-Balaka. And you discussed this under questioning by
18 counsel for Mr Ngaïssona, and this is at transcript 88 of the English, pages 20 to 22.
19 And in that part of your testimony, you spoke to the lack of interconnection between
20 the ComZones and the Anti-Balaka. Yet in your statement from 2016, you said that
21 they knew each other and that they would call each other to verify the elements were
22 indeed part of their groups and that they were scared of infiltrators. You even
23 indicated there were a hundred -- over a hundred ComZones and that they would
24 give direct orders and that their chief was Captain Ngremangou, and that he was the
25 link between Bozize and the elements in the field.

Trial Hearing

(Open Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 For these cites, I'll quote CAR-OTP-2046-0267, at 0283, line 610 to 612, and

2 CAR-OTP-2046-0324, at 0326, lines 47 to 58.

3 So is it fair to say, Mr Witness, there was in fact communication between the

4 ComZones?

5 A. [12:11:16] I don't have the document here before me. May I see it?

6 PRESIDING JUDGE SCHMITT: [12:11:24] Fair enough. I think we can do that.

7 MR LEDDY:

8 Q. [12:11:28] Sure. Would you like me to -- I can read you the -- the quotes.

9 We'll start with the first one. That's CAR-OTP-2046-0267, at 0283, line 610 to 612.

10 And it's at the end of quite a long paragraph, and it's just the last two sentences.

11 And I'll quote the French:

12 (Interpretation) "After the ComZones, who knew each other, they phoned each other

13 in order to talk to each other. Does these elements come from you, because they also

14 fear people who infiltrate?"

15 (Microphone not activated)

16 PRESIDING JUDGE SCHMITT: [12:12:14] Microphone, please, Mr Leddy.

17 MR LEDDY: [12:12:18]

18 Q. [12:12:18] What is your response to that, Mr Witness?

19 PRESIDING JUDGE SCHMITT: [12:12:30] Mr Knoops.

20 Wait please.

21 Mr Knoops.

22 MR KNOOPS: [12:12:31] I just have an objection in terms that there is also a portion

23 in the statement of the witness, out of fairness to the witness, where he did say that

24 the commanders of the ComZones didn't know each other. That's on the -- I

25 confronted him with this.

Trial Hearing

(Open Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 PRESIDING JUDGE SCHMITT: [12:12:53] Can you please tell -- please tell us --

2 MR KNOOPS: Yes. CAR --

3 PRESIDING JUDGE SCHMITT: [12:12:51] -- because we have not -- do not have
4 everything present at the moment. Please be so kind.

5 MR KNOOPS: [12:13:00] Yes. It's CAR -- CAR-OTP-2046-0283. I confronted the
6 witness.

7 PRESIDING JUDGE SCHMITT: [12:13:06] Which lines then, please? Because it's
8 the same page, so it must be easily to find.

9 MR KNOOPS: [12:13:13] Six -- 606 till 608. So, for me, the question is okay, but I
10 think the Prosecution should also refer then the witness to the --

11 PRESIDING JUDGE SCHMITT: [12:13:25] No, then -- then why not -- why not show
12 this, because it's so closely connected and it's -- it's not only on the same page. It's, I
13 think, 10 lines. We can show it to the witness. I think that would be the best
14 procedure here.

15 So from lines 604 to 612. And we have captured everything what the two counsel
16 have indicated.

17 MR LEDDY: [12:14:22]

18 Q. [12:14:23] Have you had a chance to read your statement, Mr Witness?

19 A. [12:14:30] I think that my answer is in line 606 to 609.

20 Q. [12:14:42] But -- I appreciate that. I was asking you to also look at the
21 subsequent three lines, the ones I read out loud. Can you tell us what you meant by
22 that?

23 A. [12:15:00] Just tell me again, please, the lines.

24 Q. [12:15:03] Sure. It's just the next three lines, 610 to 612.

25 A. [12:15:17] That reflects what I've said above, that the ComZones did not know

Trial Hearing

(Open Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 each other. It is only after that they decided to have a representative. From that
2 moment onwards when they had a representative, they could call each other for proof
3 of this. The document that you've just shown us meant that they came together to
4 write, that they are ComZones from this zone and that zone. That is the answer to
5 the question that you put to me and that is the clarification as regards lines 610, 611,
6 and 612.

7 PRESIDING JUDGE SCHMITT: [12:16:03] Mr Leddy, please. Indeed, and I thank
8 Mr Knoops having pointed this out. The "*après*" suggests again that we speak of
9 different portions of time.

10 So what does "*après*" mean, Mr Witness? At which point of time did these
11 ComZones know each other and had contact amongst each other. Can you specify
12 this for us.

13 THE WITNESS: [12:16:42](Interpretation) The clarification is that when I went to
14 meet this group, there wasn't yet any ComZones. It is after the fall of Djotodia, and
15 after the return to -- of N'Djamena, and after the elections of the transitional
16 government, and after the setting up of the transitional government that we heard
17 talk of ComZones. That's why I said "afterwards".

18 PRESIDING JUDGE SCHMITT: [12:17:15] I think this answers the question. And
19 also it doesn't, I would assume, not make so much sense to put, in that regard, other
20 portions of his statement to him.

21 MR LEDDY: [12:17:27] I agree, your Honour.

22 Q. [12:17:29] Now, Mr Witness, under questioning by counsel for Mr Ngaïssona,
23 you spoke to Ngaïssona's relationship with ComZones. Now this is at transcript 88,
24 page 23.

25 And in this portion of your testimony you indicated you didn't know that Ngaïssona

Trial Hearing

(Open Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 was already part of the Anti-Balaka and you referred to information of the Office of
2 the Prosecutor that put him at meetings in Cameroon. And I think it's a question of
3 timing again and I just want to clarify for the record your understanding of the
4 chronology here. The time period that you were referring to in that answer, was it
5 prior to 5 December 2013 or after?

6 A. [12:18:37] I did not say that it was the OTP. What I said is that the
7 Prosecution's investigation, which read out the arrest warrant against Ngaïssona, and
8 also after the fall of the Bozizé government, they made a declaration to state that they
9 knew where he was, they knew who he was meeting in Cameroon in order to
10 organise the destabilisation of the Djotodia government. I answered in that way.
11 Now, the question to know how I became aware of this, that Mr Ngaïssona was part
12 of the movement from the Anti-Balaka, I never had the information received, neither
13 directly or indirectly, by anybody who was part of it. That's what I said.
14 It is only after the return from N'Djamena, after the fall of Djotodia's government, that
15 I went and made a report about the mission in N'Djamena of the CEEAC summit who
16 decided that Djotodia should resign. It is only after that that I realised for the first
17 time that Mr Ngaïssona, with the Anti-Balaka elements on the ground of the Céleste
18 Christian church behind the airport. It was the first time, so I did not know who was
19 part. I just observed that. That is what I provided as my answer.

20 Q. [12:20:55] Thank you for that clarification, Mr Witness.

21 Now I'd like to ask you about 5 December 2013.

22 Now, in examination by counsel for Mr Ngaïssona yesterday, you were asked about
23 your understanding of whether Bangui was a military target during that attack.

24 Now my question to you, Mr Witness, you were not involved in any discussions
25 about the planning of this attack, were you?

Trial Hearing

(Open Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 A. [12:21:46] If I was surprised by the attack, how could I be involved in knowing
2 the date and at the same time be surprised?

3 If the telephone records which you have say that I called to find out (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted) the discussions

8 with this group didn't go in the direction that I had wanted.

9 Q. [12:22:47] So is it fair to say then, Mr Witness, that you did not have personal
10 knowledge of the targets that the Anti-Balaka had during that attack?

11 MS DIMITRI: [12:23:01] Mr President, I'm sorry, I just want to point out that, first, I
12 understand your ruling. There's no -- I don't see any discrepancy here. And in this
13 statement, if I recall correctly - and I could find the reference in a few seconds - but in
14 the 68(3) statement, I recall that the targets, the specific targets were discussed
15 between the Office of the Prosecution and the witness. And this subject, which is at
16 the heart of this trial, was also anticipated and part of the Prosecution's summary.
17 So I object, respectfully, to this line of question.

18 PRESIDING JUDGE SCHMITT: [12:23:39] And here you're right with this objection,
19 so I think. And I also recall what the witness said in this statement.

20 So please move on, Mr Leddy.

21 MR LEDDY: [12:23:50]

22 Q. [12:23:50] Now, Mr Witness, about the 5 December attack, I'd like to ask you
23 about your knowledge of the structure of the Anti-Balaka during that attack.

24 You mentioned in response to a question from Yekatom's counsel, and this is
25 transcript 86 of the English, page 91, lines 1 through 10, you indicated around the

Trial Hearing

(Open Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 time in mid-January 2014, quote: "There was no Anti-Balaka movement in place.
2 There were self-defence movements which took the name Anti-Balaka. There was
3 no command chain or decision-making link between those various movements, one
4 and the other. That's why I said the structure is nebulous." That's what you said in
5 court.

6 Now, in your statement, and I can read it for you if you like, or show it to you. This
7 is CAR-OTP-2046-0427 at page 0442 to 0443 and 0447, lines 517 to 526, 550 to 561, and
8 703 to 704, you indicated something different. You said the attack on Bangui was
9 coordinated between groups.

10 PRESIDING JUDGE SCHMITT: [12:25:17] The question would be, to your
11 knowledge, was there coordination or was it -- everything fully nebulous?
12 And -- yeah, and I remind you that, if I recall it correctly, at the start of the
13 examination by the Prosecutor, you said that you have read all -- all of your statement
14 and you stand by it. So please answer the question.

15 THE WITNESS: [12:25:54](Interpretation) I think what I said here is that --

16 PRESIDING JUDGE SCHMITT: [12:25:57] Let him answer now.

17 THE WITNESS: [12:25:57](Interpretation) -- that the attack of 5 December was
18 organised only by one group, but not only -- not all the Anti-Balaka groups. As far
19 as I'm aware, at that time when there was that situation, I think what I said here is
20 that when I tried to understand what was happening, later on I got to understand that
21 it was Lieutenant Konate who was at the head of those who *came out with the
22 Anti-Balaka. I think that all these events took place before 18 January, before
23 18 January. And 18 January, you cannot talk about coordination here at that period
24 because we would meet for the first time on about 24 January at the residence of the
25 head of state in order to be led to the office of General Essongo so that this

Trial Hearing

(Open Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 coordination could be put into place at the insistence of the latter. So again, here are

2 two different periods. You cannot talk about the structure yet of the coordination.

3 Look, these are the two different periods which I have given you in my response.

4 MR KNOOPS: Mr President.

5 PRESIDING JUDGE SCHMITT: [12:27:38] Yeah, Mr --

6 MR KNOOPS: [12:27:41] Mr President, I really am now, and of the answers given,

7 that the Prosecution is putting every time the statement of the witness incompletely to

8 the witness. And out of fairness to this witness, Mr President, I refer the Chamber to

9 CAR-OTP-2046-0283, lines 585 till 591, where the witness is asked by the *enquêteurs*

10 about the attack of the 5 December whether there was a structure. And he says on

11 line 588: (Interpretation) "There is none."

12 (Speaks English) He repeats it twice. So what the Prosecution should first read the

13 statement again of the witness before suggesting to this gentleman that he's giving a

14 different statement during the examination. It's the second time that the statement

15 of the witness is not correctly put to him by the Prosecution. So this is not

16 re-examination anymore.

17 PRESIDING JUDGE SCHMITT: [12:28:50] Not -- not -- at least not completely, and

18 there might be a difference between "coordination" and "structure."

19 But yet, Mr Leddy, I have -- I sense that whatever you're going to ask will not change

20 a lot, but this is perhaps something I can be completely wrong.

21 MR LEDDY: [12:29:12] I would like to put the remainder of this statement to him

22 that I quoted, Mr Witness -- Mr President, because it does ...

23 PRESIDING JUDGE SCHMITT: [12:29:21] Yeah. We are all witness to bear for

24 anything or for something at least. Yeah. Please. Please.

25 MR LEDDY: [12:29:25] It does contain quite a bit of detail about his understanding

Trial Hearing

(Open Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 of the structure of the groups that led the attack on 5 December 2013. And I
2 appreciate Mr Knoops pointing out a seeming contradiction in the statement. But it's
3 our position that the portion that I quoted is directly in opposition to what he said
4 under cross-examination. So we'd like him to explain those differences because
5 there is an arguable difference the general coordination and the (Overlapping
6 speakers)

7 PRESIDING JUDGE SCHMITT: [12:29:53] (Overlapping speakers) Yeah. But that
8 is -- that is -- that is a very fine line? And in the end, this is also something that the
9 Chamber will have to -- to assess, if this is the same, if there is an overlap, if these are
10 complete different things, if this is a contradiction at all, and if it is a -- if we come to
11 the conclusion it is a contradiction, if this is in any way can be reconciled with other
12 portions of the statement. So it doesn't make sense to -- to -- to delve too much into
13 that.

14 But what do you want to ask now the witness? Let -- let me first hear it, please.

15 MR LEDDY: [12:30:28] It's perhaps more a nuance. It's just that whether there was
16 a degree of coordination, regardless of whether the -- this witness believes there was a
17 national or general coordination at the time of 5 December 2013. And I can put to
18 him the portions that I quoted which are spanning three pages in which he goes into
19 great detail about the degree of planning between groups, the multiple targets.

20 PRESIDING JUDGE SCHMITT: [12:30:51] With regard to the 5 December.

21 MR LEDDY: [12:30:53] That's right.

22 PRESIDING JUDGE SCHMITT: [12:30:53] Yeah. So and I also recall that I think
23 there was some -- some -- something in the -- the statement of course.

24 These are hundreds and hundreds of pages where you, Mr Witness, said that you
25 concluded or you -- you deduced from the fact that there were several targets on the

Trial Hearing

(Open Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 5 December that there must have been a degree of coordination. So -- and this is in

2 your statement. We can find the exact reference here.

3 So what do you say to that? Do you stand by that, or -- or is -- or what did it -- what

4 was it that made you make this statement in that regard at the time?

5 THE WITNESS: [12:31:39](Interpretation) I was answering a question on the attack

6 of the 5 December. I was asked whether there was a general structure in place on the

7 5 December, and my answer was that there was none. Now, the attacks of the

8 morning had two targets, (Redacted)

9 (Redacted)

10 (Redacted).

11 At that time, there was not yet a single command structure for all the Anti-Balaka in

12 place because in any event, I asked what are the Anti-Balaka. They were self-defence

13 committees. And the groups were many, and I did not belong to -- to -- to it. So

14 that's the answer I provided, namely, that there was no command structure in place.

15 And it is still there at line 588. I also repeated that several times here also, I believe.

16 But, again, now I was not with those people. I, as I said, I did not know they were

17 going to come out. I met them when they had come out, and I was surprised. So

18 when I was asked whether there was a structure, I said there was none. A general

19 structure for the Anti-Balaka coordinating things at the national level, no. Such a

20 structure did not exist. So please don't put words into my mouth.

21 PRESIDING JUDGE SCHMITT: [12:33:49] No. Nobody puts words in your mouth.

22 I think if -- if you read -- if one reads your statement, the -- the questions are rightfully

23 asked as -- as far as they are allowed to be asked, so it's not up to you to -- to qualify

24 the questions, first of all.

25 Secondly, unfortunately, Mr Leddy, we are going around in circles here. You have

Trial Hearing

(Open Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 to move on. So we are now back -- falling back to the very fine and difficult

2 distinction between "structure" and "organisation."

3 MR LEDDY: [12:34:19] I appreciate that, your Honour. I -- I would like to put just

4 one sentence of the witness's statement to him, if you'll allow me. This is in

5 reference to page 0447. In discussing the attack at line 708, he indicates:

6 (Interpretation) "It is impossible for it to have been something spontaneous. It is

7 coordinated."

8 Q. [12:34:49] Sir --

9 PRESIDING JUDGE SCHMITT: [12:34:50] And also and -- and on -- on

10 the -- what -- what is it here? At 0444, I think, at lines 585, he talks in lengths in his

11 statement about the attack of 5 December, but I -- I don't think that it makes sense to

12 put it to him here.

13 MR LEDDY: [12:35:11] Could I just ask what you meant by "coordinated"? Is

14 that ...

15 PRESIDING JUDGE SCHMITT: [12:35:16] Yeah. Of course. Yeah. I think I've

16 done it already, but we have an answer, what -- whatever it's worth.

17 MR LEDDY: [12:35:24] Okay. We can move on, your Honour.

18 Q. [12:35:37] Now, Mr Witness, I'd like to turn to another topic you discussed on

19 examination by both counsel. This is the deportation of Muslims and their forcible

20 transfer. You discussed how, in your view, the IOM provoked the Muslims' desire

21 to leave the country. And this is at transcript 86, page 42, lines 1 through 7. And

22 you referred to massive movements of Central Africans to foreign countries on the

23 next page of your testimony, lines 2 to 4.

24 Now, isn't it the case that the IOM was involved in the movement of these large

25 numbers of Muslims because it was their very lives that were at risk and that risk was

Trial Hearing

(Open Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 due, at least in part, to the Anti-Balaka?

2 PRESIDING JUDGE SCHMITT: [12:36:36] Ms Dimitri.

3 MS DIMITRI: [12:36:39] Mr President, I object to this line of question. It was
4 brought in examination-in-chief, page 101 of the transcript, and a very, very similar
5 question was put to the witness, and an answer was given.

6 PRESIDING JUDGE SCHMITT: [12:36:52] Yeah, Mr Leddy, you did. Ms Dimitri is
7 right in that regard.

8 MR LEDDY: [12:37:01] Now --

9 PRESIDING JUDGE SCHMITT: [12:37:01] I have found now the -- what I had in
10 mind. It is with regard to the last subject we have been discussing with regard to
11 coordination or not coordination. This was -- I want to put it on the record,
12 CAR-OTP-2046-0444, lines 585, following. He said: (Interpretation) "There were
13 several groups, but ..."

14 (Speaks English) And so on and so forth. So, excuse me, this was said at the time.
15 And, yeah. If this is to be reconciled with -- with what he said in the courtroom, I
16 think you have addressed it, and we have an answer by the witness.

17 MR LEDDY: [12:37:57]

18 Q. [12:37:58] So, Mr Witness, moving to the topic of child soldiers, you indicated in
19 your response to questions by counsel for Yekatom in your belief that part of
20 UNICEF's involvement in the process of child soldier demobilisation was a scam.
21 And this was transcript 87 of the English, page 29, starting at lines 23.

22 My question to you is: Mr Witness, are you aware that on 4 August 2014, pursuant
23 to negotiations with UNICEF and local NGOs, that Yekatom himself attended a
24 demobilisation ceremony where he signed an agreement to demobilise 153 children in
25 his group and refrained from re-recruiting them?

Trial Hearing

(Open Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 And for reference, this is CAR-OTP-2128-1373, and the video of this ceremony is

2 CAR-OTP-2068-0586.

3 Are you aware of that event, Mr Witness?

4 A. [12:39:18] I told you here that like everyone else, we heard that UNICEF and Mr

5 Alfred Legrand Ngaya travelled to the province for the purpose of demobilising child

6 soldiers. And I was angered at the presentation of the so-called child soldiers and

7 their ages. * I said that when I was in contact with these groups, I never saw them, at

8 least not children like that -- firstly.

9 Secondly, I said that how could it be that Mr Yekatom, who was operating only in one

10 neighbourhood in Bangui, how could he have been able to recruit child soldiers from

11 Bangui, Boda, Nola and other places up to the hinterland and in such areas.

12 They also organised a ceremony which shocked me, but what has been the outcome

13 of it today? Have these people been demobilised? What are their names? We

14 would need to see those names someday. So you see, there was never any followup.

15 Children were gathered together for show.

16 But what happened after that? Were the children demobilised? If the idea was to

17 demobilise some hundred thousand children, who are these children? Where are

18 they today? Where is the UNICEF report for the last seven years, which indicates

19 that the Yekatom child soldiers who were counted have been demobilised and have

20 been put under psychological follow-up and social reinsertion? None of that has

21 happened. I have not seen any of that happen. I don't know how these children

22 came out. And I have said this many times here.

23 UNICEF ought to be able to answer these questions. Where did these children come

24 from? How did Yekatom recruit them when he was only in Bangui? How did the

25 demobilisation process unfold? What are the psychological and social reinsertion

Trial Hearing

(Private Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 programmes that were introduced in order to stop them from joining other groups?

2 These are the types of things that I was talking about.

3 Q. [12:42:13] So, Mr Witness, you weren't personally involved in the

4 demobilisation efforts of child soldiers from the Anti-Balaka, were you?

5 A. [12:42:36] Well, I already knew that there were no child soldiers. I did not have

6 information that there were child soldiers in his ranks, so I was not involved neither

7 directly nor indirectly in the demobilisation of child soldiers.

8 MR LEDDY: [12:42:55] With your permission --

9 PRESIDING JUDGE SCHMITT: [12:42:59] Please move on, Mr Leddy.

10 MR LEDDY: [12:43:01] Okay. Your Honour, I think for this next subject we'd have

11 to go into private session to discussion the matter you raised at the beginning.

12 PRESIDING JUDGE SCHMITT: [12:43:19] Yeah. Private session.

13 (Private session at 12.43 p.m.)

14 THE COURT OFFICER: [12:43:32] We are in private session, Mr President.

15 MR LEDDY:

16 Q. [12:43:43] So, Mr Witness, in your questioning by counsel for Mr Ngaïssona

17 yesterday - this is at transcript 88, page 71, line 8 to 18 - you seem to indicate that the

18 meetings you had with Mr Ngaïssona didn't include conversation between you two.

19 You guys didn't talk in those meetings.

20 Now, I'm sure you're also aware of the protective measures that have been granted to

21 you in this trial, including face distortion, voice distortion, and a pseudonym, and

22 that those measures were granted in part on your statement that (Redacted)

23 (Redacted), in addition to other threats you received over the

24 phone.

25 Now, I'd like to ask you about that discrepancy. On the one hand, you said you

Trial Hearing

(Private Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 didn't talk; (Redacted)

2 (Redacted). Can you tell us more about those threats. And you are in private

3 session, for the record.

4 PRESIDING JUDGE SCHMITT: [12:44:47] Yeah.

5 MR KNOOPS: [12:44:47] I think it's obvious, Mr President. This was not raised by

6 the Defence in its examination. It was in his statement. So the Prosecution could

7 have asked.

8 PRESIDING JUDGE SCHMITT: [12:45:01] No, actually, we -- the Chamber wants to

9 know. The Chamber senses that the -- let's put it this way, that what the witness has

10 said live here in the courtroom does not 100 per cent comport with what he said in his

11 statement. So -- and the Chamber -- and there is a decision by the Chamber and

12 there's a -- there's a confidential version and also a version that is -- let me have a look

13 here.

14 Yeah. It's the decision by the Chamber on the Prosecution request for in-court

15 protective measures for 73 trial witnesses. One of these is the witness here. It dates

16 from 9 March 2021, and -- yeah. And there the Prosecution brought

17 forward -- alleged -- alleged specific reasons for this witness why protective measures

18 should be granted, and I think it has to be addressed, this issue, and we allow that.

19 You can perhaps go more directly to -- to what is alleged here. It might -- it might

20 very well turn out that from the outset even that was not true. But, nevertheless, you

21 have brought it forward as Prosecution, and the Chamber has made a decision in that

22 regard. So please.

23 MR LEDDY: [12:46:35] Thank you, Mr President.

24 Q. [12:46:37] So, Mr Witness, do you recall informing -- I'll start again.

25 What can you tell us about the threats you received from the accused, Mr Ngaïssona,

Trial Hearing

(Private Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 that you discussed in your statement and that you told the Office of the Prosecutor
2 about that form part of the basis of the in-court protective measures that you now
3 have?

4 A. [12:47:16] Once again, we're dealing with two -- or we are talking about two
5 different periods. And once again, two answers relating to different circumstances
6 are being merged into one answer.

7 What I said is that Mr Ngaïssona threatened, and that was (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 PRESIDING JUDGE SCHMITT: [12:48:25] Mr Witness, I stop you here. We are
13 talking about alleged threats long after that, about alleged threats that have been
14 uttered against you, and this is what the Prosecution presented to this Chamber, as
15 has been reported by you, when it became aware that you might be a witness in this
16 case. We want to know about that. If any. If it is not true, then tell us.

17 THE WITNESS: [12:49:07](Interpretation) It is true.

18 But how and why did he threaten me? It is when (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 And it is in relation to that period.

24 I also said that later on we (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: CAR-OTP-P-0876

(Private Session)

ICC-01/14-01/18

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 PRESIDING JUDGE SCHMITT: [12:51:04] Mr Witness, okay, I think -- it does not
12 have -- it is this decision by the Chamber or by -- there is a redacted version that is on
13 the record. If you want to put it specifically, more specifically to him, it's okay. If
14 not, we simply leave it at that, I think. Because we are -- I think we are not talking
15 about the time when Mr Djotodia fell from power.

16 MR LEDDY: [12:51:36] If you give me one minute, your Honour, I'll pull up the
17 document here.

18 PRESIDING JUDGE SCHMITT: [12:51:56] Well, it's our decision, 906 redacted, the
19 redacted version. And there we refer to what Prosecution brought forward about
20 potential dangers for the witness.

21 MR LEDDY: [12:52:16] One second, please, your Honour.

22 Q. While we're looking for that document, Mr Witness, I believe you represented to
23 the Office of the Prosecutor threats by (Redacted) and that these threats made you
24 afraid for your life.

25 Is it also the case that Ngaïssona's threats made you afraid for your life as well?

Trial Hearing

(Private Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 A. [12:53:30] We were in a period when people had weapons in their hands, and
2 we didn't know who had weapons and who did not. It was a time of civil war. So
3 (Redacted)
4 you can obviously fear for your life.

5 MR LEDDY: [12:54:09] One moment, please, your Honour.

6 MS CARIOLOU: [12:54:16] Your Honour, could I also have a moment with --

7 PRESIDING JUDGE SCHMITT: [12:54:19] Yes, of course.

8 MS CARIOLOU: [12:54:20] Thank you.

9 PRESIDING JUDGE SCHMITT: [12:55:31] In the meantime, Mr Witness, may I ask
10 you, when it became aware that you might be a witness in this case, have there been
11 threats against you or your family? And when did that happen, if it happened, and
12 by whom, if it happened?

13 THE WITNESS: [12:56:19](Interpretation) The threats that started from the
14 beginning when I took my (Redacted) continued several times over.

15 There was a time at (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: CAR-OTP-P-0876

(Private Session)

ICC-01/14-01/18

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 PRESIDING JUDGE SCHMITT: [13:00:21] So, of course this is an answer. What I
20 referred to was the Chamber's decision paragraph 34 where it was specifically -- and
21 we have -- we have it on the record, as I said, so I think we -- we don't need more in
22 that regard, but if you want to put it to him you can do it. But otherwise, I think
23 we -- we finish this procedure here.

24 MR LEDDY: [13:00:48]

25 Q. [13:00:48] I just want to clarify, Mr Witness, from your last statement, and

Trial Hearing

(Private Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 perhaps it was the translation, but I understood you to indicate on the record that the
2 second threat from Mr Ngaïssona was, in your testimony now, not a threat, but a
3 misunderstanding or a disagreement. Now that's substantially different from what
4 you told the Office of the Prosecutor and what you testified to earlier today. So I'm
5 having some trouble understanding that difference.

6 So my question to you is, what did Mr Ngaïssona say to you exactly during that
7 conversation?

8 A. [13:01:31] It was a telephone conversation. He had my number, he called me
9 and threatened me, because (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 PRESIDING JUDGE SCHMITT: [13:02:35] Well, now I'm -- the last thing and then I
18 think we have either finish it or we have the lunch break. This is, as I already
19 indicated, paragraph 34. And on the allegations brought forward by the Prosecution,
20 the decision reads as following. Please listen, Mr Witness:
21 "Specifically, and according to the Prosecution, the witnesses reported the following
22 security incidents." And now there come other witnesses. And I cite what is here
23 written down on allegations by the Prosecution that says they have the information
24 by you.
25 Witness, you reported that. And now the citation is, (Redacted)

Trial Hearing

(Private Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 (Redacted)

2 (Redacted) Is that correct, or not?

3 THE WITNESS: [13:03:44](Interpretation) That is correct.

4 PRESIDING JUDGE SCHMITT: [13:03:45] "That in" -- I continue -- that in (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 Is that correct?

9 THE WITNESS: [13:04:07](Interpretation) That is correct.

10 PRESIDING JUDGE SCHMITT: [13:04:09] And that: (Redacted)

11 (Redacted) Is that correct?

12 THE WITNESS: [13:04:21](Interpretation) That is correct.

13 PRESIDING JUDGE SCHMITT: [13:04:22] Mr Leddy.

14 MR LEDDY: [13:04:27]

15 Q. [13:04:28] So these threats you received from (Redacted), can you describe them
16 for the Chamber please.

17 A. [13:04:43] It was always the same threat. It was the same repetition. And I
18 got used to it. They called me on the phone, they said, (Redacted)
19 (Redacted) That was the threat I normally received.

20 Q. [13:05:08] And did you recognise who it was that was calling you saying that?

21 A. [13:05:19] No, I couldn't identify the person. Because, in Bangui, people can
22 take a chip so that you can't be identified on the phone with that number.

23 MR LEDDY: [13:05:40] I have no further questions for the witness. Thank you.

24 PRESIDING JUDGE SCHMITT: [13:05:43] Okay. Thank you.

25 Mr Knoops.

Trial Hearing

(Private Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

1 MR KNOOPS: [13:05:46] Yes, Mr President, just the English transcript at T-41 (sic),
2 line 25, where the witness refers to -- he mentioned some (Redacted)
3 (Redacted). It's now said the name "Rocky" (sic), but I understood that the name the
4 witness mentioned was (Redacted).

5 And my question to the Chamber is if you could ask the witness whether this is the
6 correct name and whether these (Redacted) are a (Redacted). I think that's
7 quite important for the Chamber to (Overlapping speakers)

8 PRESIDING JUDGE SCHMITT: [13:06:38] Indeed, your right. Your right. We
9 have to -- have to know that.

10 Mr Witness, I think you have heard what -- what counsel has said. These people that
11 you -- this group that you mentioned for (Redacted), I think, (Redacted), what kind of
12 group is it? Does it belong to (Redacted)? Could you just provide us with this
13 information. This group that threatened you lately, so to speak.

14 THE WITNESS: [13:07:10](Interpretation) The name, the genuine name is (Redacted)
15 (Redacted). That is a (Redacted).

16 PRESIDING JUDGE SCHMITT: [13:07:24] Okay.

17 Mr Knoops, that answers your question? Okay.

18 Then I think this concludes the testimony of this witness.

19 On behalf of the Chamber, I would like to thank you, Mr Witness, for coming to the
20 Court and really extensively answering a lot of questions that have been put to you.
21 We wish you a safe trip back home.

22 THE WITNESS: [13:07:50](Interpretation) I too, in my turn, thank you. I remain
23 available if the Court needs me in future questions.

24 PRESIDING JUDGE SCHMITT: [13:07:58] Okay. Thank you very much.

25 (The witness is excused)

Trial Hearing

(Private Session)

ICC-01/14-01/18

WITNESS: CAR-OTP-P-0876

- 1 PRESIDING JUDGE SCHMITT: [13:07:56] Then this concludes the hearing for today.
- 2 Tomorrow at 9.30 we have, is it 0975? No? What is it? What -- who's the
- 3 witness?
- 4 MR VANDERPUYE: [13:08:14] Good afternoon, Mr President. Good afternoon,
- 5 everyone. It's P-0475.
- 6 PRESIDING JUDGE SCHMITT: [13:08:20] 0475. But nevertheless, it would never
- 7 have been material, this error, I would say.
- 8 So we see each other tomorrow at 9.30.
- 9 THE COURT USHER: [13:08:28] All rise.
- 10 (The hearing ends in private session at 1.08 p.m.)