

Trial Hearing
WITNESS: CAR-D29-P-6036

(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 Monday, 22 January 2024
10 (The hearing starts in open session at 2.02 p.m.)
11 THE COURT USHER: [14:02:38] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE SCHMITT: [14:03:06] Good afternoon, everyone. Court officer,
15 please call the case.
16 THE COURT OFFICER: [14:03:12] Good afternoon, Mr President, and your
17 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're in open session.
21 PRESIDING JUDGE SCHMITT: [14:03:29] Thank you. I ask for the appearances of
22 the party. We start with the Prosecution.
23 Ms Wakchom, please.
24 MS WAKCHOM: [14:03:38] Good afternoon, your Honour. Good afternoon,
25 everyone in the courtroom.

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- 1 Today the Prosecution is represented by Lucio Garcia, Yassin Mostfa, Kweku
2 Vanderpuye and myself, Sylvie Wakchom.
- 3 PRESIDING JUDGE SCHMITT: [14:03:58] Thank you. Ms Massidda.
- 4 MS MASSIDDA: [14:04:02] Good afternoon, your Honours. For the victims of the
5 other crimes, appearing today, Ms Mouhia Asso and myself, Paolina Massida.
- 6 PRESIDING JUDGE SCHMITT: [14:04:09] Thank you.
- 7 Mr Suprun for the other victims group.
- 8 MR SUPRUN: [14:04:13] Good afternoon, Mr President, your Honours. The
9 former child soldiers are represented by Anne Grabowski, Tayssir Othmani and
10 myself Dmytro Suprun. Thank you.
- 11 PRESIDING JUDGE SCHMITT: [14:04:22] Thank you.
- 12 I turn to the Defence. First of all, Ms Dimitri for the Defence of Mr Yekatom.
- 13 MS DIMITRI: [14:04:27] Good afternoon, Mr President. Good afternoon, your
14 Honours, everyone. Mr Yekatom is present in the courtroom. He's represented
15 today remotely by Mr Regis Tiangaye, Ms Anta Guissé, Ms Sabine Bayssat, Ms
16 Laurence Hortas-Laberge, Mr Lionel Messi Tikpa, Ms Charlotte Floquet and myself,
17 Mylene Dimitri.
- 18 PRESIDING JUDGE SCHMITT: [14:04:54] Thank you.
- 19 I have the impression that one of the interpreters might have his microphone always
20 on, so it would have to be switched off, I think, that we understand each other well.
- 21 I turn to Mr Knoops next.
- 22 MR KNOOPS: [14:05:08] Good afternoon, Mr President, your Honours. Good
23 afternoon, everyone in the courtroom.
- 24 For the Defence of Mr Ngaïssona today appears Mr Alexandre Desevedavy, and on
25 the second row, Ms Mathias Goffe and Madam Ayadi Kenza.

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1 PRESIDING JUDGE SCHMITT: [14:05:22] Thank you very much. And most
2 importantly, of course, we have again our witness.

3 Good afternoon, Mr Witness. Are you feeling good today?

4 WITNESS: CAR-D29-P-6036 (On former oath)

5 (The witness speaks Sango)

6 (The witness gives evidence via video link)

7 THE WITNESS: [14:05:42](Interpretation) Good day. I'm feeling well, thank you.

8 PRESIDING JUDGE SCHMITT: [14:05:50] Good to hear. Then we start now with
9 the examination of this witness by the Prosecution. I give Ms Wakchom the floor.

10 MS WAKCHOM: [14:06:06] Mr President, with your leave I would like to conduct
11 my examination seated.

12 PRESIDING JUDGE SCHMITT: [14:06:10] That's not a problem since we have a
13 video link and not a live witness in the courtroom. That's fine.

14 QUESTIONED BY MS WAKCHOM:(Interpretation)

15 Q. [14:06:29] Good day, Mr Ngbaba.

16 A. [14:06:33] Good day.

17 Q. [14:06:40] We briefly met on Monday last. I'm going to introduce myself again.
18 My name is Sylvie Wakchom and I'm going to ask you questions today on behalf of
19 the OTP.

20 Before starting, if one of my questions isn't sufficiently clear or you'd like me to repeat
21 it, don't hesitate to ask me and, of course, I will then repeat it. Is that okay?

22 A. [14:07:17] I've understood, yes.

23 Q. [14:07:23] If everything goes well, we will hopefully have finished today, this
24 afternoon.

25 Mr Ngbaba, since the last session in court last Thursday until this moment, have you

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1 spoken to anybody regarding your testimony?

2 A. [14:07:59] No, I didn't speak to anyone. Even my own brothers, I didn't speak
3 to them. I didn't speak to anyone because I know the confidential nature of this and
4 that's what I respected, so I didn't even tell my parents, my brothers and sisters.
5 I didn't speak to anybody.

6 Q. [14:08:25] And since last Thursday, did you discuss the events of 2013, 2014?
7 Did you discuss that with anyone?

8 A. [14:08:44] No. I didn't discuss it with anyone. I didn't discuss the subject.

9 Q. [14:09:00] Now I'm going to ask you some questions on your previous meetings
10 with the Defence team of Mr Yekatom before you came before the court to give your
11 testimony last week.

12 Before coming here to give your testimony, you met physically members of the
13 Defence team, isn't that correct?

14 A. [14:09:31] Yes, that's correct.

15 Q. [14:09:37] How many times did you meet them?

16 A. [14:09:49] I'm not quite sure. I can't remember the exact number.

17 Q. [14:09:58] Was it more than five times, more than 10 times, just to have a rough
18 idea?

19 A. [14:10:09] No, it wasn't 10 times. I don't know exactly but it wasn't 10.

20 Q. [14:10:22] Was it less than five times?

21 A. [14:10:32] I can't remember. You know, I was working, sometimes they would
22 phone me and say, "Are you free on this day or that day?" and I told them my
23 availability and we had a discussion, so I can't really remember how many times we
24 actually met.

25 Q. [14:10:56] So you don't remember?

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1 PRESIDING JUDGE SCHMITT: [14:10:59] Ms Wakchom, the witness has clearly
2 answered. You can move on. He doesn't know the exact number. This is also
3 understandable in a certain way, so please move to another subject.

4 MS WAKCHOM: [14:11:15](Interpretation)

5 Q. [14:11:16] And the meetings you had with the Defence team, did it happen the
6 same year or did it cover several years?

7 A. [14:11:34] We met during one year in 2023, and that prompted me to come here
8 to give my statement.

9 Q. [14:11:48] Who did you meet?

10 A. [14:11:52] The first person who phoned me was Mr Tiangaye. He called me by
11 phone and he said hello and I answered him. He asked me if I could meet him and
12 would I agree to meet him. I told -- I asked him to introduce himself. He
13 introduced himself and he said that I must not be afraid. He said if I would agree to
14 meet him, then that would be fine, I should tell them when I would be available so
15 that we could meet. Afterwards, I told him when I would be available.

16 After that, he phoned me the second time and asked my availability. I told him and
17 he said, "Oh it's good for the moment, I'm not working at all." He said people will
18 come and pick me up to take me to his office. He sent someone to pick me up to go
19 to his office. He asked me to introduce myself, my name, my first name, last name,
20 and we had an exchange and afterwards I went back home.

21 After that, other lawyers of Yekatom Rambo came and they were also present. I met
22 them as well. Maître Anta Guissé, I met her and we also had some exchanges.

23 Q. [14:13:45] Let's start with the first meeting with Counsel Tiangaye. You said
24 you had some exchanges the first time when you met him in his office. What did
25 you talk about?

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1 A. [14:14:10] I met him, as well as the lawyers of Alfred Yekatom Rambo and they
2 asked me some questions. They asked me if I knew the town of Pissa well, and
3 I said, yes, I knew it very well. They asked me when I went for the first time to Pissa
4 and I told them I couldn't remember the precise year or the exact date but I do
5 remember that once I was in Pissa, the next day, my mother and my brother phoned
6 me to say that the Anti-Balaka had attacked Bangui.

7 That is the answer I can give you. That was the content of the conversation of the
8 first session. And they asked me what I did, what I saw, what I heard, and I told
9 them -- I told them regarding these different questions, I told them what I knew.

10 I told them where I lived, where my family lived. I gave them the name of parents,
11 I gave them my age and also where I was living at that point in time. Those were the
12 questions they put to me and I answered all those questions.

13 Today, I would like to remind you, and I'm going to repeat, I didn't think that I would
14 come to the court today. I thought I was just providing some information and then
15 that would be it. But afterwards as regards matters of justice, they asked me
16 whether I would be prepared to assist the judges, because -- based on what I had
17 experienced and seen so that I would give my testimony so that I could assist the
18 judges in their work, and that is why I accepted to come before today and give you
19 my testimony.

20 Q. [14:16:09] Just to understand, during the first session in the office of Counsel
21 Tiangaye, the two lawyers of the Defence were also present; is that right?

22 A. [14:16:24] Yes, they were present.

23 Q. [14:16:31] After the first meeting, where they asked you questions, was there
24 another meeting with the Defence lawyers or with the Counsel Tiangaye?

25 A. [14:16:49] No. I didn't have an interview with Mr Tiangaye. The first meeting,

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1 *there were four of us and the two lawyers of Yekatom were present, I can see them
2 on the screen now. After that, I met Mr Tiangaye and somebody else.

3 A third time it was with Guissé and Counsel Tiangaye. I never had a meeting with
4 Tiangaye alone.

5 Q. [14:17:35] And the second meeting between you and Counsel Tiangaye and
6 another person, what was the other person called?

7 A. [14:17:51] He's in the room, but I can't remember his name. He is right here in
8 the court but I can't remember his name. Oh, yes, if I'm not mistaken it's Subib
9 (phon).

10 THE INTERPRETER: [14:18:13] It's Sabine.

11 MS WAKCHOM: [14:18:18](Interpretation)

12 Q. [14:18:18] And during the second meeting, what did you talk about?

13 A. [14:18:28] We talked about the same questions and I answered all the questions
14 that were put to me. They gave me a series of questions and I answered them.
15 Sometimes I told them, yes, I know this, and sometimes I said, no, I don't know this.
16 They asked me a lot of questions.

17 They also asked me whether they -- whether I was prepared to publicly give my
18 testimony in a court, and if we don't take measures to -- to protect me, could I really
19 come before the Court. These were questions which were put to me. And
20 afterwards Tiangaye and the other told me that I must tell the whole truth and if it
21 was only the truth that I would give to the Court, I shouldn't be worried in any form.
22 I also told them that if protection measures were not taken, as far as I was concerned,
23 goodness knows what would happen to me. So it was this type of discussion that
24 we had together.

25 Q. [14:19:58] So after the third meeting in the office of Mr Tiangaye between you,

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1 Tiangaye and Guissé, was there another meeting?

2 A. [14:20:22] No, not at all. We did not have another meeting other than the ones

3 I've mentioned, other than the meetings I've mentioned in the cabinet of Mr Tiangaye.

4 Q. [14:20:44] During the three meetings which you had, did the Defence lawyers

5 take notes when they asked you questions?

6 A. [14:21:04] Of course, they took notes.

7 Q. [14:21:12] Did you sign a document?

8 A. [14:21:23] Yes, I did sign a document.

9 Q. [14:21:34] And before signing the document, did you reread it?

10 A. [14:21:50] As you questioned me earlier, I've already answered that I was

11 slightly concerned about reading it. It's true, I speak a bit of French but I can't read it

12 very well, so they read it and I listened.

13 PRESIDING JUDGE SCHMITT: [14:22:21] Which is absolutely fine, please continue.

14 Ms Wakchom -- please, can you -- you have -- you have your microphone on. Thank

15 you.

16 Ms Wakchom, we expect you to soon turn to the substance of the testimony of the

17 witness from last week, yeah, please continue.

18 MS WAKCHOM: [14:22:48](Interpretation) Thank you, your Honour.

19 Q. [14:22:57] One final clarification on this point: Did you sign documents after

20 each of the three meetings?

21 A. [14:23:17] I did sign a document.

22 Q. [14:23:28] And this document, when did you sign it? Was it during the first

23 meeting at the office of Mr Tiangaye, or the second meeting or the third meeting?

24 A. [14:23:48] During all those meetings I signed documents.

25 Q. [14:24:02] Do you know what type of document you signed?

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1 A. [14:24:14] When we met, they told me that the time that I'd spent answering
2 their questions would be compensated. They told me that they could give me
3 something for transport, a bit of money for the transport, and if I had any worries as
4 regards food, they could also help me out in that area.

5 Q. [14:25:06] So you -- as I understand, you signed a document for food and for
6 transport; is that correct?

7 A. [14:25:23] Yes, that's correct.

8 Q. [14:25:27] And you didn't sign anything else?

9 A. [14:25:38] Yes, I also signed other documents. They told me that after the
10 meeting -- well, after the meeting they gave me a document which I did sign.

11 PRESIDING JUDGE SCHMITT: [14:25:58] Well, to -- to shorten this a bit, did you
12 sign a document after one of the advocates of Mr Yekatom has read to you what you
13 told them? That means did you sign a document which entailed the content of what
14 you had told them?

15 THE WITNESS: [14:26:35](Interpretation) I told you that I signed documents.

16 PRESIDING JUDGE SCHMITT: [14:26:43] Ms Wakchom, please, we leave this now.
17 We have an answer now, and he has signed some documents and we would really
18 appreciate it if we could turn to the substance of his testimony because his testimony
19 is what he told before this Court last week.

20 MS WAKCHOM: [14:27:23](Interpretation)

21 Q. [14:27:23] Mr Ngbaba, I'm going to go back to some points of your testimony of
22 last week, and I'm going to ask you some questions of clarification.

23 I have some questions as regards the incident which you described last week as
24 regards the Miskine market in Bangui, and as regards to this incident in Miskine you
25 specified that in one way or another you were saved by the Sangaris.

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1 When you talk about the Sangaris --

2 A. [14:28:10] Yes, that's true.

3 Q. [14:28:16] When you talk about the Sangaris, are you talking about the French
4 soldiers?

5 A. [14:28:26] Yes. I'm talking about the mission, the Sangaris mission, and I'm
6 talking about those soldiers.

7 Q. [14:28:43] And how did you know that the tanks which you saw that day
8 belonged to the Sangaris mission?

9 A. [14:28:57] At that time I wasn't a small child. I was older and I could recognise
10 the French flag. At that time, it was the Sangaris mission who was patrolling
11 frequently around the town, and their soldiers were there. It was a column of five
12 vehicles and the different vehicles all carried French flags. Those points made me
13 think that this was a French unit.

14 Q. [14:29:50] Did you speak to them on that day?

15 A. [14:30:00] No, I didn't -- I didn't speak to them. When they arrived, some were
16 on foot, walking alongside their vehicle, and we were behind them. When
17 we -- when they saw us, they stopped and they provided us with a certain degree of
18 protection until we had the opportunity to go away.

19 Q. [14:30:41] And if I understand your testimony well, at the time already you and
20 your friends were referring to the French soldiers as the Sangaris; is that correct?

21 A. [14:31:00] Yes, that's what we called them.

22 Q. [14:31:09] And still according to your testimony, that happened before the
23 departure for Pissa; is that correct?

24 A. [14:31:23] Yes. That was before I was able to go to Pissa.

25 Q. [14:31:35] So, before 4 December?

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1 A. [14:31:43] Yes, that's correct. It was a major event that myself and my brother
2 had experienced. We knew that a lot of things had happened in Bangui and we had
3 experienced what I explained to you.

4 Q. [14:32:16] I understand, Mr Ngbaba. I'm now going on to another subject.
5 So on Wednesday you stated that you had taken Muslims from Pissa to Mbaïki
6 because they felt threatened and some of these Muslims were not happy with the
7 behaviour of the Seleka, that you learned from them that they had left for Mbaïki.
8 And the Defence communicated the summary to you of the statement that you had
9 given at the time of your different interviews. And according to paragraph 10 of this
10 summary, apparently you stated to the Defence that the Anti-Balaka didn't arrive in
11 Pissa, that before then the population of Pissa were already talking about the advance
12 of the Anti-Balaka; was that the case?

13 A. [14:33:23] Yes, that's true. At the time, we were receiving some information
14 that was coming -- which was saying that the Anti-Balaka were going to come, but we
15 didn't ever see them. We had this information from left to right, all over.

16 Q. [14:33:50] And the Muslim population of Pissa had also heard about the same
17 information, had they not?

18 A. [14:34:08] We were living together in the same town and that's the reason why
19 information went to the entire population. Everybody could receive it. Most of
20 them, or most of the people who spoke about the situation were the Seleka and they
21 were saying that the Balaka were going to come. We didn't see them arrive. Every
22 time that they said that the Balaka were coming, we didn't see them arrive. That's
23 what happened. So some of the information, it was the Seleka who were speaking
24 about this information and we, with the Muslims as well, we were aware of this
25 information from the Seleka.

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1 Q. [14:34:55] Would I be right to say that the Muslims from Pissa who left the town
2 afterwards feared the arrival of the Anti-Balaka?

3 A. [14:35:11] As -- well, I can say that it wasn't because of the Anti-Balaka, but it
4 was because of what the Seleka had done. They prayed together. They had
5 pressure on them. Some Muslims had profited from the presence of the Seleka as
6 well. They were in a situation of force and other Muslims weren't in agreement with
7 what the Seleka were doing because they thought, "What you're doing, that risks
8 creating a problem between them and their Christian brothers whom we've always
9 lived with", and this is what happened.

10 That is what happened, and others were against and some took advantage of the
11 situation. Those who weren't for what the Seleka were doing, they said if they stay,
12 there could be a problem between them and we have nothing against them.

13 According to the information that we received, they said they were going to go to
14 Mbaïki because *MISCA had a base there, and they were going to go there for their
15 protection because they didn't know what could happen as it was said that the Balaka
16 were coming. It could be that there was a clash between the Balaka and the Seleka
17 and if there were these clashes they could be killed, and that's the reason why they
18 left the location in order to go to Mbaïki.

19 Q. [14:37:03] If I understand your testimony well, the Muslims from Pissa had
20 reproaches to make of the Seleka and it was only when the Anti-Balaka approached
21 that they decided to leave; is that what you mean or what you want to say?

22 A. [14:37:33] Yes, that's it.

23 Q. [14:37:43] And the Seleka also, did they leave Pissa because they feared the
24 Anti-Balaka; isn't that the case?

25 A. [14:37:58] Well, we didn't know when the Seleka left and we didn't see the

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1 Seleka in the locality, and I can't talk about the motivation of their departure because
2 we were asleep and it was when we woke up that we saw they'd gone, that they'd
3 left.

4 Q. [14:38:20] But, nevertheless, you would seem to be aware of the motivation of
5 the Muslims who left?

6 A. [14:38:36] I'll repeat to you again: At that time -- well, we see each other on the
7 screen. Now, if there's a cut of transmission and I get up and go, then you won't
8 know why I've gone.

9 What I told you was that at the time we slept, when the Seleka arrived and they
10 imposed a -- a curfew and they were carrying out patrols in the locality and then one
11 morning we didn't see them in the locality and we didn't know why they had left.

12 Q. [14:39:21] So, Mr Ngbaba, you're telling the Court that the Muslims had no
13 reason to fear the Anti-Balaka at that time; is that it?

14 PRESIDING JUDGE SCHMITT: [14:39:32] Ms Guissé. Wait a moment, Mr Witness,
15 with the answer. Ms Guissé.

16 MS GUISSÉ: [14:39:41](Interpretation) Yes, your Honour. I wanted the Prosecutor
17 not to distort the words of the witness. The witness was explaining the basis for the
18 conclusion and there was no problem with the conclusion, but the witness was
19 explaining what he had understood.

20 He can't be asked to go into further details or to speculate on this, which is what he's
21 being asked to do.

22 PRESIDING JUDGE SCHMITT: [14:40:06] But the last question is a question that
23 I would allow on examination by the non-calling party. Please repeat the question,
24 please, because it brings a little bit to the point what you are heading at and the
25 witness can simply answer. And I'm quite sure how the answer will be, but,

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1 nevertheless, please repeat the question and the witness may answer.

2 MS WAKCHOM: [14:40:37](Interpretation) Thank you, your Honour.

3 Q. [14:40:38] So, Mr Ngbaba, are you saying to the Court that the Muslims of Pissa
4 had no reason to fear the Anti-Balaka at that time?

5 A. [14:41:00] I can put it like this, because you have a Muslim by the name of Sabou
6 (phon), he stayed. He stayed in Pissa until the Balaka entered the locality with
7 Souleyman. Some Muslims stayed in Pissa and they stayed in the locality. Moctar,
8 as well, stayed -- Djido Moctar. And it was later that he left for Bangui. Some
9 Muslims stayed in the locality, they lived with us and the Balaka came to find them in
10 the -- and they found them in the locality. And these were actions carried out by the
11 Seleka. And other Muslims weren't in agreement with them, but they couldn't speak
12 about it, and that's the reason why they left in order to go to Mbaïki because MISCA
13 could protect them there.

14 Some Muslims stayed in Mbaïki until the Anti-Balaka entered the locality, and that's
15 the reason why I can tell you that the Muslims didn't leave, because of the
16 Anti-Balaka, because some of them stayed in the locality and carried out their
17 activities. Nobody bothered them and they were still able to sell their merchandise.

18 THE INTERPRETER: [14:42:23] It was Djido Moctar.

19 MS WAKCHOM: [14:42:30](Interpretation)

20 Q. [14:42:30] Do I understand your testimony that some Muslims stayed in Pissa?

21 A. [14:42:42] Yes. Sabou stayed in Pissa -- his mother, Souleyman. Moctar also
22 stayed, and it was after he left the locality to go to Bangui, because he to go to Chad,
23 and they didn't want to leave the locality. They were Muslims who were known by
24 everybody in the locality and they stayed in the locality despite the fact that the
25 Balaka were there.

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1 Q. [14:43:20] How many Christians left from Pissa before the arrival of the
2 Anti-Balaka?

3 A. [14:43:36] A lot of people left the locality. A lot had left in order to go to
4 Bangui. And there was a lot of information which was circulating according to
5 which some of them had gone to Bangui and some of them had gone to go abroad.
6 The leader of the Seleka said that the vehicles couldn't transport the population of
7 Pissa — that was Alkanto — and they couldn't leave the locality, but nobody left
8 Pissa.

9 Q. [14:44:22] I'm going on to another subject about the arrival of the Anti-Balaka in
10 Pissa and the speech of Mr Yekatom on that day.

11 So I understand that it's difficult for you to remember precise dates, and answering
12 the Defence question on Thursday you stated, and here I quote, that they spent some
13 time in the bush. And here I'm referring to the French version of the transcript, the
14 edited transcript, T-260, and page 12, line 22.

15 I would like to have an idea of how much time the young people from Pissa spent in
16 the bush, how many weeks would it be?

17 A. [14:45:41] Well, you yourself said that you knew it, but I don't know the
18 duration. But given that I don't know the duration, what answer can I give you?
19 They spent a lot of time in the bush. It could be a month, it could be years. How
20 can I know that?

21 PRESIDING JUDGE SCHMITT: [14:46:08](Microphone not activated)

22 MS GUISSÉ: [14:46:10](Interpretation) I'm confused, so perhaps the witness is also
23 confused, because when my colleague Madam Prosecutor speaks about young people
24 who were in the bush, who is she referring to exactly, because we addressed a certain
25 point in private session. So if there's a clarification which is made clear, then the

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1 witness will be able to know who exactly is being referred to, because this idea of
2 young people in general is a bit wide, and I think that the witness doesn't understand
3 what's being referred to here.

4 PRESIDING JUDGE SCHMITT: [14:46:45] Yeah, that sounds sensible actually. Ms
5 Wakchom, would you want to be a little bit more detailed in your question so that the
6 witness can understand what you're referring to. And if this has to be done, because
7 of other protected witnesses, in private session, then we have to go to private session.
8 Is this -- is this the case, Ms Wakchom, then we would perhaps --

9 MS WAKCHOM: [14:47:13](Interpretation) Your Honour, if we have to go into
10 private session, it'll just be for one question. I don't know if it's worth it.

11 PRESIDING JUDGE SCHMITT: [14:47:20] No, when it's not worth it, then continue.
12 If you think it is super important, so to say, then to ask this question, then we go to
13 private session, you may ask your question. Otherwise, in your assessment, we can
14 simply continue. Mr Garcia also has an opinion on that.

15 MS WAKCHOM: [14:47:48](Interpretation) Of course, your Honour. I think that
16 I'm going to go on to another question.

17 PRESIDING JUDGE SCHMITT: [14:47:57] Thank you.

18 MS WAKCHOM: [14:48:05](Interpretation)

19 Q. [14:48:05] Mr Ngbaba, now you stated that Mr Yekatom arrived in Pissa with his
20 troops and that he gave a speech from a small vehicle. And you stated that the
21 mayor of Pissa, Mr Okoa-Penguia, was present during the speech, did you not?

22 A. [14:48:31] That's true.

23 Q. [14:48:38] And you saw him; is that correct?

24 A. [14:48:44] *Yes, I saw him. He had come from Bangui. With the arrival of the

25 Anti-Balaka, the people who'd had the possibility to see Mr Yekatom were people like

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1 the mayor. But myself I was able to greet him on the occasion on – when there was the
2 football cup which we organised, and it was on that occasion that I was able to greet
3 him.

4 Q. [14:49:26] The mayor of Pissa, Mr Okoa-Penguia, did he take the opportunity to
5 speak on that day?

6 A. [14:49:45] No, I didn't hear the response to -- of the mayor after his speech.
7 I arrived a bit later. I don't know if it was at the town hall that he was able to give a
8 speech. I don't know. But for myself, when I arrived, the meeting was already
9 coming to an end and then I returned to my shop.

10 Q. [14:50:16] But you saw the mayor on the day that Mr Yekatom gave the speech;
11 that's correct, is it not?

12 A. [14:50:31] Yes, I saw him.

13 Q. [14:50:44] And you saw him speak to Mr Yekatom but you didn't hear what was
14 said; is that correct?

15 A. [14:50:57] Yes, that's correct.

16 Q. [14:51:05] Mr Ngbaba, you have to know that the mayor of Pissa has publicly
17 testified in this case, has he not?

18 A. [14:51:22] Since the death of my uncle, when I was able to go there, after that,
19 I haven't had any more information about what happened there.

20 Q. [14:51:43] Very well, let me tell you that the mayor of Pissa gave testimony
21 before this Chamber and during his testimony he didn't mention the arrival of
22 Mr Yekatom in Pissa. Did you know that?

23 A. [14:52:08] To the best of my knowledge, I think that's what I saw, which I told
24 you. I can't invent anything.

25 Q. [14:52:25] Okay. Let me tell you what Mr Okoa-Penguia said in this case. He

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1 stated that he met Mr Yekatom for the first time only on 30 January 2014 and that
2 happened in Mbaïki; and, as you said, he had come from Bangui when he met
3 Mr Yekatom for the first time.

4 Is it possible that you could have been mistaken with regards to Mr Yekatom's speech
5 in Pissa?

6 A. [14:53:06] Mr Yekatom, after he arrived in Pissa, he held a speech in front of the
7 brigade and he also drew everybody's attention to the soldiers and drew the soldiers'
8 attention to the fact that they mustn't circulate in the neighbourhood because the
9 Seleka were in the neighbourhood and he didn't want them also to -- because he
10 didn't want the inhabitants to confuse them with each other and he didn't want them
11 to do the same things as the Seleka.

12 Q. [14:53:52] Are you sure that you really heard this speech in Pissa?

13 A. [14:54:09] The Prosecutor asked me a whole series of questions. I was asked
14 only to tell the truth and nothing but the truth and that's what I'm telling before your
15 Court. I can't invent anything. I am telling you here what I saw and what
16 I experienced, and that is what I am testifying before your Court.

17 PRESIDING JUDGE SCHMITT: [14:54:43] Please move on, Ms Wakchom. The
18 witness has answered. You have tried from different angles, but the witness has
19 answered the question. If you have some -- something else from another witness or
20 so, you can of course put it to the witness. But with regard to what
21 Mr Okoa-Penguia testified in open session, I think this has been put to the witness
22 and he has answered.

23 MS WAKCHOM: [14:55:14](Interpretation) Thank you, your Honour.

24 Q. [14:55:17] Mr Ngbaba, when you stayed the eight years in Pissa, did you often
25 go to Mbaïki?

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1 A. [14:55:40] Yes, I went there several times.

2 Q. [14:55:42] You must have heard about a meeting between the Anti-Balaka and
3 the authorities in Mbaïki, did you not?

4 A. [14:55:55] No, I never heard anybody speak about that.

5 PRESIDING JUDGE SCHMITT: [14:56:05] Ms Wakchom, you can be more specific if
6 you want. That would be perhaps a good idea. Of course, we know what you're
7 referring to. You can go directly or put it to the witness if he knows of a certain
8 event that would perhaps orientate him in time and space, so to speak.

9 MS WAKCHOM: [14:56:34](Interpretation) Thank you, your Honour.

10 Q. [14:56:36] Mr Ngbaba, did you hear anybody speak about a meeting that was
11 meant to have happened before a church in Mbaïki in January 2014?

12 A. [14:56:57] I have no information about that.

13 Q. [14:57:09] I'm now going to move on to another subject. I'm going to put a few
14 questions to you with regards to the composition of the Anti-Balaka as far as you
15 know.

16 So during your testimony last week you stated on several occasions that some people
17 were not members of the Anti-Balaka group of Mr Yekatom, and you stated that
18 during your stay in Pissa, you were -- you saw certain Anti-Balaka who had arrived.

19 A. [14:57:57] That's correct. That's the truth.

20 Q. [14:58:05] If I've understood your testimony, you were never a member of the
21 Anti-Balaka; is that correct?

22 A. [14:58:21] I couldn't ever join such a group. Whatever the case, I don't know
23 their origin, I don't know the origin of the Anti-Balaka. These are people who
24 arrived in our locality, but I could never join such a group, even for the national army.
25 It's the police and the gendarmerie which is of interest to me. I'm still trying to join

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1 these units. However, joining an armed group of these people, or of this type, that's
2 not something I would do.

3 Q. [14:59:06] And why wouldn't you want to join a group such as the Anti-Balaka?

4 A. [14:59:22] Well, my parents, when I was still a child, before they died, they
5 advised my brothers to focus a lot on their school work. But they never encouraged
6 us to join armed groups. Now that we've grown up, my older brothers told me this
7 story and they told me that you must never join an army. However, we can serve in
8 the units such as the gendarmerie, the police and the units who deal with justice, but
9 not the national army. It's true, I was still young, I was a minor, but before our
10 parents died they gave us this advice and this is what we follow. I follow this
11 advice.

12 Q. [15:00:37] I understand, Mr Ngbaba. I suppose that since you weren't a
13 member of the Anti-Balaka you never were present at the attacks launched by this
14 group.

15 A. [15:00:59] There was no fights in Pissa. When the Anti-Balaka arrived, the
16 Seleka had left. There was no clash. There was no fight, no clash in Pissa. I didn't
17 see anything like that. I was in the centre of the town of Pissa. I spent all my days
18 in Pissa. When I went to Mbaïki, it was only to look for fuel and then return to Pissa.
19 There never was any clashes in Pissa or persons who were killed after clashes in Pissa.
20 I never saw that happen in Pissa. I never saw it.

21 Q. [15:01:42] I understand there was no clashes in Pissa. Do you know how the
22 Anti-Balaka recruited?

23 A. [15:02:01] I've already told you, I never saw someone in Pissa join the
24 Anti-Balaka movement. How could I know how the movement was integrated into
25 the movement? If somebody came to the movement, then you can ask that person

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1 how he came to join the movement. But no-one in my locality joined the movement.

2 We didn't even know how the Anti-Balaka started their movement in order to arrive

3 in Pissa. We don't know how they started. We just saw them in Pissa when they

4 arrived, and then we knew they were the Anti-Balaka.

5 Q. [15:02:40] Am I correct in thinking that you never had an opportunity to visit

6 the Anti-Balaka bases in Pissa?

7 A. [15:02:56] I never went to their base, but they're not very far away from where

8 we were. It is alongside the football fields where we played. We saw them and

9 sometimes they came to look at our matches. But they came to look at the

10 match -- they came in civilian -- civilian gear. But we already saw them in their

11 military gear, so we knew who they were. We knew that they were the leaders who

12 came to look at the match that we were playing.

13 Q. [15:03:40] I understand that you never went to any of their bases. Do you

14 know how many bases -- how many Anti-Balaka bases there were in Pissa?

15 A. [15:04:00] They established their base in the house that was constructed by

16 Bokassa. That house became the headquarters and that is where they established

17 their bases. They also had a base at the checkpoint, but the main base was in the

18 house that was constructed for Bokassa. That's where they slept. That was their

19 base as far as I know.

20 Q. [15:04:30] Do you have any idea of the number of elements, the number of

21 Anti-Balaka elements who were at that base in the former house of Bokassa and also

22 how many were at the checkpoint?

23 A. [15:04:53] I have not understood your question properly. Could you please

24 repeat it?

25 Q. [15:05:02] No problem. I simply want to know and ask you for a rough

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1 estimate of the number of Anti-Balaka who you saw at the Pissa bases?

2 A. [15:05:22] I don't know exactly how many there were, but there were quite a few
3 of them. They were numerous. They came by some vehicles — I don't know how
4 many vehicles — but I can't really tell you how many. I don't know what the
5 numbers were.

6 Q. [15:05:50] Was it more than 100, was it less?

7 A. [15:06:03] Perhaps less than 100.

8 Q. [15:06:14] Besides Mr Yekatom, whom you've already mentioned, what other
9 Anti-Balaka leader did you meet in Pissa?

10 A. [15:06:34] I saw Coeur de Lion, but I never spoke to him. He just was passing
11 by in Pissa.

12 Q. [15:06:47] And who told you that his name was Coeur de Lion?

13 A. [15:06:54] He even wrote his name on the vehicle, "Coeur de Lion". And he
14 also had braided hair, just like a woman. That's how I could recognise him. And
15 some other Anti-Balaka on seeing him called him "*chef*" and said his name was
16 Coeur de Lion. But he wrote his name on his vehicle with a design, a logo of a lion.

17 Q. [15:07:35] When you saw Coeur de Lion, how many elements were with him?

18 A. [15:07:47] I don't know how many elements he had.

19 Q. [15:08:02] Do you know -- besides Coeur de Lion, do you know any other
20 Anti-Balaka leader in Pissa?

21 A. [15:08:24] I didn't see anyone else other than the ones I just told you, and other
22 than the one I mentioned. Other than that, I don't know anyone else.

23 Q. [15:08:42] Have you ever heard about Salvador Manoumana?

24 A. [15:08:54] No, I've never heard that name.

25 Q. [15:09:02] Do you know that he was part of Yekatom's Anti-Balaka group?

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1 A. [15:09:13] I've never heard that name. I don't know who you're talking about.

2 Q. [15:09:27] Do you know that Manoumana was the ComZone of the Anti-Balaka
3 in Pissa?

4 PRESIDING JUDGE SCHMITT: [15:09:35] Ms Guissé, please.

5 MS GUISSÉ: [15:09:39](Interpretation) I understand the point which the Prosecution
6 wants to make, but once the witness says he doesn't know the name of that person
7 and doesn't know what function he had, I don't think we can pursue this any further.

8 PRESIDING JUDGE SCHMITT: [15:09:54] I agree actually. Move on, Ms Wakchom.
9 The witness has said he hasn't heard the name and he has repeated that, and when he
10 doesn't know the person and has never heard the name, I think it follows very easily
11 from that that he doesn't know which role the person had. Please move on.

12 MS WAKCHOM: [15:10:25](Interpretation)

13 Q. [15:10:25] Mr Ngbaba, have you ever heard of someone called Stephane
14 Chrisostome Dawili?

15 A. [15:10:41] No, I don't know him.

16 Q. [15:10:58] Have you heard a certain Ephraim Odimba?

17 A. [15:11:09] Never.

18 Q. [15:11:22] Bearing in mind your limited knowledge of the Anti-Balaka, how can
19 you affirm that no youth of Pissa was part of the Anti-Balaka group in Pissa?

20 A. [15:11:53] Pissa is not a big town. It's a small community, everybody knows
21 everybody. If somebody new arrived in the locality, immediately we know about it.
22 When Yekatom and his elements arrived in Pissa, we knew that they were people
23 who came with him at that time. Perhaps the name was -- the name we gave them
24 was their nickname, but as far as I know, no youth of Pissa, no child in Pissa came
25 and belonged to the movement.

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1 He came with the elements and he left with them. And we said, "Oh, those were the
2 Anti-Balaka." But if they were people of Pissa, we would have seen them. But
3 I never saw someone from Pissa in the Yekatom movement.

4 Q. [15:13:05] But you don't know Odimba, you don't know Manoumana, you don't
5 know Dawili either?

6 A. [15:13:21] I've just told you that I don't know everybody you've just mentioned.

7 Q. [15:13:34] But you're not in the position neither to speak about all the youth, isn't
8 that true? There are some youth in Pissa that you simply don't know, I imagine.

9 A. [15:13:51] I repeat once again: Pissa is not a big place. We know almost
10 everybody. You know, it lasted so long that perhaps I've forgotten some names, but
11 in Pissa, after all these years when I meet them in Bangui, I immediately recognise
12 their face. But perhaps I've forgotten their name, but I'll recognise the face of
13 everybody in Pissa whom I come across.

14 Q. [15:14:28] Mr Ngbaba, you said during your testimony last week that you heard
15 that there was a meeting which took place in Pissa, in the town hall in Pissa because
16 of an NGO that was received by the mayor and his various services. Do you recall
17 that?

18 A. [15:14:56] Yes, I do remember.

19 Q. [15:15:03] Let me show you a document. It is document which is tab 10 of the
20 OTP binder and has the reference CAR-OTP-2128-1373. It's a document which can
21 be displayed to the public.

22 Could we go to the bottom of the page, please?

23 Mr Ngbaba, do you see the document on the screen?

24 A. [15:16:17] Yes, I see it.

25 Q. [15:16:23] Do you see the name Alfred Rombhot Yekatom at the bottom,

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1 together with his signature?

2 A. [15:16:38] I can see all that.

3 Q. [15:16:46] I've -- I understand you have difficulty in reading the document, so
4 I will explain the content of the document.

5 This is a statement signed by Mr Yekatom on 4 August 2014 in the presence of the
6 NGO *Enfants sans Frontières*.

7 As you can see in the second paragraph of the document, which starts
8 "Acknowledging" -- "*Reconnais*" -- can you see it?

9 PRESIDING JUDGE SCHMITT: [15:17:23] Well, I would suggest that you read it to
10 him simply. Please read it into the record. That's easier here.
11 Just listen, Mr Witness, what the content is.

12 And I think it's enough if you read this paragraph and also the next paragraph,
13 paragraphs 2 and 3. Just read them in French, that's the original language. That
14 will be translated and then the witness can then comment on it.

15 MS WAKCHOM: [15:17:58](Interpretation) Thank you, your Honour.

16 Q. [15:18:02] Mr Ngbaba, I'm going to read out the declaration which Yekatom did
17 on 4 August 2014. Mr Yekatom says:
18 "Recognises and adopts the firm resolution to release 153 children associated with the
19 movement.

20 These children are identified in the areas of Pissa, Mbata, Batalimo, and
21 Mongoumba."

22 PRESIDING JUDGE SCHMITT: [15:18:39] And now your question. Now you can
23 question the witness.

24 MS WAKCHOM: [15:18:44](Interpretation)

25 Q. [15:18:44] Have you ever seen this document?

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1 A. [15:18:56] I have never seen such a document.

2 Q. [15:19:05] Have you ever heard anyone speak about it before today?

3 A. [15:19:14] Not at all. I have never heard anyone speak about it.

4 Q. [15:19:25] So if I understand correctly the meaning of your testimony, you don't
5 agree with Mr Yekatom that there were 153 children in his group?

6 PRESIDING JUDGE SCHMITT: [15:19:41] Ms Guissé.

7 Before you answer, Mr Witness, Ms Guissé has an objection.

8 MS GUISSÉ: Yes, I do have an objection on the presentation: Do you not agree
9 with Mr Yekatom because he signed the document.

10 We heard people who have drafted this document, so to say that this is a statement or
11 declaration of Mr Yekatom is not correct.

12 The question has to be rephrased. And, in any case, the witness has said he doesn't
13 know this document, so whether he's agreed or doesn't agree with it, it's bit difficult
14 for him to comment on something that he doesn't know.

15 PRESIDING JUDGE SCHMITT: [15:20:26] Yeah, that -- actually, that's true. If you
16 rephrase it -- you have a point, Ms Guissé I think.

17 If you rephrase it, the witness, obviously, has another frame of experience behind
18 himself. I understand what you're doing, but this is -- actually to put it to the
19 witness is a bit unfair I think, I have to say. I think we -- as I always say and have
20 repeated many times in this courtroom, documents, if they're authentic, if this is
21 proven, they have an evidentiary value in themselves, in themselves, so they stand for
22 themselves. And the witness testimony is one piece of evidence, and we have a lot
23 of other pieces of evidence, and this document is also a piece of evidence, and the
24 witness has not produced a document, does not appear in the document. His name
25 does not appear in the document, and to comment on it and what Mr Yekatom might

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1 have thought or whatsoever is a bit borderline, I think. Please move on.

2 MS WAKCHOM: [15:21:52](Interpretation)

3 Q. [15:21:52] A small clarification, Mr Witness. Do you confirm that you stated to
4 the Defence that there were no children in the group of Mr Yekatom; is that correct?

5 A. [15:22:14] That is the truth. When the Anti-Balaka arrived in Pissa there were
6 no children, there were only adults. Can children carry these weapons? Never.

7 It's adults. And when he arrived there, we saw -- we saw people who had beards.

8 Could a child have such a beard? Can a child have a beard?

9 Now, as I stand before you, I can have a beard, but the people we saw in that -- at that
10 time, they all had beards, so you can't talk about children amongst them. I repeat,
11 these people had beards. I saw that and I'm telling you what I saw.

12 PRESIDING JUDGE SCHMITT: [15:23:12] I think the witness has answered it and
13 it's -- his testimony seems to be very clear. And if this document might contradict it
14 or whatsoever, this isn't the end. We have to assess this in the end. Please
15 continue.

16 The witness at least according to his experience has not seen children in the group of
17 Mr Yekatom.

18 MS WAKCHOM: [15:23:51](Interpretation)

19 Q. [15:23:51] Mr Ngbaba, if I understand correctly, and as the President has stated,
20 you did not see any children in the Yekatom group when they arrived; is that correct?

21 A. [15:24:09] That is the truth. I never saw a child in their midst.

22 Q. [15:24:18] But you don't know whether there were other children who came and
23 joined later; is that correct?

24 A. [15:24:32] Not at all. What I can tell you is when Yekatom arrived in Pissa, the
25 youths arrived from PK55. When they arrived and they asked Yekatom to be a part

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1 of his group, but he refused that and he said that, "When we started, we decided and
2 sacrificed our lives, you weren't there." Remember when they arrived, they wanted
3 the group to become integrated, and he repeated that when they started, those people
4 weren't there. I can tell you that the majority of those elements were elements from
5 the national army, and youths are civilian -- "How can you join a military group?
6 Just look at us. These are all FACA elements that are in my group so I cannot allow
7 you to join my group. I refuse. In any case, remain doing your daily activities.
8 We have sacrificed ourselves in order to save and liberate our country. You go back
9 to your normal activities -- fishing, farming or whatever."
10 And they answered, they had no activity, and that is why they wanted to join the
11 group. But the leader categorically refused it by saying he couldn't allow the
12 villagers to join the group and that he preferred to work with soldiers from the
13 national army.
14 They were aware of the situation of the country and that's why they committed
15 themselves, because they wanted to liberate the country and, therefore, he couldn't
16 allow the young people of the villages, which was about 55 kilometres away, to come
17 and join his group.

18 Q. [15:26:45] You mentioned the statements of a certain chief who refused youths
19 of Pissa to join his group. What chief are you talking about? What *chef* are you
20 talking about?

21 A. [15:27:04] I am referring to Mr Yekatom Rambo. That's the one I call *chef*.
22 And when these youths came from PK55, he categorically refused to have them join
23 his group, and he even told them that the majority of the elements in his group were
24 soldiers of the national army.

25 Q. [15:27:32] Do you have some sort of explanation for this statement which

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1 Mr Yekatom made?

2 PRESIDING JUDGE SCHMITT: [15:27:44] No. Ms Guissé, please, you can word it.

3 But this calls for speculation by the witness. He does not know what Mr Yekatom
4 might have thought, if he signed it at all, and so on. But you understand that, Ms
5 Wakchom. We don't allow the question. Please continue.

6 MS WAKCHOM: [15:28:13](Interpretation) Thank you, your Honour.

7 Q. [15:28:15] Mr Ngbaba, when did you hear this statement of Mr Yekatom?

8 A. [15:28:24] I was in the market when I heard that declaration being made. When
9 I saw him, I said, "Why are these youths anxious to join the movement since we were
10 together with them before their arrival? Why do they want to join?" -- to tell them to
11 go back their activities, fishing and other agricultural activities. I recognised one or
12 two who used to come to my shop to buy something, and it's with those people that I
13 had this discussion.

14 Q. [15:29:32] So that's what the youths said to you? It was not Mr Yekatom who
15 said that to you?

16 A. [15:29:43] Yes. They are the ones who told me. And, as a human being,
17 I thought about it and I said to myself, "Well, look, these youths" -- are adults, but he
18 refused them. But how could it be acceptable that children are accepted in his
19 movement? By claiming this in your court? No, he had -- he rejected adults who
20 wanted to join his group, so could he really accept that children would join his
21 movement? No.

22 Before the Court, we are here to tell the truth. So I repeat: He rejected adults. So
23 is it possible that he would accept children in his movement? That's the question
24 I asked myself.

25 Q. [15:30:48] Mr Ngbaba, do you know that -- do you know Mr Manoumana who is

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1 the ComZone of Pissa, that he himself knew that there was at least one child under
2 the age of 15 under his command, in Mr Yekatom's group?

3 PRESIDING JUDGE SCHMITT: [15:31:03] Ms Guissé.

4 MS GUISSÉ: [15:31:07](Interpretation) I object to the way in which the Prosecutor is
5 using elements about persons. And with regards to statements which are not in
6 evidence in this case, if these suggestions -- a case that presented it as a statement in
7 evidence is something that we can comment on at this stage in terms of the
8 Prosecution evidence, that's something that I would object to.

9 PRESIDING JUDGE SCHMITT: [15:31:34] If we -- and we have done that before. If
10 we have heard evidence in the courtroom where a witness said something -- said "A",
11 for example, and one party thinks the witness actually testifying says "B", then you
12 can put "A" of this witness -- I don't want to make it too complicated -- to the
13 witness in the courtroom. If that were the case I would allow it. If not, you have to
14 move on.

15 Did we have a witness who testified that? Then if have you the reference, then can
16 you put it to the witness and the witness can say like -- we had that many times, can
17 say, "Well, I maintain my position" and, yeah, or "Now that I hear it, I reconsider" or
18 something else, yeah. But we need a reference to that.

19 MS WAKCHOM: [15:32:40](Interpretation) Your Honour, as Maître Guissé
20 remarked, it is indeed a statement of a person who gave a statement to the Office of
21 the Prosecutor which is not in evidence, but there is a statement in that sense. And
22 for the reference thereto, this is the document of the statement of the
23 witness -- 17 -- CAR-OTP-2075-1743, page 44, lines 13 and 14.

24 PRESIDING JUDGE SCHMITT: [15:33:28] Ms Guissé.

25 MS GUISSÉ: [15:33:34](Interpretation) Yes, your Honour. My objection, and I'd

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1 like to clarify it here, goes back to the fact that today while the accused has closed its
2 evidence. Now we're talking about a statement of a person which it never called to
3 testify before this Chamber, and it's presenting things in terms of what this person
4 said, in terms of it being the absolute truth. And this is a problem. It's not
5 acceptable at this stage in the proceedings. It's not fair with regards to the witness to
6 present it as a witness, whereas the Prosecution itself never called this witness.

7 PRESIDING JUDGE SCHMITT: [15:34:11] Ms Wakchom.

8 MS WAKCHOM: [15:34:21](Interpretation) Your Honour, just to clarify matters, if
9 my memory serves me well, the members of the Defence team used elements which
10 were not in evidence to put them to the witness — and this is just a suggestion — and
11 the witness is free to accept it or not, to accept the proposition?

12 PRESIDING JUDGE SCHMITT: [15:34:43] And finally, Mr Knoops.

13 MR KNOOPS: [15:34:47] Mr President, I was under the impression during the
14 Prosecution case that we were not allowed to mention names of witnesses who gave
15 statements, to protect their identity.

16 In all the examinations we conducted of Prosecution witnesses, we carefully evaded
17 the names because that was the instruction, except for people who testified in open
18 session. Now the Prosecution just puts a name of a witness to this witness, which is,
19 in my view, not what was in agreement in the protocol.

20 PRESIDING JUDGE SCHMITT: [15:35:28] Well, that's a different matter.

21 MR KNOOPS: [15:35:32] Yes, but, but --

22 PRESIDING JUDGE SCHMITT: [15:35:33] It's a different matter so the --

23 MR KNOOPS: [15:35:34] Well -- (Overlapping speakers)

24 PRESIDING JUDGE SCHMITT: [15:35:36] It's two matters.

25 Yeah, yeah. I understand that. And on that, Mr Vanderpuye, and then we have to

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1 decide at some point in time to -- to be able to continue. Yeah.

2 MR VANDERPUYE: [15:35:47] I'm sorry to intervene. I think that this is a
3 relatively straightforward issue. The question is whether or not there's a good-faith
4 basis to put the question. The good-faith basis was articulated by Ms Wakchom.
5 The Defence is aware of that. The question was put in a way that did not identify
6 the person as a witness and, in fact, it's the Defence that raised that issue and the
7 Defence actually points out the person is not called as a witness in this case.
8 So I don't know that there's much more to it than that. And I don't see what's
9 improper about it. If the witness doesn't know about the information, it's a simple
10 answer.

11 PRESIDING JUDGE SCHMITT: [15:36:18] Well, he -- I'm actually -- I don't think it's
12 legally objectionable, but I don't see -- well, that's not up to us to assess this. I don't
13 see actually a good reason for your examination, to put such questions to the witness,
14 because we already have an impression of the witness and what his testimony will be.
15 You can put to the witness that a witness that has not been called, that has not
16 testified, has said something. But what -- what evidential value -- evidentiary value
17 will have any answer by the witness on that. That's what I'm asking myself actually.
18 But this is something that has not to be assessed by me, and I don't see any problems
19 with regard to identification actually.

20 So I agree here with Mr Vanderpuye.

21 So to make things short, so -- it's always easier when I take it over.

22 Mr Witness, you have heard a long back and forth. That sometimes happens in the
23 courtroom because lawyers don't agree with each other what is proper and what is
24 not proper. There is a witness that has not testified here in the courtroom but who
25 has given some testimony during the investigation to the Prosecution -- you

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1 understand obviously. And he has said, if I understand it correctly, Ms Wakchom,
2 that there were children in the group of Mr Yekatom. So when you -- when I put
3 this to you, does this change your mind about your observations?

4 THE WITNESS: [15:38:24](Interpretation) I can tell you that at the time that Yekatom
5 arrived with his elements in Pissa, they had beards. Can a minor have a beard?
6 I wanted to say to the Prosecutor: You said that everything that's said here has to be
7 confidential, but in the words of the Prosecutor, he overtly stated somebody's name.
8 Now, if another witness comes, is he going to quote me in the way that this has just
9 been done? That's something I would like to know.

10 PRESIDING JUDGE SCHMITT: [15:39:10] Ms Wakchom, you have heard it. This is
11 a reproach by the witness, but, of course, we don't answer questions by the witnesses,
12 no. But the answer now of the witness is perfectly clear, and it was again -- really,
13 I don't know. I have said this a hundred times. I don't want to sound arrogant, but
14 I always know the answers to these questions, and I'm 99.9 per cent correct. Of
15 course, I can't prove it. But it's -- what I wanted to say about this is, like we would
16 say in another legal environment, suggestive. Highly suggestive questions normally
17 don't lead to anything for the party who is questioning, specifically not when the
18 witness in the courtroom that is questioned actually is an intelligent person, is a
19 person who is quite firm in his convictions and in his testimony. But, okay, I'm
20 preaching, which is not my core work and labour here.

21 Ms Wakchom, please continue. It's clear that the witness has stated several times
22 now he hasn't seen children, whatever a child is, but children in the group of
23 Mr Yekatom, as far as he has observed it. So I think that's clear. Good.
24 Ms Wakchom.

25 MS WAKCHOM: [15:40:43](Interpretation) Thank you, your Honour. I'm going to

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1 move on.

2 Q. [15:40:47] For this series of questions, I would like to go back into private

3 session.

4 PRESIDING JUDGE SCHMITT: [15:40:55] Private session.

5 Ms Dimitri.

6 MS DIMITRI: [15:40:58] Mr President, I don't want to interrupt the flow, but because

7 we're going into private session, if I can just make a small request that has nothing to

8 do with the testimony. We have a 4 o'clock deadline for a filing.

9 PRESIDING JUDGE SCHMITT: [15:41:11] Okay. Can we do it in private session

10 then?

11 MS DIMITRI: [15:41:15] Yes, yes.

12 PRESIDING JUDGE SCHMITT: [15:41:16] Yeah, yeah. Let's go first in private

13 session and then. Yeah, I saw the email now, but since we were discussing -- I only

14 saw it now, so I would have addressed it.

15 (Private session at 3.41 p.m.)

16 THE COURT OFFICER: [15:41:33] We're in private session, Mr President.

17 PRESIDING JUDGE SCHMITT: [15:41:37] So Ms Dimitri, what is it?

18 MS DIMITRI: [15:41:39] Yes, Mr President. The team member who is drafting the

19 filing needs to discuss with me and so I was wondering if the Chamber would be

20 mindful to let us until the end of today to file rather than 4 p.m., because I'm...

21 PRESIDING JUDGE SCHMITT: [15:41:52] Absolutely.

22 MS DIMITRI: [15:41:54] Thank you very much.

23 PRESIDING JUDGE SCHMITT: [15:41:55] I think we have here, with all parties,

24 I have to say, including the witness representatives, there is a really with regards to,

25 let's say, the working together and the understanding also of the problems of another

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1 party, we have established a culture, so to speak, and it's never misused, so, yeah, no
2 problem.

3 MS DIMITRI: [15:42:18] Thank you very much.

4 PRESIDING JUDGE SCHMITT: [15:42:19] So, yeah, private session. Ms Wakchom,
5 please continue.

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 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 PRESIDING JUDGE SCHMITT: [15:48:04] Ms Guissé.

19 MS GUISSÉ: [15:48:09](Interpretation) Yes, your Honour. I wanted to make an

20 observation. I'm not making an objection necessarily, but I wanted to make an

21 observation on the way in which the Prosecution has presented that as a photo board

22 for identification, whereas, in fact, it is a montage.

23 And if I can make an additional statement -- if we could cut the sound for the witness,

24 please, such that the witness is not influenced.

25 PRESIDING JUDGE SCHMITT: [15:48:45] Exactly. Thank you, Ms Wakchom,

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 MS GUISSÉ: [15:49:23](Interpretation) Thank you, your Honour. So, as you noted,

10 I didn't object to the presentation because it's important for the witness to be able to

11 see or to be able to answer in a neutral way, and the question was put in a sufficiently

12 neutral way for me not to object. However, with regards to the way in which the

13 photo board is organised, I have a difficulty and I have a problem with that, and

14 I think it's important to note that in the record because it might come back to us.

15 So, your Honour, when you have a photo board with the aim of making an

16 identification, you're presented with different people to see if among other similar

17 faces, similar but different, there is a possibility to identify somebody, by the witness.

18 Now, in this montage, it's a photo board — we now know that the witness is not

19 hearing — there are four photographs of the same individual taken at different times,

20 and one, the fifth photograph, of what appears to be another individual. I don't

21 know if it's the hypothesis of the Prosecutor to say it's the same or not, but in the

22 presentation I would say that there's a problem with fairness with regards to the

23 witness on the way in which things are presented. (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 Now, presenting this document in a way, I have to say, a bit foolingly, if you like, as if
6 to fool somebody, is something that meant that the witness couldn't recognise it out of
7 the five, I think that it's not fair to the witness and it's a manipulation that -- of what a
8 photo board should be with regards to identification.

9 Having said that, the witness answered, but for the record I have to point out that the
10 procedure was not correct.

11 PRESIDING JUDGE SCHMITT: [15:52:15] Well, if it was not correct, it is -- well,
12 I have to give first Ms Wakchom also the floor and then I tell you what I think about
13 it.

14 Yeah, Ms Wakchom.

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 PRESIDING JUDGE SCHMITT: [15:53:19] Yeah, please, Ms Guissé, let's finish that.

24 It's -- it's well known in -- also and if you -- if you will from the psychology of
25 testimony and how to put things to witnesses, that putting or identifying with regard

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1 to photographs, there are different possibilities to do that. And that might influence
2 the probative value of the answer in the end, so we have it here what we always have.
3 And Ms Guissé has not objected so -- and I think it would be not be objectionable. It
4 is something you can try to test the evidence. (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 So I think we can now have the witness continue to listen, and Ms Wakchom has then
10 the floor.

11 I think we can also -- perhaps if you want to move to another issue, we could perhaps
12 call it a day. Ms Guissé, yeah.

13 And I let -- Ms Guissé, it's absolutely fine that you put it on the record. It's a little bit
14 of a -- "premature" is not right, but that you already put something what would be in
15 the closing brief or the closing statement. That's absolutely understandable. And,
16 yeah, and we are fully aware of the -- let's say, the different probative values that
17 might result from a different mode of presenting something to a witness.

18 Yeah, Ms Guissé, but if only -- please only a short -- a short addition, please.

19 MS GUISSÉ: [15:55:28](Interpretation) I'll be brief, your Honour, but I think perhaps
20 this is a subject which indeed we will revisit either in the closing brief or with other
21 witnesses. But it is important for me to be able to put the difficulty that there is at
22 the moment, because when you carry out identification in general, it's not this
23 procedure that is used. But I'll stop there. I was long.

24 PRESIDING JUDGE SCHMITT: [15:55:52] Actually books have been written about
25 that, that issue, I have to say. I have written one or two -- I haven't -- written. I've

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1 also written about it but I have also read about it. So, yeah, you can talk a lot about
2 this, and I understand that you put it on the record, but it was not objectionable that
3 Ms Wakchom and the Prosecution put this to the witness.

4 So, Ms Wakchom, what about the -- still on the same issue, I don't think so, no. This
5 is finished, yeah? I mean the presentation of this photograph to -- this board to the
6 witness.

7 MS WAKCHOM: [15:56:33](Interpretation) Now I've finished with the presentation
8 of the photographs, your Honour. But with regard to your concerns a moment ago,
9 concerning the references to the photographs which appear in the photo board, I can
10 give you the ERNs of the photographs if you so wish. And the ERNs also appear
11 next to each of the photographs.

12 PRESIDING JUDGE SCHMITT: [15:56:57] No. My concern was differently. My
13 concern was that in my tab I have a photo board with four photographs and I think
14 you showed the witness one with five, and I simply would only want to have this,
15 you know, physically even, yeah, because I have my own small files and where
16 I think. I want to be complete and on the same page with everyone else.
17 So I think it's a good moment now to conclude the hearing for today. How long will
18 you -- what -- how much time will you need tomorrow?

19 MS WAKCHOM: [15:57:39](Interpretation) I think that I would need less than
20 20 minutes tomorrow.

21 PRESIDING JUDGE SCHMITT: [15:57:44] Well, yeah, but we have already
22 two hours, I think. Let's -- we finish tomorrow, then. I think it's better, otherwise,
23 we would have to make a pause anyway for the interpreters and for everyone.
24 Unless Mr Suprun tells us he will need hours for that.

25 MR SUPRUN: [15:58:03] Mr President, I confirm that I don't need not more than one

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1 hour. My estimation still remains the same.

2 PRESIDING JUDGE SCHMITT: [15:58:12] And we have, of course -- actually,
3 this -- since this is new, I have to think about with my colleagues, what about the
4 material. I really have to ponder -- ponder that. You know from the -- you know
5 that. Ms Guissé, you have some objections to that and we will give you some
6 guidance -- Mr Suprun, everyone here in the courtroom. We'll give you some
7 guidance before the examination by Mr Suprun starts, yeah. Thank you very much.
8 Mr Witness, there was a long discussion unfortunately where you weren't involved,
9 but we're finished for today.

10 (Redacted)

11 PRESIDING JUDGE SCHMITT: [15:58:50] He's listening, Péter. He's already
12 listening.

13 Mr Witness, so I apologise that there was a long discussion without you being able to
14 hear, but that sometimes happens. It was not super-secret, but simply we didn't
15 want you to hear because it was a little bit about what you were saying and so this
16 made sense that you couldn't listen to us.

17 We thank you. We thank you for your testimony today, but you still have not
18 finished your testimony, but you definitely will finish your testimony tomorrow.

19 This concludes it for today. Tomorrow, 9:30, we continue.

20 THE COURT USHER: [15:59:34] All rise.

21 (The hearing ends in private session at 3.59 p.m.)