

Trial Hearing

(Open Session)

ICC-01/14-01/18

WITNESS: CAR-D29-P-6036

- 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 Tuesday, 23 January 2024
- 10 (The hearing starts in open session at 9.30 a.m.)
- 11 THE COURT USHER: [9:30:53] All rise.
- 12 The International Criminal Court is now in session.
- 13 Please be seated.
- 14 PRESIDING JUDGE SCHMITT: [9:31:08] Good morning, everyone.
- 15 Court officer, please call the case.
- 16 THE COURT OFFICER: [9:31:25] Good morning, Mr President, your Honours.
- 17 The situation in the Central African Republic II, in the case of The Prosecutor versus
- 18 Alfred Yekatom and Patrice-Edouard Ngaïssona, case reference ICC-01/14-01/18.
- 19 And for the record, we are in open session.
- 20 PRESIDING JUDGE SCHMITT: [9:31:42] Thank you.
- 21 I ask for the appearances of the parties. First, Ms Wakchom.
- 22 MS WAKCHOM: [9:31:49] Good morning, your Honours. Good morning,
- 23 everyone in the courtroom. The composition of the
- 24 Prosecution team is the same as yesterday.
- 25 PRESIDING JUDGE SCHMITT: [9:31:59] Thank you.

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1 And now I turn to the representatives of the victims. The composition has changed?

2 MS ASSO: [9:32:06] Yes, indeed.

3 PRESIDING JUDGE SCHMITT: [9:32:07] You have had significant losses, so to
4 speak.

5 MS ASSO: [9:32:11] Yes, indeed, Mr President. Good morning, your Honours.

6 Good morning, everyone in the courtroom. Today the victims of other crimes are
7 represented by myself, Mouhia Asso.

8 PRESIDING JUDGE SCHMITT: Thank you.

9 Mr Suprun.

10 MR SUPRUN: [9:32:23] Good morning, Mr President, your Honours. The
11 composition of the team representing the former child soldiers is the same as
12 yesterday. Thank you.

13 PRESIDING JUDGE SCHMITT: [9:32:30] I turn to Ms Dimitri. That's not easily to
14 oversee, actually, so you have to tell us.

15 MS DIMITRI: [9:32:37] Good morning, Mr President. Good morning, your
16 Honours. We also have a significant loss. Ms Bayssat is not with us this morning.
17 Mr Yekatom is present.

18 PRESIDING JUDGE SCHMITT: [9:32:44] Thank you.

19 Mr Knoops.

20 MR KNOOPS: [9:32:45] Good morning, Mr President, your Honours. Good
21 morning, everyone in the courtroom. We are in the same composition as yesterday.
22 Mr Ngaïssona is in the courtroom. Thank you.

23 PRESIDING JUDGE SCHMITT: [9:32:54] Thank you very much.

24 And very importantly, good morning, Mr Witness. I hope you are still feeling well
25 and are able and motivated to continue with your examination.

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

2 (The witness speaks Sango)

3 (The witness gives evidence via video link)

4 THE WITNESS: [9:33:10](Interpretation) Good morning, your Honour. I am fine,
5 thank you.

6 PRESIDING JUDGE SCHMITT: [9:33:19] Ms Wakchom, you still have the floor.
7 You may continue.

8 MS WAKCHOM: [9:33:28] (Interpretation) Thank you, your Honour.

9 QUESTIONED BY MS WAKCHOM: (Continuing) (Interpretation)

10 Q. [9:33:30] Good morning, Mr Ngbaba.

11 A. [9:33:35] Good morning.

12 Q. [9:33:36] I hope that you are well this morning.

13 A. [9:33:47] I am fine, thank you very much.

14 Q. [9:33:48] I'm going to continue with my questions which -- this morning. I
15 don't think I'll be very long.

16 MS WAKCHOM: [9:33:58] (Interpretation) Your Honour, with your leave, could we
17 go into private session, please?

18 PRESIDING JUDGE SCHMITT: [9:34:02] of course. We go to private session.
19 (Private session at 9.34 a.m.)

20 THE COURT OFFICER: [9:34:10] We are in private session, Mr President.

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5 (Open session at 9.51 a.m.)

6 THE COURT OFFICER: [9:51:10] We are in open session, Mr President.

7 MS WAKCHOM: [9:51:28](Interpretation)

8 Q. [9:51:29] Mr Ngbaba, the Prosecution managed to obtain the database of the

9 NGO ESF who has a list of children who were registered in order to participate in the
10 program organised by that NGO.

11 MS WAKCHOM: [9:51:48] Your Honour, I would like to ask the court officer to
12 display the document which is tab 8 of the OTP binder. This is the document
13 CAR-OTP-2115-0369.

14 PRESIDING JUDGE SCHMITT: [9:52:14] I think this is not to be displayed to the
15 public. This is not to be displayed to the public, but you can -- because I assume you
16 will discuss him, perhaps.

17 MS WAKCHOM: [9:52:22](Interpretation) That's correct.

18 PRESIDING JUDGE SCHMITT: [9:52:23] Okay, good.

19 MS WAKCHOM: [9:52:28](Interpretation) Your Honour, this is a confidential
20 document, so it should not be displayed to the public.

21 PRESIDING JUDGE SCHMITT: [9:52:41] And it's a document for people with good
22 glasses, too. Ms Guissé, you can read something on the document? No, I'm joking.
23 You have the floor, Ms Guissé. You want to -- you have an objection or remark or
24 whatsoever to make?

25 MS GUISSÉ: [9:53:05](Interpretation) Your Honour, a comment, in the way in which

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1 the Prosecution has introduced the document by saying that for this particular list,
2 I'm going to make a difference between the list of the 60 and 7. But on this list, to
3 introduce a thing saying that these are children who are registered, it doesn't
4 necessarily correspond with what we heard as evidence, on the way in which this list
5 was made or compiled. So perhaps you could reformulate the question in a more
6 neutral fashion so that there is no interpretation from the Prosecution on how this
7 document was compiled.

8 PRESIDING JUDGE SCHMITT: [9:53:49] You know, in the end, we know all the
9 different documents and, of course, the famous or infamous list of 60 something we
10 have seen so many times, and this is a different document, it's clear. Perhaps,
11 Ms Wakchom, you can enlighten us exactly what this document is. It's obviously a
12 part of a larger document, and please tell us, and specifically when you refer the
13 question to the witness, what it's about and what you want to know from him in that
14 regard.

15 MS WAKCHOM: [9:54:21](Interpretation) Yes, your Honour, as I said, this is a
16 database which we received from the NGO ESF and the tab which I want to show to
17 the witness is the list of children who were registered before verification. So it is the
18 first tab which is called "initial registration in Pissa". It's on the left-hand side of the
19 document.

20 PRESIDING JUDGE SCHMITT: [9:55:07] Thank you. Thank you. This makes it
21 clear. And now your question, please. And it's, of course, absolutely okay that you
22 put this document to the witness.

23 MS WAKCHOM: [9:55:16](Interpretation) Could the court officer go to the "initial
24 data Pissa 2014". Could we have that column, please. No.

25 THE COURT OFFICER: [9:56:01] Can you please specify the letter of the column?

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1 MS WAKCHOM: [9:56:04](Interpretation) It's the first -- you have to go E, F, G,

2 A -- you have to go more to the left. No, you're not on the right sheet.

3 PRESIDING JUDGE SCHMITT: [9:56:29] Well, what are we talking about? Are we

4 talking about CAR-OTP-2115-0369? Please --

5 MS WAKCHOM: [9:56:38](Interpretation) Initial data in Pissa.

6 Could you display 206.

7 Q. [9:57:16] Can you see the document before you, Mr Ngbaba?

8 A. [9:57:20] Yes, I can see the document.

9 Q. [9:57:28] Can you look at line 206, please.

10 PRESIDING JUDGE SCHMITT: [9:57:36] Mr Witness, it reads there "Ngbaba

11 Auguste". Is that your name?

12 THE WITNESS: [9:57:56] (Interpretation) As I said yesterday, my father and my

13 mother, who I have lost in the meantime, asked me never to enter into the Central

14 African Armed Forces, so I never participated in this. It could be that it's the other

15 Ngbaba Auguste who wanted to meet me, which never happened. But I'm really

16 surprised to see the name there on this list.

17 MS WAKCHOM: [9:58:40](Interpretation)

18 Q. [9:58:41] Are you saying there's another Ngbaba Auguste who lives in Pissa?

19 A. [9:58:48] There's a friend who told me that there is somebody who's called

20 Ngbaba Auguste and who wanted to meet me. It is one of my work colleagues who

21 said there is someone who had the same first name and last name as I did and that

22 person wanted to meet me. At that time, I was selling things in a shop and I wasn't

23 really interested in having this training, so I know nothing about this document. In

24 fact, I'm quite surprised.

25 Q. [9:59:35] And this Ngbaba Auguste, was he a child soldier, this other Auguste?

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1 A. [9:59:46] No. It's a friend of mine who told me this, but I never had the
2 opportunity of meeting him. You know, Ngbaba is widespread. There are several
3 other individuals who carry the same name.

4 Q. [10:00:16] So today you remember that there are other people who have the
5 same name as you in Pissa?

6 A. [10:00:26] Indeed, there are names. The spelling can change somewhat. Some
7 start with G, some start with N. But this name is widespread. I'm not the only
8 person to have this name.

9 Q. [10:00:57] And during your interviews with the Defence, did you tell them that
10 there were -- that there was another Ngbaba Auguste living in Pissa?

11 PRESIDING JUDGE SCHMITT: [10:01:09] Ms Guissé?

12 MS GUISSÉ: [10:01:11](Interpretation) I don't have a problem with the question of
13 the Prosecutor if she stops with "were there other Auguste Ngbabas", because in the
14 answer she speaks about a friend who mentioned the name, but he never said that the
15 other Auguste Ngbaba lived in Pissa as well. So either ask for clarification, but
16 presenting it as something which the witness said doesn't correspond with the
17 statement.

18 PRESIDING JUDGE SCHMITT: [10:01:41] Mr Witness, did you mention to the
19 Defence when you were interviewed that there existed other Auguste Ngbabas?

20 THE WITNESS: [10:01:50] (Interpretation) Yes. As I'm telling you, my friend
21 mentioned that, that this person had the same surname and the same first name, and
22 that the person wanted to meet me in order to know if there was a family relationship,
23 and I said to the people I work with that it wasn't the case. I said that this name was
24 common in Cameroon. It's a name of somebody in Cameroon and we were trying to
25 find out how it was that we had the same name. There are a lot of Ngbabas and, as

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1 I've told you, I thought that I said it to the team of the Defence as well.

2 PRESIDING JUDGE SCHMITT: [10:02:50] Ms Wakchom, please move on. The
3 witness has clearly said that it's -- that he doesn't know why he appears on that list, so
4 we have that, whatever it's worth, like always.

5 Please continue.

6 MS WAKCHOM: [10:03:07](Interpretation)

7 Q. [10:03:10] Witness, I put it to you that your name appears on this list because
8 you gave it to the NGO in order to benefit from training. What would you say to
9 that?

10 A. [10:03:36] I told you, or I'm telling you that I didn't have the time to participate
11 in training. And, secondly, my uncles prevented us from getting involved in what
12 was happening. I took my time to go to the shop and to go to football and
13 sometimes I just played one half. I didn't have the time to participate in such a
14 training.

15 Q. [10:04:30](Microphone not activated)

16 PRESIDING JUDGE SCHMITT: [10:04:32] Microphone, please.

17 MS WAKCHOM: [10:04:35](Interpretation)

18 Q. [10:04:37] Do you still have the document in front of you?

19 A. [10:04:46] Yes, I still have the document in front of me.

20 Q. [10:04:52] And do you know some of the names that appear in this document?

21 A. [10:05:07] No, never. Not at all.

22 MS WAKCHOM: [10:05:19] Could the court officer slowly take the document down.

23 MS GUISSÉ: [10:05:25](Interpretation) Your Honour, I think that we're going to have
24 a practical problem. We are not going to show 200 names. I think that's going to be
25 a bit complicated for the witness to go through that. This exercise appears to be

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1 fastidious, as far as I'm concerned.

2 PRESIDING JUDGE SCHMITT: [10:05:46] I agree, actually. So --

3 MS WAKCHOM: [10:05:51](Interpretation) We can start with line 191. If we make
4 the document smaller so that the witness can see several names on the screen.

5 PRESIDING JUDGE SCHMITT: [10:06:10] Ms Guissé, what is --

6 MS GUISSÉ: [10:06:12](Interpretation) Yes, your Honour, I think the witness
7 mentioned certain difficulties reading it. If the Prosecutor wants to draw the
8 attention to certain names, the witness can read them, putting the names to him,
9 without carrying out this exercise.

10 PRESIDING JUDGE SCHMITT: [10:06:27] So we go to private session.

11 (Private session at 10.06 a.m.)

12 THE COURT OFFICER: [10:06:31] We are in private session, Mr President.

13 PRESIDING JUDGE SCHMITT: [10:06:48] Mr Witness, this is the Presiding Judge
14 asking you. I'm putting some names to you and simply say you know, or you don't
15 know. I'm starting with 191.

16 Do you know a person Eric Deta?

17 THE WITNESS: [10:07:12] (Interpretation) I don't know him.

18 PRESIDING JUDGE SCHMITT: [10:07:13] Desire Dobo?

19 THE WITNESS: [10:07:19] (Interpretation) I don't know him.

20 PRESIDING JUDGE SCHMITT: [10:07:25] Bodoïn Moyabo?

21 THE WITNESS: [10:07:32] (Interpretation) I don't know him.

22 PRESIDING JUDGE SCHMITT: [10:07:38] Abdias Mokpian?

23 THE WITNESS: [10:07:45] (Interpretation) I don't know him.

24 PRESIDING JUDGE SCHMITT: [10:07:51] Jospin Ngoy?

25 THE WITNESS: [10:08:00] (Interpretation) I don't know him.

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1 PRESIDING JUDGE SCHMITT: [10:08:02] Ulrich Pita?

2 THE WITNESS: [10:08:07] (Interpretation) I don't know him.

3 PRESIDING JUDGE SCHMITT: [10:08:19] Jose-Francis Kolaba?

4 THE WITNESS: [10:08:26] (Interpretation) I don't know him.

5 PRESIDING JUDGE SCHMITT: [10:08:30] And I am not asking all. Everything
6 else -- we allow ourselves two further.

7 Arnauld -- that's 199, Arnauld Momokoama?

8 THE WITNESS: [10:08:45] (Interpretation) Momokoama? Not at all.

9 PRESIDING JUDGE SCHMITT: [10:08:58] And the final one, Elphege Mokokoka?

10 THE WITNESS: [10:09:09] (Interpretation) Never heard of him.

11 PRESIDING JUDGE SCHMITT: [10:09:16] I did it this way, Ms Wakchom, because
12 there is -- it's not so easy for the witness to read. I think we have enough. We could,
13 of course, if you don't have a lot to do today, we could go on with this until the
14 afternoon, but we won't do it.

15 Ms Wakchom, please move on to another theme. And if we can discuss further
16 questions in open session, we can go back to open session. Please let us know.

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- 25 (Open session at 10.20 a.m.)

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- 1 THE COURT OFFICER: [10:20:43] We are in open session, Mr President.
- 2 MS WAKCHOM: [10:20:59](Interpretation)
- 3 Q. [10:20:59] Mr Ngbaba, I would like to thank you for having patiently answered
- 4 my questions. I have finished with your cross-examination.
- 5 PRESIDING JUDGE SCHMITT: [10:21:10] Thank you, Ms Wakchom.
- 6 We turn now to the questioning by the representative of the victims of the child
- 7 soldiers, former child soldiers.
- 8 Before we start with that we have to announce an oral ruling on the Yekatom
- 9 Defence's objections against the use of documents by the CLRV1.
- 10 We turn to the objections raised by the Yekatom Defence against the use of the
- 11 documents on the CLRV1's list of material. The Chamber takes note of these
- 12 objections, as well as of the CLRV1's response thereto. Having considered the
- 13 arguments, as well as the documents, the Chamber's of the view that the CLRV1 is to
- 14 examine the witness without showing him the documents in question.
- 15 First, the Chamber considers that the witness is unlikely to be able to provide any
- 16 meaningful comment on the substance of the documents. He was not involved in
- 17 their production, is not mentioned therein and was also not otherwise in a position at
- 18 the relevant time which would enable him to comment meaningfully. Therefore,
- 19 showing the documents to the witness is highly unlikely to advance the questioning
- 20 by the CLRV1 in any way.
- 21 Second, and bearing in mind the witness's testimony so far, the Chamber's of the view
- 22 that the CLRV1 may draw information from the documents and use such information
- 23 in its questioning of the witness without having to actually show the documents to
- 24 him.
- 25 For example, the CLRV1 is free to ask the witness whether he knows the names of any

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1 relatives {ICR: (Redacted)}.

2 Third, the Chamber underlines that this discussion is separate from the question
3 whether, and, if so, in which context the Chamber may consider any request for
4 submission of these documents. Only if and when any or all of the documents are
5 recognised as submitted before the Chamber will it consider the reliability and
6 probative value.

7 In light of the above, the CLRV1 is instructed not to use any of the documents at issue
8 in its questioning of this witness.

9 Mr Suprun, you have understood and heard what I said. I understand that your
10 questioning will last about one hour; is this correct -- still correct?

11 MR SUPRUN: [10:24:13] Yes, indeed, Mr President.

12 PRESIDING JUDGE SCHMITT: [10:24:14] So what I could suggest, so that you can
13 adapt or adjust to the new situation, we can have a break now and continue
14 afterwards. I think that would be fair to you, to do it this way? Okay.

15 Then let's have the break until 11 and then we finish before the lunch break definitely.

16 Okay, thank you.

17 THE COURT USHER: [10:24:33] All rise.

18 (Recess taken at 10.24 a.m.)

19 (Upon resuming in open session at 11.01 a.m.)

20 THE COURT USHER: [11:01:27] All rise.

21 Please be seated.

22 PRESIDING JUDGE SCHMITT: [11:01:45] Still good morning, everyone.

23 Mr Suprun, you have the floor.

24 MR SUPRUN: [11:01:58] Thank you, Mr President.

25 I wish already to inform the Chamber that the entirety of my examination needs to be

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1 done in private session, because I will refer to specific person, for obvious reasons.

2 PRESIDING JUDGE SCHMITT: [11:02:08] That is rather obvious.

3 It's unfortunate for the audience, but the next hour or so, the questions put by counsel

4 to the witness refer to protected witnesses, and this cannot be dealt with in open

5 session, so we go to private session.

6 (Private session at 11.02 a.m.)

7 THE COURT OFFICER: [11:02:38] We are in private session, Mr President.

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11 (Open session at 11.56 a.m.)

12 THE COURT OFFICER: [11:56:25] We are in open session, Mr President.

13 PRESIDING JUDGE SCHMITT: [11:56:28] Thank you.

14 MS GUISSÉ: [11:56:30](Interpretation) Your Honour, at the risk of disappointing

15 you, I do have a few questions, but very short ones, so it will be finished in less than

16 10 minutes.

17 PRESIDING JUDGE SCHMITT: [11:56:40] Well, before you start, I would like to say

18 that Mr Suprun has quickly adapted to the new situation and conducted a

19 streamlined examination. Thank you for that.

20 Please, Ms Guissé.

21 QUESTIONED BY MS GUISSÉ:

22 MS GUISSÉ: [11:57:00](Interpretation) Thank you, your Honour.

23 Q. [11:57:00] Good day, Mr Ngbaba. Once again, Me Ngbaba, I have a few very

24 short questions to put to you and we'll be finished soon, but I would like to address

25 two or three points very quickly. My first question is that you mentioned with the

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1 Prosecutor the incident in which you fled with your brother and you spoke about a
2 white soldier. This was in the transcript of yesterday at 14:28:57, transcript 261.
3 You said that you saw French flags and it made it possible for you to understand that
4 it was about French soldiers, or that the French soldiers were there. My question is
5 as follows: Did you hear anybody speak about the Baoli operation?

6 A. [11:58:13] Never.

7 Q. [11:58:21] That would be my only question on that point. So that the parties
8 can follow me, I will refer to document CAR-OTP-2001-2769, page 2802; and a second
9 document, CAR-OTP-2001-2890, pages 2909 and 2910, which refers to that operation.
10 Witness, I still have another question to put to you, and this is on another subject.

11 Do you know anybody by the name of Morgan, or whose nickname is Morgan?

12 A. [11:59:23] Yes, he was in the Anti-Balaka movement.

13 Q. [11:59:31] When you say that he was in the Anti-Balaka movement, do I
14 understand from that that he was an Anti-Balaka that you saw in Pissa?

15 A. [11:59:41] Yes, absolutely. There was an Anti-Balaka in Pissa called Morgan.

16 Q. [11:59:50] For the attention of the Chamber and the parties, I refer to the
17 testimony of P-1647, transcript 1647, and where the name of Morgan is mentioned.

18 And I now go on to my last question, this is my last issue, and it was transcript 194.

19 {ICR: (Redacted)}

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)}

25 Q. [12:00:50] Thank you for these clarifications, Mr Ngbaba, and you will be

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1 delighted to hear that I've finished.

2 MS GUISSÉ: [12:01:00](Interpretation) Your Honour, I have no further questions and

3 I would like to thank you once again for your patience, Mr Ngbaba.

4 PRESIDING JUDGE SCHMITT: [12:01:02] Thank you very much. And if

5 something somehow or somewhere has to be redacted, we will do that, because -- yes,

6 it doesn't matter.

7 So, thank you very much, everyone, especially thank you very much, Mr Ngbaba, for

8 your testimony. We appreciate it, that you made yourself available as a witness in

9 these proceedings and we'd like to thank you for that, and we wish you a safe trip

10 back home.

11 THE WITNESS: [12:01:44](Interpretation) Thank you, your Honour.

12 (The witness is excused)

13 PRESIDING JUDGE SCHMITT: [12:01:49] This concludes also the hearing for today.

14 We continue already tomorrow with a new witness at 9.30. I think it's D-6025, is that

15 correct? Yes.

16 (The hearing ends in open session at 12.02 p.m.)