

Trial Hearing
Procedural Matters

(Open Session)

ICC-01/14-01/21

1 International Criminal Court
2 Trial Chamber VI
3 Situation: Central African Republic II
4 In the case of The Prosecutor v. Mahamat Said Abdel Kani - ICC-01/14-01/21
5 Presiding Judge Miatta Maria Samba, Judge Maria del Socorro Flores Liera
6 and Judge Sergio Gerardo Ugalde Godinez
7 Trial Hearing - Courtroom 2
8 Thursday, 17 November 2022
9 (The hearing starts in open session at 9.33 a.m.)
10 THE COURT USHER: [9:33:24] All rise. The International Criminal Court is now in
11 session. Please be seated.
12 PRESIDING JUDGE SAMBA: [9:33:38] Good morning, everyone.
13 Madam Court Officer, can you please mention the case.
14 THE COURT OFFICER: [9:33:52] Good morning, Madam President, your Honours.
15 The situation in the Central African Republic II, in the case of The Prosecutor versus
16 Mahamat Said Abdel Kani, case reference ICC-01/14-01/21. And we're in open session.
17 PRESIDING JUDGE SAMBA: [9:34:08] Thank you very much.
18 Can I ask counsel to introduce themselves, please, beginning with the Prosecution.
19 MS MAKWAIA: [9:34:14] May it please the Court, for the Office of the Prosecutor this
20 morning myself, Holo Makwaia, senior trial lawyer; Leonie von Braun, trial lawyer;
21 Yuichiro Omori, associate trial lawyer; Lisa Tamm, trial lawyer; and Adeline Belle,
22 visiting professional. Thank you.
23 PRESIDING JUDGE SAMBA: [9:34:37] Thank you very much.
24 Counsel for the victims, please.
25 MS PELLET: [9:34:41](Interpretation) Good morning, your Honour. The victims are

1 represented by Tars Van Litsenborgh and myself, Sarah Pellet, from the Office of Public
2 Counsel.

3 PRESIDING JUDGE SAMBA: [9:34:54] Thank you very much.

4 Ms Naouri, for the Defence, please.

5 MS NAOURI: [9:34:58](Interpretation) Thank you, your Honour. Next to me Dov

6 Jacobs, Manon Lanselle, and behind us, Capucine Banet. And as for myself, Jennifer

7 Naouri, lead counsel.

8 PRESIDING JUDGE SAMBA: [9:35:19] Thank you very much, Ms Naouri.

9 And for the record, I note that Mr Said is in court with us today.

10 A very good morning to you, Mr Said.

11 MR SAID: [9:35:30](Interpretation) Yes, good morning, your Honour, Madam

12 President.

13 PRESIDING JUDGE SAMBA: [9:35:33] Yes.

14 Now, before calling the witness, the Chamber notes that the Prosecution submitted a

15 request to introduce the annex to P-0435's witness preparation log pursuant to Rule

16 68(3) of the Rules of Procedure and Evidence.

17 I'll wish to read out our ruling in respect of that request, having received a response

18 from the Defence.

19 We received the request on Tuesday, 15 November, and the Defence submitted a

20 written response to the Prosecution's request yesterday. And, for the record, the

21 response is Filing No. 553 of the record, the request is Filing No. 552 of the record.

22 The annex contains additions, corrections and clarifications to P-0435's prior recorded

23 testimony whose introduction via Rule 68(3) the Chamber already granted. The annex

24 also contains additional information in that the witness was asked to comment on

25 documents shown to her during the witness preparation session.

1 The Prosecution submits that the annex bears sufficient indicia of reliability, that it's
2 relevant and probative and that its introduction would expedite the proceedings.

3 In its response to the Prosecution's request, the Defence objects to the introduction of
4 the annex pursuant to Rule 68(3) of the Rules of Procedure and Evidence. The Defence
5 submits that insofar as there are corrections to a previous statement, the only way to
6 proceed is to discuss them in court. In this regard, the Defence notes that there is no
7 control over the manner in which the annex is prepared and there is no verbatim
8 transcript, so there is no way to know what questions have been asked and the manner
9 of such questioning.

10 Furthermore, the Defence notes that it is for the Prosecution, and not the Defence, to
11 clarify contradictions between a previous statement and the preparation log. In this
12 sense, the Defence avers that the annex must be explored by the Prosecution viva voce
13 with the witness in order to ensure that the criteria for her prior recorded are met.

14 The Defence also submits that no time would be saved as the Defence will have to go
15 over the entirety of the annex to verify the accuracy of the corrections and additions.

16 Similarly, the Defence notes that it does not have sufficient time to properly analyse the
17 annex in order to formulate a proper response.

18 At the outset, the Chamber takes into account the content of the annex and does not
19 find that the Defence would suffer prejudice if the annex were to be introduced
20 pursuant to Rule 68(3). The information contained in the annex contains

21 approximately two pages of corrections and clarifications made by the witness to her
22 prior recorded testimony, which do not significantly change the substance of her prior
23 recorded testimony. The annex further contains a number of short comments P-0435
24 made when shown additional documents by the Prosecution.

25 The Chamber notes that all the documents shown to the witness for additional

1 comments have been in the Defence's possession for some time. In particular, the
2 Chamber observes that one has already been used by the Defence during the
3 questioning of another witness. Furthermore, the Chamber notes that the number of
4 additional documents shown to the witness are limited and her comments are similarly
5 limited. Accordingly, the Chamber finds that the Defence does not suffer prejudice in
6 this regard.

7 Additionally, the Chamber recalls that the Defence will be afforded reasonable time to
8 raise issues it considers relevant during its questioning of P-0435, including the reasons
9 behind the clarifications and additions contained in the annex to the preparation log.

10 The Chamber points out that the fulfilment of the outstanding criteria of Rule 68(3) of
11 the Rules will necessarily be done with the witness viva voce in the courtroom.

12 In light of the above, the Chamber finds that the introduction of annex of P-0435's
13 preparation log does not unduly infringe upon the rights of the accused and does not
14 prejudice the Defence. Accordingly, the Chamber authorises the introduction of the
15 annex under Rule 68(3) of the Rules. The Prosecution is instructed, when satisfying the
16 outstanding requirements of Rule 68(3), to also fulfil them in respect of the annex.

17 Now, this concludes the Chamber's oral decision.

18 We note that the Prosecution is now calling its 12th witness, P-0435. At the outset, I
19 wish to note the following for the parties.

20 We understand that this witness will be testifying in French. I will, therefore, remind
21 everyone of the importance of the need to speak slowly for the interpreters and to
22 observe the five-second rule between questions and answers.

23 Before commencing, the Chamber notes briefly that protective measures are confirmed
24 for this witness by virtue of Decision 537, and that the VWU recommends no further
25 protective measures.

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- 1 Can I ask the court clerk to please bring the witness in. Thank you.
- 2 (The witness enters the courtroom)
- 3 PRESIDING JUDGE SAMBA: [9:44:07] Good morning, Madam Witness.
- 4 THE WITNESS: [9:44:11](Interpretation) Good morning.
- 5 PRESIDING JUDGE SAMBA: [9:44:14] You are going to testify before the International
- 6 Criminal Court. And on behalf of the Chamber, I welcome you to this courtroom.
- 7 THE WITNESS: [9:44:30](Interpretation) Thank you.
- 8 PRESIDING JUDGE SAMBA: [9:44:31] You should have before you, Madam Witness,
- 9 the solemn undertaking to tell the truth, which every witness who appears before the
- 10 Court takes before testifying.
- 11 Do you have that document before you? If so --
- 12 THE WITNESS: [9:44:55](Interpretation) Yes, I've got it.
- 13 PRESIDING JUDGE SAMBA: [9:44:57] Can I ask that you read it out loud for us,
- 14 please.
- 15 THE WITNESS: [9:45:05](Interpretation) I solemnly declare that I will tell the truth, the
- 16 whole truth, and nothing but the truth.
- 17 WITNESS: CAR-OTP-P-0435
- 18 (The witness speaks French)
- 19 PRESIDING JUDGE SAMBA: [9:45:14] Thank you very much, Madam Witness. And
- 20 do you understand and agree to what you just read out?
- 21 THE WITNESS: [9:45:27](Interpretation) Yes, I understand this. Yes.
- 22 PRESIDING JUDGE SAMBA: [9:45:33] Good. Good. So we will now continue.
- 23 Madam Witness, let me explain to you the protective measures that the Chamber has
- 24 put in place for your testimony.
- 25 We have in place for you a voice and face distortion for the duration of your testimony.

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1 Now, this means that no one outside the courtroom can see your face or hear your real
2 voice during your testimony.

3 We also have put in place for you the use of pseudonym. So in accordance with that,
4 all of us will only refer to you as "Madam Witness" to make sure that the public does
5 not know your name.

6 When you answer questions that will not give away who you are, we will do so in
7 open session, which means that the public can hear what is being said in the
8 courtroom.

9 When you're asked to describe anything that relates specifically to you or you are
10 asked to mention facts that might reveal your identity, we will do so in private session.

11 And, lastly, I have a few practical matters you should have in mind when giving your
12 testimony. Everything we say here in the courtroom is written down and interpreted.
13 It is, therefore, important to speak clearly and slowly.

14 Please speak into the microphone and only start speaking when the person asking you
15 the question has finished speaking.

16 To allow for the interpretation, everyone has to wait a few minutes before starting to
17 speak.

18 If you have any question yourself that you want to ask, or if you want to take a break,
19 for example, please just raise your hand and we will know that you want to say
20 something.

21 Do you understand all that I've said, Madam Witness?

22 THE WITNESS: [9:48:12](Interpretation) Yes, I've understood fully.

23 PRESIDING JUDGE SAMBA: [9:48:17] Thank you very much. We are now going to
24 start with your testimony. And I'm going to call upon the Prosecution to start
25 questioning you so as to fulfil the requirements of Rule 68(3) of the rules. Thank you

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- 1 very much.
- 2 Prosecutor, please.
- 3 MS MAKWAIA: [9:48:45] Madam President, your Honours, Mr Omori shall be leading
- 4 the evidence of the witness this morning.
- 5 PRESIDING JUDGE SAMBA: [9:48:58] Thank you very much.
- 6 Mr Omori, please.
- 7 MR OMORI: [9:49:01] Thank you, Madam President.
- 8 QUESTIONED BY MR OMORI:
- 9 Q. [9:49:05] Good morning, Madam Witness.
- 10 A. [9:49:07] Good morning.
- 11 Q. [9:49:10] We have met before. My name is Yuichiro Omori, and I'll be asking you
- 12 questions today on behalf of the Office of the Prosecutor. And if any of my questions
- 13 are unclear to you, please tell me and I will rephrase the question. Is that okay with
- 14 you, Madam Witness?
- 15 A. [9:49:31] Okay. Yes, fine.
- 16 MR OMORI: [9:49:40] Madam President, for the first set of questions I would like to
- 17 briefly go into private session because it pertains to the witness's identity.
- 18 PRESIDING JUDGE SAMBA: [9:49:47] Thank you.
- 19 Madam Court Officer, can we go briefly into private session, please.
- 20 (Private session at 9.50 a.m.)
- 21 THE COURT OFFICER: [9:49:58] We're in private session, Madam President.
- 22 PRESIDING JUDGE SAMBA: [9:50:03] Thank you.
- 23 Mr Omori, continue, please.
- 24 MR OMORI: [9:50:07] Thank you.
- 25 Q. [9:50:13] Madam Witness, can you tell us your full name, please.

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- 1 (Redacted)
- 2 Q. [9:53:31] Thank you.
- 3 MR OMORI: [9:53:32] Madam President, we can now return to open session.
- 4 PRESIDING JUDGE SAMBA: [9:53:35] Madam Court Officer, can we go back into
- 5 open session, please.
- 6 (Open session at 9.53 a.m.)
- 7 THE COURT OFFICER: [9:53:50] We are back to open session, your Honours.
- 8 PRESIDING JUDGE SAMBA: [9:53:51] Thank you very much.
- 9 Mr Omori, please.
- 10 MR OMORI: [9:53:53] Thank you.
- 11 Q. [9:53:55] Madam Witness, do you remember being interviewed by the
- 12 investigators of the Office of the Prosecutor?
- 13 A. [9:53:59] Indeed.
- 14 Q. [9:54:09] And do you remember how many times you were interviewed by the
- 15 investigators?
- 16 A. [9:54:21] I met for the first time -- it was in (Redacted) in 2015. Oh, I think it was
- 17 November, but I can't remember exactly the date. That was the first time. From time to
- 18 time the ICC called me, even when I was back home, to ask my position, to see how I
- 19 was, whether my family was okay. That's how it happened.
- 20 And for the second time, I met -- I think it was in 2022. I think it was (Redacted), I once
- 21 again met an investigator in Bangui.
- 22 Q. [9:55:30] Thank you. At the end of these meetings, did you give your statements
- 23 to the investigators?
- 24 A. [9:55:35] No, they didn't give me a statement. I signed, but they didn't give it to
- 25 me.

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1 Q. [9:55:50] Yes, Madam Witness. How many statements did you sign?

2 A. [9:55:53] I think I signed two statements. The first was in (Redacted), and the second
3 was when they met me in my country.

4 Q. [9:56:18] Madam Witness, I will now show you a document and ask you if you
5 recognise it.

6 MR OMORI: [9:56:23] Could I kindly ask the court officers to display tab 1 on the
7 screen, please. And it is at CAR-OTP-2017-0036, and it is a confidential document.

8 PRESIDING JUDGE SAMBA: [9:56:43] And while we do that, Mr Omori. While we do
9 that, the practice of -- we'll be fine with the witness just recognising her signature, if at
10 all, and the Defence, we note, has no issue with that.

11 And, Ms Naouri, in the event that while we go on you have any issues, please do feel
12 free to let us know.

13 My information is that they have no problem with that.

14 MS NAOURI: [9:57:26](Interpretation) No objection, your Honour.

15 PRESIDING JUDGE SAMBA: [9:57:29] Thank you. So we'll save time.

16 Go on, Mr Omori.

17 MR OMORI: [9:57:34] Thank you, Madam President.

18 Q. [9:57:35] Madam Witness, do you see a document on your screen?

19 A. [9:57:38] Yes, I see the document, which talks about my identity. And perhaps it
20 might be the first page of my statement.

21 Q. [9:58:09] Thank you.

22 MR OMORI: [9:58:10] Now could I ask the court officers to turn to the next page,
23 which is on 0037 on the same document, please. And if you could zoom in to the top of
24 the page with the signature.

25 Q. [9:58:26] Madam Witness, do you recognise the signature on this page?

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- 1 A. [9:58:28] Yes, it's my signature. And it's my writing. I wrote that.
- 2 Q. [9:58:38] And your signature that you identify on this page, is it the one on the
- 3 right side or left side of the screen?
- 4 A. [9:58:44] It's the one on the left of the screen.
- 5 Q. [9:59:04] Thank you.
- 6 MR OMORI: [9:59:05] Now, could I ask the court officers to move to page 0073 of the
- 7 same document, please. And if you could zoom in to the signature at the bottom.
- 8 THE WITNESS: [9:59:25](Interpretation) Yes, that's my signature.
- 9 MR OMORI: [9:59:28]
- 10 Q. [9:59:28] And the date written below your signature, who wrote this date?
- 11 A. [9:59:33] I don't remember exactly. I don't know if it's me or someone else, but the
- 12 signature is definitely mine.
- 13 Q. [9:59:53] Thank you. That's not a problem. And, Madam Witness, during this first
- 14 interview, did you provide documents to the investigators?
- 15 A. [9:59:57] I can't remember exactly, but I think I did provide some documents.
- 16 Some documents. Some.
- 17 Q. [10:00:15] Thank you. And if I show you these documents on your screen, would
- 18 you be able to recognise them?
- 19 A. [10:00:27] Go ahead.
- 20 MR OMORI: [10:00:35] Could I kindly ask the court officer to display tab 4 for the
- 21 witness, please, and it is at CAR-OTP-2017-0075.
- 22 Q. [10:00:51] Madam Witness, do you recognise this document? And just be mindful
- 23 we are in open session. Yes, Madam Witness?
- 24 A. [10:01:29] (No interpretation)
- 25 MR OMORI: [10:01:38] I think the witness said she wants to go into private session.

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1 PRESIDING JUDGE SAMBA: [10:01:42] Madam Witness, would you want to go into
2 private session to deal with this document?

3 THE WITNESS: [10:01:52](Interpretation) Yes.

4 PRESIDING JUDGE SAMBA: [10:01:53] Thank you.

5 Madam Court Officer, can we go into private session, please.

6 (Private session at 10.02 a.m.)

7 THE COURT OFFICER: [10:02:06] We're in private session, Madam President.

8 PRESIDING JUDGE SAMBA: [10:02:09] Thank you very much.

9 Mr Omori, can you put your question again --

10 MR OMORI: [10:02:12] Yes.

11 PRESIDING JUDGE SAMBA: [10:02:13] -- to the witness?

12 MR OMORI: [10:02:15] Yes, certainly.

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

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18 (Redacted)

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23 MR OMORI: [10:15:51] Thank you, Madam President. And I believe we can go back to
24 open session for the next statement.

25 PRESIDING JUDGE SAMBA: [10:15:57] Madam Court Officer, can we go back into

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- 1 open session, please.
- 2 (Open session at 10.16 a.m.)
- 3 THE COURT OFFICER: [10:16:13] We are in open session, Madam President.
- 4 PRESIDING JUDGE SAMBA: [10:16:20] Thank you very much.
- 5 Mr Omori, continue, please.
- 6 MR OMORI: [10:16:27] Thank you very much, Madam President.
- 7 Q. [10:16:29] Now, Madam Witness, previously you mentioned that you gave to the
- 8 investigators two statements or you signed two statements, so I would like to move to
- 9 this second statement.
- 10 MR OMORI: [10:16:43] And it is tab 3. And I would like to have tab 3 displayed for the
- 11 witness, please. And it is at CAR-OTP-2136-0576.
- 12 Q. [10:17:02] Madam Witness, do you recognise this document?
- 13 A. [10:17:06] Yes, I do. That's my writing, my writing and my name, and I am the
- 14 one who signed it. And I see the name of the investigator as well at the bottom. I
- 15 recognise this document.
- 16 Q. [10:17:36] Thank you. And your signature that you identify on this page, is it on
- 17 the first line, second line, or the third line? And if you need the signature to be zoomed
- 18 in, we will be able to do that.
- 19 A. [10:17:58] I just see one line, a single signature.
- 20 Q. [10:18:06] So, Madam Witness, there are two names and then two signatures. Is
- 21 your signature on the top or the bottom?
- 22 A. [10:18:15] That's my name at the top with the signature beside it. At the bottom, I
- 23 see the name of the investigator with her signature beside it.
- 24 Q. [10:18:34] Thank you for that clarification, Madam Witness.
- 25 MR OMORI: [10:18:38] Now, could I ask the Court Officer to move to page 0587 of the

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1 same document, please. And if you could zoom in to the signature on this page.

2 Q. [10:19:02] Madam Witness, whose signature is this?

3 A. [10:19:05] This is my signature. And the date is -- I wrote it as well. I recognise
4 my handwriting.

5 Q. [10:19:28] Thank you. And, Madam Witness, do you remember that you were
6 shown a number of documents during this second interview by the investigator?

7 A. [10:19:35] Yes, the documents -- all the documents were shown to me, but they -- I
8 wasn't shown -- there was an entire bunch of or an entire group of documents, and
9 some of the documents were taken out of the pile and shown to me.

10 Q. [10:20:17] Thank you.

11 MR OMORI: [10:20:19] Now, could I ask the court officer to move to page 0580 of the
12 same document, please, and starting from paragraph 22 on that document. And I also
13 have a physical copy of the same document with me. And with your leave, Madam
14 President, if I could hand this over to the Defence team for inspection and then to the
15 witness, please.

16 PRESIDING JUDGE SAMBA: [10:20:48] Yes, we can do that.

17 Mr Court Clerk, can you help us, please.

18 MR OMORI: [10:21:42]

19 Q. [10:21:43] Now, Madam Witness, I will ask you to read this document to yourself
20 since we are still in open session, and from paragraph 22 to 30 of this document. And if
21 you want to see a specific document mentioned in these paragraphs, please let me
22 know and the document will be displayed on your monitor.

23 PRESIDING JUDGE SAMBA: [10:24:55] Mr Omori, is it your intention to look at any of
24 those documents? Because I'm of the impression that you dealt with all of these issues
25 during the preparation of the witness, and there's a ruling already on file.

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1 MR OMORI: [10:25:12] Yes, Madam President. My intention was to avoid showing all
2 these documents mentioned in the second statement. I want the witness to confirm
3 that the documents shown during the second interview are, indeed, reflected in her
4 second statement. However, I am in your hands, Madam President. If you do not
5 deem this procedure to be necessary, we can move on to the next question.

6 PRESIDING JUDGE SAMBA: [10:25:43] Madam Witness, do you have any issues with
7 the documents referred to in the paragraphs the counsel just asked you to read?

8 THE WITNESS: [10:26:05](Interpretation) Thank you. It's not a problem, because I've
9 read this over. If there had been any corrections, I would have made them. But I
10 reiterate what I've already said in my earlier statement.

11 PRESIDING JUDGE SAMBA: [10:26:20] Thank you very much.

12 Mr Omori, can you go on please.

13 MR OMORI: [10:26:26] Certainly, Madam President.

14 Now, Madam President, my next question would be about Annex A to the witness
15 preparation log, and I would like to continue with my questions to meet the procedural
16 requirements under Rule 68(3).

17 PRESIDING JUDGE SAMBA: [10:26:39] Go on, please.

18 MR OMORI: [10:26:42] Thank you, Madam President.

19 Q. [10:26:47] Now, Madam Witness, I think you just mentioned now, but I'm going to
20 ask you again. Before you came to the Court today, did you meet with lawyers of the
21 Office of the Prosecutor, including myself?

22 PRESIDING JUDGE SAMBA: [10:26:59] Can I ask the witness to put the document
23 aside for now so that we complete this procedure.

24 Mr Court Clerk, can you help us take the document from the witness? Thank you.

25 Can you put your question, Mr Omori.

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1 MR OMORI: [10:27:34] Certainly, Madam President.

2 Q. [10:27:36] So, Madam Witness, I will ask you again. Before you came to the Court
3 today, did you meet with lawyers of the Office of the Prosecutor?

4 A. [10:27:43] Yes, we did meet, for 48 hours.

5 Q. [10:27:59] Thank you. And during the session, were you given an opportunity to
6 read your two statements and also review all the documents mentioned in these two
7 statements?

8 A. [10:28:06] Indeed. During these meetings, I went through my statements. And as
9 I was saying, I gave the first statement in 2015. And thanks to them, I found myself --
10 well, I didn't know about some things that I said yesterday. But by skimming through
11 or going over the documents, this has been helpful to me. And, yes, this is my
12 statement. Thank you.

13 Q. [10:28:49] Thank you. And during this meeting, were you also told that you can
14 make corrections, clarifications, or additions to your two statements?

15 A. [10:28:58] Indeed, they specified that to me. And I think I did make not a lot of
16 corrections but some corrections to a few parts.

17 Q. [10:29:25] Thank you.

18 MR OMORI: [10:29:25] Now, could I ask the court officer to display tab 33 of our list of
19 material, please. And it is at CAR-OTP-00000620. Thank you.

20 And I also have a physical copy. With your leave, Madam President, I would like this
21 to be handed over to the Defence for inspection and then to the witness, please.

22 PRESIDING JUDGE SAMBA: [10:30:20] Okay.

23 Mr Court Clerk, can you kindly help us with that.

24 MR OMORI: [10:31:12]

25 Q. [10:31:12] Madam Witness, do you recognise this document? What is this

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1 document?

2 A. [10:31:14] Yes, it's one of my statements. Perhaps there might be a correction to
3 what I've just said.

4 Q. [10:31:48] What do you mean by the corrections that you have just said?

5 A. [10:31:52] For example --

6 Q. [10:32:02] Madam Witness, we are in open session, so please do not read it out. If
7 you want to say that, we can go into private session.

8 PRESIDING JUDGE SAMBA: [10:32:15] Do you want for us to go into private session,
9 Madam Witness?

10 THE WITNESS: [10:32:20](Interpretation) Yes.

11 PRESIDING JUDGE SAMBA: [10:32:21] Madam Court Officer, can we go quickly into
12 private session, please.

13 (Private session at 10.32 a.m.)

14 THE COURT OFFICER: [10:32:37] We are in private session, your Honours.

15 PRESIDING JUDGE SAMBA: [10:32:42] Thank you very much.

16 Yes, Madam Witness.

17 THE WITNESS: [10:32:45](Interpretation) I spoke about corrections based on questions
18 that were put to me for clarifications where they wanted clarification on certain points.

19 Let me give an example, 28:

20 "Why did you say that, madam?"

21 And then I gave a further explanation. That's what I meant when I say "corrections". If
22 I go through this document which I have in front of me, it were clarifications that I
23 provided. And I said, for example, in 38, the question was put to me was I sure that it
24 was the presidential guards that carried out the looting, and then I answered that
25 particular question. *I would like to specify that I didn't see the Presidential Guard

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- 1 looting, but I know so, (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 So this is further information that I could provide to the questions that were put to me.
- 5 So they were details, additions to what I'd already said as regards their concerns to
- 6 make sure they fully understood what I was saying. So I provided additional
- 7 informations, additional explanations. Otherwise, I recognise the document.
- 8 PRESIDING JUDGE SAMBA: [10:34:21] Thank you very much, Madam Witness.
- 9 Mr Omori, do you want for us to go back into open session?
- 10 MR OMORI: [10:34:28] I think we can go back to open session.
- 11 PRESIDING JUDGE SAMBA: [10:34:29] Yes, Madam Court Officer, can we go back
- 12 into open session, please. Thank you.
- 13 (Open session at 10.34 a.m.)
- 14 THE COURT OFFICER: [10:34:46] We're in open session, Madam President.
- 15 PRESIDING JUDGE SAMBA: [10:34:48] Thank you very much.
- 16 Yes, Mr Omori, go on.
- 17 MR OMORI: [10:34:50] Now, I would like to ask the court officer to display page
- 18 000005 of the same document, please. And if you could zoom in to the signature.
- 19 Q. [10:35:20] Madam Witness, whose signature is this?
- 20 A. [10:35:23] It's my signature.
- 21 Q. [10:35:32] Thank you. And before you signed this document, were you given an
- 22 opportunity to read this document?
- 23 A. [10:35:37] Yes. When the document was made, I read it.
- 24 Q. [10:35:56] And, Madam Witness, the corrections and additions and clarifications
- 25 that you made during this session with us, are they reflected accurately in this

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1 document?

2 A. [10:36:04] Yes, I can confirm that, because I re-read it before I signed it. I read it
3 before signing. And if it wasn't correct, I said, "No, that's not what I said," and then
4 they adjusted it. And that's how we worked through the document. And after that, I
5 re-read it again and signed.

6 Q. [10:36:32] Thank you. And when you made these corrections or clarifications or
7 additions, did you tell the truth to the best of your knowledge and recollection?

8 A. [10:36:41] If I'm here, it's to tell you the truth. I don't want to add anything else. I
9 don't want to invent something. I can only but tell the truth. If I don't know, I'll simply
10 say I don't know.

11 Q. [10:37:05] Thank you. And this is just for to confirm. Aside from the corrections
12 and clarifications that you made to your two statements, did you also tell the truth to
13 the best of your knowledge and recollection when you gave your two statements to the
14 investigators?

15 A. [10:37:20] I repeat that I always tell the truth and nothing but the truth. It doesn't
16 serve any purpose to invent something or the lie. I say what I know and that's it.

17 Q. [10:37:43] Thank you. Now, Madam Witness, the Judges in this case can use your
18 statement and the documents we just looked at as part of the evidence in this trial,
19 together with the corrections and clarifications that you made earlier, to help them
20 decide the truth, but they can only do so if you do not object. So my question to you,
21 Madam Witness, is do you have any objections to this procedure?

22 A. [10:38:14] I think I'm here in order to give you clarifications. If they want any
23 clarifications, I am here for that. Otherwise, I wouldn't be here.

24 Q. [10:38:41] Madam Witness, thank you for that. My question specifically was, your
25 two statements and the clarifications that you made this week, is it okay for the Judge

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1 to look at it and then consider it as your testimony -- your evidence in this case?

2 A. [10:39:05] I don't know what happens here. I talked, this is my statement, but I
3 don't know what happens here. I don't know how you do the things. I don't know
4 how you organise yourself here. I don't know that. I don't know a lot about that.

5 PRESIDING JUDGE SAMBA: [10:39:29] So, Madam Witness, can we use them -- us
6 Judges, can we use your statement to go through this trial and consider them when we
7 are making our judgement? Is it okay with you? That's the question.

8 THE WITNESS: [10:39:51](Interpretation) Yes. You take my statement and use it.
9 Otherwise, what's the point? Why do I make a statement and that that statement is just
10 being forgotten and you don't use it? So I think that's it. You must use it in this case.
11 Otherwise, what's the point?

12 PRESIDING JUDGE SAMBA: [10:40:07] Okay. Thank you very much, Madam
13 Witness.

14 Mr Omori, please.

15 MR OMORI: [10:40:13]

16 Q. [10:40:16] Thank you so much, Madam Witness.

17 MR OMORI: [10:40:17] And, Madam President, I believe we have met the procedural
18 requirements of Rule 68(3) for this witness, unless you instruct otherwise.

19 PRESIDING JUDGE SAMBA: [10:40:27] Thank you very much, Mr Omori. And you
20 having met the requirements of Rule 68(3) of the Rules of Procedure and Evidence of
21 the Court, I'm going to ask counsel for the Defence to take over with the cross-
22 examination of this witness.

23 Just a moment.

24 (Trial Chamber and court officer confer)

25 PRESIDING JUDGE SAMBA: [10:41:01] Yes, Madam Witness.

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- 1 THE WITNESS: [10:41:06](Interpretation) I would like to relieve myself, if I may.
- 2 PRESIDING JUDGE SAMBA: [10:41:08] Certainly. Certainly. We'll give you some five
- 3 minutes. Or if you --
- 4 THE WITNESS: [10:41:13](Interpretation) Where is the bathroom?
- 5 PRESIDING JUDGE SAMBA: [10:41:16] Madam Court Officer, can you assist the
- 6 witness quickly, please.
- 7 (The witness exits the courtroom)
- 8 (The witness enters the courtroom)
- 9 PRESIDING JUDGE SAMBA: [10:44:17] Thank you very much, Mr Court Clerk.
- 10 I see Mr Jacobs will be doing the cross-examination, I see from the desk. Am I correct?
- 11 MS NAOURI: [10:44:35](Interpretation) Your Honour, absolutely. It's Counsel Jacobs
- 12 who will do the cross-examination.
- 13 PRESIDING JUDGE SAMBA: [10:44:39] Okay. Thank you very much, Ms Naouri.
- 14 Mr Jacobs, your witness. Just so we note that we're in open session. Thank you.
- 15 MR JACOBS: [10:44:57](Interpretation) Thank you, your Honour.
- 16 Yes, for my first question, if we could move into private session, please.
- 17 PRESIDING JUDGE SAMBA: [10:45:07] Madam Court Officer, can we go briefly into
- 18 private session, please. Thank you.
- 19 (Private session at 10.45 a.m.)
- 20 THE COURT OFFICER: [10:45:25] We're in private session, your Honours.
- 21 PRESIDING JUDGE SAMBA: [10:45:26] Thank you.
- 22 Mr Jacobs.
- 23 MR JACOBS: [10:45:29](Interpretation) Thank you, your Honour.
- 24 QUESTIONED BY MR JACOBS: (Interpretation)
- 25 Q. [10:45:31] Good morning, Ms Witness.

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1 A. [10:45:33] Good morning.

2 Q. [10:45:34] My name is Dov Jacobs and I am going to ask you questions on behalf
3 of the Defence team of Mr Said.

4 As we are speaking the same language, as the President Judge has said, everything we
5 are saying is going to be interpreted and transcribed. So I'm going to force myself to
6 wait five seconds and also put out my microphone, and if you could do likewise, in
7 that way the file will be complete and everything will be interpreted.

8 A. [10:46:05] That's fine.

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

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18 (Redacted)

19 (Redacted)

20 (Redacted)

21 Q. [11:00:15] Thank you, Madam Witness.

22 MR JACOBS: [11:00:20](Interpretation) Your Honour, I see the time.

23 PRESIDING JUDGE SAMBA: [11:00:24] Yes, I was so much in the witness's testimony I
24 didn't even realise it was already 11.00.

25 Madam Witness, what we're going to do now is to take a short break and come back

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- 1 after 30 minutes so that Counsel Jacobs will continue with his cross-examination.
- 2 So I rise the Court and ask that we come back after 30 minutes, please.
- 3 THE COURT USHER: [11:00:51] All rise.
- 4 (Recess taken at 11.00 a.m.)
- 5 (Upon resuming in open session at 11.31 a.m.)
- 6 THE COURT USHER: [11:31:14] All rise. Please be seated.
- 7 PRESIDING JUDGE SAMBA: [11:31:39] Good morning again, everyone.
- 8 Mr Jacobs, continue with the cross-examination, please. We're in open session, just for
- 9 the record.
- 10 MR JACOBS: [11:31:52](Interpretation) Thank you, your Honour. I would like to
- 11 continue going over the witness's professional trajectory and education, so I think it
- 12 would be better for us to go into private session.
- 13 PRESIDING JUDGE SAMBA: [11:32:09] Okay.
- 14 Madam Court Officer, briefly, please, into private session.
- 15 (Private session at 11.32 a.m.)
- 16 THE COURT OFFICER: [11:32:25] We're in private session, Madam President.
- 17 MR JACOBS: [11:32:30](Interpretation) Thank you.
- 18 Q. [11:32:31] Good morning once again.
- 19 A. [11:32:33] Good morning.
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

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7 Q. [12:27:25] Thank you, Madam Witness. Now, I'm going to move on to another
8 topic.

9 MR JACOBS: [12:27:42](Interpretation) Your Honour, I think we should go into private
10 session in order -- because there might be some private information that's disclosed.

11 PRESIDING JUDGE SAMBA: [12:27:56] Madam Court Officer, can we go into private
12 session, please.

13 THE COURT OFFICER: [12:28:16] We are already in private session, your Honours.

14 PRESIDING JUDGE SAMBA: [12:28:27] I thought as much.

15 Mr Jacobs, please.

16 MR JACOBS: [12:28:30](Interpretation) Perhaps there was a misunderstanding in the
17 interpretation. I said we were able to go into open session as long as there's no
18 personal information that's disclosed. So we can go into open session.

19 PRESIDING JUDGE SAMBA: [12:28:41] Madam Court Officer, can we go into open
20 session, please.

21 (Open session at 12.28 p.m.)

22 THE COURT OFFICER: [12:28:54] We are in open session, your Honour. Thank you.

23 PRESIDING JUDGE SAMBA: [12:28:57] Thank you very much.

24 Mr Jacobs, please.

25 MR JACOBS: [12:29:04](Interpretation) Thank you, your Honour.

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1 Q. [12:29:34] Madam Witness, you said this morning --

2 MR JACOBS: [12:29:37](Interpretation) It is T40, transcript, page 10, line 9.

3 Q. [12:29:48] -- that you met the investigators for the first time in (Redacted) in 2015; is that
4 correct?

5 A. [12:29:51] Indeed.

6 Q. [12:30:03] So in order to organise this first meeting in (Redacted), when did the
7 investigators contact you initially for this meeting?

8 A. [12:30:12] I don't remember exactly, but one day I was at home -- no, no, it wasn't
9 like that. One day (Redacted). My telephone rang, and

10 the person introduced themselves by saying, "Madam, I'm calling you (Redacted)

11 (Redacted). Are you prepared to meet us?"

12 He introduced himself and said he was from the ICC, and said, "Could we meet at the

13 (Redacted) What time do you finish?" And I said the time I finish, and then he

14 said, "When you finish, just call this number and then we'll meet." And that is how I

15 called -- after I finished my work, I called that number and we met at the (Redacted)

16 I looked for them. They were three of them, two men, and I think one lady. One lady

17 and two men who met me.

18 There was one, it was a man, a black man, who started to talk and explain the problem

19 and said, "Madam, we are here on behalf of the ICC. (Redacted) who gave us

20 your name. Do you have a valid passport?" That was the question, "Do you have a

21 valid passport?" And I said, "Yes." Then they said do I have it on me, and I said, "Yes,

22 it's in my bag," and I showed them my passport.

23 They said to me -- there was one who was speaking English, and there was also an

24 interpreter. And the one said, "If we invited you -- if the ICC invited you somewhere,

25 would you be prepared to go there?" That was the question. And I said, "Yes, I would

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- 1 be prepared, but - but - (Redacted)
- 2 (Redacted)" And they bore that in mind.
- 3 And after that, they left.
- 4 I went back home. I think maybe two or three months later, my telephone rang. I saw
- 5 a name -- no, no, I didn't see a name. I didn't see anything. But my telephone rang and
- 6 I picked up. The person said that he's calling on behalf of the ICC. And they asked me
- 7 the same questions, "Have you got a valid passport?" "Would you be prepared to
- 8 travel," et cetera, et cetera. And that is how a person would call me. And then at the
- 9 last moment, they said, "I'm going to give a telephone number. Call it. And that
- 10 gentleman, he's going to deal with all the formalities," et cetera, et cetera, "so that you
- 11 can meet up with us somewhere." He didn't say the place, you know.
- 12 And I called the person. He came to (Redacted) I met him, and
- 13 the formalities started, until it went (Redacted). That's how it was.
- 14 Q. [12:34:38] Thank you, Madam Witness. That's very clear. I do have a few follow-
- 15 up questions about what you've just told us. So this first meeting that you told us
- 16 about at the (Redacted). Do you remember the date?
- 17 A. [12:34:53] I was saying that I don't exactly remember the date anymore, but I
- 18 remember what happened.
- 19 Q. [12:35:12] Very well.
- 20 MR JACOBS: [12:35:13](Interpretation) Court Officer, if you could please call up
- 21 document CAR-OTP-2010-0032, tab 45 on our list of items. 2010-0032.
- 22 Q. [12:36:02] Can you see the document, Madam Witness?
- 23 MR JACOBS: [12:36:11](Interpretation) Could we zoom in closer so that the witness
- 24 can see. If we could look at the top.
- 25 Q. [12:36:19] This is a document in English. It was disclosed to us in English. This is

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- 1 a screening note. *We call it a screening note in English. And the date is (Redacted)/2015.
- 2 Does that refresh your memory?
- 3 A. [12:36:39] Well, I've told you I don't remember the exact date. It might be the case.
- 4 MR JACOBS: [12:36:59](Interpretation) If we could please move on to the next page
- 5 0033. And if we could look at the box at the top.
- 6 Q. [12:37:09] Once again, this is in English, but I will read it out and you will hear it
- 7 interpreted into French. So here we read:
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 THE INTERPRETER: [12:38:00] Correction -- apologies from the interpreter. He was
- 13 sight translating off the screen.
- 14 PRESIDING JUDGE SAMBA: [12:38:07] Can we go into private session for this, please,
- 15 Madam Court Officer.
- 16 (Private session at 12.38 p.m.)
- 17 PRESIDING JUDGE SAMBA: [12:38:24] Thank you very much.
- 18 Mr Jacobs, please continue.
- 19 MR JACOBS: [12:38:30](Interpretation) Yes, that will be simpler indeed. Allow me to
- 20 resume reading.
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

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14 (Redacted)

15 (Redacted)

16 (Redacted)

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18 (Redacted)

19 (Redacted)

20 Q. [12:52:56] *Very well. Now, what about the date, (Redacted) 2015, the first
21 interview. Do you remember who was present during the interview?

22 A. [12:53:15] There was (Redacted). He is the one who would call me in Bangui from
23 time to time. I remember his name. There was -- he spoke French well. And there
24 were two ladies. *One said that she was a senior trial lawyer or something like that. She
25 was a slightly thin person. And then there was one who was tall. Two women and one

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1 man. And the one who said that she was the trial lawyer spoke English. The lady did
2 the interpretation, and (Redacted) was on the computer. That's how the interview was
3 conducted. If I didn't understand something, (Redacted) would explain because he
4 spoke both languages, English and French.

5 Q. [12:54:21] Very well. You mentioned (Redacted). Was he the investigator during your
6 meeting (Redacted) in Bangui?

7 A. [12:54:30] No, that wasn't him. It wasn't him. It was a gentleman as well. He
8 spoke only English, just in English. And there was a black man who said that he was
9 from Senegal. And I talked a lot more with the Senegalese man.

10 Q. [12:55:01] Thank you. And you said that (Redacted) was on the computer. So if I've
11 understood correctly, during this first interview he took notes of what you were
12 saying?

13 A. [12:55:16] I saw him on the computer. I saw him on the computer. And twice he
14 showed me some images of people and asked me questions. That's what happened.

15 Q. [12:55:30] Thank you, Madam Witness. Now, did the other people present take
16 notes?

17 A. [12:55:53] * I saw the lady who was the senior trial lawyer also taking notes, but
18 the lady interpreter didn't take any.

19 Q. [12:56:13] Very well. Thank you, Madam Witness. And how did the discussion
20 go? Did the investigators tell you what topics were of interest to them?

21 A. [12:56:24] Well, they would ask me questions. They would ask questions -- well, it
22 was really going by their schedule. One day we would be on one topic. The next day,
23 on another. I don't really remember.

24 Q. [12:57:00] Very well. So they were -- they seemed to have a kind of a schedule or a
25 list of topics?

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1 A. [12:57:11] Yes.

2 Q. [12:57:12] And when the investigators asked you questions, would they ask you
3 questions that would only require a yes or a no answer?

4 A. [12:57:22] Indeed. If I didn't understand, I said no. Sometimes they would show
5 me an image, and I would say, "I don't know that person," or "I don't recognise that." I
6 would say "no," or I would say "yes."

7 Q. [12:58:05] Thank you, Madam Witness. Now, on the first day, (Redacted), were
8 you asked to read anything over or sign anything?

9 A. [12:58:16] I don't remember exactly anything about reading. I didn't -- but I was
10 asked to sign. I didn't read over. Once I got here, I had the opportunity to go through
11 my first statement, but I didn't read it at that specific time there.

12 Q. [12:58:51] Thank you, Madam Witness. I see that there was a second interview --
13 (Redacted), et cetera. Were the same people
14 present?

15 A. [12:59:11] Yes, the same people were present.

16 Q. [12:59:22] And notes were taken in the same way every day?

17 A. [12:59:26] Yes, indeed.

18 Q. [12:59:36] Just to make sure that the record is complete, on no day were you asked
19 to read over or re-read a document?

20 A. [12:59:43] I told you I did not re-read them. They had me sign. I repeat, it was
21 here, when I got here, that is when I read my statement. I got here and I read my
22 statement.

23 Q. [13:00:08] Very well. Thank you, Madam Witness.

24 MR JACOBS: [13:00:10](Interpretation) Your Honour, I see the time.

25 PRESIDING JUDGE SAMBA: [13:00:13] Yes, indeed. Thank you very much, Mr

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- 1 Jacobs.
- 2 Madam Witness, what we're going to do is to break a little bit for lunch, and I'll ask that
- 3 we come back at 2.30 so that Mr Jacobs can continue with his cross-examination of you.
- 4 Excuse me, at 2.00. We'll meet again at 2.00 so that Mr Jacobs can continue his cross-
- 5 examination.
- 6 So I'll rise the Court now and ask that we meet at 2.00. Thank you.
- 7 THE COURT USHER: [13:00:46] All rise.
- 8 (Recess taken at 1.00 p.m.)
- 9 (Upon resuming in open session at 2.04 p.m.)
- 10 THE COURT USHER: [14:04:31] All rise. Please be seated.
- 11 PRESIDING JUDGE SAMBA: [14:04:49] Good afternoon, everyone.
- 12 Madam Witness, we're going to continue with your cross-examination by Mr Jacobs.
- 13 And we're in open session, just so we know.
- 14 Mr Jacobs, please.
- 15 MR JACOBS: [14:05:12](Interpretation) Thank you, your Honour. Now, I'm going to
- 16 try ask carry on in open session, but if ever we talk about potentially identifying
- 17 material, then I'll immediately request to go into private session. But for the time
- 18 being, I'd like to stay in open session.
- 19 Q. [14:05:34] Good afternoon, Witness. So before carrying on, I'd like to return to
- 20 something that you said before the luncheon adjournment. This is on the transcript of
- 21 today, T41, page 66, and here you say:
- 22 "Sometimes he would show me a picture, and I would say, 'I don't know that picture'
- 23 or 'I don't know that,' and sometimes I would say 'yes,' and sometimes I would say
- 24 'no.'" So I would just like to revisit that particular point. Based on what you've told us,
- 25 I've understood that during your interview, photographs of individuals were shown to

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1 you.

2 A. [14:06:27] That's right. They showed me photos of individuals.

3 Q. [14:06:31] Now, it would be a bit fastidious to go through all of the written

4 statement, but we've looked and at no point in your written statement do we see an

5 indication that you were ever shown photos or which photo you'd been shown. Do

6 you know why that is?

7 A. [14:07:00] Well, his photo was shown to me at the end. At the end. On the last

8 day they showed me photos, "do you know this person," "do you know that person."

9 And they even had me identify where I live in my neighbourhood. I was called upon

10 to identify that.

11 Q. [14:07:23] Very well. We are in open session, Madam Witness, so do be careful not

12 to say too much. So if I've understood, it is not mentioned in your witness statement

13 about the photos that were shown to you?

14 A. [14:07:35] *As I told you, I re-read my statement here. I don't know what they've

15 said about that.

16 Q. [14:07:48] Okay. Thank you very much for that clarification, Madam Witness. All

17 right. Let me turn now to the last day for your taking of your first statement in 2015.

18 How did the re-reading process go? Because you said that you didn't yourself read it,

19 so how did you become cognisant of the content of your statement?

20 A. [14:08:10] As I was saying, I didn't read my statement. When they questioned me

21 -- well, we finished, and then we'd go home, and then came back in the morning and

22 then I'm asked something else. But I didn't read my statement per se to see whether

23 that mirrored what I said. *But it was here, when I got here, that is when I reviewed

24 my statement. And that is why I made some corrections here, with the colleagues here.

25 THE WITNESS: [14:08:46](Interpretation) -- colleagues from here. I made some

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1 corrections.

2 MR JACOBS: [14:08:53](Interpretation)

3 Q. [14:08:53] Right. I just want to understand. This is for the record, and this is why
4 I'm homing in on some points. (Redacted) 2015 you finish your interview, and you are
5 shown the document in its English version, and you sign that English version that you
6 don't read. Is that what you're saying?

7 A. [14:09:13] That's right. I didn't read it. I didn't re-read the document.

8 Q. [14:09:17] Thank you, Madam Witness. Now, on that particular day, did you sign
9 any other documents, aside from your witness statement?

10 A. [14:09:27] I can't remember everything. I don't know whether it was just the
11 witness statement I signed or something else. I can't remember.

12 Q. [14:09:41] Thank you.

13 MR JACOBS: [14:09:46](Interpretation) Now, can I ask to be brought up on our screens,
14 Court Officer, the following document. This is CAR-OTP-2017-0090, and this is tab 44
15 on my list of materials, please.

16 Q. [14:10:28] Can you see that document, Madam Witness, on your screen?

17 MR JACOBS: [14:10:37](Interpretation) Can we scroll up to the top of the document?

18 Q. [14:10:39] And just remember, we're in open session, so say nothing that may
19 identify you. So here, as we see, this is a permission to disclose information. We see
20 your name. And I read:

21 "I consent that the following information be disclosed to the OTP of the ICC:

22 "Any document held by telephone operators concerning the telephone number ..."

23 And we have a telephone number there.

24 So would you confirm that this is, indeed, your telephone number that we see on our
25 screen?

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1 A. [14:11:12] Yes.

2 Q. [14:11:20] Thank you very much. And if we scroll down a little bit to see the end
3 of the document, we see the date, your name and the date. It's (Redacted) 2015. Do
4 you recall having signed that document on that particular day, in other words, the last
5 day of the taking of your witness statement?

6 A. [14:11:45] Yes, I remember having signed. But it's not me who filled all that in.

7 Q. [14:11:56] All right. So that leads me to my next question, in actual fact. So you
8 signed that document, but it's not you who filled it out? Is that what you're saying?

9 A. [14:12:02] Yes, that's right. I signed it but I didn't fill it in. That's not my writing.

10 Q. [14:12:18] Thank you. Now, you signed this document, and then did the
11 investigators re-establish contact with you to say how things were going to go in order
12 to retrieve telephone data?

13 A. [14:12:27] In terms of telephone data, I've heard nothing about that. And it's only
14 here that I've been led to believe that there was some checks about my telephone data.

15 Q. [14:12:57] Very well. Thank you very much, Madam Witness. *Now, this
16 morning with the OTP, you said that during your interview - the first interview, let's
17 focus on the first one - you gave documents to the OTP or at least you presented
18 documents to the OTP; is that right?

19 A. [14:13:23] Are you talking about the first statement?

20 Q. [14:13:25] Yes.

21 MR JACOBS: [14:13:26](Interpretation) And, your Honour, just to avoid any potential
22 slipup, perhaps we can move into private session before continuing.

23 PRESIDING JUDGE SAMBA: [14:13:32] Okay.

24 Madam Court Officer, can we go into private session, please.

25 (Private session at 2.13 p.m.)

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1 THE COURT OFFICER: [14:13:47] We're in private session, Madam President.

2 PRESIDING JUDGE SAMBA: [14:13:48] Thank you very much.

3 Mr Jacobs, you can continue, please.

4 MR JACOBS: [14:14:06](Interpretation) Thank you, your Honour.

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 Q. [14:16:14] So, Madam Witness, you said this morning -- and we are trying to
19 retrieve the reference. We'll give it in a moment. But it struck me that before you came
20 (Redacted), the investigators asked you to provide documents; is that right?

21 A. [14:16:28] That's right. And that confirms what we see in paragraph 103.

22 Q. [14:16:41] Very well. So if I followed your evidence, the investigators contacted
23 you before you travelled (Redacted). And at that particular point, how did they give you
24 information about what they were looking for? Did they send you an e-mail? Did they
25 write a letter to you? Did they contact you by phone?

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1 A. [14:17:01] They called me on my phone to say, "Look, we're coming -- well, we'd
2 like you to take some documents with you to bear witness to what you did (Redacted)
3 (Redacted) It was a telephone call that I received.

4 Q. [14:17:17] All right, then. So they didn't give any precise examples of the type of
5 document that they were looking for?

6 A. [14:17:23] No, they provided no details, but I selected. It was me myself who
7 selected the documents that I would ultimately provide.

8 Q. [14:17:45] (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)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. [14:20:44] Thank you. And the documents, in what language were they, the
7 documents that you took (Redacted) with you?

8 A. [14:20:51] It was in French. Everything was in French. It was French that we
9 used.

10 Q. [14:21:06] And when talking about those documents during your interview, did
11 somebody translate those documents for the investigators who didn't speak French?

12 A. [14:21:17] No. They had the documents with them. They talked about it in
13 English, and I didn't understand what they were saying amongst themselves. But I
14 know that they tried to understand the content of the documents amongst themselves.

15 Q. [14:21:39] Thank you, Madam Witness. And over and beyond that correspondence
16 that you took and that was the subject of your discussion (Redacted), did
17 you take any other documents to the OTP members of staff at that particular point?

18 A. [14:21:54] I don't think so.

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 So, Madam Witness, from what I've just read out, we understand that for your first
4 written statement you also provided (Redacted); is that
5 right?

6 A. [14:23:37] Yes.

7 (Redacted)

8 (Redacted)

9 MR JACOBS: [14:23:52](Interpretation)

10 Q. [14:23:52] But there was no mention of that in your first statement. Do you know
11 why, to the best of your knowledge?

12 A. [14:23:59] Well, I gave the documents like that. It was up to them to tell me what
13 that (Redacted) talks about. I just gave the documents.

14 Q. [14:24:24] And you talked about the contents of (Redacted) at your first witness
15 statement taken (Redacted)

16 A. [14:24:31] I can't remember anymore.

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 Q. [14:25:08] Thank you. And in the paragraph we just read out, we read that you
21 remembered the meeting, "but I don't remember the date of the meeting or the names
22 of the investigators that came. It was the female investigator today that gave me those
23 details."

24 So if I've understood that properly, when you were questioned by the investigators,
25 these latter helped you jog your memory when you couldn't remember the answer to a

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1 question; is that right?

2 A. [14:25:39] Could you take up your question again, please?

3 Q. [14:25:41] Yes. You say that you don't remember certain details, and it was the
4 female investigator that supplied you with the details. So I'd just like you to confirm
5 that when you didn't remember something, some answers to questions, it was the
6 investigators themselves that supplied you with the answers; is that right?

7 A. [14:25:56] This part here is not right. This is not what I wanted to say. I said that I
8 was received at Bangui by investigators. I don't remember their names. It's not a
9 question of them clarifying this point or the other. That's what I'm saying here. I don't
10 remember the date of the encounter, but I know that I met them.

11 Q. [14:26:42] Thank you, Madam Witness. (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted). All right, then. Between the taking of

18 your first statement in (Redacted) 2015 and your second statement, which dates back to
19 (Redacted) 2022, how often was your contact with members of the OTP over that
20 seven-year period?

21 A. [14:27:48] Are you talking about between 2015 and 2022? Well, from time to time,
22 as I said beforehand. From time to time, somebody from the Court would ring me up
23 to tell me, "How are things? We'll need you possibly at a given point in time. Would
24 you be available for that?" Sometimes we would speak between five and ten minutes.
25 They would ring me up, even if I was outside of Bangui. I would tell them where I

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1 was, and then they would call me there. And then from time to time, they would say,
2 "How's it going? We may need you at a certain point in time," et cetera, et cetera.

3 But it was an ongoing -- it was a period of between three or four months when there
4 was an ongoing contact. Sometimes it was a man, sometimes a woman. Twice, in fact,
5 it was an interpreter. A woman was speaking Sango -- sorry, the man was speaking in
6 English, and then an interpreter transposed it into Sango and that's how it went.

7 Q. [14:29:12] Thank you. And the OTP, did they give you a telephone so that they
8 could contact you more easily?

9 A. [14:29:20] Absolutely not.

10 Q. [14:29:30] And during that period, Madam Witness, were you told that your
11 written statement could be used for the confirmation hearing in the instant case in
12 2021?

13 A. [14:29:45] No one said that to me.

14 Q. [14:29:59] Thank you. Now if we could turn back to your second statement. Do
15 you remember when you were asked to meet with the OTP a second time so that they
16 could take a second statement from you?

17 A. [14:30:12] I remember, but the dates -- I can't really remember the actual dates. I think
18 it was during -- early in (Redacted). Something like that. The investigator, (Redacted), called
19 me, and -- well, she introduced herself. She said she was calling from the OTP and that
20 there would be a meeting very soon in Bangui. *(Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted) And so (Redacted)

24 (Redacted)

25 Q. [14:31:36] Very well, Madam Witness. (Redacted)

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1 (Redacted)

2 (Redacted)

3 Q. [14:35:16] *Thank you. Now, to return to your second statement, given in Bangui
4 (Redacted), who was present during that interview ?

5 A. [14:35:47] I haven't quite grasped --

6 Q. [14:35:52] When you went to Bangui for your second statement, do you remember
7 who was there from the OTP? Who was there with you?

8 A. [14:35:59] It was (Redacted). She contacted me well before that time. She
9 is the one who made all the arrangements for me to meet with her in Bangui.

10 Q. [14:36:27] Very well. And who else was present that day?

11 A.A [14:36:31] A gentleman from the ICC, from Bangui there. He helped us. He was
12 there. He was there. He was supposed to be an interpreter, but since I speak French --
13 but he was there alongside us.

14 Q. [14:36:56] Very well. Now, a gentleman from the ICC from Bangui, do you
15 remember his name?

16 A. [14:37:03] No, I don't remember his name.

17 Q. [14:37:22] Do you remember if this person was white or black?

18 A. [14:37:25] He was a black man. He was supposed to speak in Sango. When I
19 speak in Sango, he interprets, but I told (Redacted) that I spoke French and he remained
20 alongside us and listened.

21 Q. [14:37:49] Very well. Now, indeed, regarding language, in the second statement,
22 which we have up on the screen --

23 MR JACOBS: [14:37:57](Interpretation) If we could go back to the first page, 0576. No,
24 the previous page, please. 0576. Great. Thank you.

25 Q. [14:38:42] Now, you see at the bottom we read the following:

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1 "Language used during the interview: Sango, French."

2 Do you see that, ma'am?

3 A. [14:38:52] The language I used was French. It was French. But with the colleague
4 beside me, sometimes if they didn't understand, I would explain something to him in
5 Sango. But other than that, I spoke in French.

6 Q. [14:39:20] Very well. So you said sometimes if he didn't understand, you would
7 explain it to him in Sango. So this person was taking part in the interview? I'm trying
8 to understand.

9 A. [14:39:39] Yes, I said so a long time ago. That person was, you see, like a
10 translator. But since I said that I spoke French, he stayed alongside us. When I
11 explained things in French and (Redacted) didn't understand, he would ask me the
12 question in Sango. He would say, "What did you mean by that?" I would explain it to
13 him in Sango, and then he would translate it for (Redacted). But other than that, the
14 language used was French.

15 Q. [14:40:16] And what language would he use when speaking to (Redacted)

16 A. [14:40:18] In French. In French.

17 Q. [14:40:29] Thank you very much. Sometimes we are asking questions just to make
18 sure we've understood properly. Just to get a bit more information.

19 MR JACOBS: [14:40:36](Interpretation) If we could move to the last page of this
20 document, 0588. If we could zoom in to point 4.

21 Q. [14:41:01] Can you see that, Madam Witness? It reads as follows:

22 "4. I translated verbally the above statement from French into Sango in presence of
23 (Redacted), who seems to have understood and heard the translation that I did. At the
24 request of the witness, as of paragraph 41, I read the statement in French to the
25 witness."

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1 So going by this, 1 to 40 was translated to you in Sango, and then paragraph 41 to the
2 end you read it in French. Can you explain this to us?

3 A. [14:41:43] Exactly. In order to sign at the end, the lady read in French and the
4 other one translated. Then I turned to the gentleman and I said to him, "But I did it in
5 French. Why not continue in French?" So they stopped it then. And then it was done
6 in French.

7 Q. [14:42:18] Very well. That's very clear. I also understand from what you're saying
8 that you -- the statement was read back to you, but you didn't read it over yourself.

9 A. [14:42:26] She read it and the other one translated it. I didn't read it myself. Then
10 after a while, I said, "No, this is not worth it. I did this in French. Let me read it in
11 French." So we switched from Sango to French.

12 Q. [14:42:51] Thank you, Madam Witness. Now, while you were reading over the
13 statement, did you make any changes, corrections?

14 A. [14:42:57] Sometimes, at times, but not often. Once or twice.

15 Q. [14:43:28] Thank you, Madam Witness. Now, in a passage that I read out earlier,
16 paragraph 16 I believe it was, paragraph 16, page 057 -- no, I beg your pardon. That's
17 not the right paragraph.

18 MR JACOBS: [14:43:49](Interpretation) Just a moment, please. Paragraph 12.
19 Paragraph 12, page 0578.

20 Q. [14:44:07] We read as follows: You gave the telephone of (Redacted) to the OTP. Did
21 you provide the contact information of other people to the OTP while you were
22 cooperating with the OTP?

23 A. [14:44:23] I no longer recall.

24 Q. [14:44:43] Thank you.

25 MR JACOBS: [14:44:44](Interpretation) That was my last question, Madam Witness,

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- 1 your Honour.
- 2 PRESIDING JUDGE SAMBA: [14:44:48] Thank you very much, Mr Jacobs. Thank you
- 3 very much.
- 4 Prosecution, do you have any re-examination questions, please?
- 5 MR OMORI: [14:44:58] There is no further questions from the Prosecution, Madam
- 6 President.
- 7 PRESIDING JUDGE SAMBA: [14:45:07] Thank you very much.
- 8 And, Madam Witness, we also have no questions for you from the Bench. I want to
- 9 take the opportunity, on behalf of my colleagues seated on my right and left, to thank
- 10 you very much for your support to the Court. We wish you well in all your work, and
- 11 we do wish you a very safe flight back home. Thank you very much.
- 12 I'm going to rise, the Court and other discussions and agreements will come via e-mail
- 13 or howsoever we may correspond. I know that this witness is supposed to be the last
- 14 witness for this particular session.
- 15 Do you have anything to say, Madam Prosecutor? I see you are shaking. No? Okay. I
- 16 thought you want to say something to us.
- 17 But if there's nothing else to say, I wish to thank both the Prosecution team, the victims
- 18 counsel, and the Defence team. We'll meet again to continue the testimonies in respect
- 19 of this particular case.
- 20 And before I rise the Court, I want to thank also the court reporter, Mr Clerk, and court
- 21 clerk, and the able translators. We do appreciate your work.
- 22 I'll rise the Court and we'll discuss via e-mail when next we meet. Thank you.
- 23 Bon voyage, madam.
- 24 THE COURT USHER: [14:46:59] All rise.
- 25 (The hearing adjourned in private session at 2.47 p.m.)