

Trial Hearing
WITNESS: CAR-OTP-P-0510

(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 María del Socorro Flores Liera and Judge
6 Sergio Gerardo Ugalde Godínez
7 Trial Hearing - Courtroom 2
8 Tuesday, 30 April 2024
9 (The hearing starts in open session at 9.33 a.m.)
10 THE COURT USHER: [9:33:56] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE SAMBA: [9:34:12] Good morning, everyone.
14 Madam Court Officer, can you kindly mention the case. Thank you.
15 THE COURT OFFICER: [9:34:30] Good morning, Madam President, your Honours.
16 This is the situation in the Central African Republic II, in the case of The Prosecutor
17 versus Mahamat Said Abdel Kani, case reference ICC-01/14-01/21.
18 And for the record, we are in open session.
19 PRESIDING JUDGE SAMBA: [9:34:45] Thank you very much.
20 Can I ask the parties to introduce themselves, starting with the Prosecution.
21 MS MAKWAIA: [9:34:54] Good morning, Madam President, your Honours. For the
22 Prosecution this morning Alessia Vitiello, Sanyu Ndagire, Thomas Bifwoli and
23 myself, Holo Makwaia, senior trial lawyer. Thank you.
24 PRESIDING JUDGE SAMBA: [9:35:06] Thank you very much, Ms Makwaia.
25 Ms Pellet for the victims, please.

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1 MS PELLET: [9:35:14](Interpretation) Thank you very much, Madam President. The
2 victims are represented by Caroline Walter and myself, Sarah Pellet, counsel in the
3 public office for victims.

4 PRESIDING JUDGE SAMBA: [9:35:28] Thank you very much, Ms Pellet.
5 Ms Naouri for the Defence, please.

6 MS NAOURI: [9:35:34] Thank you, Madam President. Good morning. To my right,
7 Capucine Banet; to my left, Maître Jacobs; and myself, Jennifer Naouri, lead counsel
8 for Mr Kani.

9 PRESIDING JUDGE SAMBA: [9:35:58] Thank you very much, Ms Naouri.
10 And for the record, I note that Mr Said is in court.

11 A very good morning to you, Mr Said. I hope I see you well?

12 MR SAID: [9:36:06](Interpretation) Yes. Good morning, Madam President.

13 PRESIDING JUDGE SAMBA: [9:36:20] The Prosecution is calling P-0510 as its 29th
14 witness. The Prosecution originally sought to introduce P-0510's prior recorded
15 testimony pursuant to Rule 68(2)(b) of the Rules, which the Chamber rejected.

16 Instead, the Chamber allowed the introduction of P-0510's prior recorded testimony
17 pursuant to Rule 68(3) of the Rules. This is decision numbered 507.

18 The Chamber has taken note of the parties' exchanges via email yesterday regarding
19 items referred to in P-0510's prior recorded testimony which do not appear on the
20 Prosecution's list of evidence.

21 The Chamber further notes the Prosecution's position that it does not intend to rely on
22 any exhibits which do not appear on its list of evidence.

23 So, for clarity sake, to the extent that any portions of P-0510's prior recorded
24 testimony make reference to items not on the Prosecution list of evidence, and not
25 formally submitted, the Chamber will not take them into consideration for the

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1 purpose of the Prosecution's case.

2 Lastly, it is the Chamber's understanding that this witness will be testifying in French.

3 So I remind everyone of the importance of the need to speak slowly and to observe

4 the five-second rule between questions and answers.

5 Before commencing, the Chamber notes briefly that protective measures are

6 confirmed for this witness by virtue of decision numbered 605 and that the VWU

7 recommends certain special measures. The Chamber reminds the parties to be

8 mindful of the measures recommended.

9 Mr Witness, good morning.

10 WITNESS: CAR-OTP-P-0510

11 (The witness speaks Sango)

12 THE WITNESS: [9:38:47](Interpretation) Good morning.

13 PRESIDING JUDGE SAMBA: [9:38:53] Mr Witness, you are going to testify before the

14 International Criminal Court. So, on behalf of this Chamber, I welcome you to this

15 courtroom.

16 THE WITNESS: [9:39:18](Interpretation) I thank you. I know I will go to -- I'm going

17 to pledge solemnly and I pledge solemnly to tell the truth, the whole truth and

18 nothing but the truth.

19 PRESIDING JUDGE SAMBA: [9:39:32] All right. Thank you very much, Mr Witness.

20 Do you understand and agree to what you just read out, your solemn declaration?

21 Do you understand and agree to it?

22 THE WITNESS: [9:39:59](Interpretation) Yes, I accept and I fully understand.

23 PRESIDING JUDGE SAMBA: [9:40:02] Thank you very much, Mr Witness.

24 Let me now explain to you, Mr Witness, the protective measures that we have put in

25 place for your testimony. We have in place for you voice and face distortion. This

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

3 We also have in place for you the use of a pseudonym. In accordance with that, we
4 will all refer to you only as "Mr Witness", to make sure that the public does not know
5 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. When you are asked to describe anything that relates specifically to you,
9 or you are asked to mention facts that might reveal your identity, we will do that in
10 private session.

11 And, lastly, I have a few practical matters you should have in mind when giving your
12 testimony.

13 Everything we say here is written down and interpreted. It is therefore important to
14 speak clearly and at a slow pace. Please speak into the microphone you have before
15 you and only start speaking when the person asking you the questions is finished. To
16 allow for the interpretation, everyone has to wait a few seconds before starting to
17 speak.

18 If you yourself have any questions, Mr Witness, please raise your hand so that we
19 know that you want to say something to us.

20 Have you understood all that I've said, Mr Witness?

21 THE WITNESS: [9:42:38](Interpretation) Yes, I have understood.

22 PRESIDING JUDGE SAMBA: [9:42:52] Good. Thank you very much, Mr Witness.

23 So we are going to start with your testimony and I'm going to ask the Prosecution to
24 lead you in chief.

25 Madam Prosecutor, your witness, please.

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1 QUESTIONED BY MS NDAGIRE:

2 Q. [9:43:17] Good morning, Mr Witness. My name is Sanyu Ndagire and I'm a
3 member of the Prosecution team. I will be asking you some questions this morning
4 on behalf of the Prosecution.

5 Madam President, could we please go into private session briefly for a few minutes
6 for the witness to provide identifying information.

7 PRESIDING JUDGE SAMBA: [9:43:37] Okay. Before we do that, may I remind
8 counsel, you were not in court yesterday but we are mindful of the time, that you
9 have four witnesses for this block. So let's manage the time properly so that the
10 Defence will have enough time to put their questions to him.

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

12 (Private session at 9.44 a.m.)

13 THE COURT OFFICER: [9:44:15] We are in private session, Madam President.

14 PRESIDING JUDGE SAMBA: [9:44:18] Thank you very much.

15 Counsel, your witness, please.

16 MS NDAGIRE: [9:44:21]

17 Q. [9:44:21] Mr Witness, what are your names?

18 A. [9:44:26] My name is (Redacted).

19 Q. [9:44:53] And what is your nationality?

20 A. [9:44:57] I am of the Central African Republic nationality.

21 Q. [9:45:12] And what is your current occupation, Mr Witness?

22 A. [9:45:28] I'm a (Redacted).

23 MS NDAGIRE: [9:45:32] Madam President, we may now move back to open session.

24 PRESIDING JUDGE SAMBA: [9:45:35] Thank you very much.

25 Madam Court Officer, can we go back into open session, please.

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1 (Open session at 9.45 a.m.)

2 THE COURT OFFICER: [9:45:44] We are back in open session, Madam President.

3 PRESIDING JUDGE SAMBA: [9:45:53] Thank you.

4 Counsel, please continue.

5 MS NDAGIRE: [9:45:56]

6 Q. [9:45:57] Mr Witness, now that we are in open session, please be careful not to
7 mention any of your identifying information that you just mentioned before.

8 If you do want to mention some names, we can ask to go into private session.

9 I will begin by asking you a few questions, the first being do you remember being
10 interviewed or questioned by investigators from the Office of the Prosecutor in
11 November 2015?

12 A. [9:46:30] Yes, I do remember.

13 Q. [9:46:44] And when you were interviewed in November 2015, was a statement
14 taken from you by the investigators from the Office of the Prosecutor?

15 A. [9:47:00] Yes.

16 Q. [09:47:16] And during that same interview in November 2015, what documents or
17 material, if any, did you provide the Prosecution?

18 A. [9:47:31] The documents that I gave them include my newspapers, what I had
19 written, and then photographs which I provided.

20 Q. [9:48:09] And during that same interview in 2015, were you shown any
21 documents by the investigators from the Office of the Prosecutor?

22 A. [9:48:23] The investigators showed me photographs with people on it that I knew.
23 After that, they also showed me documents relating to certain people. They showed
24 me photographs of certain people.

25 Q. [9:49:05] And at the end of that interview in November 2015, was a statement

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1 written down and read back to you in a language you understand?

2 A. [9:49:19] Yes. The document was reread to me in a language that I understand
3 perfectly well.

4 Q. [9:49:45] And did you also sign the statement at the end of that interview?

5 A. [9:49:52] Yes. I signed that document.

6 Q. [9:50:11] Could the court officer please display on the witness's screen, evidence
7 channel 1, tab 1 of the Prosecution's list of material. The ERN is
8 CAR-OTP-2017-0835 -- 2018-0835. And this document is confidential and should not
9 be displayed in the gallery.

10 PRESIDING JUDGE SAMBA: [9:50:45] Counsel, you mean 2017 or 2018?

11 MS NDAGIRE: [9:50:49] 2017.

12 PRESIDING JUDGE SAMBA: [9:50:51] Thank you.

13 (Counsel confers)

14 MS NDAGIRE: [9:51:31]

15 Q. [9:51:31] Mr Witness, do you see the document on your screen right now?

16 A. [9:51:37] Yes, I can see it clearly.

17 Q. [9:51:46] Do you recognise any of the names on this page?

18 PRESIDING JUDGE SAMBA: [9:51:56] Please don't mention the names, Mr Witness.

19 THE WITNESS: [9:52:06](Interpretation) Yes, I recognise names.

20 MS NDAGIRE: [9:52:17]

21 Q. [9:52:17] Whose names do you recognise, Mr Witness, without telling us the
22 actual names themselves.

23 A. [9:52:30]) I recognise three names.

24 Q. [9:52:47] Could the court officer please scroll down to the bottom of that page.

25 Mr Witness, do you recognise any of the signatures on this page?

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1 A. [9:53:11] Yes, I can recognise one of them.

2 Q. [9:53:27] And could you tell us whose signature that is, without revealing the
3 names?

4 A. [9:53:43] It is my signature. The second signature is that of the investigator and
5 the third one is a signature of the lawyer.

6 Q. [9:54:18] Perhaps if the court clerk could assist the witness to use the electronic
7 pen.

8 And I will ask, Mr Witness, once you have the electronic pen, just to indicate with a
9 number 1 where you say your signature appears on the page?

10 PRESIDING JUDGE SAMBA: [9:54:39] Counsel, it is inferred from what he said. He's
11 already identified the second and the third, so we know that the first is his, as he said.
12 Do you want that also marked? Let's move on so we don't waste time.

13 MS NDAGIRE: [9:54:52] (Overlapping speakers) Very well, then, it's not necessary.

14 PRESIDING JUDGE SAMBA: [9:54:53] That's our understanding. Thank you.

15 MS NDAGIRE: [9:54:55]

16 Q. [09:54:55] My apologies, Mr Witness, it won't be necessary.

17 Could the court officer please turn to page 0858 of the same tab and zoom in to the
18 bottom of the page.

19 Mr Witness, do you see the page on your screen now?

20 A. [9:55:26] Yes, I can see it clearly.

21 Q. [9:55:35] Do you recognise the signature on the page; and, if so, please tell us
22 whose signature it is?

23 A. [9:55:44] It is my signature.

24 Q. [9:55:59] Thank you very much.

25 This document may now be removed from the screen.

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1 Mr Witness, do you recall meeting myself and another colleague from the Prosecution
2 two weeks ago?

3 A. [9:56:29] I remember.

4 Q. [9:56:34] At this meeting where you met myself and my colleague, did you have
5 an opportunity to have your witness statement read back to you?

6 A. [9:57:04] Yes, I had that opportunity for the statement to be reread to me in Sango.

7 Q. [9:57:18] And at the same meeting, did you also go through the material that you
8 said you provided the Prosecution back in 2015?

9 A. [9:57:28] Yes. They showed me those documents and we reviewed them together.

10 Q. [9:57:52] Did you also provide any corrections or clarifications to your statement
11 from 2015 during the meeting we had two weeks ago?

12 A. [9:58:05] We reviewed the statement and then we made corrections.

13 Q. [9:58:31] And were those corrections written down and then read back to you at
14 the end of that meeting?

15 A. [9:58:42] During that meeting, all those things were taken down, noted down, and
16 then they reread the statement to me, as I've indicated.

17 Q. [9:59:11] And after the statement and corrections were read back to you, did you
18 sign a document -- did you sign the document containing the corrections and
19 clarifications you provided during the meeting from two weeks ago?

20 A. [9:59:32] I had the opportunity to sign that document.

21 Q. [9:59:57] Could the court officer please display tab 17 of the Prosecution's list of
22 material. The ERN is CAR-OTP-00036314. Once we are there, could we please turn to
23 page 4.

24 Mr Witness, do you now see the document on your screen?

25 A. [10:00:52] Yes, it's visible.

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1 Q. [10:01:04] And do you recognise the names or signatures on that portion of the
2 page?

3 A. [10:01:12] Yes, I recognise it perfectly.

4 Q. [10:01:28] Could you tell us whose signature that is?

5 A. [10:01:41] It is my signature.

6 Q. [10:01:55] Thank you very much, Mr Witness.

7 Now, Mr Witness, do you agree to the judges using your statement from 2015, the
8 material you provided along with that statement, as well as the corrections and
9 clarifications you gave two weeks ago for the purposes of this trial?

10 A. [10:02:22] Yes, I agree.

11 Q. [10:02:37] Thank you very much, Mr Witness.

12 MS NDAGIRE: [10:02:42] Your Honours, the Prosecution submits that the conditions
13 required under Rule 68(3) have now been met and we request that the Prosecution's
14 previously recorded testimony be introduced into evidence.

15 We also additionally submit the following items from our list of material. They are
16 tabs 1 to 13, and 17.

17 PRESIDING JUDGE SAMBA: [10:03:26] Before we decide on that, counsel, when we
18 were ruling on the Prosecution's request under Rule 68(2), there were certain
19 photographs on the file which had some issues in respect of
20 authentication -- photographs depicting bodies in a river. I think it's exhibits 15 to 18
21 on page 18 of his prior recorded testimony. Do you want to take an opportunity -- to
22 have an opportunity to clarify with the witness? If you don't want to deal with it, you
23 could move on and I will give a ruling in respect of your last submission, please.

24 MS NDAGIRE: [10:05:01] Thank you, Madam President. I will indeed take this
25 opportunity to ask the witness about these documents.

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1 PRESIDING JUDGE SAMBA: [10:05:14] Carry on, please.

2 MS NDAGIRE: [10:05:30]

3 Q. [10:05:30] Mr Witness, I have some additional questions regarding some of the
4 documents that you provided to the Office of the Prosecutor in 2015 and I will go
5 through them one by one. Could the court officer please display tab 10 of the
6 Prosecution's list of material. This is --

7 MS NAOURI: [10:06:00](Interpretation) I'm sorry, your Honour. Thank you. So tabs
8 10 to 13 and 17 of the list of notification of the Prosecution, they are documents which
9 do not figure on the list of evidence and the exhibits are not under the 68(3) rule. So
10 these are elements which they said they would not use and you said they couldn't be
11 used, so we do not understand this and we will expect counsel to finish, but there is
12 this request to submit 10 to 13 and 17, and we are obviously opposed to them being
13 used in the hearing. That's it. Thank you, your Honour.

14 PRESIDING JUDGE SAMBA: [10:06:50] Ms Naouri, I referred counsel to exhibits 15
15 to 18 on the witness's prior recorded testimony. Are you saying that that is what
16 is -- it's not -- those exhibits are not on the Prosecution's list of evidence? Because my
17 ruling was quite clear.

18 MS NAOURI: [10:07:14](Interpretation) You're completely right, your Honour. I'm
19 not speaking about the ones that you were speaking about. You were speaking about
20 15 to 17. What I said was that --

21 PRESIDING JUDGE SAMBA: [10:07:27] Sorry, I'm speaking about exhibits 15 to 18 on
22 the witness's prior recorded testimony.

23 Kindly just confirm for me, so we do not waste time, whether or not they do not form
24 part of the Prosecution's list of evidence.

25 MS NAOURI: [10:07:51](Interpretation) So, just to clarify this, I understand from

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1 what you say, your Honour, that you're speaking about exhibits -- so, 15 to 17, you're
2 speaking about your decision to clarify the data with this photograph. What I'm
3 saying is a bit different. What I understood was that the Prosecutor had called the
4 exhibits which are -- is at tab 10 on the list of evidence, and the list of evidence for
5 today.

6 Now, the exhibits 10, 11, 12, 13 and exhibit 17 are the exhibits which are not on the list
7 of evidence and not in the 68(3) request.

8 So what I am saying is that it's not -- we mustn't go back to these exhibits. You have
9 to go back to the ones you say, exhibits 15 to 17, but not to the tabs 10, 13 and 17.

10 Counsel called 10 from her list of evidence, and that's the reason why I reacted.

11 PRESIDING JUDGE SAMBA: [10:08:58] Okay. Just for clarification, it's exhibits 15 to
12 18.

13 Now, counsel for the Prosecution, exhibits 15 to 18 as per the witness's prior recorded
14 testimony, are they part of your exhibit list?

15 MS NDAGIRE: [10:09:16] Yes, Madam President, they are, and they are listed in the
16 list of material that the Prosecution provided yesterday as tabs 10 to 13. If you
17 have -- if counsel have a look at the third column, you will see in the description field
18 the exact exhibit that's referred to in the statement, and those are the documents that
19 are on the Prosecution's list of evidence.

20 The ones that were not were removed from that list of material that was provided
21 yesterday morning.

22 PRESIDING JUDGE SAMBA: [10:09:58] Carry on, counsel. Carry on, carry on,
23 please.

24 MS NDAGIRE: [10:10:02] Thank you very much.

25 Q. [10:10:03] Mr Witness, before the interruption I was asking you -- I was informing

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1 you that I was going to show you some documents that you provided us in 2015
2 when you gave your statement. And the first document that I would like to have
3 displayed on the witness's screen is listed at tab 10 of the Prosecution's list of material.
4 This is exhibit 15 of the Prosecution's statement, and the ERN of that tab is
5 CAR-OTP-2017-0919. I will repeat the ERN again, 2017-0919.

6 Mr Witness, do you see the photograph on your screen?

7 A. [10:11:13] Yes, I can see it.

8 Q. [10:11:31] Does this form one of the documents that you provided the
9 investigators of the Office of the Prosecutor in 2015?

10 A. [10:11:48] Yes, that's correct.

11 Q. [10:12:10] Without revealing the name, could you please tell us, if you know, who
12 took this photograph?

13 A. [10:12:26] (Redacted)

14 (Redacted)

15 Q. [10:13:01] And how did this photograph come into your possession?

16 A. [10:13:06] (Redacted)

17 (Redacted)

18 PRESIDING JUDGE SAMBA: [10:13:42] Sorry, Counsel.

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

20 (Private session at 10.13 a.m.)

21 THE COURT OFFICER: [10:13:50] We are in private session, Madam President.

22 PRESIDING JUDGE SAMBA: [10:14:04] Thank you very much.

23 Mr Witness, so we don't waste time, can you -- what's the name -- we are in private
24 session.

25 Can you give us the name of this (Redacted)

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1 (Redacted) who did this, who took this shot? The name. You can say the name
2 because we are in private session.

3 THE WITNESS: [10:14:38](Interpretation) I didn't give his name during my previous
4 interview. (Redacted) was his name. (Redacted).

5 PRESIDING JUDGE SAMBA: [10:14:52] Thank you very much. Madam Prosecutor,
6 carry on, please.

7 MS NDAGIRE: [10:15:00]

8 Q. [10:15:01] And one additional question, Mr Witness, in relation to this
9 photograph. Do you know when it was taken and, if so, which date, a month or a
10 year?

11 A. [10:15:16] Well, we worked a long time ago, so I can't remember the month. But
12 the year I do. It was 2013.

13 Q. [10:15:55] Thank you very much, Mr Witness. This document can be removed
14 from the screen. And could the court officer then show tab 11 of the Prosecution's list
15 of material. The ERN of that document is CAR-OTP-2017-0920. I will repeat the ERN
16 again.

17 All right, it now appears on the transcript. Mr Witness, do you see the document or
18 the picture on your screen?

19 A. [10:16:47] Yes. Yes, the picture is visible.

20 Q. [10:16:59] Who took this picture, if you know?

21 A. [10:17:06] The photograph was taken by the (Redacted)
22 (Redacted).

23 Q. [10:17:29] And do you know when this photograph was taken, which year or
24 month?

25 A. [10:17:41] As I said, it was taken in 2013, but I no longer remember the exact

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1 month. I remember one thing: it was about the civilians who were arrested at PK9
2 roadblock, and the reason for their arrest was the fact that they had clothing with the
3 writing of the former president in their bags and that's why they were arrested and
4 executed. This event took place in 2013, but I no longer remember the month.

5 Q. [10:18:53] And how did this photograph come into your possession, Mr Witness?

6 A. [10:19:00] (Redacted)

7 these pictures, and that is how (Redacted).

8 PRESIDING JUDGE SAMBA: [10:19:36] Madam Court Officer, can we go back into
9 open session, please.

10 (Open session at 10.19 a.m.)

11 THE COURT OFFICER: [10:19:43] We are back in open session, Madam President.

12 PRESIDING JUDGE SAMBA: [10:19:59] Thank you very much. Madam Prosecutor,
13 please continue.

14 MS NDAGIRE: [10:20:03] Thank you, Madam President. The court officer can
15 remove this document off the screen and then show tab 12 of the Prosecution's list of
16 material, and the ERN of that document is CAR-OTP-2017-0921.

17 Q. [10:20:28] Mr Witness, can you see the photograph on your screen?

18 A. [10:20:49] Yes, the picture is visible.

19 Q. [10:20:54] And without mentioning the names, could you please tell us who took
20 this photograph?

21 A. [10:21:02] (Redacted)

22 Q. [10:21:29] And again for this document, please confirm the year when it was taken
23 and how it came into your possession?

24 A. [10:21:45] As I said a moment ago, the picture was taken in 2013. I don't remember
25 the month when it was taken. The picture was taken (Redacted)

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1 (Redacted)

2 Q. [10:22:26] Thank you very much.

3 This document can be removed from the screen and the final one that should be

4 displayed is tab 13 of the Prosecution's list of material. The ERN is

5 CAR-OTP-2017-0922.

6 Mr Witness, who took the photograph that's currently on your screen? And please
7 don't say the names.

8 A. [10:23:21] (Redacted)

9 Q. [10:23:40] And just like you did for the other photographs, please confirm which
10 year this photograph was taken in?

11 A. [10:23:49] The photograph was taken in 2013 -- in the year 2013.

12 Q. [10:24:15] And, again, how did it come into your possession, this photograph?

13 A. [10:24:24] (Redacted)

14 (Redacted)

15 Q. [10:24:47] Thank you very much, Mr Witness.

16 MS NDAGIRE: [10:24:51] Madam President, I have no further questions at this point
17 for the witness.

18 PRESIDING JUDGE SAMBA: [10:24:57] Thank you very much, Madam Prosecutor.

19 So the witness, having agreed that his prior recorded testimony can be submitted into
20 evidence together with its annexes and the log containing clarifications and

21 corrections, him having agreed that questions could be put to him by the Defence and
22 the Chamber, and therefore having met the requirements of Rule 68(3), we allow the
23 witness's prior recorded testimony, together with all annexes and the log containing
24 the clarifications and corrections into evidence.

25 Thank you very much

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1 Ms Naouri, questions for the Defence, please.

2 MS NAOURI: [10:25:59](Interpretation) Yes, your Honour. We do indeed have
3 questions.

4 PRESIDING JUDGE SAMBA: [10:26:07] Good; your right. Carry on, please.

5 QUESTIONED BY MS NAOURI:

6 MS NAOURI: [10:26:17](Interpretation)

7 Q. [10:26:20] Good morning, Mr Witness?

8 A. [10:26:28] Good morning.

9 Q. [10:26:29] I am Jennifer Naouri and I'm the one who's going to put questions to
10 you today on behalf of the defence of Mr Said. Very well. To help the interpreters, I
11 will have to leave a break between questions and answers, and I would ask you to do
12 the same. Is that understood?

13 A. [10:26:57] Understood.

14 PRESIDING JUDGE SAMBA: [10:26:58] Sorry, Ms Naouri, can I just make one
15 correction to the transcript. I see the words, "Good, you are right". That was not what
16 I said. I said "Good; your right" -- your right to cross-examine the witness, please.
17 Carry on, Ms Naouri.

18 MS NAOURI: [10:27:29] Thank you, your Honour.

19 Q. [10:27:31] So I would like to go back straightaway to the photographs that we
20 have just seen and you commented on them with the representative of the Office of
21 the Prosecutor.

22 And for the first question I would ask to go into private session, if you would be so
23 kind, your Honour?

24 PRESIDING JUDGE SAMBA: [10:27:48] Yes, certainly. Madam Court Officer, can we
25 go into private session briefly, please.

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1 (Private session at 10.27 a.m.)

2 THE COURT OFFICER: [10:27:55] We are in private session, Madam President.

3 PRESIDING JUDGE SAMBA: [10:28:08] Thank you. Ms Naouri, please.

4 MS NAOURI: [10:28:12]

5 Q. [10:28:13] Thank you very much, your Honour. You gave us a name of the
6 photographer who was meant to take the picture. I just want to check the spelling of
7 his name, because it was noted in the transcript with a little asterisk and it was noted
8 (Redacted). Could you tell us if that is the right spelling or not?

9 PRESIDING JUDGE SAMBA: [10:28:48] Yes, Mr Witness, I'm listening.

10 THE WITNESS: [10:28:53](Interpretation) Could the picture be shown to me again on
11 the screen so I can confirm it?

12 MS NAOURI: [10:29:03]

13 Q. [10:29:03] It's not a picture. It is in the transcript. You know, the President
14 explained everything that is said here is taken note of, and when you gave a name,
15 the person who transcribed it noted it and I would like to know how it is written. I
16 have writing here on the transcript. We are not going to show you it every time.
17 There is somebody who is taking notes and then they are corrected and we look if
18 there are any spelling mistakes, et cetera. But now you gave a name which we saw it
19 for the first time in this courtroom. So the question that I'm asking is could you be so
20 kind as to spell the name of this photographer for us at the court and to spell it in
21 French, because you gave your statement in French to the Office of the Prosecutor.
22 (Redacted) who speaks French and you gave -- when you replied to the Office of the
23 Prosecutor, you said you understand French perfectly. So would you be so kind to
24 spell it in French so that we have the good spelling in the case file, the spelling of the
25 name of the photographer who took the photograph.

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1 A. [10:30:21] Thank you. Without delay, I will spell the name: (Redacted),
2 (Redacted)

3 Q. [10:30:51] Thank you, could you give us his first name, please?

4 A. [10:30:57] His first name, I no longer remember.

5 Q. [10:31:10] Very well. (Redacted). What was
6 his precise position, his post?

7 A. [10:31:29] He was a reporter.

8 Q. [10:31:33] Very well. Have you already mentioned his name -- that is, within the
9 context of (Redacted)?

10 A. [10:31:48] If I remember correctly, maybe it is in the newspaper.

11 Q. [10:32:11] I think we want to be clear about that. What did you mean by "the
12 newspaper"? What did you mean by "the newspaper"? It is not clear in the transcript.

13 A. [10:32:29] I did not really understand your question. Can you repeat it, please?

14 Q. [10:32:45] Mr Witness, can you answer my question once again because we did
15 not understand what you said. I asked you whether you already mentioned the name
16 of the journalist in relation (Redacted), and the answer that we got
17 was, "If I remember correctly, it is in the newspaper", but the rest was not clear, so
18 please kindly repeat.

19 A. [10:33:24] I understood your question in two ways. First of all, you said that I
20 should mention the name of that person to the investigators, or in (Redacted).

21 Q. [10:33:56] If his name had to appear in (Redacted), where would it appear
22 specifically?

23 A. [10:34:05] *I would like to say once again that it would be on the masthead, where
24 the names of the employees appear. I think his name must be there.

25 Q. [10:34:35] Very well. *That was clear, and it has been transcribed correctly, so

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1 there is no longer any doubt. So you are saying "on the masthead", that is to say, in
2 the box that the names appear in. Duly noted. Thank you, Mr Witness. Now, for how
3 long had he been working for (Redacted) in 2013?

4 A. [10:35:01] If I remember correctly, he started (Redacted) in 2011. If it is not 2011,
5 then it would be 2012.

6 Q. [10:35:28] Very well. And up until when did he work for (Redacted)?

7 A. [10:35:50] He stopped working in 2014.

8 Q. [10:36:06] Was he also working for (Redacted), Mr Witness?

9 A. [10:36:13] I have told you that he was a reporter. That was his job. He could also
10 work with (Redacted)
11 (Redacted).

12 Q. [10:36:56] Very well. Do you remember other (Redacted) for which he worked?

13 A. [10:37:07] I do not know.

14 Q. [10:37:18] Very well. Are you still in contact with him today? Do you know what
15 his occupation is, for example?

16 A. [10:37:32] I do not have any contact with him. I do not know what he's doing.

17 Q. [10:37:40] Very well. Thank you for that clarification, Mr Witness.

18 I think for the rest of my questions on this topic, we can go back to open session,
19 Madam President.

20 PRESIDING JUDGE SAMBA: [10:38:01] Yes.

21 Madam Court Officer, can we go back to open session, please.

22 (Open session at 10.38 a.m.)

23 THE COURT OFFICER: [10:38:09] We are back in open session, Madam President.

24 PRESIDING JUDGE SAMBA: [10:38:20] Thank you very much.

25 Ms Naouri, you can continue your questions, please.

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1 MS NAOURI: [10:38:26](Interpretation) Thank you, Madam President.

2 Q. [10:38:29] Now, Mr Witness, you were not at the scene when these photographs
3 were taken; is that correct?

4 A. [10:38:40] Are you talking about the moment when the photograph was taken or
5 at the time the photograph was given to us (Redacted)?

6 Q. [10:39:05] I'm talking about the moment when that photograph was taken. You
7 have told us the photograph -- now, when this person took that photograph, were
8 you present or not?

9 A. [10:39:26] I was not at the location.

10 Q. [10:39:31] So you did not yourself see when this photograph was taken, so you
11 did not know who took the photograph because you were not present when the
12 photograph was taken; is that correct?

13 A. [10:39:48] I do not know who took that photograph.

14 Q. [10:39:59] Very well. Now, do you know which equipment was used to take this
15 photograph?

16 A. [10:40:10] I do not know, but he brought the photograph to us at (Redacted)
17 (Redacted) and we took it and put it on our computer.

18 Q. [10:40:42] And how was the photograph given to you, in what form? Because you
19 say you put it in your computer.

20 A. [10:40:59] I really do not remember in what form it was.

21 Q. [10:41:09] Very well. And when was this, at what time did you take these
22 photographs from a source, from equipment that we do not know, and transfer it to
23 your computer?

24 A. [10:41:33] (Redacted)

25 (Redacted) He has an office, he has a computer. Then he drafts information and then

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1 they submit it to the editors. After that, the editorial board reviews the document

2 before it is rewritten and then sent to certain persons. (Redacted)

3 (Redacted), and he had written a text on Word, and on the page that he typed the

4 document he inserted the photograph there, on the Word page.

5 Now, when the reporter gives a publisher the materials, then he takes it to put it on

6 the newspaper. So the source of that document remains in his computer and it was

7 from that source that he inserted it in the newspaper. (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted) because he submitted that photograph accompanied by an article

12 typed on Word.

13 Q. [10:44:00] Very well. I understand what you are saying. This means that you

14 don't have the originals of the photographs; is that correct?

15 A. [10:44:12] Yes, that is correct.

16 Q. [10:44:21] And the only thing that you had, that you received, was a Word

17 document on which that photograph was inserted?

18 A. [10:44:36] He submitted an article with the photograph and he gave it to the

19 editors.

20 Q. [10:44:52] Very well. Thank you, Mr Witness.

21 Now, do you know whether the person who took the photographs showed them to

22 other people or provided them to other newspapers, for example?

23 A. [10:45:11] As I said a short while ago, it is not possible for me to know. I do not

24 know.

25 Q. [10:45:26] Very well. I would like to come back to something that you said in

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1 your prior statement, because you have just told us - and I quote you - "During that
2 time, we were not very advanced, so we did not identify that photograph using
3 numbers." It is in the transcript, lines 16 to 18, page 26. And you said something that
4 was of interest to me. Just a moment, let me look at it. Well, we will come back to
5 that. What is interesting to me is what you said in your statement. *That is tab 1 for
6 the English and 1.2 for the French version, from our list of materials, and it's CAR-
7 OTP-2104-0996, page 1016, concerning exhibit 15. You said in the last sentence: "The
8 metadata stated that the photograph was modified on 16 July 2013 at 11:26." My
9 question is where did you see the metadata, especially since you have said that he
10 submitted the photograph to you inserted in a Word document?

11 A. [10:47:39] The issue relating to the metadata does not relate to this photograph.

12 Q. [10:47:58] I will show you the photograph that we are talking about.

13 We have the document on the screen and it should not be shown to the witness, so I
14 wanted exhibit 15 to be displayed. That is the photograph to which that exhibit
15 relates.

16 PRESIDING JUDGE SAMBA: [10:48:36] I think that's tab 10 of the Prosecution's list of
17 evidence.

18 MS NAOURI: [10:48:48](Interpretation)

19 Q. [10:48:50] It is CAR-OTP-2017-0917, and in our list of materials it is tab 23. I'm
20 sorry, 0919. I'm sorry, I don't know what's happening this morning. It is tab 23.

21 Can you see the photograph, Mr Witness? It is on your screen.

22 A. [10:49:41] Yes, I can see it.

23 Q. [10:49:47] Very well. Now, it is in relation to that photograph that you have said
24 that the metadata says that the photograph was modified on 16 July *2013 at 11.26.

25 So my question is on which basis are you stating that the metadata was modified?

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1 A. [10:50:14] I talked about the metadata not relating to this photograph, but a
2 different photograph. Not this one.

3 PRESIDING JUDGE SAMBA: [10:50:33] Sorry. Just for the record, the modification
4 Ms Naouri is referring to in that last sentence is 2013, not 2016, as I read from the
5 transcript, please, and as I heard from the interpreter. 16 July 2013.

6 THE INTERPRETER: [10:50:56] That's correct. Much obliged, Madam President.

7 MS NAOURI: [10:51:07](Interpretation) Yes, thank you, Madam President.

8 In French it was 2013, but it is very good that you pointed that out. 11.26,
9 16 July 2013.

10 Q. [10:51:28] *So, Mr Witness, duly noted. We have taken note of your answer.

11 The photograph can be removed.

12 I do have a question for you: what is metadata? What do you consider as metadata?

13 A. [10:51:35] According to what I know, in order to confirm the authenticity of a
14 photograph, beginning from the date that it was taken, we insert it into a software
15 and the software makes it possible to see the details of the date and location and time
16 at which the photograph was taken. That is what I consider metadata.

17 Q. [10:52:25] Is it possible to describe the camera with which the photograph was
18 taken?

19 A. [10:52:38] In principle, it is possible.

20 Q. [10:52:45] You handed that photograph to the OTP. Which format did you use?

21 A. [10:52:59] I do not remember the format, but the usual format is JPEG. There are
22 several formats, but regarding that time I do not remember specifically.

23 Q. [10:53:32] My other question was which format did you use to provide the
24 photographs to the Office of the Prosecutor?

25 A. [10:53:45] I no longer remember.

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1 Q. [10:54:00] The photographs were preserved between 2013 and the time you met
2 with the OTP in 2015. So how did you store those photographs during those two
3 years? How did you preserve them?

4 A. [10:54:27] Yes. As I have said, (Redacted), and
5 we preserve all the images. *Well before that time, we did not have this system with a
6 hard drive to store data, but (Redacted). So we have a USB key,
7 the memory of the computer, and then we have hard copies. That is how we preserve
8 the documents.

9 Q. [10:55:15] Very well. So I understand that everyone could have access to that
10 (Redacted). In any case, many people could have had access to that photograph
11 during those two years; is that correct?

12 A. [10:55:38] I did not really understand your question well. Please kindly repeat.

13 Q. [10:55:47] You have talked to us about archives on USB, hard disk, and so on. So
14 everybody can read what is on a USB key or on a hard disk; isn't that correct?

15 A. [10:56:11] What to you mean by "everyone"?

16 Q. [10:56:16] *Anyone who is an (Redacted)
17 (Redacted) on the USB stick or on the hard disk. because I suppose that
18 many (Redacted) are.... it's not just these photographs on the USB sticks and the hard
19 drives. So that is my question. People who are working with you as (Redacted)
20 (Redacted) --

21 MS MAKWAIA: [10:56:42] Objection, your Honours. Counsel is actually testifying
22 now, we object to that question.

23 PRESIDING JUDGE SAMBA: [10:56:47] Counsel, she is trying to explain for the
24 witness to understand.

25 MS MAKWAIA: [10:56:53] Then she should just put the question to the witness,

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1 because she's telling him what is happening.

2 PRESIDING JUDGE SAMBA: [10:56:58] No. But are you testifying for the Defence? I

3 mean, you can't tell them how to ask their questions, really, it's for the witness to

4 understand. All that she wants to know is whether or not other people had access to

5 whatever form of (Redacted) that was done, but it is for the witness to understand.

6 Ms Naouri, please.

7 MS NAOURI: [10:57:18](Interpretation) Thank you, Madam President.

8 Q. [10:57:26] Can you answer the question, Mr Witness?

9 A. [10:57:30] I understood your question. You would like to know whether the

10 database was accessible to everyone, and my answer is no. (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. [10:58:50] Very well. Thank you for that clarification, Mr Witness. So, just to

17 understand, between 2013 and 2015, where were these USB keys and hard disks kept?

18 A. [10:59:09] *(Redacted)

19 (Redacted) under strict

20 conditions. In addition, I also have one of these USB sticks.

21 MS NAOURI: [10:59:36](Interpretation) We would like to go briefly into private

22 session, Madam President, for two small questions before the break.

23 PRESIDING JUDGE SAMBA: [10:59:44] Okay.

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

25 (Private session at 11.00 a.m.)

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1 THE COURT OFFICER: [11:00:00] We're in private session, Madam President.

2 PRESIDING JUDGE SAMBA: [11:00:03] Thank you very much.

3 Ms Naouri, please.

4 MS NAOURI: [11:00:05](Interpretation) Thank you, Madam President.

5 Q. [11:00:10] Now, this (Redacted) that you are talking about, where is it kept? You
6 talked about a (Redacted).

7 A. [11:00:26] *(Redacted)

8 (Redacted)

9 (Redacted)

10 Q. [11:00:41] In Bangui, even today, is that what you're telling us?

11 A. [11:00:47] I did not fully understand your question. Are you talking about the
12 present time? We are here at the ICC. We are not in Bangui. I did not understand
13 your question.

14 Q. [11:01:04] It is important, Mr Witness, to know how evidence can be conserved.
15 In 2013 you had the photographs; in 2015 you met with the investigators of the OTP.
16 That is what is referred to as a chain of custody, so between 2013 to 2015. When you
17 met the OTP investigators, at that time you were in (Redacted); is that correct?

18 A. [11:01:34] Yes, that is correct. You should have put that question in that way: in
19 2013 up to 2015, where did you keep the photographs? I would have answered
20 correctly. But when you talk about the present, I'm a bit lost.

21 Q. [11:02:03] So, I put my question, between 2013 and 2015, how did you conserve
22 the photos? So could you please tell us now, between 2013 and 2015 where were the
23 USB keys, the hard drives, et cetera? Where were they kept? *And, in particular, in
24 2015 when you met the representatives of the Office of the Prosecutor.

25 A. [11:02:25] When the investigators of the Office of the Prosecutor arrived in

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1 Bangui, they arrived in (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 And in 2013, when the photos were taken, until 2015, all the data was in (Redacted),

10 (Redacted)

11 Q. [11:03:57] Very well. The last, last question I wanted to ask: was it you who put

12 these photographs in Bangui -- or, did you provide these photographs to the Office of

13 the Prosecutor in Bangui or in (Redacted), Witness?

14 A. [11:04:08] If I remember well, when I met them at the meeting in (Redacted), once

15 I finished in (Redacted), I provided these photographs in (Redacted). If it wasn't in

16 (Redacted), then there were some documents that I transferred by email. Yes, I think I

17 went back to Bangui and I sent a lot of documentation by email, including certain

18 photographs. If these photographs weren't attached by email, then it's when I went

19 back to Bangui that I sent these photographs.

20 MS NAOURI: [11:04:57](Interpretation) Your Honour, I think that this is a good time

21 to have the break. Excuse me.

22 PRESIDING JUDGE SAMBA: [11:05:02] Well, yes, it is indeed, just that we note you

23 have five minutes on top. Okay? I'm sure you thought about your clientele,

24 hopefully so.

25 So, Mr Witness, we are going to stop here for now and take a short break. We will

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- 1 come back in 30 minutes, hopefully, and continue with your cross-examination.
- 2 So I rise the Court for 30 minutes.
- 3 THE COURT USHER: [11:05:32] All rise.
- 4 (Recess taken at 11.05 a.m.)
- 5 (Upon resuming in open session at 11.37 a.m.)
- 6 THE COURT USHER: [11:37:38] All rise.
- 7 Please be seated.
- 8 PRESIDING JUDGE SAMBA: [11:38:02] Good morning, again. Good morning, again,
- 9 everyone.
- 10 Mr Witness, we are going to continue with your cross-examination. I've been advised
- 11 the interpreters want me to speak a bit louder. I will so do.
- 12 Ms Naouri, your witness, please. And we are in open session.
- 13 MS NAOURI: [11:38:33](Interpretation) Thank you, your Honour. Indeed for the first
- 14 question of this session I would like to go into private session, please.
- 15 PRESIDING JUDGE SAMBA: [11:38:46] Madam Court Officer, can we go briefly into
- 16 private session, please.
- 17 (Private session at 11.38 a.m.)
- 18 THE COURT OFFICER: [11:38:58] We are in private session, Madam President.
- 19 PRESIDING JUDGE SAMBA: [11:39:03] Thank you very much.
- 20 Ms Naouri, please.
- 21 MS NAOURI: [11:39:10](Interpretation) Thank you, your Honour.
- 22 Q. [11:39:12] So, Witness, I would like to come back briefly to your career. Now
- 23 what you say in your previous statement is that you followed courses of (Redacted)
- 24 (Redacted). This can be found in paragraph 12 of your
- 25 previous statement.

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1 So my question is, where did you follow these courses?

2 A. [11:39:48] In Bangui.

3 Q. [11:39:53] And what profession were you aiming for?

4 A. [11:40:02] I don't understand the question well. Could you please reformulate it.

5 Q. [11:40:23] So when you do these types of courses, (Redacted)

6 (Redacted), what sort of jobs do people aspire to after that to go into? What
7 professions would they like to go into?

8 A. [11:40:40] I followed these studies where I did this training, so that at the end I
9 could find work. That's why I followed this training, it was to get work and to carry
10 out a project, but things didn't happen as I'd envisaged and at the end, I didn't get any
11 work.

12 Q. [11:41:15] So you didn't have any work in Bangui. Did you work anywhere else
13 related to this work -- or this area, rather, of (Redacted), Witness?

14 A. [11:41:30] No.

15 Q. [11:41:33] Very well. And still in paragraph 12, you say that you spent several
16 months in (Redacted) to look for work. How long were you in (Redacted) for?

17 A. [11:41:48] I was in (Redacted) for a long time, I think one to two years, if my
18 memory serves me well.

19 Q. [11:42:10] Very well. And in which year did you go back to CAR?

20 A. [11:42:20] I went back in the Central African Republic in 2005.

21 Q. [11:42:37] Very well. You went back to the Central African Republic after
22 (Redacted) in 2005. So what did you do when you returned in 2005 in the Central
23 African Republic?

24 A. [11:42:53] When I returned, I was carrying out commercial activities.

25 Q. [11:43:09] Very well. These commercial activities, when did -- until when did you

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1 exercise them?

2 A. [11:43:21] If I remember well, I carried out these activities between 2005 until the
3 date when I got my first -- when I had my first child. I think that was in 2007.

4 Q. [11:43:46] Very well. And what did you do in 2007 in order to meet your needs,
5 witness?

6 A. [11:43:57] In 2007, I continued to carry out my commercial activities and I was
7 called upon to do some (Redacted).

8 Q. [11:44:22] And how long were you doing that for? How long were you doing
9 (Redacted) for?

10 A. [11:44:37] If my -- well, I don't think that I remember the amount of time that I
11 was (Redacted) for. We started in 2003 -- 2005, excuse me, until 2007, towards 2007 to
12 2008, I think it was during that period when I did that work. This is work that I didn't
13 do continually, it was when I was called upon to do that type of work.

14 Q. [11:45:27] So you said you did it until 2008. So what did you do afterwards?

15 A. [11:45:36] After 2008, I tried to find work. You know, as a family father, I had to
16 find work and that is how (Redacted)

17 (Redacted)

18 (Redacted),

19 and that's the work that I started doing in 2008.

20 Q. [11:46:37] Very well. Who was your uncle, just for the case record?

21 A. [11:46:43] So my uncle was the husband of my aunt, my aunt's husband.

22 Q. [11:47:00] Very well. Thank you for this clarification. Indeed, you speak about
23 your cousin in your previous statement, but can you give his name and say which
24 (Redacted) he was working for?

25 A. [11:47:17] Yes, (Redacted) -- well, is it okay for me to give his name?

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1 Q. [11:47:29] We're not in open session, witness, so nobody can hear the name, it's
2 just for us, and nobody will hear it apart -- or outside this courtroom.

3 A. [11:47:44] He's called (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 Q. [11:49:17] Thank you very much, witness. Perfect.

8 And did you do anything else when you were with (Redacted) other than just
9 doing -- rather than doing (Redacted)?

10 A. [11:49:32] So when I started working there, when I arrived I was shown exactly
11 what I should do. And afterwards, having spent several months towards a year there,
12 then I learnt how to go (Redacted). And so I would make (Redacted)
13 (Redacted)
14 (Redacted)

15 Q. [11:50:29] Very well. At a particular time, did you follow official courses in
16 a recognised (Redacted) somewhere?

17 A. [11:50:46] I later -- well, I learnt on the job, as we say in French.

18 Q. [11:51:02] Very well.

19 Very well. And, for how long were you working at (Redacted), Witness?

20 A. [11:51:30] I don't remember exactly. But I think I worked for (Redacted) for a year
21 and a half.

22 Q. [11:51:45] Very well. And what did you do thereafter?

23 A. [11:51:51] When I finished with (Redacted)
24 (Redacted).

25 Q. [11:52:23] Very well. What was your role exactly, witness, in this (Redacted)

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1 (Redacted)?

2 A. [11:52:32] I was -- or, the person who was (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. [11:53:16] Very well. And you said that you stayed for approximately a year and

7 a half at (Redacted). You arrived in 2008. So I understand that you worked for this

8 (Redacted) in 2009, and did it -- did it have good sales?

9 Was it functioning well?

10 A. [11:53:36] I didn't stay there very long in -- with (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. [11:54:36] So if I understand you correctly, you didn't have an effective function as

18 (Redacted)

19 (Redacted)

20 A. [11:54:53] At that time, I was working -- well, he designated me -- he appointed

21 me as (Redacted).

22 Q. [11:55:10] So we can look at tab 40, CAR-D33-0014-0351. This is a non-submitted

23 exhibit which can be shown to the witness.

24 Tab 40. It's not -- it's not CAR-OTP, it's CAR-D33-0014-0351.

25 Now you can see the first page. This is an article from 10 December 2009.

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1 If we could zoom in on the title, and then you get the date as well.

2 *It's an article from 10 December 2009 called "Central African Republic: between a
3 lack of market and self-censure". It was posted on the Africultures website. And I
4 would like to read out a passage to you from page 0354. And if we go to the fourth
5 paragraph. If we could go down a bit.

6 I'm sorry, my fault, I got the page wrong, 0353. Thank you. So it's the fourth
7 paragraph here. Perfect.

8 This is the paragraph, "In 2004":

9 "In 2004 *Agbangba* appears, the fourth satirical magazine in the history of Central
10 African press. Directed by Blandin Songuel, this biweekly is the *héritier* of *La Tortue*
11 *déchaînée*, which opened the door in the years 2000. The caricature of Jean-Noël
12 Mokopé - still him - occupied a place of choice and pitilessly attacked politicians.
13 This magazine, which had recurrent financial difficulties, is now asleep." And says
14 that this -- this magazine is now finished or it is asleep.

15 What can you tell us about this subject?

16 A. [11:58:24] *I repeat, the person in charge of *Agbangba* was Blandin Songeul. He
17 joined it as a state civil servant and he was working for the ministry of the high
18 council of communication. (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted). And if you asked me to explain to you, I will tell you how the newspaper
23 or magazine, *Agbangba* was a satirical magazine. You had *La Tortue déchaînée*, that
24 was another magazine; *Agbangba* was another magazine. They were two different
25 magazines.

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1 Q. [11:59:45] I understand, witness. What I'm trying to understand is that this -- it
2 says that because of financial -- a difficult financial situation, the publication, it had
3 stopped being published. So I just want to know (Redacted)
4 (Redacted)?

5 A. [12:00:11] Well, the owner of the magazine was no longer working. The
6 magazine -- well, (Redacted)
7 (Redacted)
8 (Redacted)

9 Q. [12:00:39] Okay, that's clear. Now, when you say (Redacted)
10 (Redacted)
11 (Redacted)

12 A. [12:00:53] (Redacted)

13 Q. [12:01:04] Yes, indeed.

14 A. [12:01:10] (Redacted)
15 (Redacted)

16 Q. [12:01:22] Okay. We didn't find it, so that's why I put the item.
17 I would ask for the formal submission of this exhibit.

18 And, we will go on to (Redacted).

19 Witness, you said (Redacted)
20 (Redacted)?

21 A. [12:01:41] In the Central African Republic, the law authorises citizens to create
22 enterprises in accordance with the law and that is how I applied for an authorisation
23 (Redacted).

24 When I started, after having obtained the authorisation, I started (Redacted)
25 (Redacted). That is how I started.

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 Q. [12:03:47] Yes, 2009/2010, I understand.

8 In 2013, how many (Redacted)

9 (Redacted)?

10 A. [12:04:08] In 2011, I obtained the authorisation and I had a certain level of

11 financial autonomy. Then I received (Redacted)

12 (Redacted).

13 Q. [12:04:40] I would like to interrupt. I know that you went to (Redacted), but that

14 was not my question. I am very interested in 2013. How many (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 A. [12:05:24] I was coming to that. If it is the number that is of interest to you, I had

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 Q. [12:06:14] Can you begin by giving us the name of the (Redacted)?

23 A. [12:06:21] (Redacted),

24 but I no longer remember the surname.

25 Q. [12:06:48] Very well. And the (Redacted), who was that person?

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1 A. [12:06:55] (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 THE INTERPRETER: [12:08:02] If the Sango interpreter has heard it well.

8 THE WITNESS: [12:08:07](Interpretation) It was a long time ago. So if I remember
9 the names, I will tell you.

10 MS NAOURI: [12:08:19](Interpretation)

11 Q. [12:08:20] Very well. What you remember, (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. [12:09:10] Very well. I understand.

18 In early 2013, (Redacted)

19 (Redacted). Did I understand you well?

20 A. [12:09:29] Yes. At that time, (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 Q. [12:10:15] Very well. In your prior statement, you said in paragraph 12, that

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 Q. [12:11:47] That is interesting. Thank you, Mr Witness.

11 (Redacted)

12 A. [12:11:59] The events took place a long time ago, I no longer remember the date.

13 Q. [12:12:06] Was it before or after 2013?

14 A. [12:12:11] It was in 2013.

15 Q. [12:12:16] Very well. And, who was (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted) Or the year?

25 A. [12:13:43] If I remember correctly, I think it was towards the end of 2013, early

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1 2014. At that time, (Redacted)

2 (Redacted) in question. I really do not have a mastery of the

3 technical terms.

4 Q. [12:14:19] Don't worry about that, it is clear enough. Thank you for that

5 clarification.

6 (Redacted); is that correct?

7 A. [12:14:34] Yes, yes, indeed, (Redacted).

8 Q. [12:14:42] I will show you a document.

9 It is at tab 47 of our list, CAR-D33-0014-0373. It is a document that has not been

10 submitted, but it can be shown to the witness.

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Mr Witness?

17 A. [12:15:46] Yes, I do confirm that.

18 Q. [12:15:52] Thank you. I would like to ask for the formal submission of this exhibit

19 of this material.

20 Very well. Now did you keep hard copies of (Redacted)

21 (Redacted)? Did you conserve them, Mr Witness?

22 A. [12:16:20] Yes, I think that they remained in Bangui.

23 Q. [12:16:26] Very well. Thank you.

24 Now, coming back to (Redacted), in 2013, the whole year, but specifically in the early

25 months, (Redacted), that is, did you have

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1 (Redacted)

2 A. [12:16:59] I do not quite understand your question. Can you repeat.

3 Q. [12:17:06] Very well. (Redacted)

4 (Redacted), in 2013?

5 A. [12:17:23] (Redacted)

6 (Redacted)

7 (Redacted)

8 Q. [12:17:48] Very well. Thank you, Mr Witness.

9 One can say that (Redacted); is that correct?

10 A. [12:18:08] (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted); is that correct?

18 A. [12:19:43] You know, in life anyone can make errors or mistakes and if I did not
19 comply with certain principles, I was issued warnings and then I would answer.

20 Q. [12:20:05] Very well. But you knew that there were rules and ethical provisions
21 applicable to the (Redacted); correct?

22 A. [12:20:18] Yes. I know.

23 Q. [12:20:21] Very well. I will show you a document.

24 53, tab 53 of our list, CAR-D33-0014-0513. It can be shown to the witness. *It is a

25 (Redacted). It is

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1 published daily. The title is: (Redacted)

2 (Redacted)

3 And if we scroll down a little bit on this page, you can see the summary, which I can
4 read.

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted), Mr Witness?

13 A. [12:22:24] Yes. I have that copy, (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 Q. [12:24:33] Very well. I would like to read another extract, 0514, that is the page.

2 PRESIDING JUDGE SAMBA: [12:24:46] Ms Naouri, when you are reading -- when

3 you are reading, in particular, if you can go a bit slow so as to help the interpreters.

4 Thank you.

5 MS NAOURI: [12:24:55](Interpretation) Thank you. Thank you, Madam President.

6 Q. [12:25:03] The excerpt that is of interest to me, if you can scroll down a little bit,

7 yes, that is perfect.

8 What is of interest to me is the paragraph that starts with "*S'il est vrai*". And I will

9 read it:

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 Q. [12:27:07] Thank you for the answer, Mr Witness.

21 We would like to ask for the formal submission of this newspaper.

22 And up till now, you are still (Redacted)?

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 if you are not -- no longer in Bangui; is that correct?

2 A. [12:27:56] When I was not in Bangui, (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 Q. [12:29:06] Very well, I understand. Thank you, Mr Witness.

11 If I understand your prior statement very well, paragraph 49, in December 2013, your

12 (Redacted)

13 (Redacted)

14 A. [12:29:49] Yes, we continued working.

15 Q. [12:29:53] And you left the Central African Republic shortly afterwards in 2014?

16 A. [12:30:04] Yes, I went to (Redacted) in 2014.

17 Q. [12:30:12] Very well. And how long did you stay in (Redacted), Mr Witness?

18 A. [12:30:20] I did not stay for long. I think I spent one or two months in (Redacted).

19 Q. [12:30:30] Very well. And then what did you do after that?

20 A. [12:30:35] I came back to the Central African Republic.

21 Q. [12:30:47] For how much time? Where? If you could indicate the place, please. I
22 was asking you when you left (Redacted), where did you go? Perhaps I should have
23 been more precise. When you left (Redacted) you said you came back to the Central
24 African Republic, and I'm asking you, how long you stayed there at the time that you
25 came back to go to the CAR?

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1 A. [12:31:22] When I came back to Bangui, well, I hadn't spent a long time there. I
2 left Bangui in 2015, afterwards.

3 Q. [12:31:41] Very well. And you met the investigators of the Office of the
4 Prosecutor in September 2015; is that correct?

5 A. [12:31:52] Yes, that's correct.

6 Q. [12:31:55] Very well. And when the investigators contacted you, did they say
7 what they wanted to speak to you about?

8 A. [12:32:05] Could you please specify or reformulate the question because I don't
9 understand it exactly. What do you want to talk about exactly?

10 Q. [12:32:20] What I want to know is, you were contacted in September 2015 by the
11 Office of the Prosecutor and you explain why they wanted to speak to you about
12 such-and-such a thing or you're an interesting person for whatever reason.
13 What did you say when they contacted you?

14 A. [12:32:40] When they contacted me, they introduced themselves. They said that
15 the International Criminal Court was carrying out investigations in the situation in
16 the Central African Republic and they considered that I had documents which were
17 important and they asked to meet me.

18 Q. [12:33:22] Very well. And the second meeting that you had with the investigators
19 of the Office of the Prosecutor was in (Redacted), was it not?

20 A. [12:33:31] Yes.

21 Q. [12:33:32] And it was one month later, Mr Witness, it was in November 2015 for
22 the -- taking the statement. Did the OTP assist you in going to (Redacted)?

23 A. [12:33:48] The Office of the Prosecutor contacted me. The investigators contacted
24 me and they met me and they said everything that we had said in Bangui. They
25 wanted to finalise that because the interview was not finished. But the security

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1 situation was not good in Bangui and because of that, they asked me if I could choose
2 between (Redacted). And they said they would -- depending on the situation, they
3 would see the -- what was the most secure place in order to finalise the interview.
4 They said that at the time, it wasn't possible for them to go to (Redacted) and they
5 proposed that I go to (Redacted).

6 And that's how I went to (Redacted), in order to finish my interview with them.

7 Q. [12:35:05] Thank you, Witness. And they were the ones who organised your
8 travel, the administrative aspects, in order for you to go to (Redacted); is that correct?

9 A. [12:35:17] Yes, that's correct.

10 PRESIDING JUDGE SAMBA: [12:35:28] Ms Naouri, let us know when you want for
11 us to go to open session, please. Don't forget.

12 MS NAOURI: [12:35:39](Interpretation) Thank you, your Honour.

13 You're right, I was trying to group things, to put things together, and I hope I can do
14 what I can in open session, but you're doing very well to remind me thereof.

15 PRESIDING JUDGE SAMBA: [12:35:57] So shall we go into open session or you have
16 a few more questions you would rather ask in private session?

17 MS NAOURI: [12:36:08](Interpretation) I'm going to stay in private session for a bit
18 because the next question is about the ID card. And then we can go back into open
19 session afterwards.

20 PRESIDING JUDGE SAMBA: [12:36:18] That's fine. That's fine. Continue, please.

21 MS NAOURI: [12:36:22](Interpretation) Thank you very much, your Honour.

22 Q. [12:36:24] So who was responsible for taking your identity when your first -- the
23 very first meeting was with the Office of the Prosecutor in 2015, who was responsible
24 for your ID card during your first meeting?

25 A. [12:36:49] I haven't understood your question.

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1 Q. [12:36:53] I'm going to put it differently. Did you show an ID card to
2 a representative of the Office of the Prosecutor when you met them in September
3 2015?

4 A. [12:37:08] In Bangui, they asked me, I presented them with my ID card. It's very
5 normal when you meet somebody, it's totally normal for you to state your identity
6 and that's what I also did in my statement.

7 Q. [12:37:34] Very well. And nobody made a copy of your ID card at that time, if I
8 understand well?

9 A. [12:37:49] No. Oh, wait, I think, yes.

10 THE INTERPRETER: [12:37:58] The interpreter adds.

11 MS NAOURI: [12:38:03](Interpretation)

12 Q. [12:38:04] Thank you, witness. So I would like to go back now to the issue -- or
13 the subject of (Redacted). So I understand that it was the Office of the Prosecutor that
14 made the administrative steps to enable you to go to (Redacted).

15 Now, how long did you stay in (Redacted) for?

16 A. [12:38:25] When we finished the interview, I asked them for permission to meet
17 my family and I spent approximately one month there, if my memory serves me well.

18 Q. [12:38:43] Very well. And before going to your family during this time, your stay
19 was financed by the Office of the Prosecutor, was it not?

20 A. [12:38:57] When we had to work together, it was the OTP that paid for my stay.
21 But when I went to meet my family, it was with my own funds.

22 Q. [12:39:17] Very well. Thank you.

23 Witness, I just want to go back very quickly to the end of your (Redacted)

24 (Redacted)

25 (Redacted)

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1 And I would like to show you an exhibit and this is at tab 50, CAR-OTP-0014-0383,
2 and this is page 0487, which is of interest. This is an exhibit which isn't submitted
3 which can be shown to the witness. Thank you.

4 Now, this is a conversation -- a Facebook conversation between (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 Q. [12:42:11] Very well. Thank you for this clarification.

20 I would ask for the formal submission of this document.

21 Now I will go on to another subject. We are still in private session. *We will begin in
22 private session for a few moments, and I am hopeful that we will then be able to go
23 into open session. So in your previous statement, you explained to us that groups
24 from the North arrived in Bangui in March 2013. And I want to know, you,
25 personally, on 24 March 2013, you were in Bangui, in (Redacted)

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1 the periphery of Bimbo, were you not?

2 A. [12:42:55] That's correct.

3 Q. [12:42:59] And you stayed in your neighbourhood at that time, did you not? You
4 were staying in your neighbourhood at the time, were you not?

5 A. [12:43:07] Yes, that's correct.

6 Q. [12:43:07] And this neighbourhood is approximately 13 kilometres from PK12, is it
7 not?

8 A. [12:43:18] Thirteen kilometres from PK12? I don't understand the question.

9 Q. [12:43:33] The distance between your neighbourhood and PK12 is approximately
10 13 kilometres, is it not?

11 A. [12:43:43] (Redacted)

12 (Redacted). The town of Bangui is laid out in this way. I

13 don't think it's 13 kilometres away. If you are talking about 13 kilometres, that would
14 mean that you leave from Point Zéro to the town centre to go to the neighbourhood.

15 So I don't know how you could indicate that the distance between -- or that the
16 distance can be considered to be 13 kilometres. Thirteen kilometres, that means that
17 the person can leave Point Zéro and arrive at KM5, and then to

18 (Redacted)

19 (Redacted), and I don't think that that can be

20 13 kilometres, but a bit more.

21 Q. [12:45:01] Thank you for this clarification.

22 MS NAOURI: [12:45:05] Madam President, for my next questions I think we can go
23 into open session, please.

24 PRESIDING JUDGE SAMBA: [12:45:12] Okay.

25 Madam Court Officer, can we go into open session, please.

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1 (Open session at 12.45 p.m.)

2 THE COURT OFFICER: [12:45:19] We are back in open session, Madam President.

3 PRESIDING JUDGE SAMBA: [12:45:29] I thank you very much.

4 Ms Naouri, continue, please.

5 MS NAOURI: [12:45:38](Interpretation) Thank you, Madam President.

6 Q. [12:45:39] Now, Witness, still on 24 March 2013, you state in your previous

7 witness statement - and this is paragraph 15 - that you heard mortar shells falling on

8 Bangui. When was that? What time, in your opinion?

9 A. [12:46:04] Are you speaking about the 24th? The 24th or the 23rd?

10 Q. [12:46:15] Well, if I take your previous statement - this is 1.2 in the French version

11 and our list of materials, and we are going to paragraph 15 thereof, and I think that

12 goes over the page, on page 1000, and we are going to go 1001 - and it says that -- in

13 the paragraph right at the start, can you see it, witness?

14 I'm sorry, we start with 1000 and then we go on to 1001.

15 So if we go to the end of the page, so you can see the second -- so "I saw" -- "I saw it

16 flying on 23 March". That's a helicopter.

17 Now, I'm interested in the last phrase of the paragraph:

18 "I saw the mortar shells fall on Bangui".

19 And then we go to the next page, 1001, "and both camps were using rocket-propelled

20 grenades known as RPGs and grenades. And we all saw the aftermath and signs of

21 these weapons in the destruction caused in the city."

22 Now, the first question that I wanted to ask was what time was this? When did this

23 happen?

24 A. [12:48:11] You spoke about the time, I don't know how -- or what I can tell you to

25 give a time, you know. Things ...

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1 Q. [12:48:41] I don't need the exact time. Was it in the morning, afternoon or
2 evening? When did you hear it?

3 A. [12:48:50] It was the night and the morning.

4 Q. [12:48:58] Very well. So you heard these noises, but you didn't see fighting; is that
5 correct?

6 A. [12:49:06] I was in the town, there was fighting.

7 Q. [12:49:17] So you tell us on 23 March, during the night and in the morning, you
8 didn't go into town and you saw fighting -- or you were walking around in the town
9 and you saw fighting?

10 THE INTERPRETER: [12:49:37] Corrects the interpreter.

11 MS NAOURI: [12:49:38](Interpretation)

12 Q. [12:49:39] Is that your testimony?

13 A. [12:49:41] You said, did I see fighting? I understood your question, but how can
14 you see fighting at the time when there's shooting? At the time that people are
15 fighting, people try to flee, to take shelter. People leave the neighbourhood to go and
16 take shelter in another neighbourhood. I also followed others to -- in order to take
17 shelter and not to be involved in the fighting.

18 Q. [12:50:15] Very clear. And you say that the sound that you heard was mortar
19 shells. How can you recognise the sound of a mortar shell, witness?

20 A. [12:50:28] When you fire in the town, there were people who knew weapons and
21 they told us, "That is a shell, that's a mortar". Myself, I don't know the different types
22 of weapons, but those who did, they told us.

23 But I would like you to ask me the question: Who told you that it was a mortar or it
24 was shells? But people were saying that it was mortar shells that were being fired.

25 Q. [12:51:12] Witness, we're going to come back to that.

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1 You said there was people who knew about weapons who told you this. So these
2 people, did they explain to you what type of damage a mortar shell leaves?

3 A. [12:51:29] A shell or a mortar, when it hits a house or a tree, or it hits a person, it's
4 going to destroy the -- the house. It's going to kill the person.

5 Q. [12:51:56] Very well. You say it's going to destroy somebody. I've understood.
6 They didn't say anything else, these specialists on weapons, about the damage that
7 shells -- mortar shells make when they hit the ground? Does it create damage of
8 a -- in a particular shape, for example?

9 A. [12:52:19] No. They didn't show that precisely, any type of particular damage.

10 Q. [12:52:28] And what's the difference between you -- from the damage left by
11 a rocket launcher, by a rocket or by a shell fired from a mortar? Would you know the
12 difference between the two?

13 A. [12:52:46] For example, a shell, if it hits a house, you can see that there's a massive
14 hole in the house. If it's a rocket fired from a rocket launcher, there will be marks of
15 this rocket on the house like a tiger that will scratch somebody.

16 Q. [12:53:23] Very well. And the -- what did it -- so what you saw, was it houses that
17 had disappeared? Did it correspond with that the type of damage, the damage that
18 you saw the next day?

19 A. [12:53:44] Yes, that's correct.

20 Q. [12:53:47] So houses that were there the next day?

21 A. [12:53:57] Yes.

22 Q. [12:53:59] Very well. And Bangui is a town that has had numerous armed clashes,
23 so apart from the houses that had disappeared, how could you distinguished that this
24 was damage which was recent? How can you explain that?

25 A. [12:54:18] Well, if something happens recently you know. If something was dated

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1 from a long time ago, you also know.

2 For example, if something happens a month ago and afterwards there's rain, you will
3 see that there's a change in the environment when something has happened in the
4 field -- or on the day itself.

5 Q. [12:55:05] And where was this damage of houses that you saw, witness?

6 A. [12:55:12] What would you like to ask exactly?

7 Q. [12:55:32] Where? In Bangui where you said that there were houses which were
8 destroyed by mortar shells, where was that?

9 A. [12:55:39] That was in the town centre. I saw where a mortar shell had hit a house
10 in the Castor neighbourhood. I also saw it in the Fatima neighbourhood, and also in
11 the Miskine neighbourhood.

12 Q. [12:56:18] So if we send a ballistics team or forensic team to these places, they will
13 be able to identify them and they will see that shells were fired at that place, is that
14 what you're telling us? If we send a police study there -- forensics?

15 A. [12:56:40] They will be able to detect -- they will be able to detect shell craters.
16 What do you mean by a scientific police?

17 Q. [12:56:53] These are people who are specialised in weapons and they can say that
18 this crater comes from a particular time and they will find large craters made by
19 shells. That's what you were saying, because there were craters caused by shells,
20 were you not?

21 A. [12:57:14] At that time I was telling you that people were fleeing in all directions.
22 Where could you get the forensic police at that time?

23 Q. [12:57:28] I'm not saying at that time. I'm saying if we send them now. If we were
24 to send specialists now, they would find craters left from shells, would they not?

25 A. [12:57:41] If they were experts, they could do their work.

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1 Q. [12:57:48] Very well. Thank you, witness.

2 So, witness, in your opinion, there are members of the presidential guard who fought
3 against the Seleka group. Have I understood that well?

4 A. [12:58:25] Yes, that's correct.

5 Q. [12:58:34] Were you a direct witness of these battles with the presidential guard?

6 A. [12:58:45] When the president fled, they weren't prepared to leave. He hadn't
7 asked his soldiers to drop their weapons. Some people knew that he'd already left the
8 country and they put their weapons down, but those who didn't know, they stayed
9 and they had to defend their positions.

10 And where there was fighting, well, how could I go and see where the fighting was?

11 It's not possible; you risked being wounded yourself.

12 Q. [12:59:37] Very well. You've just said when the president fled, but he wasn't
13 prepared to leave. He didn't ask his soldiers to put their weapons down. That's what
14 you said.

15 Witness, I'll read a transcript, and this is testimony from somebody else who came in
16 your place to testify, and I will read it in a non-identifying way. And it's a member of
17 the presidential guard, Bozizé's presidential guard, who says the following. And this
18 is the transcript -- corrected transcript of 26 February 2024, page 36, lines 2 to 6:

19 "He then said to Francis that we were going to make a base and we were going to take
20 the Seleka, and the president was opposed to that idea and he said, 'No. We're not
21 going to repost people for the moment.' He didn't want us to fire at the Seleka."

22 *And this witness also says -- and this is the same transcript on page 42, lines 2 to 10,
23 and I will read it from line 5 onward so it's not identifying :

24 "When Francis Bozizé crossed, he forbade us from going back with these weapons to
25 the neighbourhood. He said, because we were first to cross over that we should

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1 abandon everything -- abandon everything at the river. And he advised us to change
2 out of our military uniforms and to wear civilian clothing and to take the path into the
3 bush to go home."

4 So that's what a member of the presidential guard says.

5 So my question is: What's your source you base yourself on to say that he had told
6 the soldiers to not put their weapons down?

7 A. [13:01:57] I will answer with a question to you: at that time, what was Francis
8 Bozizé doing?

9 Q. [13:02:13] *Je ne peux pas répondre.*

10 PRESIDING JUDGE SAMBA: [13:02:15] Mr Witness, can you just answer the
11 question, please. Can you answer counsel's question and not put a question to her.
12 She was not there, okay? Please answer the question.

13 THE WITNESS: [13:02:43](Interpretation) The question was to know -- well, as you
14 are aware, I was in Bangui. We were circulating in the neighbourhoods. *Francis
15 Bozizé had left. As Bozizé was leaving to take his plane in Berengo, he was with
16 Francis Bozizé. Some of Bozize's children, for example, the one called Djodjo, crossed
17 the Ubangi river around Zongo. Some soldiers stayed back and they fought against
18 the Seleka around the *lycée* Boganda.

19 *There were pockets of resistance in these sectors. There was brief fighting between
20 them and the Seleka. That is what I said in my statement.

21 MS NAOURI: [13:03:49] (Interpretation) I can see the time, Madam President. I will
22 stop there and I will have follow-up questions, obviously, after the break.

23 PRESIDING JUDGE SAMBA: [13:03:56] Okay, we are going stop here, Mr Witness,
24 and we will go for lunch. So we come back at 1.30 -- I'm sorry, at 2.30. I rise the Court
25 for 2.30, please.

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1 THE COURT USHER: [13:04:10] All rise.

2 (Recess taken at 1.04 p.m.)

3 (Upon resuming in open session at 2.35 p.m.)

4 THE COURT USHER: [14:35:19] All rise.

5 Please be seated.

6 PRESIDING JUDGE SAMBA: [14:35:47] Good afternoon, everyone.

7 Mr Witness, we're going to continue with your testimony. I'm going to ask

8 Ms Naouri to continue with her line of cross-examination.

9 Ms Naouri, your witness, please.

10 MS NAOURI: [14:36:05](Interpretation) Thank you very much, your Honour.

11 Q. [14:36:09] We will resume now and move on to another topic.

12 I'd like to quote something from your prior statement.

13 1.2, tab 1.2 on our list, tab 1 for the English version. This can be shown to the witness

14 but not to the public. CAR-OTP-2104-0996-R02, pages 12 and 13. Correction:

15 Page 1013.

16 That is the page of interest to me.

17 Great. If we could scroll down to paragraph 54 and then item 1:

18 "Exhibit 1", here we see the following:

19 "Photo [of] a dead naked pregnant woman. Photo depicts a victim of a Seleka attack

20 in November 2013. As a result of this attack, Dhaffane who was one of the main

21 Seleka leaders, along with Nouredine and Djotodia, condemned this attack and

22 stated that Seleka is not here to kill people. He criticised such actions by the Seleka

23 and was imprisoned. Source of the photo: Facebook, I can't recall from whose

24 account, but the photo was circulating in the context of the Seleka attack that occurred

25 at the time." End of quote.

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1 First question: Can you confirm these reasons that were invoked to justify the
2 imprisonment of Dhaffane?

3 A. [14:38:31] At that time Dhaffane had made a statement and he was arrested
4 subsequent to that statement.

5 Q. [14:38:48] Very well.

6 I'd like to show you something from our list, tab 6.

7 And this is tab 6, CAR-OTP-2017-0888, and if we could move to page 0892. This
8 document can be shown to the witness and to the public. *And I am reminded that
9 this was submitted this morning under 68(3) in actual fact. Page 0892.

10 So I believe you can see the article. This is an article entitled "What has happened to
11 former ministers Gazam-Betty and Moussa Dafhanne?"

12 This was published in *Le Pays* in 2013. I'd like to read out a passage from this article.
13 If we could scroll down a little bit, please. Scroll down further, please. 14

14 November 2013. I'll start with the new paragraph. It begins:

15 "In the case of these two well-known figures who were dismissed, it is being said that
16 they were harmful and actually were a block, an obstacle for the operations of state
17 affairs. After being dismissed, the former minister of communication, Gazam-Betty
18 took this excellent opportunity to settle scores with his former friend, the minister of
19 water, forestry, hunting and fishing, Mohamed Moussa Dhaffane, president ..."

20 If we could scroll up, please, to the continuation of the paragraph:

21 "... president of the rebel faction called Patriotic Convention for Salvation Kodro
22 (CPSK). Gazam-Betty and Michel Djotodia agreed to say that they did not have
23 sufficient troops and that they were recruiting mercenaries and child soldiers to fight
24 the regime of his mentor Djotodia.

25 Informed of this attempt to destabilise the state, the head of state took the brave

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1 decision to get rid of Dhaffane before it was too late."

2 So you see, Mr Witness, another reason has been given here for getting rid of
3 Dhaffane. Here they're saying -- well, in this article they say that they got rid of him
4 because he had recruited mercenaries and child soldiers and not for the other reasons,
5 the reason that you mentioned in your statement.

6 How do you explain this discrepancy?

7 A. [14:42:41] This article makes mention of him being dismissed, and it mentions his
8 activities after he resigned. But the article doesn't mention Dhaffane's arrest. That's
9 what I understand from all of this.

10 Could you please scroll up so I could read the headline?

11 Q. [14:43:24] We will scroll up so that you can see the entire title.

12 A. [14:43:38] *Well, I see that the journalist writes the following: What has happened
13 -- what has happened to former ministers Gazam-Betty and Moussa Dafhanne?

14 LSS: This is how the two names are spelled in the document being examined by the
15 witness?

16 And they are referred to as former government ministers. *In the content of the
17 article, if I've understood correctly, he made some comments, the journalist made a
18 number of comments about the relationship between Dafhanne and Gazam-Betty
19 within the Seleka coalition.

20 Q. [14:44:31] Indeed. In part of the article mention is made of what happened to
21 their careers, but I read out a passage that clearly stated that informed about an
22 attempt to destabilise, the head of state made a brave decision to get rid of Dhaffane
23 before it was too late. And on the day that this article was written, he was being
24 detained at Camp de Roux awaiting for a trial.

25 *So the journalist said that the head of state, Mr Djotodia, took this decision to get rid

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1 of Dafhanne, who was being detained at Camp de Roux, and the reason for this brave
2 decision is that he had been informed about Dafhanne's attempt to destabilise---
3 Dafhanne wasn't put in prison for condemning a Seleka attack in November 2013,
4 which is what you said in your statement.

5 (Redacted) -- I'll leave it at that because

6 we're in open session. Why is it that the reasons for -- or the detention, rather, of
7 Dhaffane at Camp de Roux, the reasons in the article are -- differ in relation to the
8 reasons given in the witness statement? How do you explain this discrepancy?

9 A. [14:46:19] The attack that I mentioned was different to the content within this
10 article. I said that at that time Dhaffane who executed civilians -- when the civilians
11 were executed, he spoke out against the massacre, the killing, and because he spoke
12 out against the killings, the same day, after his statement, weapons were heard going
13 off. At that time, he was arrested not because he enrolled child soldiers, no. The
14 content of this article is different to my statement. I didn't say that he had enrolled
15 child soldiers. If you focus on what I've said and then you look -- you have to focus
16 and highlight what I said and then look at the content of this article.

17 Q. [14:47:32] Very well. So this newspaper, *Le Pays*, published some other articles
18 about the arrest and detention of this gentleman, and I would like to show you a
19 document found at tab 4 -- tab 45, CAR-D33-0014-0366.

20 This item has not been submitted. It can be shown to the witness and to the public.

21 Can you see the document, Mr Witness? We're hearing the Sango.

22 THE INTERPRETER: [14:18:52] Apologies from the interpreters, there seems to be a
23 mix-up.

24 MS NAOURI: [14:48:37](Interpretation)

25 Q. [14:48:38] This is a publication taken from Facebook.

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1 THE INTERPRETER: [14:48:46] Apologies.

2 MS NAOURI: [14:48:50](Interpretation) I will try one more time.

3 Q. [14:48:58] So this is something from a Facebook posting, the same account. It's
4 from the account of the newspaper called *Le Pays* and it's entitled "What does the
5 Prime Minister Nicolas Tiangaye have to say about the arrest of General Dhaffane,
6 one of the government members who is on a hunger strike?" And this was published
7 on 8 July 2013.

8 If we could scroll down a little bit, I'd like to read out a particular passage after the
9 quote. Perfect. Perfect. Right there. Scroll -- perhaps scroll up a little bit. You've
10 gone a bit too far. Perfect.

11 "After the notification of a memorandum calling for an inter-Seleka dialogue with a
12 view to speaking out against the macabre behaviour of a number of colonels who,
13 after power was taken on 24 March last, continued to loot or steal, at times firing
14 heavy weaponry at the people who have suffered so much, the General Dhaffane,
15 minister of state responsible for water and forestry, was dismissed from his position
16 and arrested at the same time. A number of searches were carried out at his home,
17 multiple searches.

18 This situation is such that -- well, it should be pointed out that the republic of the
19 Central African Republic -- the Central African Republic is a state under the rule of
20 law. Even though a number of screw-ups have been committed by this former
21 minister of state, all the same, there are proceedings for arrest of a serving
22 government member." If we could scroll down. Thank you.

23 So you see that the article ends with a signature saying "*Le Pays*".

24 So here we see that this article is dated 8 July 2013, so the arrest and detention of
25 Mr Dhaffane already had happened in July 2013. Did you know that?

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- 1 A. [14:52:07] Well, quite a long time has gone by since then.
- 2 Q. [14:52:09] Very well. I'd like to ask you two questions in private session if I could.
- 3 THE INTERPRETER: [14:52:18] Interpreter correction: The witness ended his last
- 4 reply by saying, "I have forgotten".
- 5 PRESIDING JUDGE SAMBA: [14:52:27] Madam Court Officer, can we go into private
- 6 session, please.
- 7 (Private session at 2.52 p.m.)
- 8 THE COURT OFFICER: [14:52:41] We're in private session, Madam President.
- 9 PRESIDING JUDGE SAMBA: [14:52:45] Thank you very much.
- 10 Ms Naouri, continue please.
- 11 MS NAOURI: [14:52:51](Interpretation) Thank you, your Honour.
- 12 Q. [14:52:52] Mr Witness, were you the one who (Redacted)
- 13 (Redacted)
- 14 A. [14:53:05] Yes, that's right.
- 15 Q. [14:53:08] So you're the one who (Redacted), correct?
- 16 A. [14:53:14] Yes. That's right.
- 17 Q. [14:53:19] Very well. So (Redacted) talked about the arrest and detention of
- 18 Mr Dhaffane in July 2013, well before November 2013, correct?
- 19 You can look at the date.
- 20 If we could scroll up slightly. The witness would like to look at the date.
- 21 So you can see that this was published on 8 July 2013, Mr Witness.
- 22 A. [14:54:08] Uh-huh. 8 July 2013, (Redacted)
- 23 (Redacted). That's the date that the article was published.
- 24 Q. [14:54:28] Very well, thank you very much.
- 25 We can go back into open session, your Honour.

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- 1 PRESIDING JUDGE SAMBA: [14:54:37] Can we go back into open session, please.
- 2 (Open session at 2.54 p.m.)
- 3 THE COURT OFFICER: [14:54:53] We're back in open session, Madam President.
- 4 PRESIDING JUDGE SAMBA: [14:54:57] Thank you very much.
- 5 Ms Naouri, please.
- 6 MS NAOURI: [14:55:03](Interpretation) Thank you, your Honour.
- 7 Q. [14:55:04] Mr Witness, I'd like to show you a photograph.
- 8 Tab 9 on our list, CAR-OTP-2017-0905. This can be shown to the witness and to the
- 9 public.
- 10 Can you see the photograph, Mr Witness?

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1 A. [14:55:32] Yes, I see it.

2 Q. [14:55:37] This is the photograph that you handed over to the OTP, correct?

3 A. [14:55:43] Yes, that's right.

4 Q. [14:55:48] Very well. And when you met with the representatives from the OTP
5 during the preparation session you said nothing about this photograph; is that
6 correct?

7 A. [14:56:02] When I was questioned I told them that I'd found this photograph on
8 Facebook.

9 Q. [14:56:14] Very well. Mr Witness, I'd like to show you another document. Tab 41.
10 Just a break for a moment. I realise that I didn't submit the previous items. I just
11 realised now. If I could backtrack for a few moments. My apologies.

12 Tab 45 on our list, namely, the Facebook account, we request the official submission
13 of this item. I'm sorry, I'm not yet in the habit.

14 And as well as tab 9, which was just shown, CAR-OTP-2017-0905. We also request
15 that this item be formally submitted just to ensure that the case file is perfectly clear.

16 And now tab 41, CAR-D33-0014-0356. This item has not been submitted. It can be
17 shown to the witness and to the public.

18 We're going to zoom in and look at the top of the page, the headline. This is an article
19 from Congo Vision. Congo Vision. If we could scroll up and you can see the title,
20 "Congo Holocaust." Yes, perfect, thank you. "Congo Holocaust" and I'll (Overlapping
21 speakers) ...

22 (Speaks English) "The biggest US Leadership Failure".

23 (Interpretation) Can you see the article, Mr Witness?

24 A. [14:58:25] Yes, I see it.

25 Q. [14:58:27] Very well. And we'll have a look at the photograph.

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1 If you could scroll up, please, a little bit. Thank you.

2 This photograph is identical to the photograph that you handed over to the OTP
3 investigators, isn't it?

4 A. [14:58:59] I told that you we found it on Facebook. We found this image on
5 Facebook.

6 Q. [14:59:06] Very well. If we could move on to the following page, 0357, and if we
7 look at the very bottom of this particular page, 0357.

8 Here we see -- scroll down, down, down, down, please. Thank you. 22
9 November 2012.

10 So we see the date here 22 November 2012. This photograph already was in existence
11 on 22 November 2012. Had you seen this doc -- this photograph before 2013,
12 Mr Witness, before November 2013?

13 A. [14:59:57] November 2013, this photograph was already circulating on the
14 internet.

15 Q. [15:00:17] I would like us to show the first page, 0356, and I would like to show
16 the legend with it. And I'll make an unofficial translation: "A woman hit by a bomb
17 during the capture of Goma".

18 And the description is just underneath: "A woman hit by a bomb during the capture
19 of Goma by M23 rebels".

20 So Goma, this is in Congo. This photograph apparently was not taken in CAR or
21 Congo. Have you tried to get the -- have you tried to get the origins of this photo
22 back before showing it to the Office of the Prosecutor, witness?

23 A. [15:01:15] This picture, (Redacted), and the pictures that (Redacted), this is what
24 I provided to the investigators, but in particular this photograph, we got it from social
25 networks.

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1 Q. Very well. So I ask for the formal submission of this item. And I will show you
2 another document, witness, and this is at tab 43 on our list of materials, and this is
3 CAR-D33- 0014-0362, and this is a non-submitted document but it can be shown to the
4 witness and to the public.

5 Do you see the photograph, witness?

6 A. [15:02:30] I can see it.

7 Q. [15:02:32] Very well. We are going to go down a bit because it is a screenshot of a
8 Flickr account of Ikaze Iwacu, and Flickr is an internet site where photographs are
9 shared and videos are shared.

10 And if we go down a bit further, if you would be so kind, court officer, thank you.

11 Yes, that's perfect. So you can see the description: Massacres in Goma 2012.

12 We're going to go up a bit. You would agree that the photograph that we can see
13 from this Flickr account is the same as the one you provided to the Office of the
14 Prosecutor, is it not?

15 A. [15:03:34] Yes, that's correct.

16 Q. [15:03:40] Very well. So we found this photograph in open source on the internet
17 quite easily. You didn't do any checking to see if this photograph really did
18 correspond with an attack said to have happened in Bangui in 2013 before handing it
19 over to the Office of the Prosecutor?

20 A. [15:04:09] I hadn't the time to carry out this research.

21 Q. [15:04:20] Very well. Thank you, witness.

22 So I would ask for the formal submission of this item, please.

23 So we're now going to go on to another item that you state in your previous
24 statement, and that's exhibit number 2. And I'll say what you say with regards to this
25 exhibit, and this is 1.2 for the French version, tab 1.2, and it's at page 1013 and we'll go

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1 over a bit on to the next page. I will say what is stated. Perfect. Thank you.

2 So it's exhibit 2:

3 Photograph of two naked women in a group of *protestant* women against the Chadian

4 forces and MISCA who had shot at the refugee camp at M'Poko airport. And this

5 happened towards October or November 2013, and it's from a Facebook source.

6 I don't remember what photograph it comes from, but it was circulating in this

7 context at the time.

8 Would you confirm this is what it says: Photo of two naked women in a crowd of

9 women protesting against the action of MISCA's Chadian forces firing their weapons

10 at M'Poko airport?

11 A. [15:06:06] Yes, I confirm it.

12 Q. [15:06:08] Very well. So where was the headquarters of the MISCA in

13 November 2013?

14 A. [15:06:27] MISCA, 2013? The headquarters, that was in Avenue Boganda opposite

15 PK3 -- rather, PK4.

16 Q. [15:06:47] Very well. And why did the MISCA forces fire at a refugee camp?

17 A. [15:07:01] The question was put regarding the HQ of MISCA, however, the

18 detachment of the contingent which was at M'Poko base towards the airport.

19 Q. [15:07:26] Witness, I'm just reading what you said. What you said was that

20 Chadian forces from MISCA had shot at the M'Poko airport refugee camp.

21 Why did they fire, MISCA forces? Why did the MISCA forces fire at the refugee

22 camp, if you know?

23 A. [15:08:02] The reason why they fired at the crowd, well, they'd heard that those

24 who had taken refuge in the camp according to the information that they had, well,

25 some of these refugees would be -- they'd heard that they were in fact soldiers.

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1 Q. [15:08:29] Very well. I'm going to show you the photograph that it's about. This
2 is 10 on our list of evidence, CAR-OTP-2017-0906.

3 And this is a non-submitted exhibit which can be shown to the witness and to the
4 public.

5 This is the photograph that you provided to the Office of the Prosecutor, witness?

6 A. [15:09:03] Yes. It's that. That one.

7 Q. [15:09:11] Thank you. I would ask for the formal submission of this exhibit.

8 So, witness, I'm going to show you a document.

9 And, court officer, we're going to -- the court officer is going to help us with regard to
10 this exhibit.

11 Tab 55 on our list of materials, CAR-D33-0014-0517. And it can be shown to the
12 witness and the public. It is a non-submitted piece of evidence. It was published on
13 YouTube TogoVisions on 16 January 2013, and it says: "The women of Bè get
14 undressed to express their anger against police abuse".

15 And I would *precis* that Bè is a neighbourhood in the town of Lomé in Togo. And we
16 will show an extract of this video, starting at the fifth minute and 30 seconds, and
17 then we will stop on -- and then we will freeze the picture at the fifth minute and 43.
18 And in order to view it, I am told you have to look at evidence 2, the evidence 2
19 channel. So we're going to start playing it now.

20 (Viewing of the video excerpt)

21 MS NAOURI: [15:11:12](Interpretation)

22 Q. [15:11:12] So, witness, do you see the image which has been frozen?

23 A. [15:11:19] Yes.

24 Q. [15:11:21] Of two women on this photograph, witness?

25 A. [15:11:31] Yes, I see the two women.

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1 Q. [15:11:40] Have you already seen this video, witness?

2 A. [15:11:45] No, I've never seen it at all.

3 Q. [15:11:51] Did you carry out research to try and find out where this photograph
4 came from that you provided the Office of the Prosecutor with in which these two
5 women appear?

6 A. [15:12:04] No. No, the research wasn't carried out.

7 Q. [15:12:17] Very well. (Redacted) about the firing in the
8 refugee camp by the MISCA?

9 A. [15:12:35] It could be the case that (Redacted) about that, but that
10 was a long time ago.

11 Q. [15:12:51] So you never heard anybody speak about this demonstration of naked
12 women in Lomé in Togo, Witness?

13 A. [15:13:08] No, not at all.

14 Q. [15:13:12] I would ask for the formal submission of this document.

15 And I'm going to show you tab 52, CAR-D33-0014-0502.

16 This is an exhibit which isn't submitted, which can be shown to the witness and to the
17 public.

18 So we have to go back to evidence 1 to see this because we are not in charge of
19 displaying.

20 Do you see the article, witness? And you see in the square -- or can you give us the
21 date that you can see, if we zoom in a bit?

22 A. [15:14:26] 11 January 2013.

23 Q. [15:14:32] Very well. It was published on 11 January 2013. You can see that the
24 title of the article is written in French. So: "Togo/In reply to a bloody repression of
25 peaceful demonstrations in Lomé, for the second time Togolese women are rebelling

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1 naked".

2 And I would ask to go down a bit further so that we can see the article as a whole.

3 Very well.

4 And, as such, you can see what it's about.

5 I would like the page 0503 to be shown. That is the next page. That's it. The first

6 photograph. If we zoom in a bit.

7 Witness, you would agree that the photograph that we can see here is the same

8 photograph that you provided to the Office of the Prosecutor, is it not?

9 A. [15:15:47] Yes, the one at the top is that one I provided.

10 Q. [15:15:55] Very well. We have two sources, and it can be found quite easily on the

11 internet, and they say that it is women taken during a demonstration in Togo and not

12 women who were targets of MINUSCA -- or MISCA, rather, in Bangui.

13 Why did you tell the investigators of the Office of the Prosecutor that these were

14 photographs of Central African women?

15 A. [15:16:29] At that time, MINUSCA had fired on these people, and after that there

16 were demonstrations and at that time this photograph was going around the social

17 networks. I would repeat, we got this photograph from the social network. Our fault

18 was the fact that we didn't carry out prior research.

19 Q. [15:17:00] Very well. Thank you, witness.

20 I would ask for the formal submission of this exhibit.

21 And I will read another excerpt from your previous statement concerning exhibit

22 number 13.

23 And I will give you the references for it. So it's tab 1.2, CAR-OTP-2104-0996, and

24 page 1015. So CAR-OTP-2104-1015.

25 And to show you -- you don't have to -- obviously, it shouldn't be shown publicly, but

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1 I'm going to go through this exhibit in private session if we may, Madam President.

2 PRESIDING JUDGE SAMBA: [15:18:06] Madam Court Officer, can we go into private
3 session, please.

4 (Private session at 3.18 p.m.)

5 THE COURT OFFICER: [15:18:23] We're in private session, Madam President.

6 PRESIDING JUDGE SAMBA: [15:18:27] Thank you very much.

7 Ms Naouri, continue, please.

8 MS NAOURI: [15:18:32](Interpretation) Thank you, your Honour.

9 Q. [15:18:33] So you say in your statement that we now have in front of us for
10 exhibit 13:

11 "Photo of the massacre committed in the Wango neighbourhood in the middle to late
12 2013, where the Seleka had dumped bodies. Wango is on the way from Bangui to
13 Ngaragba prison. This picture received a lot of attention and caused an outcry among
14 the civilian population, to the point that Djotodia made a press release about it. You
15 can see victims' bodies on the ground and some Seleka men in uniform, with weapons
16 in their hands, in the background. (Redacted). Source: Facebook, I cannot remember
17 whose account it comes from."

18 And afterwards you say -- and this is another exhibit, this is 36.1 on our notification
19 list. This is the report of your preparatory session with the Prosecution, and it's
20 CAR-OTP-00036341 and it's page 00003. And, of course, it can be shown to the
21 witness.

22 Now, that was perfect. Thank you, court officer.

23 So you can see it's written:

24 "The witness has clarified when he initially provided exhibit 13" - so we're still talking
25 about exhibit 13 - "to the Office of the Prosecutor, he thought that it was a photograph

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1 representing the massacre committed in the Wango neighbourhood in the middle or
2 the end of the year 2013, as is indicated on page 19 of his statement. Since, the
3 witness has found out that this photograph did not represent a massacre committed
4 in the Central African Republic and that the source of the photo had modified the
5 date thereof." End of quote.

6 So my first question, Witness, is when you (Redacted)
7 (Redacted), you don't make any kind of
8 checking or carry out any kind of verification about it; is that correct?

9 A. [15:21:49] I haven't understood the meaning of your question.

10 Q. [15:21:56] Well, you state in your previous statement that you (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 A. [15:22:37] Well, I think that (Redacted). The source of the photo (Redacted) have,
18 when there are photographs from Facebook, (Redacted) it's from Facebook. Now, at
19 this time when (Redacted). But afterwards, a
20 long time afterwards, (Redacted) tried to find out information about this photograph,
21 and afterwards (Redacted) able to find out that it was -- these were not photographs
22 from Central African Republic.

23 Q. [15:23:20] How did you discover that? What research did you carry out, Witness?

24 A. [15:23:29] So, previously, what (Redacted), what made it possible to know
25 whether these were photographs not from the Central African Republic because they

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1 had been published on several different Facebook accounts, afterwards the dates of
2 publication were different and they had been changed. (Redacted)

3 (Redacted)

4 (Redacted) all the details, and the details were different to the date on which the
5 photograph had been published.

6 Q. [15:24:23] Very well. So you met investigators of the Office of the Prosecutor in
7 2015. When did you carry out this checking, because apparently in 2015 you still
8 thought that these were pictures that had been taken in Wango?

9 A. [15:24:41] As you have just said, afterwards (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 Q. [15:26:38] Very well. Thank you, witness.

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1 So we can go into open session, your Honour. Your Honour, open session, please.

2 PRESIDING JUDGE SAMBA: [15:26:46] Yes.

3 Madam Court Officer, can we go into open session, please.

4 (Open session at 3.27 p.m.)

5 THE COURT OFFICER: [15:27:05] We're back in open session, Madam President.

6 PRESIDING JUDGE SAMBA: [15:27:08] Thank you very much.

7 Ms Naouri, please.

8 MS NAOURI: [15:27:13](Interpretation) Thank you, Madam President.

9 So I'm going to show a photograph, tab 21, CAR-OTP-2017-0917. And this is an
10 exhibit which isn't submitted which can be shown to the witness and to the public.

11 Q. [15:27:45] Do you see the photograph, witness? This is the photograph that you
12 provided to the investigators of the Office of the Prosecutor.

13 A. [15:27:55] Yes, that's it.

14 Q. [15:28:07] So you state - and this is still exhibit 13 - page 1015 of your previous
15 statement:

16 "We see the bodies of victims and Seleka in uniform with the weapons in their hands
17 in the background."

18 So my question is: Where would we see armed men who would be Seleka? So you
19 said that to the Office of the Prosecutor.

20 THE INTERPRETER: [15:28:30] "You can see victims' bodies on the ground and some
21 Seleka men in uniform holding weapons in the background."

22 THE WITNESS: [15:28:41](Interpretation) Well, I told you that this photograph is not
23 correct.

24 MS NAOURI: [15:28:46](Interpretation)

25 Q. [15:28:46] Very well. So I would ask for the formal submission of this document,

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1 and I'm going to show you another document.

2 And this is at tab 42 of our list of materials, CAR-D33-0014 -- I'm sorry.

3 PRESIDING JUDGE SAMBA: [15:29:03] Just without wanting to interrupt you,

4 Ms Naouri, I just wanted to ask whether you will be done with this witness today?

5 I don't want to interrupt you, but -- and we're following your train, but we just want

6 to be guided, appreciating what I said yesterday in respect of the four witnesses for

7 four days. Thank you.

8 MS NAOURI: [15:29:30](Interpretation) No problem. Of course, your Honour.

9 So I think that I'll be able to finish in today's session, but I was already told that

10 Mr Said is getting extremely tired, so I will try to finish this issue and I think I would

11 have 30 minutes, 40 minutes maximum on Thursday morning.

12 What I can also tell you is that given the preparatory work on 358, we can finish on

13 Thursday and there'll be enough time, according to our preparatory work - and I'm

14 turning to Mr Jacobs here because he is responsible for 0622 - then in accordance with

15 what we've done, we'll be able to finish the four witnesses without any problem. But,

16 nevertheless, I think it won't be the end of this session, that's it.

17 PRESIDING JUDGE SAMBA: [15:30:20] All right. Let's try. Carry on.

18 MS NAOURI: [15:30:27](Interpretation) Thank you very much, Madam President.

19 Q. [15:30:29] Now, the next thing I would like to show you, Mr Witness, is tab 42,

20 CAR-D33-0014-0359.

21 This has not been submitted. It can be shown to the witness and the public. It's a

22 blog and it's entitled "Do Africans think to the future?" And the date is 18 April 2013.

23 Could we scroll down, please. Could we scroll down a little bit, please, to have a look

24 at this photograph. Please stop, thank you.

25 Here we can see that:

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1 "On this revolting image of a massacre in the DRC, we can only observe the damage
2 done after rebel groups have come by, troops that all the same are supported by other
3 powers, even other African countries." End of quote.

4 Is this the same photograph as the one you handed over to OTP investigators,
5 Mr Witness?

6 A. [15:31:59] Yes, that's right.

7 Q. [15:32:04] Have you seen this article before?

8 A. [15:32:10] No. No, never, not at all. This article, as such, no. The image, yes.

9 Q. [15:32:21] Very well.

10 We request the formal submission of this document.

11 And I'd like to show you a document at tab 44, CAR-D33-0014-0364.

12 This is an unsubmitted item that can be shown to the witness and to the public.

13 Can you see the photograph, Mr Witness?

14 If we could scroll down so we can see the caption of the photograph. Thank you very
15 much.

16 The photograph was posted on 25 May 2013. We can see that on the right. And it's
17 entitled "Massacres in Walikale". Walikale is in the DRC in the province of North
18 Kivu. Have you already seen this photograph, sir, or this article?

19 A. [15:33:40] The image, yes, but not the article.

20 Q. [15:33:53] Very well. This is the same image as the one you gave to the
21 investigators, isn't it?

22 A. [15:33:59] Yes, that's right.

23 Q. [15:34:02] We have two sources that corroborate that the image was taken in the
24 DRC. You didn't cross-check?

25 A. [15:34:27] The sources that I used, I realised that the images came from Uganda,

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1 not from the DRC.

2 Q. [15:34:40] Thank you. Thank you for that information.

3 Now, the last topic I would like to discuss with you, Mr Witness, is this.

4 Now, before we tackle this topic, I would like to ask if we could go into private
5 session, your Honour, just to avoid any risk of the witness's identity being revealed.

6 And someone has reminded me that I did not request formal submission of the
7 previous item. So, obviously, I would hereby request the formal submission of this
8 last item.

9 PRESIDING JUDGE SAMBA: [15:35:28] Okay, thank you.

10 Madam Court Officer, can we go into private session, please. Can we go into private
11 session, please.

12 (Private session at 3.35 p.m.)

13 THE COURT OFFICER: [15:35:42] We're in private session, Madam President.

14 PRESIDING JUDGE SAMBA: [15:35:45] Thank you very much.

15 Ms Naouri, continue please.

16 MS NAOURI: [15:35:50](Interpretation) Thank you, your Honour.

17 Q. [15:35:51] Mr Witness, (Redacted)

18 (Redacted); does that ring a bell?

19 A. [15:36:09] Yes, yes, that does kind of ring a bell.

20 Q. [15:36:15] I'd like to show you something, and this is tab 56, CAR-D33-0014-0369.

21 This item has not been submitted. It can be shown to the witness.

22 So this document is an article entitled (Redacted)

23 (Redacted)

24 (Redacted). Sorry if I have made a mess of the

25 pronunciation.

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- 1 If we could scroll to the very bottom. Thank you.
- 2 We can see that this has been signed by (Redacted)
- 3 (Redacted). Can you confirm that this (Redacted), Mr Witness?
- 4 A. [15:37:44] Yes, I can confirm that.
- 5 Q. [15:37:48] Thank you.
- 6 I wish to request formal submission of this document.
- 7 Did you know that the (Redacted)?
- 8 A. [15:38:10] Yes, I know.
- 9 Q. [15:38:13] Very well.
- 10 I'll now show you the document at tab 57, CAR-OTP-2023-0032.
- 11 This is an item that has not been submitted. It can be shown to the witness and, first
- 12 of all, if we could show the witness the first page.
- 13 As can you see, (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 (Interpretation) And for these details we'll have to go to page 0367. 0367.

9 Paragraph 60. Thank you.

10 Here we read:

11 (Speaks English) (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted) was a misrepresentation of what

19 actually happened? That it was wrongly reported?

20 A. [15:42:52] (Redacted)

21 (Redacted)

22 Q. [15:43:03] Very well. I wish to request formal submission of this article.

23 MS NAOURI: [15:43:10](Interpretation) I think that I've really pushed things as far as

24 I have been able to today. If we could leave it at that for today, Madam President.

25 PRESIDING JUDGE SAMBA: [15:43:21] It's all right because Mr Said is tired now.

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- 1 All right, so we'll keep this matter adjourned and come back on Thursday.
- 2 Mr Witness, I'm going to ask that you do not discuss your testimony here today with
- 3 any other person when once you leave the courtroom because you'll still be under
- 4 oath. We'll meet again on Thursday, and, as counsel Naouri said, you'll be on the
- 5 stand for a short while, maybe about 30 minutes, hopefully, maybe less.
- 6 And I'm going to stand this matter down and ask that we meet again on Thursday at
- 7 9:30. Thank you.
- 8 THE COURT USHER: [15:44:07] All rise.
- 9 (The hearing ends in private session at 3.44 p.m.)