

Trial Hearing
WITNESS: CAR-OTP-P-3114

(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 -
5 ICC-01/14-01/21
6 Presiding Judge Miatta Maria Samba, Judge Maria del Socorro Flores Liera, Judge
7 Sergio Gerardo Ugalde Godinez and Judge Keebong Paek
8 Trial Hearing - Courtroom 2
9 Monday, 16 September 2024
10 (The hearing starts in open session at 9.32 a.m.)
11 THE COURT USHER: [9:32:40] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE SAMBA: [9:33:02] Good morning, everyone.
15 Madam Court Officer, can you kindly mention the case.
16 THE COURT OFFICER: [9:33:08] Good morning, Madam President, your Honours.
17 The situation in the Central African Republic II in the case of The Prosecutor v.
18 Mahamat Said Abdel Kani, case reference ICC-01/14-01/21.
19 And we're in open session.
20 PRESIDING JUDGE SAMBA: [9:33:21] Thank you very much.
21 Can I ask for representations starting with the Prosecution, please.
22 MS MAKWAIA: [9:33:27] May it please the Court, for the Office of the Prosecutor,
23 this morning, myself Ms Holo Makwaia, senior trial lawyer; Kamran Choudhry, trial
24 lawyer; Sanyu Ndagire and Anusha Rawoah, assistant legal officers; and Alessia
25 Vitiello, analysis assistant. Thank you, your Honours.

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

- 1 PRESIDING JUDGE SAMBA: [9:33:45] Thank you very much, Ms Makwaia.
- 2 Ms Pellet for the victims, please.
- 3 MS PELLET: [9:33:51](Interpretation) Thank you, Madam President. The victims
- 4 are represented by Adeline Bedoucha and myself, Sarah Pellet, counsel OPCV.
- 5 PRESIDING JUDGE SAMBA: [9:34:02] Thank you very much, Ms Pellet.
- 6 Ms Naouri for the Defence, please.
- 7 MS NAOURI: [9:34:08](Interpretation) Good morning, Madam President, thank you.
- 8 To my right, Mr Jacobs; and beside him, Capucine Banet; and myself, I am Jennifer
- 9 Naouri, lead counsel representing Mr Said.
- 10 PRESIDING JUDGE SAMBA: [9:34:25] Thank you very much, Ms Naouri.
- 11 And for the record, I do take note that Mr Said is in court here with us.
- 12 A very good morning to you, Mr Said, I hope you had a restful weekend.
- 13 MR SAID: [9:34:40](Interpretation) Yes, good morning, Madam President.
- 14 PRESIDING JUDGE SAMBA: [9:34:43] Good morning.
- 15 The Prosecution is calling P-3114 as its 49th witness. It is our understanding that this
- 16 witness will testify in English. I remind everyone of the importance of the need to
- 17 speed slowly and to observe the five-second rule between questions and answers.
- 18 Before commencing, the Chamber notes briefly that protective measures are
- 19 confirmed for this witness by virtue of decision number 481 and decision number 875.
- 20 A very good morning to you, Mr Witness. I hope I see you well.
- 21 WITNESS: CAR-OTP-P-3114
- 22 (The witness speaks English)
- 23 THE WITNESS: [9:35:23] Good morning, your Honour.
- 24 PRESIDING JUDGE SAMBA: [9:35:25] Good morning.
- 25 Now you're going to testify before the International Criminal Court, so on behalf of

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 this Chamber I welcome you to the courtroom.

2 You should have in front of you, Mr Witness, the solemn undertaking to tell the truth,
3 which every witness who appears before this Court must agree to.

4 Can I ask that you read that out loud for us, please.

5 THE WITNESS: [9:35:48] I solemnly declare that I will speak the truth, the whole
6 truth and nothing but the truth.

7 PRESIDING JUDGE SAMBA: [9:35:55] Thank you very much, Mr Witness.

8 Now do you understand and agree to what you just read out?

9 THE WITNESS: [9:36:01] Yes, I do, your Honour.

10 PRESIDING JUDGE SAMBA: [9:36:04] Thank you very much.

11 Now let me explain to you the protective measures we have in put in place for the
12 duration of your testimony.

13 We have in place for you the voice and face distortion for the duration of your
14 testimony which means that no one outside the courtroom can see your face or hear
15 your real voice. We also have in place for you, the use of pseudonym. In
16 accordance that -- of that, we will all refer to you only as "Mr Witness" so that no one
17 in the public will know your real name.

18 When you answer questions that will not give away who you are, we will do so in
19 open session which means that the public can hear what is being said in the
20 courtroom. But when you are asked to describe anything that relates specifically to
21 you or you are asked to mention facts that might reveal your identity, we will do so in
22 private session.

23 Lastly, Mr Witness, I have a few practical matters you should have in mind when
24 giving your testimony. Everything we say here in this courtroom is written down
25 and interpreted, so it is important to speak slowly and clearly. Please speak into the

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 microphone that you have before you, and only start speaking when the person
2 asking you the question has finished. To allow for the interpreters to help the Court,
3 everyone has to wait a few seconds before starting to speak.

4 If you have any questions yourself or if you need a break, please raise your hand so
5 we know that you want to say something to us.

6 Now, have you understood all that I have said, Mr Witness?

7 THE WITNESS: [9:38:00] Yes, your Honour, thank you.

8 PRESIDING JUDGE SAMBA: [9:38:02] Thank you very much.

9 We'll start with your testimony, and I'm going to invite the Prosecution to put
10 questions to you in chief.

11 Mr Choudhry, are you doing this? Prosecution --

12 MR CHOUDHRY: [9:38:16] Yes, Madam President.

13 PRESIDING JUDGE SAMBA: [9:38:17] Your witness then, please.

14 MR CHOUDHRY: [9:38:20] Thank you very much.

15 QUESTIONED BY MR CHOUDHRY:

16 Q. [9:38:23] Mr Witness, before I commence my questioning, I just want to set out
17 the framework in which I propose to proceed, and, today, I will be asking you about
18 four distinct areas.

19 The first area is, I will be asking you questions about yourself and your role and any
20 role you may have had in this particular case, and we'll be doing that in private
21 session.

22 The second area I will ask you about are general questions about investigative
23 methodology and that applies irrespective of this particular case. I then want to ask
24 you questions about the CAR II investigation. And finally, I want to explore the
25 investigative process and how that was applied to material collected in this case and I

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Private Session)

ICC-01/14-01/21

1 will do so by using specific examples that are noted in a decision that's been issued by
2 this Chamber. Okay?

3 MR CHOUDHRY: [9:39:25] And with that, your Honour, perhaps if we could go
4 into private session to begin with for approximately 10 minutes.

5 PRESIDING JUDGE SAMBA: [9:39:33] That's okay.

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

7 (Private session at 9.39 a.m.)

8 THE COURT OFFICER: [9:39:59] We are in private session, Madam President,
9 your Honours.

10 PRESIDING JUDGE SAMBA: [9:40:00] Thank you very much.

11 Mr Choudhry, please continue.

12 MR CHOUDHRY: [9:40:02]

13 Q. [9:40:03] What is your full name?

14 A. [9:40:04] (Redacted).

15 Q. [9:40:07] And what is your date of birth, please?

16 A. [9:40:12] (Redacted).

17 Q. [9:40:13] Now, do you recall having a witness preparation session on Friday, 13
18 September?

19 A. [9:40:19] Yes, I do.

20 Q. [9:40:21] Other than that, what steps have you taken to prepare yourself to give
21 evidence today?

22 A. [9:40:30] I've read the filing, I've looked at the footnotes, and I've examined the
23 material it relates to.

24 Q. [9:40:37] What is your current occupation?

25 A. [9:40:40] I'm a senior investigator in the Office of the Prosecutor.

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Private Session)

ICC-01/14-01/21

1 Q. [9:40:46] And what grade are you?

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 A. [9:42:28] (Redacted), the role predominantly

23 involves working in what, at the time, was called a unified team or integrated team.

24 There's three people in that: There is a senior trial lawyer, a lawyer; a cooperation

25 adviser; and the investigation team leader. And together they seek to direct the

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Private Session)

ICC-01/14-01/21

1 investigation and prosecution.

2 Normally, decisions are made on the basis of consensus between those three people,

3 but the senior trial lawyer has the ultimate responsibility - or, it's not

4 responsibility - ultimate decision-making authority.

5 My role in that team would involve proposing lines of inquiry, prioritising lines of

6 inquiry, allocating tasks to investigators, supervising investigators. Basically, you

7 know, Article 54(1)(a) of the Statute, seeking to establish the truth, identifying

8 inquiries that would help do that, and also ensuring that the investigation is done in

9 a way that seeks to limit risk to both the people we're in contact with and our own

10 staff; so balancing risk and reward.

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 MR CHOUDHRY: [9:44:31] Your Honours, with that, I believe we can move back

17 into public session.

18 PRESIDING JUDGE SAMBA: [9:44:36] Madam Courtroom Officer, can we go into

19 open session, please.

20 (Open session at 9.44 a.m.)

21 THE COURT OFFICER: [9:44:41] We are back to open session, Madam President.

22 PRESIDING JUDGE SAMBA: [9:44:55] Thank you very much.

23 Mr Choudhry, please continue your questions

24 Q. [9:45:00] Now, Mr Witness, I want to move on to the second area of my

25 questioning which relates to investigation methodology in general. To the extent

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 that you will answer any of my questions in a manner which either you feel would
2 compromise any of the situations that you're currently working on or reveal your
3 identity, please say so and we can move into private session, okay?

4 As a matter of general principle, can you tell us what is the purpose of an
5 investigation.

6 A. [9:45:35] The purpose of an investigation is to collect all relevant information in
7 order to assist the Prosecution, the Defence and the Court to establish the truth.

8 Q. [9:45:50] And when you say "relevant information", what do you mean?

9 A. [9:45:55] Relevant information -- sorry, I should delay. Relevant information is
10 information that goes to the facts at issue in a case and essentially either provides
11 information that tends to suggest somebody did do something, or information that
12 tends to suggest somebody didn't do something.

13 Q. [9:46:20] Can you please explain the steps taken when an investigation is first
14 opened.

15 A. [9:46:28] So when an investigation commences, my strategy, such as it is, is to
16 identify where information repositories - and that includes people - exist who knows
17 what we need to know, where is the information that helps us know what we need to
18 know, identify those locations or people or document repositories or phone data, and
19 then seek to collect it in a systematic manner.

20 Q. [9:47:05] What considerations go into planning how to obtain material that
21 you've identified?

22 A. [9:47:15] So if we want to collect material, documents and such like, the first
23 thing obviously, is, we have to identify it. That can happen in a number of ways.

24 A witness might say "There's documents here." We might get a handover, actually,
25 of information from the preliminary examination section which would say, "We know

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 that Mr X was collecting this sort of information."
2 We might simply be in Bangui and notice a building and think, "Oh, they might have
3 useful information." So we identify that.
4 Then we have to look at our authority to collect that information in the Statute.
5 Normally, that is under either Article 93(1), which is essentially a request to a state for
6 information, or under Article 99(4), which is essentially collecting information on
7 a voluntary basis from an individual.
8 In the CAR case, in the matters in the filing, those materials are predominantly
9 state-controlled materials; so we would make a request under 93(1). That would
10 require a request for assistance, a form of letter, a form of MLAT, a mutual legal
11 assistance treaty-type document, in non-ICC parlance, and that would ask the state,
12 essentially, to give us access to material. That RFA would also explain the
13 parameters in which we're seeking to collect material.
14 More often than not, they're not a simple date range. "We want all the information
15 you hold from date X to date Y."
16 Once we have sent the RFA, the state will consider it and will either grant it or won't
17 grant it. If it grants it, it will give us consent then to access those materials. The
18 state can put conditions on that consent, for instance, saying we can collect copies but
19 they want to retain the originals.
20 Once we have that consent and the conditions, we would then go and -- two
21 investigators would be tasked to go and collect those materials.
22 From the moment those materials enter our possession, those investigators would be
23 expected to retain control of those materials so they cannot be interfered with. They
24 would be brought here, they would be booked into our registration system, into our
25 evidence system, using a form called a "Pre-Registration Form".

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 Our evidence unit would scan and digitise those documents and then we would
2 initiate a review of those documents. And that review would look at those
3 documents in -- like, in general terms, is -- in general terms, the whole package, does
4 it reflect or is it consistent with what we already know.
5 It would look at specifics of those documents: Are there specific people, places, things,
6 incidents mentioned in those documents that we wish to make further inquiries on.
7 As in, of all those materials, which ones are relevant, using the same description as I
8 used before. And we would also seek to essentially code those documents so that
9 they become searchable against a database.
10 So, for example, if we've collected a lot of crime reports, we try to code the date, the
11 location, so that we have a database we can query later on, so we can ask that
12 database: Do we have any criminal complaints for 15 July for the Boy-Rabe area, for
13 instance.
14 We would -- as I said, then the investigators -- so that would generate tasks. If we
15 found a document that talks about a particular incident we're interested in that is
16 relevant, an investigator then would follow-up on that document and the whole cycle
17 would essentially start again.

18 Q. [9:51:34] Thank you. I'd like to focus on certain aspects of what you've just told
19 us and unpack some of it.

20 In relation to material, can you please walk through the process of how a team
21 identifies and prioritises. So, assuming that there is consent, how does a team
22 identify and prioritise potential sources of evidence?

23 A. [9:52:04] I'm not sure that I understand the question. Can you rephrase it.

24 Q. [9:52:10] How do you identify which repositories to seek assistance in
25 obtaining?

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 PRESIDING JUDGE SAMBA: [9:52:18] Maybe before you answer that question,

2 Mr Witness, can I ask that you speak more slowly, the French interpreters are

3 struggling a bit. So speak a bit slowly, so that we help the interpreters. Maybe if

4 you can observe the five-seconds rule also. Thank you.

5 THE WITNESS: [9:52:40] I'm sorry, your Honour. I thought I was being really slow.

6 I'll do better.

7 MR CHOUDHRY: [9:52:46]

8 Q. [9:52:47] Perhaps I'll rephrase.

9 What investigative methods are used to identify repositories of information?

10 A. [9:52:58] Okay. So, to identify repositories of information, as I've said,

11 sometimes a witness will speak to somebody and they will say, "I work in office X.

12 We have a lot of documents about" - I don't know - "the military composition of

13 a group." That's one way of identifying items.

14 Another one is thinking through what documents are generated by the sort of crimes

15 we're investigating. So, for instance, if you're investigating killings, you would

16 consider that, potentially, morgue documentation or death certificates would be

17 a valuable source of information.

18 If you're investigating detention-type crimes, you may wish to access documentation

19 from courts or custody record-type documents or police records. So it depends very

20 much on -- on what you're seeking to investigate, that dictates what you seek to

21 collect.

22 But at the start of an investigation, or at the start of a situation, we often don't have

23 a specific thing we are seeking to investigate, we're trying to map what happened.

24 And for that, we collect very broadly.

25 So we would collect -- certainly in this investigation, I think, we collected a lot of

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 information to try to work out what it is that we should then focus on.

2 Q. [9:54:46] You mentioned earlier that, "from the moment those materials enter
3 our possession, those investigators would be expected to retain control of those
4 materials".

5 Can you please explain in detail the process of what happens at the point of
6 you -- when -- how you obtain materials and what is done with the material.

7 A. [9:55:15] So the concept is a concept of chain of custody. We need to be able to
8 show the Court, the Defence and the Prosecution that the documents we're showing
9 here are the actual documents we collected in -- in the country. And in order to do
10 that, we need to show there's an unbroken chain of custody. What that means is, is if
11 we've scanned or collected documents here, then for every step along the way until
12 they arrive in our evidence repository at the Court, we need to show who has
13 handled those documents, who looked after them, who controlled them. And,
14 essentially, those documents should not be left unattended or insecure at any stage in
15 that process.

16 Q. [9:56:07] How is that chain of custody documented?

17 A. [9:56:12] Traditionally through a -- the pre-registration form says who has
18 collected the document, and we also often take an investigation report, which lays out
19 what happened to those documents.

20 Q. [9:56:28] Where is it documented?

21 A. [9:56:31] In an investigation report and in a pre-registration form.

22 Q. [9:56:38] Are those paper-based systems?

23 A. [9:56:42] At the time, yes, they were.

24 Q. [9:56:47] And if material is collected in the field, how is it physically transported
25 back to The Hague?

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 A. [9:57:01] In -- it's transported back by the investigator, in their physical control.
2 So, for instance, it's not something you can put in hold baggage. It has to be in your
3 hand luggage and you have to have control of it.

4 Q. [9:57:18] And when investigators first obtain material, do they process it in any
5 way --

6 PRESIDING JUDGE SAMBA: [9:57:32] Yes, Mr Jacobs?

7 MR JACOBS: [9:57:35](Interpretation) Good morning, your Honour.

8 Just I'd like to stress that this is a leading question and counsel should ask what
9 happens with the documents, not begin to suggest what might be done with the
10 document. The question should be put in a general fashion, not leading.

11 PRESIDING JUDGE SAMBA: [9:57:57] Thank you.

12 Mr Choudhry, can you rephrase your question, please. And let's avoid leading
13 questions so we don't have unnecessarily delays, please.

14 MR CHOUDHRY: [9:58:28]

15 Q. [9:58:29] Mr Witness, what I'm trying to get you to explain to the Judges is really
16 the process of what happens when a physical piece of paper or a piece of evidence is
17 first produced and an investigator takes hold of it.

18 Can you describe that process, please?

19 A. [9:58:51] So, as I explained -- as I explained earlier, sometimes the state puts
20 conditions on what we can collect. In the case of CAR, more often than not they
21 wished to retain the originals because it's the only copy of that document. Hence,
22 when we were doing the collection, we would essentially scan the documents into
23 a digital form. So we wouldn't necessarily have paper, yeah? We would scan into
24 digital form, or sometimes we would photocopy the document and then we would
25 bring it back.

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 Sadly, sometimes the scanning and the photocopying isn't, let's say, aligned properly,
2 so sometimes we have to go back and scan or photocopy the same document again.

3 Q. [9:59:56] Mr Witness, you've told us earlier that you read a decision issued by
4 this Chamber. I'd like to show you -- and that's tab 38, which is the decision, that's
5 page 25, paragraph 52. And that should be on your screen, evidence 2.

6 THE COURT OFFICER: [10:00:25] The Prosecution has the floor, evidence channel 2.
7 (Counsel confers)

8 MR CHOUDHRY: [10:00:31]

9 Q. [10:00:32] Mr Witness, paragraph 52 is under the heading "Duplicates". Could
10 you just please read that paragraph and let me know when you've done so.

11 A. [10:01:21] I've read it.

12 Q. [10:01:23] From an investigative perspective, what is considered to be
13 a duplicate?

14 A. [10:01:32] So a duplicate would be the same thing twice, but often in this
15 investigation we collected the same materials from different sources. An example of
16 that would be the -- the decrees, there's a lot of -- I think -- I don't know -- they're
17 presidential decrees that state the formation of unit X or Y. Those decrees we
18 collected some from lots of different places. They're not duplicates, they're the same
19 thing, but they're from different sources and, hence, I wouldn't consider them
20 duplicates.

21 A duplicate would be if we, as I said, photocopy a register and for some reason the
22 copy doesn't come out well, we get back here, we realise that, and then we go and
23 take it again. That I'd consider a duplicate, the same document from the same
24 source.

25 Q. [10:02:37] What is the investigative value of collecting the same material from

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 multiple sources?

2 A. [10:02:49] In my opinion, it establishes or assists with establishing the
3 authenticity of an item. If I have the same document from many different sources, it
4 tends to suggest to me -- especially if it's not identical, I might add, it tends to suggest
5 to me that that is an authentic document.

6 Q. [10:03:14] I'd now like to move on to the third area of my questioning and that
7 relates to the investigation in the CAR IIA situation. {PFR: (Redacted)},
8 approximately how many investigators did you have under you?

9 A. [10:03:37] That -- that tended to vary. I think at its height we had maybe eight;
10 at its least, I think we had about two. It depended very much on other priorities
11 within the office.

12 Q. [10:03:55] And what was the purpose of the CAR IIA investigation?

13 A. [10:04:02] We were investigating allegations of serious crimes committed
14 predominantly by a group called the Seleka.

15 Q. [10:04:16] And where were the crimes that you were investigating located?

16 A. [10:04:21] We investigated -- sorry.
17 We investigated crimes in the capital city, Bangui.

18 Q. [10:04:35] Where were the main sources of evidence in the CAR IIA case
19 located?

20 A. [10:04:43] Physically, the main document repositories were in Bangui and most
21 witnesses were also in Bangui.

22 Q. [10:04:56] Now, earlier you talked through the process of RFAs. What
23 communications with the Central African authorities were necessary before material
24 could be collected from the Central African Republic?

25 A. [10:05:13] Those communications predominantly were through the international

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 cooperation adviser. I can speak in general terms about their role. The cooperation
2 adviser essentially handles the communications with a focal point within the Central
3 African government from the point at which an RFA is sent until the point at which
4 an RFA is granted or we have consent.

5 So those communications would predominantly be between the cooperation adviser
6 and the focal point.

7 Sometimes due to absence or -- or whatever, somebody else would do it, but 90 per
8 cent of the time I'd say it would be the cooperation adviser that handled those
9 communications.

10 Q. [10:06:07] You mentioned earlier certain provisions in relation to RFAs generally.
11 Can I just confirm, what provisions were you acting under when investigating the
12 CAR IIA situation?

13 A. [10:06:24] Sorry, when you say "provisions", do you mean the legal context?

14 Q. [10:06:27] Yes, you referred to -- yes, please.

15 A. [10:06:30] So, as I said, an RFA is sent under Article 93(1) of the Statute.

16 Q. [10:06:40] And did investigators go to the Central African Republic?

17 A. [10:06:47] Yes, they did.

18 Q. [10:06:50] Did you go to the Central African Republic?

19 A. [10:06:55] Yes, I did.

20 Q. [10:06:58] What languages did you find was spoken when you went to the
21 Central African Republic?

22 A. [10:07:06] The national language, the most prominent language, was Sango.
23 French was spoken widely among, let's say, the higher socio-economic groups. In
24 the north, Gula and Runga were the languages. There was also some Arabic spoken.
25 Official government records would predominant -- well, no, would be in French.

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 Q. [10:07:38] Do you speak Sango?

2 A. [10:07:41] No, just pleasantries.

3 Q. [10:07:47] So how did investigators communicate with individuals who spoke
4 languages that the investigators could not speak in?

5 A. [10:08:03] We used interpreters.

6 Q. [10:08:14] Now, you've walked us through the process of an investigation
7 generally, can you tell us how was material obtained in this investigation treated?

8 A. [10:08:26] I'd say in a manner consistent with what I set out in general, we
9 followed the same procedure.

10 Q. [10:08:35] What about the chain of custody?

11 A. [10:08:39] We would follow the same procedure.

12 Q. [10:08:43] What about the system of documentation?

13 A. [10:08:50] Same procedure.

14 Q. [10:08:53] I'd now like to show you certain documents, which are investigative
15 reports, and ask you questions about them.

16 Before doing so, perhaps I can bring up just the reason as to why they're relevant, and
17 that's tab 38, please.

18 If I could just ask you to read the first part of that and then we'll scroll down to the
19 next part, please, and let me know when you're -- you finish reading them.

20 A. [10:09:46] You can scroll down, please.

21 Sorry, how far do you want me to read?

22 Q. [10:09:56] Just paragraph 92.

23 A. [10:09:58] I've finished.

24 Q. [10:10:01] All right. I will now show you -- you see a list of ERNs. I will now
25 turn to the first one, and that's at tab 1. And that's ERN CAR-OTP-2122-4152.

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 If you could just scroll down a little bit then, please.

2 Just take a moment and to just read the introduction of that and let me know when
3 you're finished.

4 A. [10:10:36] I've read it.

5 Q. [10:10:37] What is this document, please?

6 A. [10:10:40] This is an investigator's report -- investigation report.

7 Q. [10:10:48] And what material does this document relate to?

8 A. [10:10:51] If you scroll up slightly, you can see there it says: "Task ref.: Wynyard
9 GTSK 194". That means that this investigation report is derived from - well, as
10 contemporaneous as possible - notes made within the Wynyard investigation
11 management system, so it depends on that for its content. And the doc -- the -- the
12 report itself seems to talk about correspondence registers and documents from the
13 Ministry of Public Security.

14 Q. [10:11:34] If you remember, can you please explain the process used by your
15 team when collecting material from the Ministry of Public Security?

16 A. [10:11:47] I think -- I mean, it's written about in this report, but from recollection
17 and from this report, the RFA was sent. That RFA was sparked by a witness who
18 mentioned these correspondence registers and documents. The RFA was granted,
19 investigators attended, I believe, the premises of the Ministry of Public Security.
20 They took possession of the documents. I believe in this case, they took possession
21 of the originals and they brought them back to The Hague, copied them and then
22 returned them.

23 Q. [10:12:38] When was this investigation report drafted, on what date?

24 A. [10:12:43] It says 18 June 2020.

25 Q. [10:12:45] How are investigators able to write accurate investigative reports

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 years after collecting material?

2 PRESIDING JUDGE SAMBA: [10:12:54] Yes, Mr Jacobs?

3 MR JACOBS: [10:12:59](Interpretation) Madam President, I think it is a leading
4 question. At this point we do not know whether the report is accurate, so they have
5 to ask what is the process followed by investigators many years later, not talking
6 about an accurate report. It's leading.

7 PRESIDING JUDGE SAMBA: [10:13:23] Mr Choudhry.

8 MR CHOUDHRY: [10:13:24] Your Honour, it's not leading at all. I wasn't referring
9 to any particular report, be it accurate or inaccurate. I was asking an objective
10 question as to how investigators are able to accurately record the process years after
11 collecting material.

12 PRESIDING JUDGE SAMBA: [10:13:42] It's understood in that light.

13 Please carry on, Mr Choudhry. Thank you.

14 MR CHOUDHRY: [10:13:49]

15 Q. [10:13:50] Mr Witness, if you could please answer that question.

16 A. [10:13:55] The investigation report is generated or -- the investigation report is
17 generated from information that exists on other systems, which is done more
18 contemporaneously. So I used to insist a lot with the team that they maintain
19 essentially, in the investigation management system, a diary of all activity they do in
20 relation to any collection activity, any witness statement or any activity they do.
21 When the time comes and somebody says - and normally at the time, it's the
22 Prosecution division - we need more explanation about how exactly this document
23 collection or this witness was spoken to, we can go back to those notes and we can use
24 those notes to write an investigation report.

25 Q. [10:14:47] The diary that you have just mentioned, is that a paper-based diary or

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 an electronic diary?

2 A. [10:14:55] It's an electronic investigation management system. It essentially
3 involves the {PFR: (Redacted)}, myself, I would raise a task, please - and I would
4 always say please – please, go and collect documents from the Ministry of Public
5 Security.

6 That task would then be allocated electronically in the system to an investigator, or
7 more than one investigator, and then they would do task results. The first task result
8 would be often: I've spoken to the international cooperation adviser and requested
9 that a request for assistance be sent to -- to the Central African Republic.

10 The second one would often be: We have received consent to collect those
11 documents.

12 The third one would be: We collected these documents and registered them under
13 PRF1234.

14 And it would go on like that until that activity is finished and then a final task result
15 would be written down. So there is a clear dated, timed audit of our activity. That
16 contains both information that I would suggest sometimes is sensitive and is -- or
17 administrative and information that is not, and that is shared in these investigation
18 reports.

19 Q. [10:16:23] Did this electronic investigation management system have a name?

20 A. [10:16:31] Yeah, it's called Wynyard. Some people call it Jade.

21 Q. [10:16:38] Do you recall what steps were taken to ensure the authenticity of
22 material collected from the Ministry of Public Security to which this note speaks
23 about?

24 A. [10:16:58] We collected, I believe, in this particular case, all documents available
25 between, probably March 2013 or somewhere around then, maybe earlier, till about

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 February 2014. When those documents came back, we had to -- we reviewed those
2 documents.

3 Some of those documents were relevant. So, for instance, they might mention
4 a particular person we're interested in, so further checks would be done on that
5 document. So to give a very simple example, in those -- in that document set, there
6 is a telephone number for a man called {PFR: (Redacted)}, who was a person of
7 interest to us. We took that phone number, for instance, and checked that to see is
8 this really {PFR: (Redacted)} telephone number.

9 Other witnesses said it was his phone number. We took phone data records, I
10 believe, for that number and checked does that number behave in the way that {PFR:
11 (Redacted)} telephone number is expected to behave in terms of its association. And
12 we did, you know, an enormous amount of checks on the documents that were
13 relevant, yeah, so -- the documents I had judged to be relevant. But we also spoke, I
14 believe, to a witness.

15 Can I say P numbers in open session?

16 Q. [10:18:27] Yes.

17 A. [10:18:28] {PFR: (Redacted)}

18 (Redacted)

19 (Redacted)}

20 We also contrasted the correspondence registers and the documents. So the Ministry
21 of Public Security runs -- and most government offices in Bangui run a set of registers,
22 one for incoming correspondence, one for transmission correspondence and one for
23 outgoing -- yeah, outgoing correspondence.

24 Those registers contain details of, in theory, every letter or piece of paper that comes
25 in or goes out. We can compare those correspondence registers with the documents

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 we manage to collect and we can see there's many, many, many correspondences, I
2 think over 800, between the registers and the documents we managed to collect.
3 I might add the documents we managed to collect is not a full, yeah, is not every
4 document, because a lot had happened in the interim, I think, again, {PFR: (Redacted)}
5 or in the investigator's report, we have information, you know, about how these
6 documents were found and essentially a cleaner had found them and put them in
7 a box and put them somewhere safe after the Seleka had been there.

8 Q. [10:20:07] Now this might be a difficult question to answer, but do you recall
9 offhand the ERN numbers of any documents which you used to carry out these
10 checks?

11 A. [10:20:23] No, I can't remember the ERNs, no.

12 Q. [10:20:28] If called upon, would you be able to demonstrate the process that
13 you've just described?

14 A. [10:20:38] Yes.

15 Q. [10:20:41] I'd now like to move on to the second note and that's at tab 2, ERN
16 CAR-OTP-2135-2461. If you could just take a moment to read the heading and
17 perhaps the first paragraph and let me know when you have done so.

18 A. [10:21:11] I've read it.

19 Q. [10:21:13] What is this document, please?

20 A. [10:21:16] It's another investigation report about collection and storage -- sorry,
21 it's about storage of documents from the Ministry of Public Security.

22 Q. [10:21:29] Thank you.

23 A. [10:21:31] If you -- forgive me, I know this document, and I can add some
24 context if that helps.

25 Q. [10:21:37] Yes, please.

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 A. [10:21:37] If you scroll down.

2 So I think this is a good example of essentially a chain of custody investigation report.

3 What the investigator is showing here is how they managed to retain control of those

4 documents so that they can show that the documents produced here are the same as

5 the documents they collected in the field.

6 Q. [10:22:06] Thank you.

7 If I could now turn to tab 4 and that is CAR-OTP-2100-0289.

8 And I'll ask you to just read the front cover briefly, just to have a look, and then the

9 first few lines of the next page. And please let me know when you are ready for us

10 to scroll down.

11 A. [10:22:35] You can scroll down.

12 Q. [10:22:39] And tell me when you've read that portion, please.

13 A. [10:22:44] I know this document.

14 Q. [10:22:46] What can you tell us about this document?

15 A. [10:22:50] This was an activity actually that was led by the CAR IIB team, which

16 is the investigation into crimes predominantly allegedly by the Anti-Balakas. And

17 this is a investigation report about their collection of materials from the prime

18 minister's office or the *primature* in Bangui.

19 Q. [10:23:26] Can you please tell the Court what process was used to collect

20 material from the prime minister's office?

21 A. [10:23:35] Again, the process -- because it's government controlled, we would

22 have collected it via a request for assistance. Once a consent was obtained, the

23 investigators would attend the premises and they would collect the documents that fit

24 with what the request was and what their parameters of the collection was.

25 Q. [10:24:05] And what checks, if any, were carried out to ensure the authenticity of

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 material collected from this source?

2 A. [10:24:16] So, again, the same process would -- would happen. When those
3 documents came back, we would review them and relevant documents we would
4 conduct further checks on. So, for instance, in this group of documents, I know, for
5 instance, there was a letter from family members of, I think, it's P-413, asking after his
6 detention around the end of July 2013 -- no, sorry, around the end of June 2013.
7 So we took a statement from P-413 where he confirms he was detained at that time.
8 That's one example.

9 The documents also talked about an individual called, I think, {ICR: (Redacted)}
10 We -- who had been killed. We sought to verify that. We identified that actually
11 {ICR: (Redacted)} was {ICR: (Redacted)} and we took a statement from family
12 members saying that he was, indeed, deceased around the time the documents talked
13 about it.

14 I can give further examples. There's another gentleman called -- in fact, he's a -- he's
15 a witness in the case, so I can say it -- I will have to say the name, I don't know the P
16 number. But I can just say that a witness in the case --

17 Q. [10:25:56] Sorry, if you could just pause there, Mr Witness.

18 Perhaps we could go into private session, your Honours?

19 PRESIDING JUDGE SAMBA: [10:26:04] Yes.

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

21 (Private session at 10.26 a.m.)

22 THE COURT OFFICER: [10:26:13] We are in private session, Madam President.

23 PRESIDING JUDGE SAMBA: [10:26:16] Thank you.

24 Mr Choudhry, please continue.

25 MR CHOUDHRY: [10:26:18]

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Private Session)

ICC-01/14-01/21

- 1 Q. [10:26:19] Yes, Mr Witness. If you could please continue.
- 2 A. [10:26:22] So one of the documents in there talks about the detention or
- 3 abduction of a man called (Redacted); that was interesting to us because we were
- 4 investigating detentions and abductions.
- 5 We interviewed him, he confirmed that he had been detained. We interviewed
- 6 his -- a relative of his who confirmed that he had been detained. I think we did
- 7 phone data checks that showed that individual -- the story that the relative of his gave
- 8 us was consistent with the phone data that we collected in her regard, so we could
- 9 triangulate and show that that was true, that document -- or not true, but let's say
- 10 authentic and reliable.
- 11 That we also -- I remember from this one, there's a gentleman who, I think, again,
- 12 made his -- no, he's not a witness, but his name is (Redacted) (phon). He -- he made
- 13 a report to the *primature* saying that he had -- his car had been stolen, his -- two of his
- 14 cars had been stolen by a gentleman called Mr Bichara.
- 15 That was in this collection, so that was in the *primature* collection. The same
- 16 complaint was made in the Ministry of Public Security collection, and the same
- 17 complaint is also in the registers of the *Commission mixte d'Enquête*, which was
- 18 a government investigative body.
- 19 So (Redacted) had made the same allegation to three different sources, which tends to
- 20 suggest that the documents are authentic.
- 21 Not only that, but (Redacted), his phone data we collected, and from his phone data,
- 22 you can see that he is in touch with Mr Bichara approximately a week after he says his
- 23 cars were stolen, which again tends to suggest that the documents are authentic and
- 24 reliable.
- 25 Q. [10:28:28] Thank you. If I can now show you another document at tab 5, that is

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 CAR-OTP-2118-8568.

2 PRESIDING JUDGE SAMBA: [10:28:40] And do you want us to remain in private
3 session, Mr Choudhry?

4 MR CHOUDHRY: [10:28:45] No, your Honours. We can go back into public
5 session.

6 PRESIDING JUDGE SAMBA: [10:28:51] Madam Court Officer, can we go back into
7 open session, please.

8 (Open session at 10.28 a.m.)

9 THE COURT OFFICER: [10:28:58] We are back to open session Madam President,
10 your Honours.

11 PRESIDING JUDGE SAMBA: [10:29:03] Please carry on, Mr Choudhry.

12 MR CHOUDHRY: [10:29:05] Thank you, Madam President.

13 Q. [10:29:06] Mr Witness, if you could please read this page and let us know when
14 to scroll down, so that you could read the portion of the next page.

15 A. [10:29:17] I've read it. I've read it. It's a further explanation about the search
16 and collection of documents from the *primature*.

17 Q. [10:29:40] And, again, in relation to this note, did you adopt the same process in
18 terms of steps to check authenticity that you described to us a moment ago?

19 A. [10:29:56] I can't say. As I said, we looked at the *primature* documents. I can't
20 say whether the ones I've just spoken about are ones that were collected during the
21 first session or during this session, but we would have checked the relevant
22 documents. That's our job.

23 Q. [10:30:11] Thank you. If I could please show you now tab 6. That's
24 CAR-OTP-2127-8222 and just take you through the same progression. If you could
25 please have a look at that.

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 And my first question would be: What does -- or what source does this investigation
2 note refer to?

3 A. [10:30:46] So, I wrote this because the investigator that had conducted these
4 activities was no longer with the OTP. I wrote it on the basis of the task references
5 that are in the top of that, and it talks about documents collected from what was
6 called the B2 intelligence office at Camp de Roux.

7 Q. [10:31:13] Do you remember what checks, if any, were taken to ensure the
8 authenticity of the evidence collected from B2?

9 A. [10:31:22] These documents were predominantly written by -- or under the
10 leadership of a gentleman called {PFR: (Redacted)}. His second-in-command was
11 a gentleman called -- I can't -- {PFR: (Redacted)}. We sought to interview {PFR:
12 (Redacted)}, but he sadly passed away before we managed to do that.
13 Our inquiries into {PFR: (Redacted)} also identified that he was deceased; so we
14 sought to speak to the authors of these documents, but sadly that was not possible.
15 And we did the same checks on these documents. I'd say these are intelligence
16 documents, so they're -- they're documents based on what other people are telling
17 these intelligence officers. So I looked at these documents in a general sense to see,
18 do they tell the story, or do they tell a story that's consistent with what we know
19 about what was happening in CAR.

20 And, yes, they reflect, I believe, the strategic concerns of the Seleka, which were
21 essentially three issues.

22 The Seleka was very concerned about the *Route Nationale 3*, which is the road from
23 Cameroon to Bangui. It's strategically important because it's the only real route for
24 food and other supplies to enter the Central African Republic, and the west of the
25 country is controlled by elements loyal at the time to the former President François

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 Bozizé. So these documents talk a lot about what's going on on that route; that
2 would be what I'd expect them to talk about.
3 The documents also talk about what's going on in Zongo, which is just -- just across
4 the river from the CAR in Congo. And, again, what's happening in Zongo is
5 something that would be strategically of interest to the Seleka.
6 And it talks -- I remember there's one document, it talks about a man called {PFR:
7 (Redacted)}, who is a student leader, who is in Zongo, and he was -- from other
8 investigations, we know that he was in Zongo.
9 And the Seleka had a concern about the youth and the students, predominantly
10 because before the Seleka arrived in Bangui, there was a group called COCORA that
11 was under a -- that was set up by a man called Levy Yakete, who was a -- let's say a
12 Bozizé, loyalist. And that COCORA was essentially a movement of youth designed
13 to stand up against the Seleka.
14 So, in general terms, these documents say the sort of things I'd expect them to say.
15 In specific terms, the documents talk about things that we verified. Around the end
16 of June, there's a protest that turns violent in a place called Gobongo. There's
17 a document about that in there, which perfectly reflects what actually happened in
18 Gobongo at the time.
19 There's a document there about a gentleman called Colonel Amin who's causing
20 trouble in Damara. Again, we verified that that was true, that Colonel Amin was
21 causing problems in Damara, and, in fact, was later arrested and brought to Camp de
22 Roux for those crimes.
23 There's a document that mentions a man called -- just by the surname, {PFR:
24 (Redacted)}. We made some inquiries into that.
25 PRESIDING JUDGE SAMBA: [10:35:14] Yes, Mr Jacobs?

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 MR JACOBS: [10:35:20](Interpretation) Yes, Madam President, this isn't an objection,
2 but I think that the witness is speaking far too quickly, and we are seeing some gaps
3 in the transcript when it comes to names and place names. So if the witness could
4 slow down please, and this will help the transcribers and we will have a transcript
5 that we can use for our own purposes.

6 PRESIDING JUDGE SAMBA: [10:35:44] It may be difficult, Mr Witness, but can you
7 slow down a bit so that the interpreters can get each word that you say. Thank you
8 for your understanding.
9 Please carry on, if you may.

10 THE WITNESS: [10:35:56] Thank you, your Honour. I'm sorry. Maybe just to
11 recap so that the words are there.

12 The place I spoke about was a place called Gobongo. The gentleman I spoke about
13 was a man called {PFR: (Redacted)}. And the other gentleman I spoke about was
14 a man called Colonel Amin from Damara.

15 As I said, those are examples. I could probably give many more. I'd have to -- but I
16 can't just off the top of my head. But, again, we use these documents essentially as
17 leads in many cases, yeah.

18 When they speak about Gobongo, that was interesting to us, senior Seleka leaders
19 were involved in that incident and when we look at that incident, it sparked - this is
20 what the B2 documents say - by the death of a trader, a young trader, I believe, from
21 Gobongo.

22 Now, our inquiries identified that young trader. His name was {ICR: (Redacted)}

23 We sought and did interview family members of his who confirmed what had
24 happened. His -- and this is how all the documents connect with each other. That
25 Gobongo incident led to General Dhaffane making a public statement

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Private Session)

ICC-01/14-01/21

1 against the Seleka. He was a senior Seleka. He was then accused of doing a coup
2 and he was arrested, and {PFR: (Redacted)}
3 (Redacted)}.

4 So these things all fit together very, very closely. Not only that, {ICR: (Redacted)}
5 (Redacted)} is a relative of somebody that we interviewed that was detained at the
6 OCRB. That gentleman did not sign his statement; he was unwilling to do so. But
7 in his statement, he explains that {PFR: (Redacted)}
8 was arrested.

9 So when you take all those things together, you can show that there's multiple points
10 of contact, multiple points of corroboration between these documents across datasets,
11 across sources and that's why I think they are both authentic and often reliable.

12 MR CHOUDHRY: [10:38:44] Your Honour, perhaps we can go into private session
13 for a single question.

14 PRESIDING JUDGE SAMBA: [10:38:52] Madam Court Officer, can we go briefly
15 into private session, please.

16 Yes, Mr Witness?

17 THE WITNESS: [10:39:10] And I need to say something in private session.

18 PRESIDING JUDGE SAMBA: [10:39:14] Yes, we are going into private session now.
19 Thank you.

20 (Private session at 10.39 a.m.)

21 THE COURT OFFICER: [10:39:19] We are in private session, Madam President.

22 PRESIDING JUDGE SAMBA: [10:39:21] Thank you very much.

23 Yes, Mr Witness.

24 THE WITNESS: [10:39:24] (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Private Session)

ICC-01/14-01/21

- 1 (Redacted)
- 2 (Redacted)
- 3 PRESIDING JUDGE SAMBA: [10:39:36] Okay, thank you very much.
- 4 We will do that.
- 5 Yes, Mr Choudhry. Please, continue.
- 6 MR CHOUDHRY: [10:39:43]
- 7 Q. [10:39:43] Mr Witness, you stated this:
- 8 Not only that, (Redacted) is a relative of somebody we interviewed who was detained
- 9 at the OCRB, the gentleman didn't sign the statement.
- 10 Who are you talking about, please?
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 PRESIDING JUDGE SAMBA: [10:40:32] Yes, Mr Jacobs.
- 17 MR JACOBS: [10:40:36](Interpretation) We don't have the -- well, the name is not
- 18 shown on the transcript.
- 19 If the witness could please repeat that name more slowly.
- 20 PRESIDING JUDGE SAMBA: [10:40:47] Well, he mentioned a few names.
- 21 Mr Witness, can you go over that again please.
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Private Session)

ICC-01/14-01/21

- 1 PRESIDING JUDGE SAMBA: [10:41:33] Thank you very much, Mr Witness.
- 2 Mr Choudhry, please continue.
- 3 MR CHOUDHRY: [10:41:37]
- 4 Q. [10:41:38] Sorry, Mr Witness, I've missed the point just with that interruption.
- 5 You mentioned two names, I believe, (Redacted)
- 6 Just to clarify or confirm, who is it that you say was detained at the OCRB?
- 7 A. [10:41:56] (Redacted) was detained at the OCRB.
- 8 (Redacted)
- 9 (Redacted)
- 10 Q. [10:42:14] Thank you.
- 11 MR CHOUDHRY: [10:42:15] And if perhaps we could go to tab 7.
- 12 And once that's pulled up, we will -- we can go back into public session,
- 13 Madam President.
- 14 PRESIDING JUDGE SAMBA: [10:42:34] Can we go now into public session? Is that
- 15 your --
- 16 MR CHOUDHRY: [10:42:38] Yes, your Honours.
- 17 PRESIDING JUDGE SAMBA: [10:42:42] Madam Court Officer, can we go into
- 18 public -- open session, please.
- 19 (Open session at 10.42 a.m.)
- 20 THE COURT OFFICER: [10:42:50] We are back to open session, Madam President.
- 21 PRESIDING JUDGE SAMBA: [10:42:53] Thank you very much.
- 22 Mr Choudhry, please continue.
- 23 MR CHOUDHRY: [10:42:56] Thank you, Madam President.
- 24 Just for the record, this is CAR-OTP-2124-0316.
- 25 Q. [10:43:05] Mr Witness, have you had an opportunity to read the first portion of

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 this document?

2 A. [10:43:11] I have.

3 Q. [10:43:13] And can you please tell us what is this document?

4 A. [10:43:16] It's an investigation report on the collection of the SRI -- that's the -- I
5 think, *Section de Recherches et d'Investigations*. They're registered at *garde-à-vue*, which
6 is, essentially, a list of who is detained there.

7 Q. [10:43:34] And did the team adopt the same process to collect this material as
8 you've described else where?

9 A. [10:43:39] Yes.

10 Q. [10:43:42] What checks were taken, if any? Or what checks if any were take to
11 establish the authenticity of material from this particular source?

12 A. [10:43:54] This document was collected specifically in relation to an
13 investigation of a location called the CEDAD, that's an acronym, right? Individuals
14 who'd been detained at the CEDAD had been interviewed and they indicated that
15 they had been released from the CEDAD to -- and transferred to the SRI at a certain
16 point.

17 We wanted to check whether that was the case; so we collected the SRI register to see
18 if their names were in it, and I believe several of their names were, in fact, in that. So
19 we had people saying they were detained in the CEDAD and been transferred to the
20 SRI.

21 So we checked, we interviewed them and then we checked in the register at the
22 register *de garde-à-vue* to see that they were in there and they were. Not all of them.

23 Q. [10:44:56] If I could ask to move to tab 8 and that is CAR-OTP-2005-0448. I'll
24 just let you look at the first page and please tell us when you are ready for us to scroll
25 down.

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 A. [10:45:19] Yes, and perhaps I can give a clarification about that tasking number.

2 Q. [10:45:28] Yes, please.

3 A. [10:45:29] Just to say that I spoke earlier about the Jade system, the Wynyard
4 system, investigation management system. Before that system, we didn't have
5 a system -- let's say, a bought system, so we designed our own and that task idea
6 relates to that old system.

7 So again, it was a diary of maintaining information about what we were doing. That
8 number -- that long number relates to that old system where, again, people were
9 encouraged to make as contemporaneous notes as possible, use it as a diary.

10 Q. [10:46:07] Just on that point, you've mentioned, Mr Witness, Wynyard, Jade and
11 another system. Can you please explain just the timeline of when systems changed?

12 A. [10:46:28] I couldn't do that now, but I could tell the Court with a little bit of
13 research.

14 Q. [10:46:36] Between Wynyard, Jade and the old system, which one came first?

15 A. [10:46:45] So the first thing is Wynyard and Jade are the same system.
16 They're -- people call it different things, but there was this -- the old system that
17 generated this long tasking ID, that was before Wynyard -- that was before Wynyard.

18 Q. [10:47:03] And do you recall whether the change from the old system to
19 Wynyard occurred during the course of the investigation in this particular case?

20 A. [10:47:14] Yes, it did.

21 PRESIDING JUDGE SAMBA: [10:47:22] Yes, Mr Jacobs?

22 MR JACOBS: [10:47:25](Interpretation) I apologise, Madam President, but the name
23 of the system is not to be found in the transcript. So going by the French transcript,
24 it is difficult to make out which software package is being -- or is being discussed.
25 But in any event, the French transcript is not very clear.

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 PRESIDING JUDGE SAMBA: [10:47:49] I think the name of the system used -- well,
2 for the documents that have appeared before us, is stated in a particular bar, I mean,
3 the new system and even this old system that the witness is referring to.

4 But I allow Mr Choudhry, maybe, to throw some light for you so that it makes easy.

5 MR CHOUDHRY: [10:48:15]

6 Q. [10:48:17] Mr Witness, my learned friend is having problems with the spelling of
7 the system names. Can you please spell Wynyard, spell Jade, and spell the old
8 system, whatever that may be.

9 A. [10:48:29] So as I said, Wynyard and Jade are the same system. Wynyard is
10 spelt: W-Y-N -- sorry, Y-A-R-D.

11 Jade is spelt: J-A-D-E.

12 The old system didn't have a name, I think we just call it the "old system", but for the
13 benefit of the Defence, perhaps, if you look in the -- on these documents where it says
14 "task ID", if it says "GTSK", that is the Jade or Wynyard system, and if it has this
15 longer number, "CARTSK2014", or whatever, that would be the old system.

16 Q. [10:49:20] If we could just scroll down, please. Mr Witness, if I could just ask
17 you to take a moment, please, to read this particular set of documents.

18 A. [10:49:49] Yes, I've read it.

19 Q. [10:49:53] What material does this -- or which source does this note relate to,
20 please?

21 A. [10:50:11] This relates to files collected from the *Commission mixte d'Enquête*.
22 That was a body set up during the Seleka government for people to make criminal
23 complaints to, yeah. And so the collection from there would be in numerous files,
24 essentially of criminal complaints.

25 Q. [10:50:44] And did the team adopt the same process to this material, to

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 processing this material as you've described elsewhere?

2 A. [10:50:55] Yes.

3 Q. [10:50:59] What checks, if any, were carried out to ensure the authenticity of
4 material sourced from the CMD?

5 A. [10:51:14] So, the first thing, I think, is, we also collected from the CMDE
6 a register of all the complaints. So you've got the files and the register, so you can
7 cross-reference the two to see if an item appears in both. Where a file was relevant,
8 we would follow it up with the complainant and we did that on numerous occasions
9 and people would say, "Oh, yeah, that is -- I made a complaint. Yes, this is the
10 complaint I made."

11 But again, you can look across data sets, so you can see that a gentleman called {PFR:
12 (Redacted)}, who's sadly deceased, he was -- the allegation being that he was killed by
13 members of the Seleka at a place called -- or at or near a place called PK9. There's
14 a complaint about his killing in the *Commission mixte d'Enquête*, I believe, from his
15 wife.

16 A complaint is also made to another body that is taking complaints called the CEJP,
17 the *Commission Épiscopale Justice et Paix*, and, again, you can continue checking those
18 things. So you can see that {PFR: (Redacted)} death is registered in the morgue
19 register, so you can see that his wife has reported him killed, and his body is
20 recovered and it is in the morgue register.

21 So, you know, there's multiple ways we check these documents to see that they
22 were -- if they were authentic and reliable. But again, I stress, we checked matters
23 that were relevant. We didn't check every single document. That was not possible
24 with the resources we had, so we had to make choices about the things we were
25 investigating, and, when we decided what we're investigating, as far as possible we

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 checked documents against other sources or against witnesses to seek to verify them
2 if possible.

3 MR CHOUDHRY: [10:53:27] Your Honour, that ends my questioning insofar as
4 these particular items are concerned. Pursuant to the Chamber's decision at
5 paragraph 92, I would kindly ask that tabs 1, 2, 4, 5, 6, 7 and 8 be formally submitted.

6 PRESIDING JUDGE SAMBA: [10:53:49] Thank you, Mr Choudhry. They will be --

7 MR CHOUDHRY: [10:53:54] Your Honour --

8 PRESIDING JUDGE SAMBA: [10:53:55] No, carry on, carry on.

9 MR CHOUDHRY: [10:53:57] Your Honour, the next portion is the final part of my
10 questioning. What I will aim to do is a forensic process by doing exactly what the
11 witness has described, and that is taking the witness to two example documents that
12 are noted in the -- from sources in the decision.

13 My proposal, your Honour, given the time, is to do that in one chunk rather than get
14 the witness to read certain items, take a break and then come back and be asked to
15 look at different documents. So with your leave, I would ask that that be done in
16 one chunk as opposed to an attempt to break it up in the remaining time now.

17 PRESIDING JUDGE SAMBA: [10:54:40] Go ahead then, Mr Choudhry.

18 MR CHOUDHRY: [10:54:45] Sorry, your Honour, just to be clear, I was asking
19 whether we could break now, your Honour, in order to do that.

20 PRESIDING JUDGE SAMBA: [10:54:54] Okay, so that we do that within the second
21 session?

22 MR CHOUDHRY: [10:54:57] Yes, it won't take very long, but because I'll be showing
23 the witness several documents in one go, it will be easier for the Prosecution to
24 convey the point to the Chamber if it's done in that manner.

25 PRESIDING JUDGE SAMBA: [10:55:15] That's fair.

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

- 1 Mr Witness, we're going to break off a little bit and come back at -- well, in
2 30 minutes' time.
3 So I rise the Court for 11.30, 35 minutes.
4 THE COURT USHER: [10:55:36] All rise.
5 (Recess taken at 10.55 a.m.)
6 (Upon resuming in open session at 11.37 a.m.)
7 THE COURT USHER: [11:37:11] All rise.
8 Please be seated.
9 PRESIDING JUDGE SAMBA: [11:37:37] Good morning, again, everyone.
10 Mr Witness, we're going to continue with your testimony and I'm going to invite
11 the -- Mr Choudhry to continue putting questions to you.
12 MR CHOUDHRY: [11:37:51] Thank you very much, your Honours.
13 Your Honours, just as a matter of formality, I've been informed that an ERN number
14 is required for the Chamber's decision which lies at tab 38. If I could kindly ask
15 the court officer to assist me with that and I will then make a request for that to be
16 formally submitted. I hope I've done that the correct -- the correct way.
17 PRESIDING JUDGE SAMBA: [11:38:22] But tab 38 is our decision and it's -- isn't that
18 already on the record?
19 MR CHOUDHRY: [11:38:32] Your Honour, that was my understanding, it's a public
20 decision and it's on the record, but I understand that I have to request an ERN and/or
21 register the document. But I can move on to the questions and perhaps at the end
22 we can clarify that, if that's required.
23 PRESIDING JUDGE SAMBA: [11:38:50] I don't think that's necessary, because it's
24 already on the record, Mr Choudhry, so let's move on with the questions, thank you.
25 MR CHOUDHRY: [11:39:01] I'm grateful.

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 Q. [11:39:02] Mr Witness, the final area that I would like to explore is really
2 the process of specific documents. You've discussed the investigative process and I
3 want to take two examples to assess how that process was applied to the specific
4 examples that have been submitted in this case.

5 And in order to do that, to give you the context, if I could please ask you to now read,
6 and this is tab 38, this is the decision. I'd like you to read specific paragraphs 23, 24,
7 and then footnote 71 and can you please tell us when you're ready for us to scroll
8 down to those paragraphs and footnote.

9 A. [11:39:53] You can scroll down. Thank you.

10 You can scroll down further, please.

11 Q. [11:40:29] Just to the footnote, please.

12 PRESIDING JUDGE SAMBA: [11:40:33] I guess you need the footnote 71, or?

13 MR CHOUDHRY: [11:40:38] That's it.

14 THE WITNESS: [11:40:49] I've read it all.

15 MR CHOUDHRY: [11:40:52]

16 Q. [11:40:52] Now, Mr Witness, in footnote 71 there are a list of sources. I will be
17 referring to two documents. The first of which is AVED, A-V-E-D, listed in footnote
18 71, and the second is from the source, the directorate of the administrative police.

19 Okay?

20 And if we could please, first of all, turn to tab 38.5, page 31, item 58.

21 And if you could please read item 58. It scrolls down on to the next page. It's
22 highlighted for you.

23 A. [11:41:55] I've read that. Thank you.

24 Yes, I've read that.

25 Q. [11:42:05] I'm going to actually show you the document and that's at tab 23, with

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 the ERN CAR-OTP-2027-1822.

2 And, Mr Witness, please tell us when you're ready for us to just scroll down so that
3 you have a sense of what this document is.

4 A. [11:42:36] You need to scroll down a little bit.

5 If you keep scrolling. Just there, yeah, if you just -- are there any photos,
6 births -- death certificates, anything like that attached?

7 Yeah, yeah, I know this document.

8 Q. [11:43:27] When you say you know this document, what do you mean?

9 A. [11:43:31] As in this relates to one of the areas of the inquiry that we -- this is one
10 of the incidents we investigated. It relates to the death of {PFR: (Redacted)} after he
11 was detained at PK9 checkpoint by people associated with the Seleka.

12 Q. [11:43:51] Do you recall how you checked whether this document was authentic?

13 A. [11:43:58] We spoke to the complainant {PFR: (Redacted)}. We also interviewed
14 a range of other people. I think if you just scroll up slightly. Yeah, I think we -- stop.
15 Yeah, the complainant there, {PFR: (Redacted)}, we -- I don't know if we screened or
16 interviewed him. He also made the same complaint to *Commission mixte d'Enquête*. We
17 checked the hospital register. {PFR: (Redacted)} and other people that were killed in
18 that incident are in the hospital register. I believe there is also a BINUCA or OHCHR
19 complaint about the same matter. So we did a fairly comprehensive investigation
20 that -- of that particular complaint, speaking to witnesses, checking other
21 documentation, cross-referencing all the normal investigative tasks.

22 Q. [11:45:09] You've mentioned that there is also BINUCA.

23 Could I please show you tab 14. And that's ERN CAR-OTP-2034-2340.

24 Do you recognise this document?

25 A. [11:45:32] Yeah, that's the -- the BINUCA press release about the murder

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 of -- well, yeah, sorry, I don't know if they say "murder" about the death of {PFR:
2 (Redacted)}, the same person that's mentioned in that other document.

3 And I should add that {PFR: (Redacted)} at the time as well and I assume that we
4 asked him about this particular incident.

5 Q. [11:46:01] Now, you've mentioned an investigative process. Looking at these
6 documents, in your opinion, just to explain the checks, how do you determine
7 the reliability of evidence within the investigation of this particular document,
8 looking at these two documents?

9 A. [11:46:23] So, firstly, the Central African Republic is a different investigative
10 environment, potentially, to say the domestic environment in the United Kingdom.
11 And by that I mean the, you know, there's a principle of investigations, Locard's
12 principle. It's actually a principle of forensics. It holds that every contact leaves
13 a trace. So if a red car and blue car crash into each other, the red car will have blue
14 paint on it, the blue car will have red paint on it. And that's really the governing
15 theory I use for all investigations. I extend that to include, obviously, if you see
16 something it leaves an imprint on your memory. If you -- if somebody writes
17 something down.

18 So, for an investigation, you have to follow that principle and you have to say, if this
19 thing here happened like they say it did, what are the traces I can find in
20 the environment.

21 So, for instance, from this document, I would speak to the -- I would seek to speak to
22 the author or the supervisor or the author of that document and say, "Is this a real
23 document?" You know, "Do you remember this incident?" In fact, yeah, and I'd
24 investigate from there.

25 From the file that you -- you showed earlier, there's names of people in that file who

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 have signed a death certificate or signed a complaint, I need to speak to them to see
2 what they know.

3 We did local inquiries, I believe, at the PK9 checkpoint, so we sent investigators to
4 the PK9 checkpoint and I believe they spoke with the gendarmes that were there.

5 The bodies were recovered from the River Oubangui, which is why they were so
6 swollen. I believe {PFR: (Redacted)} was there at that time, he's in the photographs.

7 I believe we spoke to him about it.

8 So everything in the document has to be checked, or, as far as is possible, has to be
9 checked against other information we hold. You know, I know on this particular
10 incident we also did some -- attempted to do some cell site data. We knew the
11 incident happened at PK9 and we knew that the people detained there had been
12 taken to Camp de Roux, so we took the cell towers that covered PK9 and we took
13 the cell tower that covered Camp de Roux in the right time frame and we checked has
14 any telephone gone from this location to this location, yeah, that could be of interest,
15 that person. And we identified a potential suspect from that but we never managed
16 to speak to him.

17 So, I, you know, I couldn't tell you now all inquiries we made, but we did a fairly
18 comprehensive investigation of this. When we start, the documents are merely
19 something that suggests something may have happened or not. I wouldn't put great
20 store in documents, full stop. They are something that helps us find other
21 information.

22 Q. [11:49:28] Before --

23 MR JACOBS: [11:49:34](Interpretation) Yes, Madam President. It's not an objection,
24 it's just the matter of pace. When he goes into details, he accelerates. And just for
25 the preparation of the cross-examination, the witness talked about a principle in

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 the UK and I have the impression that it did not appear -- it does not appear neither
2 in the French or in the English transcript. If the witness can mention that UK
3 principle again that he talked about, it would be useful for the cross-examination.

4 PRESIDING JUDGE SAMBA: [11:50:19] He mentioned UK and the investigations
5 carried out in CAR, but I don't think he went into the principle, he just said that there
6 was a difference in the way of investigation.

7 But, Mr Witness, can you maybe address counsel's concern.

8 THE WITNESS: [11:50:36] It's not actually a -- a British principle, it's a French
9 principle. It's called Locard's principle. Monsieur Locard, forgive my
10 pronunciation, he was a forensic scientist in the -- 18-something and his principle was,
11 of forensics, that every contact leaves a trace. So if you walk on the floor you leave
12 some of your shoe leather on the floor and some of the floor on your shoe. That, to
13 me, is the governing principle of investigations. Once you understand that principle
14 of forensics, the same is true of people seeing things, closed-circuit television,
15 financial records.

16 The process of investigation is identifying all the traces the crime leaves in the
17 environment, be they forensic, or memory or audio-visual or open source, and we
18 need to gather all the information possible so that a determination can be made by
19 the Court about whether somebody committed an offence or not.

20 And forgive me, the reason I mentioned the difference between England and Central
21 African Republic, is that in Central African Republic, let's say, the repositories of
22 information, so CC, closed-circuit television, there's less of that, it's very, very limited.
23 It's a different operating environment. There's different things that you can see in
24 CAR compared to UK. If I'd done this investigation in the UK, I'd have looked at
25 automatic number plate recognition. I'd have looked at crime scene forensics at the

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 time of the offence. I would have had access to other datasets that we didn't have in
2 the Central African Republic.

3 PRESIDING JUDGE SAMBA: [11:52:40] Thank you very much, Mr Witness.

4 Mr Choudhry, and just to, for your information, that you have about I think
5 25 minutes more of the time you -- you asked for for in chief.

6 MR CHOUDHRY: [11:52:54] Your Honour, I anticipate being finished within that
7 time.

8 PRESIDING JUDGE SAMBA: [11:52:58] Okay, thank you.

9 MR CHOUDHRY: [11:52:59]

10 Q. [11:53:00] Mr Witness, just on that point, I've shown you two documents, I will
11 show you a third, but you mentioned earlier the term "triangulate". I haven't found
12 it on the transcript. What does that -- in layman's terms, what does that mean and
13 how does that feature, if at all, in this process?

14 A. [11:53:23] I think -- I read about, I've never done it myself, but in rock climbing,
15 if you're a good rock climber you should always have three points of contact on
16 the wall, it stops you falling off the wall, apparently. That's what triangulation is.
17 For any peace of information we use, I'd like to make sure we have it from more than
18 one source that's independent of each other in order to be able to triangulate, to be
19 make sure that what we have is solid and acceptable evidence. I'm not saying that
20 we always achieve that, but that is what I would seek to do.

21 Q. [11:54:03] And sticking with that principle, if I could please show you the third
22 document, which is at tab 14.

23 CAR-OTP -- forgive me, tab 13, which is CAR-OTP-2034-0219.

24 And if you could just have a look at the -- well, just that document. It's a short
25 document.

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 This is a document sourced from the UN. In terms of process, in your opinion, is
2 a document such as this helpful in determining the reliability of the original
3 document I showed you with the photo?

4 A. [11:55:11] It's another source that suggests that on 14 July at PK9, {PFR:
5 (Redacted)} and others were detained. It provides information that we can follow up
6 on. You know, I don't know if the other document talks about the T-shirts, but
7 I believe we have at least one witness who talks about the T-shirts, seeing the T-shirts
8 at Camp de Roux on the day. Yeah. So there's all these things that you can cross
9 reference with each other. I don't know what the source of this document is. If it's
10 exactly the same source as the original document, then that's not corroboration, that's
11 just two different sources -- sorry, one source telling two different people the same
12 thing.

13 These documents give me information that guides what my next steps can be in order
14 to verify or establish whether the -- whether it's true, did this happen at PK9. There's
15 a lot of information in there that I can follow up on.

16 Q. [11:56:24] In relation to the number of sources, you use the term "corroborate".
17 Could you please explain how you're using the term "corroborate".

18 A. [11:56:37] If you take this document as a starting point, this document says that
19 {PFR: (Redacted)} was taken out of the river after being detained at PK9. So the first
20 thing I -- this -- yeah, in the document that you showed me at the start, of {PFR:
21 (Redacted)}, there's a body there which is grossly swollen. I believe we have other
22 photographs of the River Oubangui at the time and I think you can identify that that
23 body in that photograph is the same as the body in the river. That, to me, is
24 corroboration. There's a photograph of {PFR: (Redacted)}, deceased, and that body
25 appears to come from the river.

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 Corroboration is speaking to {PFR: (Redacted)} relatives and saying, "What do you
2 know that happened?" Corroboration is looking at the register of
3 the *Hôpital Communautaire* and checking is {PFR: (Redacted)} name in that register,
4 what date is it in that register, who collected the body from there. It's looking at the
5 death certificate and saying who applied for this death certificate, what do they know.
6 And it goes on and on and on.
7 Investigation is a cycle. It's not one, two, three, four, it's you find out something new
8 and then you have to start again, you have to ask another question and another
9 question and another question. You know, I could still be doing the investigation
10 now. At some stage, though, the lawyers, the Prosecution, decide there is sufficient
11 evidence to justify a charge and then it comes to this Court.
12 Q. [11:58:34] Thank you. I'd now like to show you the final example, please.
13 And I'll start with the entry at tab 38.5, page 10, item number 19. It also -- also
14 should be highlighted for you. If you could just read that and tell us when you've
15 done so, please.
16 A. [11:59:13] Yeah.
17 Q. [11:59:14] If I could turn to the actual item itself, which is located in tab 18,
18 CAR-OTP-2008-0448.
19 And if you could do the same, please read that and tell us when you're ready for my
20 next question. Or if you would like us to scowl down.
21 A. [11:59:36] Could you scroll down.
22 Further, please.
23 And further, please.
24 And further, please.
25 Okay, thank you.

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 Q. [12:00:05] Are you familiar with this document?

2 A. [12:00:08] Yes, it's a document that appoints certain individuals to roles within
3 the organisation called the CEDAD. And that was a particular area of inquiry for us.

4 Q. [12:00:23] And how would you determine the reliability of a document such as
5 this?

6 A. [12:00:29] So, I think there's a variety of things we would do. The decrees are
7 all normally placed within the official journal of the Central African Republic. I
8 know that we collected all the official journals that we could, we bought them,
9 actually. From what -- can you scroll down. Sorry, I need to know the date of this.
10 So you can see there it says it should be * published in the official journal. So we
11 sought the official journal for October. We didn't find the official journal for October,
12 so that was not something that worked. But, later on -- often these decrees are
13 varied, so if you look in later official journals, you will see a reference to 13.397 and
14 some of the spellings are slightly changed in names so you can see that that verifies
15 this document.

16 We spoke to most of the people in that document and either screened or took
17 statements from them. Some people we interviewed produced that document
18 themselves separately and said it was authentic and they said they were indeed
19 appointed to that role.

20 I believe somebody also produced something called a *note de service*, which is
21 a document that follows this appointing people, the same names, to the CEDAD. So
22 this document is corroborated by a range of other inquiries that we made. I believe
23 it to be an authentic and reliable document.

24 Q. [12:02:12] You've just told us that some people produced that document. I'd
25 now like to show you tab 19. That's CAR-OTP-2023-0621. And if I could show you

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 the first page first of all, please. Just stop there for a second. What is this document,
2 please?

3 A. [12:02:36] This is a statement of the person named who is also a person that isn't
4 named in the previous document.

5 Q. [12:02:49] If we can now please scroll down to page 17 and paragraph 113.
6 We'll see, Mr Witness, there under the heading of "Annexes" could you please read
7 that and let me know when you're finished.

8 A. [12:03:20] I've read it.

9 Q. [12:03:22] How is paragraph 113 relevant to the things that you have just told us
10 about the decree?

11 A. [12:03:33] So this gentleman gave a statement. In the course of giving that
12 statement, he said that he had worked at the CEDAD in the role that the decree
13 stipulates. He has also seemingly produced a copy of the decree. He's also
14 produced a *note de service* saying he was appointed to that role at the CEDAD. And I
15 imagine, the contact list, if you check it, will include the names of the other people
16 and their roles at the CEDAD. So, he is -- to me, that shows that the document
17 13.397, even if you put aside the other one, is an authentic document.

18 Q. [12:04:16] Thank you.

19 Mr Witness, I have one final question for you. You've told us that you've read
20 the Trial Chamber's decision relevant in this case. Do you have anything further
21 which could assist the Chamber in determining the authenticity and reliability of
22 items that have been submitted by the Prosecution in its bar table motion?

23 A. [12:04:48] I -- I think -- I went through all the documents that are in the footnotes
24 and all the ones that are relevant, all the ones I consider relevant, I think we have
25 done inquiries that would help the Court establish whether they are authentic and

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 reliable.

2 Q. [12:05:13] Thank you very much, Mr Witness. I have no further questions for
3 you.

4 Your Honours, that completes the Prosecution questions.

5 PRESIDING JUDGE SAMBA: [12:05:19] Thank you very much, Mr Choudhry.

6 I will still ask the Defence if -- if you want to start your cross-examination today,
7 would you rather tomorrow?

8 Sorry, Mr Choudhry, before -- yes, Mr -- Mr Choudhry, sorry, yes. Do you want to
9 do a formal submission of the items you just used?

10 MR CHOUDHRY: [12:05:58] Your Honour, I would. In all honesty, I wasn't certain
11 as to how I should go about it because some of the items that I requested were put to
12 the witness are in the bar table motion. But, if permitted, then those items that I
13 have, and I could list the tab numbers, ought to be submitted, your Honour.

14 Those items are as follows: They would be tab 23, CAR-OTP-2027-1822. Tab 13,
15 CAR-OTP-2034-0219. Tab 14, CAR-OTP-2034-2340. Tab 18, that's
16 CAR-OTP-2008-0448. And, finally, tab 19, CAR-OTP-2023-0621.

17 PRESIDING JUDGE SAMBA: [12:07:01] Thank you very much.

18 Yes, Mr Jacobs.

19 Thank you, Mr Choudhry, you may be seated.

20 MR JACOBS: [12:07:09](Interpretation) Tab 19, the Defence is opposed to
21 submission of this document. This is a previous statement from a witness who was
22 not chosen. We agree that paragraph 113 can be submitted, as is the case in other
23 similar situations. But, but it can't be the entire previous statement of the witness
24 who was not retained as a witness. So we are opposed to formal submission of
25 tab 19. We are fine with submission of the single paragraph, paragraph 119.

Trial Hearing
WITNESS: CAR-OTP-P-3114

(Open Session)

ICC-01/14-01/21

1 PRESIDING JUDGE SAMBA: [12:07:55] Yes, we'll go in with paragraph 113 and
2 the tab that follows that paragraph as being formally submitted. Thank you very
3 much.

4 So, Mr Jacobs, or Ms Naouri, I don't know who will be doing the cross-examination,
5 but do you want to start today or would you rather tomorrow?

6 MR JACOBS: [12:08:20](Interpretation) Given the information provided and what
7 was said by the witness, many things were said, so I think, if I were to start tomorrow,
8 I would be in a position to better target the cross-examination and read over
9 the transcript of today and that way I would be able to do that tomorrow and I think
10 we would be able to tighten up our cross-examination and have a more targeted
11 cross-examination.

12 PRESIDING JUDGE SAMBA: [12:09:04] That's fair. The Chamber had indicated
13 via our decision that you'd start questioning this witness tomorrow. So I'm going to
14 rise the Court - not yet, don't rise yet, don't rise yet - I'm going to ask that we come
15 tomorrow at 9.30.

16 But before we do that, Mr Witness, the testimonies, as I'm sure you know, that you
17 have given here today, don't discuss it with anybody when you leave the courtroom
18 and you will still be on oath when we meet here again continue tomorrow.

19 So now I rise the Court for 9.30 tomorrow. Thank you.

20 THE COURT USHER: [12:09:39] All rise.

21 (The hearing ends in open session at 12.09 p.m.)