

Trial Hearing
WITNESS: CAR-OTP-P-0884

(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 and Judge
7 Sergio Gerardo Ugalde Godínez
8 Trial Hearing - Courtroom 2
9 Wednesday, 29 May 2024
10 (The hearing starts in open session at 9.32 a.m.)
11 THE COURT USHER: [9:32:31] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE SAMBA: [9:32:43] Good morning, everyone.
15 Madam Court Officer, can you kindly mention the case, please.
16 THE COURT OFFICER: [9:33:00] Good morning, Madam President, your Honours.
17 The situation in the Central African Republic II, in the case the Prosecutor v. Mahamat
18 Said Abdel Kani, case reference ICC-01/14-01/21.
19 And we are in open session.
20 PRESIDING JUDGE SAMBA: [9:33:15] Thank you very much.
21 Can I ask the parties to introduce themselves, starting with the Prosecution, please.
22 MS MAKWAIA: [9:33:24] Good morning, Madam President, your Honours. For
23 the Prosecution this morning, myself, Holo Makwaia, senior trial lawyer, and Kamran
24 Choudhry, trial lawyer. Thank you.
25 PRESIDING JUDGE SAMBA: [9:33:36] Thank you, Ms Makwaia. Ms Pellet for the

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1 victims, please.

2 MS PELLET: [9:33:41](Interpretation) Thank you, your Honour. The victims are
3 represented by Tars Van Litsenborgh and myself, Sarah Pellet, counsel OPCV.

4 PRESIDING JUDGE SAMBA: [9:33:54] Thank you very much, Ms Pellet.

5 Ms Naouri, we are happy to see you back. Can you give your introduction
6 for -- your representation for the Defence, please.

7 MS NAOURI: [9:34:11](Interpretation) Thank you, your Honour. Good morning.

8 I'm delighted to be back and I would like to thank my team for handling matters
9 while I was away. Dov Jacobs is beside me. And myself, I am Jennifer Naouri, lead
10 counsel.

11 PRESIDING JUDGE SAMBA: [9:34:34] Thank you very much, Ms Naouri.

12 We don't have representation for the lady on -- counsel on the right of Mr Jacobs.

13 THE INTERPRETER: [9:34:46] Message from the interpreters --

14 MS NAOURI: [9:34:51](Interpretation) Beside Ms Capucine Banet. And myself, I
15 am Jennifer Naouri.

16 PRESIDING JUDGE SAMBA: [9:35:01] Thank you very much.

17 And for the record, we note that Mr Said is in court.

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

19 MR SAID: [9:35:13](Interpretation) Yes. Good morning, your Honour.

20 PRESIDING JUDGE SAMBA: [9:35:17] Yes.

21 Good morning, Mr Witness. I hope you rested well.

22 WITNESS: CAR-OTP-P-0884 (On former oath)

23 (The witness speaks Sango)

24 THE WITNESS: [9:35:27](Interpretation) Good morning, your Honour.

25 PRESIDING JUDGE SAMBA: [9:35:34] Good morning.

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1 Can I have the representation for Rule 74 counsel.

2 MR AL-MALT: [9:35:40] Yes. Thank you, your Honour. Noah Al-Malt appearing
3 for -- as counsel for the witness pursuant to Rule 74.

4 PRESIDING JUDGE SAMBA: [9:35:51] Thank you very much.

5 Now, Mr Witness, just to remind you that you are still under oath. We are going to
6 continue with your testimony and I am going to ask Mr Jacobs to continue with his
7 line of questioning on the cross-examination. Thank you very much. I'm thankful
8 for your cooperation with the Court.

9 Mr Jacobs, please.

10 THE WITNESS: [9:36:24](Interpretation) Thank you.

11 MR JACOBS: [9:36:36](Interpretation) Thank you, your Honour.

12 QUESTIONED BY MR JACOBS: (Continuing)(Interpretation)

13 Q. [9:36:38] Good morning, Mr Witness.

14 A. [9:36:42] Good morning.

15 MR JACOBS: [9:36:46](Interpretation) We'll resume from where we were yesterday,
16 and I think we need to go into private session, your Honour.

17 PRESIDING JUDGE SAMBA: [9:36:58] Very well. Madam Court Officer, can you
18 get us into private session briefly, please. Thank you.

19 (Private session at 9.37 a.m.)

20 THE COURT OFFICER: [9:37:15] We are in private session, Madam President.

21 PRESIDING JUDGE SAMBA: [9:37:21] Thank you very much.

22 Mr Jacobs, continue, please.

23 MR JACOBS: [9:37:31](Interpretation) Thank you.

24 Q. [9:37:33] Mr Witness, we were talking about your past experience in life and you
25 mentioned that you were (Redacted), and you were the

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1 (Redacted)

2 Who was the (Redacted) that you reported to at the time? Who was the (Redacted)
3 in charge of that (Redacted)?

4 A. [9:37:58] (Redacted) in question at the time was (Redacted).

5 There were several (Redacted). There was the first one with whom I worked, that
6 was (Redacted) for more than eight years. And after him, there was (Redacted)
7 (Redacted) on an acting basis. After that, it was (Redacted)
8 (Redacted) was working there in 2012.

9 Q. [9:38:52] Thank you, Mr Witness.

10 Now when you stopped working at (Redacted) in 2012, do you remember what
11 month that was, which month you ceased your employment there?

12 A. [9:39:12] In 2012, we were working, but once the Seleka came in, I was no longer
13 working there.

14 Q. [9:39:27] Very well. Now in your previous statement, and it could be put up
15 on the screen, but -- well, no, I don't think we truly need to put it on the screen,
16 CAR-OTP-2072-1440, page 1443. You explained, line 89 to 4 -- 98, you explained that
17 as of 2012, you had your own company and you could not continue.

18 So I would like to ask you, here we understand that you had a company in 2012, and
19 you stopped working at the (Redacted) before the Seleka came in in 2012. Is this
20 what we are to understand from your previous statement?

21 A. [9:40:37] No. I had set up that company and I was working in that company
22 and I was a (Redacted). As of 2012, I had some problems, some difficulties with
23 (Redacted) and, after that, I didn't work.

24 But in 2013, when the Seleka came in, I was relieved of my duties by way of
25 (Redacted). I was no longer working there and, much later on, in 2015 and 2016, I

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1 was (Redacted)

2 Q. [9:41:21] Very well. We'll get back to that at some point, but I think we should
3 go on a temporal basis. Could you tell us more about this company that you set up
4 in 2012?

5 A. [9:41:42] (Redacted). I have (Redacted),
6 which does (Redacted), and another company, (Redacted),
7 and I work on -- well, (Redacted).

8 The name of that company is (Redacted). And these businesses require a great deal
9 of labour; so I was working there within these companies. I had 50 Muslims and 50
10 Christians working for me. They worked together. It was a form of reconciliation.
11 And the daily rate of pay was 2,500 francs, CFA francs. It was a way of working
12 towards peace.

13 Those are the companies that I was working with.

14 Q. [9:42:53] Very well. So this is 2012 we're talking about. So for a while you
15 were working as a (Redacted) and you had your companies on the side?

16 A. [9:43:08] Yes, exactly, that's right.

17 Q. [9:43:16] Very well. You told us yesterday that the Seleka came into Bangui in
18 2013, on 15 March 2013; correct?

19 A. [9:43:33] I got to Bangui on 15 March 2013.

20 THE INTERPRETER: [9:43:41] Correction: They got to Bangui.

21 MR JACOBS: [9:43:47](Interpretation)

22 Q. [9:43:47] Now you told us that you were relieved of your duties by way of
23 (Redacted). You were relieved of your duties, what month was that,
24 Mr Witness?

25 A. [9:43:59] I don't remember which month it was anymore, but I think it was early

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1 in 2013, that is when I was relieved of my duties and I was a mere ordinary

2 (Redacted)

3 Q. [9:44:20] Very well. Now in your previous statement, you said that you were
4 relieved of your duties. You were asked -- two or three months before the arrival of
5 the Seleka - tab 2, this is CAR-OTP-2072-1356, page 1376, lines 685 to 691 - you were
6 asked:

7 How long afterwards was it when you were relieved of your duties?

8 And you answered that it was two or three months after.

9 I'm just waiting for the end of the interpretation.

10 THE INTERPRETER: [9:45:18] Message from the interpreters: The transcript is
11 coming up on the screen. Many thanks.

12 MR JACOBS: [9:45:32](Interpretation)

13 Q. [9:45:32] Does that ring a bell? Jog your memory, Mr Witness?

14 A. [9:45:37] Yes, that's right. Three months later, (Redacted)

15 (Redacted) I was relieved of my duties as (Redacted)

16 but you need to make a distinction here. Yes, it was -- it's true,

17 I was relieved of my duties (Redacted), but I still -- I still was a (Redacted). I wasn't

18 dismissed from the (Redacted). I still was working within the (Redacted)

19 (Redacted)

20 Q. [9:46:36] Very well. If I've understood correctly, you remained within the

21 (Redacted)

22 How long was that? How long did you remain in that position as an (Redacted) in
23 the year 2013?

24 A. [9:46:56] At the time I was still a (Redacted)

25 My position was different to my status as a (Redacted). I'm still a (Redacted).

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1 It's true, I was relieved of my duties -- of my position, but currently I am a (Redacted)
2 (Redacted) I am still a (Redacted)
3 (Redacted).

4 Q. [9:47:37] That's very clear, Mr Witness.

5 I'm just trying to bring you back to 2013. I want to situate ourselves. So the first
6 few months of 2013 you were relieved of your duties as the person in charge
7 (Redacted) and then, later on -- you remained a (Redacted), and then later on, what
8 happened then?

9 A. [9:48:08] Of course I was still a (Redacted) and I belonged to (Redacted), but
10 during the events, I was not able to go to work regularly. But I was still a (Redacted)
11 (Redacted)

12 Q. [9:48:32] And you were still collecting your salary as a (Redacted) during that
13 period of time; correct?

14 A. [9:48:44] Of course. (Redacted)
15 does not keep the (Redacted) from collecting his salary, unless he is officially
16 dismissed from the (Redacted). I was not able to get my (Redacted) salary, however,
17 I did still have my salary as a (Redacted) and I received it regularly. It was placed
18 into my account.

19 Q. [9:49:32] That's very clear, Mr Witness.

20 And did you remain in Bangui during that entire period of time, 2013?

21 A. [9:49:45] No. In 2013, during the events, I did travel to (Redacted) for three
22 weeks, and then after that, I came back to Bangui and I settled there for once and for
23 all. That's the only travel that I did. I remained in the city.

24 Q. [9:50:19] Very well. And if I put it to you that you went back to Bangui
25 between July -- around July 2013, would that be correct?

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1 A. [9:50:31] I think it was around that date, if I remember correctly. Certainly that
2 was the general period of time, but I can't remember exactly when.

3 Q. [9:50:53] Very well. And during that period of time, when you went back in
4 July, or around that time, which neighbourhood of Bangui were you in?

5 A. [9:51:12] When I returned to Bangui, I was still living within the family home in
6 the (Redacted) neighbourhood.

7 Q. [9:51:41] Very well. And a few moments ago, you told us you couldn't go to
8 the (Redacted) regularly during the time of the events. I'm just looking for the
9 reference. I'm just looking for the reference and I'll provide that in a moment.
10 But, all the same, after July 2013, you did go into the office, to the (Redacted) from
11 time to time; is that correct?

12 A. [9:52:21] July was a day -- a month that was very difficult because the Seleka
13 were throughout the city and it wasn't an easy matter to get to work. In any event,
14 during that entire period of time I was not able to go to work.

15 Q. [9:52:54] Very well. And you reminded us yesterday that on 7 December 2013
16 you were designated as a (Redacted). Can you confirm that?

17 A. [9:53:09] Yes. On 7 December.

18 Q. [9:53:27] Now, I also gathered from your previous statement that you did not
19 take part in the attack on 5 December. Have I understood that correctly?

20 A. [9:53:42] But I did not take part in the attack of 5 December, not at all. At that
21 time, the Anti-Balaka were advancing towards the city. Some set up operations in
22 (Redacted), others elsewhere -- in Boy-Rabe, and I saw what happened, I was living in
23 (Redacted). They entered all the neighbourhoods.
24 Some of them I knew. So I asked them what was the reason for their action, and they
25 said to me -- they said that they wanted to meet with the head of state.

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1 Unfortunately, there was no (Redacted), so they asked me if I could take on that role
2 and serve as an (Redacted).

3 They were concerned about the actions of Sudanese and Chadian mercenaries.

4 In contrast, the Seleka, who were from the Central African Republic, were their
5 brothers. Their main concern was meeting with the head of the state. They
6 suggested that (Redacted).

7 It's true, I also worked to help them, but I didn't like their -- what they were doing. I
8 didn't like the acts of violence and abuse.

9 Q. [9:55:18] Thank you. I'm just waiting for a moment for your response to be
10 interpreted for the Judges. That's why I'm pausing briefly.

11 Now, on 7 December you were designated as the (Redacted) and then you were
12 designated as the (Redacted). Can you confirm that? That was in June 2014; do
13 you confirm?

14 A. [9:55:50] (Redacted), yes. (Redacted)
15 (Redacted). It was a matter of organising the cessation of hostilities between the
16 anti-Balaka and the Seleka and that was to take place in Brazzaville.
17 (Redacted)

18 Q. [9:56:26] Very well. Well, indeed, I would like to return to this particular issue;
19 namely, the end of your time as the (Redacted). Could you tell us why you no
20 longer had that role?

21 A. [9:56:48] Your Honour, what I can tell you is this: The Anti-Balaka movement
22 was not a trade or a profession, you can't think of it as a trade or a profession. My
23 role was to help those children (Redacted). Once we were able to sign the agreement
24 to cease hostilities, I no longer saw the need to carry on in that role. So I decided to
25 withdraw so that I could resume my work. And that position, (Redacted)

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1 (Redacted), allowed me to help with reconciliation between Muslims and
2 Christians -- in other words, encourage them to live together once again.
3 My goal had been reached, I thought, and I could not continue within the movement;
4 so that is why I decided to withdraw from the movement and go back to my usual
5 work.

6 Q. [9:58:07] Thank you.

7 Would it be possible to bring up tab 85 on our list, CAR-OTP-2101-4166, and it can be
8 shown to the witness.

9 Please, could you go to the second page of the document -- third page, rather, I'm
10 sorry, 4168.

11 Mr Witness, can you see the document that is now displayed before you?

12 A. [9:58:58] Yes, I can.

13 Q. [9:58:59] So can we scroll down, please. Please go to the beginning of the text,
14 I'm sorry, I wasn't clear enough. Just stay at the beginning.

15 We see that is the press release. Can we scroll down a little bit to the first paragraph.
16 I'll read it for the record:

17 "Following the last development of the social political situation in the Central African
18 Republic pertaining to the appointment of the new Prime Minister following the
19 signing of the cessation of hostilities agreement in Brazzaville on 23 July 2014, the
20 international Mediator of the Central African crisis chartered a plane to transport the
21 actors in this crisis to Brazzaville in a quest to unblock the crisis following the said
22 appointment -- the crisis that arose following the said appointment."

23 Now, let's go to the next paragraph, Madam Court Officer.

24 "The President of the National Transition Council, Mr Alexandre Nguesso,
25 surreptitiously co-opted (Redacted) of the

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1 (Redacted)
2 in order for him to come along with him on this trip."
3 I continue to the last paragraph:
4 "The National Coordination of the anti-Balaka Patriotic Movement vehemently
5 denounces this uncalled for manoeuvre which is likely to lead to other unrest. It
6 therefore calls on the international mediators and his excellency, Denis Sassou
7 Nguesso, to not recognise this delegation on behalf of the anti-Balaka Movement and
8 it urges the national and international community to take note of the mischievous
9 behaviour of the President of the National Transitional Council."
10 And if you go further down, you will see that the document is dated 18 April and that
11 is signed by Mr Ngaïssona. It's, rather, 18 August.
12 If you move to the next page, Madam Court Officer.
13 Can you see the document, Mr Witness?
14 A. [10:02:20] Yes.
15 Q. [10:02:21] I will read the document for the record.
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 Now, Mr Witness, we have a decision here relating (Redacted) that capacity as

4 (Redacted)

5 Now, I would like to know whether you have any further details to provide to the

6 Court on this matter?

7 A. [10:04:09] Very well. Madam President, the document that I see before me is

8 indeed one that was produced after Prime Minister Kamoun was appointed. He was

9 appointed by Catherine Samba-Panza. They were very close to each other. So the

10 international mediator, Denis Sassou-Nguesso, the president said -- had said that for

11 peace to return to the Central African Republic, that is, between Christians and

12 Muslims, there was need to select a neutral Muslim to the position of prime minister

13 and then that will be followed by some kind of symbiosis.

14 The president would be Christian and the prime minister would be Muslim. So that

15 led to some challenges and several people objected to the appointment of Prime

16 Minister Kamoun.

17 So, as the mediator of the crisis in the Central African Republic, President

18 Sassou-Nguesso had convened a meeting of all the leaders to Brazzaville. So it was

19 (Redacted), it was Ngaïssona as well as others -- Ngaïssona, Mekassoua, (Redacted)

20 and several other politicians had been invited. The president of the national

21 assembly, Nguendet, invited Ziguélé and all the major partners or actors in the

22 politics of the country were convened to Brazzaville and that is how the decision was

23 taken to appoint a neutral Muslim to the position of prime minister.

24 President Denis Sassou-Nguesso had chartered aircraft which spent two days on the

25 tarmac in the -- in Bangui. (Redacted) Ngaïssona that (Redacted) invited to

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1 Brazzaville to talk about the problems of the Central African Republic in a bid to find
2 cohesion between Muslims and Christians in the Central African Republic.

3 (Redacted)

4 And so (Redacted)

5 So the aircraft arrived in Brazzaville (Redacted) President Sassou, Denis

6 Sassou-Nguesso of Congo-Brazzaville, and (Redacted) choice settled on Mekassoua as
7 prime minister.

8 Now, the reasons for which he didn't travel are -- are that (Redacted) that he didn't
9 want to create any trouble, but (Redacted) needed to have peace in the country. So
10 when he missed that flight, that is how he came to draw up or prepare this document.

11 If he had been present at the airport, (Redacted)

12 (Redacted)

13 So there was no treason here. (Redacted) use the movement to bring pressure to
14 bear, but (Redacted) come to understand -- to an understanding, and that is how he
15 issued this document to (Redacted).

16 In any event, (Redacted) if the conflict were to continue.

17 So these are the reasons for which he issued this document and I don't think that you
18 should rely that much on this document. This is all I can say about that document.

19 Q. [10:08:47] Thank you, Mr Witness. I wanted to give you an opportunity to
20 comment on the document and the situation.

21 Now, you say that there was a misunderstanding (Redacted), Ngaïssona and others.
22 Were there any other situations of misunderstanding between other Anti-Balaka
23 leaders?

24 A. [10:09:14] I don't really have a clear recollection of that. For example,
25 Yagoussou, Sylvestre -- Yagoussou, (Redacted) didn't have a good understanding,

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1 there was misunderstanding between (Redacted). He wanted to create some
2 disorder, and (Redacted) objected to that, and so (Redacted). But as for the others, I
3 no longer recall.

4 Q. [10:09:41] Very well. Now, just to move on quickly on your background, the
5 rest of it, is it correct to say that you then (Redacted)

6 (Redacted)

7 Can you confirm that, Mr Witness?

8 A. [10:10:06] Yes. (Redacted)

9 (Redacted)

10 Q. [10:10:25] (Redacted). Now, what did you become or what did you do after
11 2016?

12 A. [10:10:35] Well, when (Redacted)

13 Madam President, what I can say is that after the transition, there were elections in
14 the Central African Republic and we elected a new president whose name is
15 Mr Touadéra, as you know.

16 I had obtained a (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 So that is what I did in that period or during that period.

21 Q. [10:11:42] Very well. To conclude on your background, transcript T-76,
22 lines 1 -- 76 to 42 -- T-76, page 42, lines 1 to 3, you said that you (Redacted)
23 (Redacted). What does this mean, Mr Witness?

24 A. [10:12:14] I was appointed to this position in (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 action.
- 3 (Redacted)
- 4 order for things to go well. So that is what I do (Redacted)
- 5 Furthermore, whenever the president has some projects to implement and he believes
- 6 that (Redacted), have the necessary skill set to implement it, (Redacted)
- 7 and then (Redacted)
- 8 You see, (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 Q. [10:13:43] Thank you, Mr Witness.
- 15 Last question in private session: What is the name of your father, Mr Witness?
- 16 A. [10:13:51] Whose father are you asking for, please?
- 17 Q. [10:14:09] Your father, Mr Witness.
- 18 A. [10:14:13] My father's name is (Redacted)
- 19 Q. [10:14:26] (Redacted)
- 20 A. [10:14:33] (Redacted)
- 21 (Redacted). So you need to be careful, there's (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 Q. [10:15:12] For the record, I -- we did not see on the transcript which (Redacted)
- 25 (Redacted)

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- 1 A. [10:15:24] (Redacted).
- 2 He was (Redacted) during Bozizé's regime.
- 3 So he used to work at the presidency.
- 4 Q. [10:15:44] Very well. So am I to understand that (Redacted)
- 5 (Redacted) Is that the case?
- 6 A. [10:15:53] (Redacted)
- 7 Q. [10:16:09] After March 2013, (Redacted)
- 8 (Redacted)
- 9 A. [10:16:21] (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 You see, sometimes there are people living in the same location, the same village who
- 13 bear the same name, surname and first name.
- 14 Q. [10:17:01] Thank you for clarifying that point, Mr Witness.
- 15 MR JACOBS: [10:17:07](Interpretation) Madam President, can we go back into open
- 16 session to continue my examination.
- 17 PRESIDING JUDGE SAMBA: [10:17:11] Certainly.
- 18 Madam Court Officer, can we go into open session, please. Thank you.
- 19 (Open session at 10.17 a.m.)
- 20 THE COURT OFFICER: [10:17:23] We are back to open session, Madam President.
- 21 PRESIDING JUDGE SAMBA: [10:17:34] Thank you very much.
- 22 Mr Jacobs, please continue, please.
- 23 MR JACOBS: [10:17:42](Interpretation) Thank you.
- 24 Before we proceed, I want to say that I forgot to mention submission of document 45,
- 25 that is of our list of material, CAR-OTP-2101-4176. I would like that document to be

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1 formally submitted.

2 Q. [10:18:08] Now, Mr Witness, I want to hop back a little to the origin of the
3 groups, namely, the Anti-Balaka, and I note that in your previous statement -- prior
4 statement, you indicated at tab 3, CAR-OTP-2072-1377, page 1418, at lines --

5 THE INTERPRETER: [10:18:49] Madam President, counsel is going too fast for the
6 figures.

7 PRESIDING JUDGE SAMBA: [10:18:57] Mr Jacobs, can you go slowly, please, for
8 the interpreters, especially for the figures. Thank you.

9 MR JACOBS: [10:19:07](Interpretation) Very well, Madam President. I'll attempt to
10 do that again.

11 MR CHOUDHRY: [10:19:17] Your Honours, just to assist my learned friend, just
12 noting on the transcript, I think the ERN for the exhibit may be off by one number.

13 PRESIDING JUDGE SAMBA: [10:19:25] Okay. He'll go over the numbers again.
14 Mr Jacobs, can you take those numbers again for the interpreters and for the record.

15 MR JACOBS: [10:19:52](Interpretation) Yes, absolutely. I will slow down,
16 Madam President.

17 CAR-OTP is the reference, CAR-OTP-2072-1397, at page 1418, lines 737. And the
18 idea is simply to read one sentence. I don't know whether we need to display it.

19 Q. [10:20:31] But, Mr Witness, in your prior statement at line 737 of the reference I
20 mentioned, you say that:

21 "Before August, everybody knew that the Anti-Balaka movement existed and that it
22 was known before as the zaraguina ... which they used to fight highway robbers at the
23 time. So that is the history or the background to this."

24 Am I to understand from this excerpt that the Anti-Balaka existed before 2013 to fight
25 the zaraguina?

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1 A. [10:21:33] Before 2013, {PFR: (Redacted)},
2 there were some thugs known as the zaraguina who were attacking travellers and
3 who hurt the travellers.

4 Since the public forces were not able to provide security for these travellers, the
5 inhabitants or natives of that area organised a system which, at the time, was not
6 known -- or, called the Anti-Balaka.

7 So the system was meant to fight these highway robbers known as zaraguinas; that's
8 what I meant.

9 Q. [10:22:28] That is very clear, Mr Witness.

10 So based on what you have just said, I want to quote to you what another witness has
11 told this Court.

12 It's at tab 72 on our list, and this is can be displayed for the courtroom but not for the
13 witness as a matter of caution; although it doesn't identify anybody. Tab 72,
14 CAR-OTP-2094-0228 at page 0237, paragraph 52.

15 Please do not show this -- do not display this to the public, I forgot to mention that.

16 This witness told the Court that:

17 "The Anti-Balaka -- the history of the Anti-Balaka is a long story. Whenever there
18 was a rebellion in the RCA, some evil persons became highway robbers and attacked
19 Fulani cattle-breeders who were in transhumance. Most of these highway robbers
20 were Peuhls who attacked travellers and other citizens to dispossess them of their
21 property. In order to fight or check this phenomenon, self-defence groups were set
22 up, made up of young persons in the villages. These self-defence groups were at the
23 basis of the creation -- or at the base of the creation of the Anti-Balaka."

24 PRESIDING JUDGE SAMBA: [10:24:25] Yes, Mr Choudhry.

25 MR CHOUDHRY: [10:24:29] Your Honours, I hesitate to rise, I was just trying to

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1 verify whether this particular witness is, in fact, a witness that has testified.
2 But the issue is the inappropriateness of, in effect, putting another witness's testimony
3 and showing it to this witness.
4 My objection is -- in short, is that this witness cannot properly comment on what
5 another witness has said in their signed statement.
6 That's not to say, your Honours, that my learned friend can't put the proposition to
7 the witness; that would be fair.
8 So where, perhaps, the Defence has information that another witness might have
9 provided, it's perfectly right and appropriate to put that proposition. It may well
10 be whatever my learned friend has to the witness, but to show him a statement from
11 another witness and suggest, "This is what another witness has said, please read his
12 statement and please comment on it", that's unfair. The witness simply cannot
13 comment on what another person has said. So that's my objection.
14 PRESIDING JUDGE SAMBA: [10:25:33] Yes, but he can certainly agree or disagree
15 to what this witness has said. I mean, to be fair, I understand what you're saying
16 putting another witness's statement to a witness.
17 But Mr Jacobs detailed to the witness that, "This is what some other person said. Not
18 necessarily what you have said", in contrast maybe to what the witness is now saying,
19 the witness can agree to what that witness said or disagree to what he said.
20 MR CHOUDHRY: [10:26:05] Your Honours, that I agree with and there is no
21 dispute in relation to that. It is simply demonstrating and putting forward the other
22 person -- individual's witness statement. He can certainly put the proposition as to
23 information he has obtained from another witness, but --
24 PRESIDING JUDGE SAMBA: [10:26:21] But that's -- I mean, my understanding is
25 that exactly what he's doing. He's telling him that you are not the one who said this,

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1 some other person has told this Court that this is the position in respect of the
2 Anti-Balaka.

3 I don't even think -- I don't even know whether this testimony -- this statement itself
4 is in front of that witness's screen.

5 Do you have the statement in front of your screen, Mr Witness? And even if he does,
6 the person's name -- the identification of that witness is not known by this witness
7 before the Court now because Mr Jacobs did say that, and, normally, when they put
8 these kind of questions, they don't disclose the identification of the witness.

9 I think it's proper for him to make his own comment in respect of the Anti-Balaka and
10 the rest of the question put by counsel.

11 MR CHOUDHRY: [10:27:18] Thank you, your Honour.

12 PRESIDING JUDGE SAMBA: [10:27:19] Thank you very much, Mr Choudhry.

13 Mr Jacobs, please.

14 PRESIDING JUDGE SAMBA: [10:27:27] No, no, I'm not -- sorry, Mr Court Officer.

15 I'm not saying he should -- does he have the statement before him now? Okay,
16 thank you.

17 Yes, Mr Jacobs, please continue.

18 MR JACOBS: [10:27:47](Interpretation) Thank you, Madam President.

19 Q. [10:27:50] So, Mr Witness, let me again read the paragraph I was referring to. I
20 had one sentence left, but let me hop back a little.

21 The witness tells us that to fight this problem, a group of self-defence youth were
22 composed in the villages and it is on the basis of these groups that the Anti-Balaka
23 was created.

24 They gradually organised themselves over time and morphed into the Anti-Balaka.

25 I don't know whether you remember the first part of what I read, Mr Witness?

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1 A. [10:28:41] I do remember, yes. The explanations provided are similar to mine,
2 but articulated differently, because each individual can explain something according
3 to the sources available to them. So what is said here appears to be similar to what I
4 have told the Court.

5 Q. [10:29:05] Yes. Absolutely. I was just asking if you would confirm what this
6 witness says, that the history of the Anti-Balaka is a long running story, starting well
7 before 2013 with the highway robbers and the local self-defence groups.
8 Is that correct?

9 A. [10:29:27] That is not in relation to the 2013 events. You see, the zaraguina
10 events occurred under Kolingba in the '80s and continued under Patassé and Bozizé,
11 because these highway robbers continued to operate attacking traders as it were.
12 They also raided cattle from the Peuhl, they stole agricultural produce from farmers
13 and whenever there was any attempt to retaliate, people would be killed. So they set
14 up these movements to defend themselves. And this was an old movement; that's
15 the explanation I can provide.

16 Q. [10:30:35] That's very clear, Mr Witness, thank you.
17 I'd like us to hark back to something you said yesterday during the hearing.
18 I'm sorry I just want to make sure that it was not said in open court or that's it's not
19 identifying. Yesterday's transcript -- and this is yesterday's transcript, T-76, page 52,
20 lines 18 to 22. You were saying:

21 "Some FACA members had fled. They went to Bossangoa and then on to Gobéré,
22 a village. They got military training, and then they organised the attacks that
23 occurred on the 5th of December."
24 End of quote.

25 Now in this regard, Mr Witness, you said in your previous statement - and this is tab

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1 16, CAR-OTP-2072-1849, page 1853, as of line 122, and this can be shown to the
2 witness but not to the public, please, if ever it is put up on the screen - in relation to
3 Gobéré, you were asked:
4 "Do you know what they did there, in this village?"
5 Line 122. And your answer was this: "No, but they -- they're training with the
6 practices of the ANTI-BALAKA. That's what I said."
7 And then: "They were training themselves in the ANTI-BALAKA practice [...] What
8 is ... what does this training mean?"
9 And, you said that: "It was a ritual that" you were "not able to explain to you."
10 You were asked this: "So it's not a military training or something like that?"
11 Then you answered: "No, it's not military training."
12 So, Mr Witness, judging by your prior statement, you were talking about rituals, not
13 military training in Gobéré.
14 Can you confirm this point, Mr Witness?
15 A. [10:34:11] Yes, that's what I said in the past. Now, that is one version.
16 Seventeen soldiers went to Gobéré. Once they got to Bangui, they described their
17 training, this ritualistic training. They told us what had happened, but we were not
18 with them. They were in the bush. That's what I can tell you.
19 Q. [10:34:52] Thank you, Mr Witness, that's very clear.
20 Mr Witness, I'd like us to hark back to a few aspects of the Anti-Balaka. Can you
21 confirm that the Anti-Balaka were made up of a great many smaller groups?
22 A. [10:35:53] Yes, your Honour. As I explained yesterday, this movement was
23 made up of a number of smaller groups and they were not controllable. Some were
24 from Bossangoa, some were from Batangafo, from Bouca, from Berberati, from Pissa.
25 The movement was a melting pot made up of different smaller groups; that is what I

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1 was trying to explain yesterday, your Honour.

2 Q. [10:36:31] Thank you, Mr Witness.

3 MR JACOBS: [10:36:35](Interpretation) Madam Court Officer, could we please call
4 up tab 64 on our list, tab 64, CAR-D33-0002-0003, tab 64. It can be shown to the
5 witness and to the general public.

6 Page 0005, please. Perfect.

7 Q. [10:37:44] Can you see the document, Mr Witness?

8 A. [10:37:51] Yes, I can see it. I see it.

9 Q. [10:37:54] The second paragraph, it is entitled:

10 "Very different groups

11 This involvement of François Bozizé and his inner circle was not sufficient all the
12 same to sum up all the ..."

13 Let me start again.

14 "The involvement of François Bozizé does not sum up all the motivations of the
15 various groups. According to the UN experts, 'The anti-balaka are not an armed
16 group with a centralised structure and a centralised command with effective control
17 over the elements. Rather, it is a myriad of various militia groups that can be
18 defined as being part of the anti-balaka movement and that they have come together
19 by default.'"

20 Mr Witness, here, we read that the Anti-Balaka are not an armed group with a
21 centralised structure and a command with effective control over their elements. Was
22 that your experience of the situation -- of the events, Mr Witness?

23 A. [10:39:20] Well, those are the -- that's the account -- I really don't have any
24 comments. That's the RFI account. I don't have any comments. Really, it was
25 a mixture of various groups from the population. They were expressing their

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1 discontent and they were defending their rights. So I really can't confirm or
2 invalidate these words.

3 They have their own sources; so I reiterate, the Anti-Balaka was made up of different
4 groups. They had come to show their discontent about what had happened. So
5 really, I -- I don't have any comments to make.

6 Q. [10:40:15] Very well, Mr Witness. I take due note of what you've told us in
7 relation to your own experience in this regard.

8 In your previous statement, tab -- I'm referring -- I just need to cross-check a reference.
9 One moment, please.

10 I'm just trying to find the -- it's tab 4.

11 MR JACOBS: [10:41:06](Interpretation) Tab 4, CAR-OTP-2072-1440, page 1463 and
12 onward, I believe, and it can be shown to the witness but not to the public.

13 THE COURT OFFICER: [10:41:25](Interpretation) Just a clarification: will a formal
14 submission be requested for the previous tab? Thank you.

15 MR JACOBS: [10:41:46](Interpretation) Thank you. Thank you very much for that
16 reminder -- oh, no, sorry, sorry. I don't think I requested formal submission. I
17 believe it's already formally submitted. Apparently it has already been formally
18 submitted. If not, then I do request formal submission of this item.

19 I beg your pardon, I think we should briefly go into private session because I do need
20 to mention something taken from the previous statement.

21 PRESIDING JUDGE SAMBA: [10:42:34] Madam Court Officer, can we go into
22 private session, please.

23 (Private session at 10.42 a.m.)

24 THE COURT OFFICER: [10:42:59] We are in private session, Madam President.

25 PRESIDING JUDGE SAMBA: [10:43:01] Thank you very much. Mr Jacobs,

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1 continue, please.

2 MR JACOBS: [10:43:07](Interpretation) Thank you, court officer.

3 Q. [10:43:09] Now, Mr Witness, I'm not going to read out several pages of your
4 previous testimony but just to give you an idea of where we are.

5 You were talking to the interviewers -- the investigators, rather, from the OTP.

6 On -- 721 is the reference number in question. Line 721, you were talking to the

7 investigators of the OTP, and you said that the coordinator of the movement was

8 Ngaïssona. Okay? Just to give you an idea where we are, Mr Witness. And then

9 at page 1463, after several exchanges with the investigators ...

10 (Microphone not activated)

11 THE COURT OFFICER: [10:44:44] *Le micro, s'il vous plaît.*

12 THE INTERPRETER: [10:44:47] Apologies from the booth: line 795, page 1463, line
13 795.

14 MR JACOBS: [10:44:59](Interpretation)

15 Q. [10:45:00] Very well. Can you see the bottom of the page? Your answer was:

16 "That was after DJOTODIA had left."

17 And then you specified:

18 "But before that, the movement was not structured."

19 Can you confirm that you said this to the investigators?

20 A. [10:45:18] Yes, yes. I can confirm that, yes.

21 Q. [10:45:33] Very well.

22 We're going to go into open session now, Mr Witness, and I'll be asking you about

23 some people that you mentioned in your prior statements and I'll be asking you to tell

24 us what you know about these people in general terms. But please be careful not to

25 make clear what the links are between you and these other people.

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1 A. [10:46:05] Very well, I agree.

2 MR JACOBS: [10:46:10](Interpretation) If we could go into open session now, your
3 Honour.

4 PRESIDING JUDGE SAMBA: [10:46:16] Madam Court Officer, can we go into open
5 session, please.

6 (Open session at 10.46 a.m.)

7 THE COURT OFFICER: [10:46:26] We are back to open session, Madam President.

8 PRESIDING JUDGE SAMBA: [10:46:31] Thank you very much.

9 Mr Jacobs, continue with your questions, please.

10 MR JACOBS: [10:46:38](Interpretation)

11 Q. [10:46:44] Mr Witness, in your previous statements you mentioned Thierry
12 Lebene, and I would like to ask you whether you know where he comes from in the
13 CAR?

14 A. [10:47:00] Thierry Lebene had come from between Bouca and Bogangolo,
15 between those two places.

16 Q. [10:47:26] Very well. And do you know what he was doing when Bozizé was
17 president?

18 A. [10:47:34] No, no. I don't know what he was doing at that time. To the best of
19 my knowledge, he was a butcher. During the time -- as for the time, the time of
20 Bozizé, that particular time frame, I don't know.

21 Q. [10:47:57] Very well. And do you know what role he played after 5 December
22 2013, Mr Witness?

23 A. [10:48:10] I don't know what role he played. He was in the 7th arrondissement
24 close to Ouango and his work -- or, what he was doing, I don't really -- I don't really
25 know. Ngaïssona was appointed coordinator and {PFR: (Redacted)}, but his specific

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1 role, I don't know.

2 Q. [10:48:45] Thank you, Mr Witness.

3 What can you tell us about Andjilo?

4 A. [10:49:02] As for him, he, too, had his own movement; that's all I know about
5 Andjilo. Shortly later -- a bit later, a bit after that general time, he was -- he was
6 imprisoned; that's what I can tell you about Andjilo.

7 Q. [10:49:25] Now you know that he was imprisoned, you've just told us that. Do
8 you know when that was?

9 A. [10:49:34] No, no, I don't remember. All I know is that he was captured by the
10 MINUSCA between Bouca and Batangafo. As for the date, I don't know.

11 Q. [10:49:59] Tab 66, please. CAR-D33-0014-0347, tab 66. This document can be
12 shown to the public and to the witness. Great.

13 Can you see the document, Mr Witness?

14 A. [10:50:32] Yes, I see it.

15 Q. [10:50:41] This is an RFI article dated 23 January 2018. The headline is:

16 "Central African Republic: a sentence of forced labour for life for General Andilo."

17 It reads:

18 "After nine days of a trial, General Andilo was found guilty and sentenced to forced
19 labour for life."

20 Does that refresh your memory? Does that refresh your memory as to the date on
21 which General Andjilo was imprisoned?

22 A. [10:51:24] It doesn't ring a bell. Well, that was disclosed over the
23 airwaves -- the radio station in Bangui. Everyone knew that he had been put in
24 prison.

25 Q. [10:51:45] Very well.

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1 MR JACOBS: [10:51:46](Interpretation) I've finished with that particular document
2 and I would like to request formal submission thereof.

3 Q. [10:52:07] Now, just to make sure we are clear on this point, you're saying that
4 you don't know what Andjilo did between 5 December 2013 and the time that he -- of
5 his trial?

6 A. [10:52:28] We weren't in contact personally. We were -- we did not work
7 together or anything like that. I'm not in a position to know what he was doing. I
8 know that he went back to his village of birth; that is where he was arrested. He was
9 then transferred to Bangui and imprisoned there. His trial was a public trial, and, so,
10 the people of the Central African Republic knew that he had been put in prison.
11 That's what I can tell you.

12 Q. [10:53:07] Thank you, Mr Witness.

13 What can you tell us about Tex? A person called Tex? T-E-X.

14 A. [10:53:27] Tex was one of the Anti-Balaka leaders. That's all I know about him.
15 As for what work he might have been doing or anything like that, I don't know.

16 Q. [10:53:50] Do you know his full name by any chance?

17 A. [10:54:00] No, no. I don't know his name in full. They called him Tex, but I
18 don't know -- even if I had known his name, I could have forgotten it. This was
19 a long time ago.

20 Q. [10:54:22] Absolutely, Mr Witness. I was just asking because I thought maybe
21 you might remember.

22 What can you tell us about Mazimbelet? Mazimbelet?

23 A. [10:54:38] Mazimbelet was one of the leaders of the Anti-Balaka groups, but he
24 was a soldier, a FACA member. At one point, he tried to rejoin and go back to his
25 work, but he -- ultimately he ended up committing various crimes and he -- hold-ups,

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1 that sort of thing, and ultimately he died.

2 That's all I can tell you about him.

3 Q. [10:55:16] You said he refused to go back to his duties after 5 December 2013; is
4 that what you're telling us?

5 A. [10:55:28] Yes, yes, after 5 December 2013, he refused to go back to military
6 service. I don't know why he decided that. During a clash between the loyalists
7 forces and -- that is when he died.

8 Q. [10:55:52] Very well, Mr Witness. Thank you.

9 What can you tell us about Captain Ngremangou?

10 A. [10:56:06] Well, he was a FACA member, he was a career soldier. He also fled
11 before the Seleka, because he and the Seleka knew one another from before. They
12 already knew one another. He sought shelter amongst the Anti-Balaka.

13 Q. [10:56:45] Very well.

14 And before March 2013, he was a soldier, you say. Now, where was he based?

15 A. [10:56:58] I only knew him during the time of the events, the Anti-Balaka events.
16 I know that he was at *Camp de Roux*, he was a soldier there, a military supervisor.

17 THE INTERPRETER: [10:57:35] The word in French was "*intendant*".

18 MR JACOBS: [10:57:45](Interpretation)

19 Q. [10:57:46] Very well. And you say that he and the Seleka knew one another
20 beforehand. What do you mean by that exactly?

21 A. [10:57:58] Well, amongst the Seleka there were soldiers as well, so it was
22 possible for them to know one another. I don't know his life's story or his private life
23 or -- I know that the true Seleka loyalists, the soldiers, they knew one another. So
24 these soldiers were trying to hurt one another. They withdrew to various
25 neighbourhoods, and, ultimately, he went with the Anti-Balaka to protect himself.

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1 Q. [10:58:39] You say that amongst the Seleka, there were also a number of soldiers
2 and amongst the so-called Seleka, there were former so-called liberators who had
3 arrived with Bozizé. This is what you're telling us?

4 A. [10:59:01] Yes, that's right. Yes, that's right.

5 Q. [10:59:07] Thank you, Mr Witness.

6 Now, once again about Ngremangou, Ngremangou was a candidate to replace
7 Djotodia; isn't that so?

8 A. [10:59:52] Amongst the soldiers who were part of the movement, there were
9 discussions. They said to one another, "Well, if Djotodia were to lose power, one of
10 them should be designated president." Some opted for Ngremangou; others opted
11 for Kamezoulai.

12 MR JACOBS: [11:00:30](Interpretation) I see the time, your Honour.

13 PRESIDING JUDGE SAMBA: [11:00:33] Yes, indeed.

14 Mr Witness, we are going to take a short break and come back in 30 minutes so we
15 continue with your testimony.

16 I rise the Court for 30 minutes, please.

17 Thank you.

18 THE COURT USHER: [11:00:55] All rise.

19 (Recess taken at 11.01 a.m.)

20 (Upon resuming in open session at 11.35 a.m.)

21 THE COURT USHER: [11:35:33] All rise.

22 Please be seated.

23 PRESIDING JUDGE SAMBA: [11:36:02] Good morning, everyone again. We
24 understand that the Prosecution would want to address the Chamber.

25 MS CHOUDHRY: [11:36:13] Yes, your Honour. Thank you very much.

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1 Your Honour, the Prosecution just wishes to revisit one issue and that's in relation to
2 the use of statements in this case.

3 Your Honours will recall that I submitted an objection earlier when my learned friend
4 sought to advance a particular statement. In that case, what has come to light - and
5 I did not have the information to my fingertips - is that that statement is, in fact, a
6 statement of an individual that is not a witness in this case and, therefore, it is
7 inaccurate to describe him as a witness for the purposes of this trial.

8 It is not a statement that has been submitted or in evidence and it's unclear, although
9 we are still trying to elicit and ascertain, whether that individual has in fact been
10 deemed a witness in any other case that is before this Court.

11 The difficulty with that, your Honours, and why the Prosecution submits that that is
12 inappropriate, is because the Prosecution have never, nor the Court in fact has ever,
13 asked questions of that witness, will never have the opportunity to do so and,
14 therefore, cannot clarify the context in which any statement has been made.

15 So that's the first issue as to why that's inappropriate.

16 Your Honour, there's also a legal obstacle in relation to my learned friend using
17 information exactly from that statement, or that statement itself, and putting it to a
18 witness who, in effect, we argue is a third party.

19 Your Honours will be familiar with the disclosure regime *inter partes* which, in
20 summary, amounts to incriminatory information, exculpatory information and
21 material in relation to Rule 77, which may assist the Defence. That information, your
22 Honours, is disclosed on a confidential basis. It is not disclosable to a third party.

23 The fact that an individual sits and attends court as a witness in proceedings doesn't
24 change him from being any other thing other than a third party.

25 So there is, in fact, no legal basis to put forward an exact statement or, in fact, read

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1 exactly the content of the statement to a witness.

2 I raise this point now, your Honours, because I don't seek to disrupt my learned

3 friend's cross-examination, because there are several other statements listed within

4 the tabs. There are one, two, three, four -- five other witness statements which

5 I suspect my learned friend may wish to advance in the same manner.

6 Your Honour, with that, what the Prosecution submits is perfectly fair, is to put the

7 proposition, so where that information has been properly disclosed, they can use that

8 information and they can perfectly use that information to ask the witness a question

9 should they so choose. What they cannot do is put a statement in where there's no

10 legal basis and where the individual, in fact, is not a witness at all. And to call him a

11 witness, in fact, misrepresents the nature of that information to the individual being

12 questioned as a witness.

13 PRESIDING JUDGE SAMBA: [11:39:19] Thank you very much, Mr Choudhry.

14 And just for the Chamber's position in respect of that particular statement, we -- as

15 you are saying that you searched some more after your objection and our ruling, the

16 Chamber also did not know that that person is not -- or that piece of evidence is not

17 yet before the Chamber or that that person is not a witness.

18 But our position remains that if that person is a witness, of course, Defence counsel

19 can, without merely naming the person or having to find the person, put certain

20 questions from that person's statement to a witness that appears before the Court.

21 That said, I'll ask Mr Jacobs to respond to your objection.

22 MR JACOBS: [11:40:14](Interpretation) Thank you, your Honour. So there were a

23 lot of points that were raised by the Prosecution.

24 Firstly, we find it difficult to understand the objection at this stage, because for several

25 months it's been done, with a lot of witnesses, where previous statements are read,

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1 somebody else who was heard by the Office of the Prosecutor -- I don't have a whole
2 list of those people whose statements were read out, but it's done in quite a repeated
3 manner and this is something that's explicitly provided for in the conduct of
4 proceedings decision from * 16 September 2022. And paragraph 19 thereof provides
5 that the parties and participants can present another witness and the previous
6 statement or the testimony from the hearing.

7 PRESIDING JUDGE SAMBA: [11:41:14] Yes. Maybe, before you go further, it's just
8 so we are clear on the issue. What counsel is saying is that this statement that you
9 put to this witness - the witness who was before us this morning - that statement from
10 which you read, that particular person is not a witness before this Court, in addition
11 to which the statement itself does not form part of the evidence before this Court,
12 much as it may have been disclosed to you.

13 MR JACOBS: [11:41:58](Interpretation) Thank you, your Honour.

14 So, on this point, indeed, this is a witness who wasn't retained by the Prosecution, but
15 it's somebody who was interviewed by the Prosecution and a previous statement was
16 disclosed to us. And our responsibility is to present all elements in the case file
17 which are relevant with the witness, whether it's a previous statement from a witness
18 who is used or not used by the Prosecution.

19 So we think that it's completely appropriate and it is fair on the basis of the decision
20 on the conduct of proceedings to paraphrase an excerpt and to read it on the -- * as the
21 decision on the conduct of proceedings requires, an excerpt to be read out in detail, as
22 we have done in the past and which allows a witness, as with any item of evidence -
23 this is where I don't quite understand the objection - any witness can comment on a
24 document, whether it's a press article, a decree or an excerpt from a previous
25 statement.

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1 So we believe that we are proceeding in the appropriate manner and being fair to the
2 witness to provide the elements that are relevant to the case and upon which the
3 witness can comment.

4 (Counsel confers)

5 MR JACOBS: [11:43:22](Interpretation) And so, once again, I was quoting a previous
6 statement which was disclosed to us.

7 (Counsel confers)

8 MR JACOBS: [11:43:36](Interpretation) Just to be sure for the -- this is a prior
9 recorded testimony. This is -- this is a document made by the Office of the
10 Prosecutor with the witness, signed by the witness, which was disclosed to us, and we
11 mention a paragraph therefrom. This is the practice from the start of the case and
12 we are not asking the submission of the entire previous recorded testimony.

13 The Chamber has already decided that only the excerpt which is read out goes into
14 the case record. We are following the decision.

15 And just a last point with regards to the fact that my colleague presented -- well, the
16 Prosecution is submitting to the case a lot of different witnesses via * 68(2)(b) who
17 were never questioned by the Chamber or the Defence, so it doesn't seem to be a
18 problem for the Prosecution to submit to the case file witnesses who were never
19 questioned by anyone.

20 And just to be clear, these are witnesses which were questioned by the investigators
21 from the Office of the Prosecutor in their previous recorded testimony; so whether the
22 Prosecution decided to bring them to trial is not the issue at hand.

23 PRESIDING JUDGE SAMBA: [11:44:59] Yes. I'm sure the Prosecution's concern
24 there is that the -- you know, the witness before the Court may not know the context
25 in which that other person who made the prior recorded statement would have made

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1 certain comments.

2 But, Mr Choudhry, in respect of disclosure, you, yourself, have said that, you know,

3 materials are disclosed so that parties could see, you know, evidence that is

4 incriminating or that may be exculpatory. So are you saying that because

5 somebody's not titled a witness, which I understand very well, because if you don't

6 call that person as your witness, I mean, you can take the information -- well, you

7 have disclosed that information. Is it your suggestion that you'd appreciate if

8 counsel does not refer to that person as a witness but puts that particular paragraph

9 to a witness who appears before the Court? Wouldn't we be in the same position?

10 MS CHOUDHRY: [11:46:16] Your Honour, in my submission, no. Can I, first of all,

11 address what my learned friend says and seek to draw a distinction between

12 witnesses in this case.

13 When the Prosecution advances a 68(3) witness, that witness can come before the

14 Court and is readily available and can be questioned by both your Honours as well as

15 my learned friend, as well as supplementary questions.

16 In this particular case, there is a legal regime in which disclosure takes place. The

17 Prosecution and its investigators engage with numerous individuals on the basis of

18 whether they may or may not contain relevant information in relation to any

19 particular suspect.

20 However, waiver of confidentiality, or the confidentiality regime, is set by the Statute

21 and the Rules. In this case, there is that Rule 77 regime in which information may be

22 disclosable, but it does not entitle the Defence to waive that confidentiality to a third

23 party.

24 Were your Honour to be correct, there would be nothing to stop my learned friend

25 from, in fact, showing that statement to somebody who is not a witness, but to

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1 somebody outside this courtroom. That can't be right.

2 So, reading the statement in and of itself, or showing a statement for where an

3 individual has come forth and engaged with the Prosecution on the basis that that

4 information will be treated responsibly by parties and will only be disclosed subject

5 to certain conditions for it, ought to be -- have value within this Court.

6 What is proper, your Honour - and I'm not seeking my learned friend's scope of

7 questioning - is that he may use the information within that statement to put that

8 proposition to the witness, or any witness that comes before this Court, and receive

9 an answer from him. That's perfectly proper. But the manner in which my learned

10 friend is seeking to do that, which is, in effect, to show a witness statement to mislead

11 an individual into believing that that individual is in fact a witness, that's incorrect.

12 PRESIDING JUDGE SAMBA: [11:48:20] Well, I think we're saying one and the same

13 thing. I mean the Bench -- and what you're saying is -- what you -- what you'd

14 appreciate is that counsel would have put that particular information to that witness

15 without saying that he got that information from a witness. The use of the word

16 "witness" is what you're saying you don't want. But in our -- in our conduct of

17 proceedings, I think it's paragraph 19, we did say that the parties and participants

18 may put to a witness another witness's prior recorded -- or in-court testimony, prior

19 recorded, and what he's reading from is a prior recorded testimony. I appreciate it

20 that you have not called that person as a witness, but you did disclose that document

21 to them for their use.

22 MS CHOUDHRY: [11:49:23] (Microphone not activated) Your Honours, I do think

23 we are in agreement insofar as my learned friend may be able to put information and

24 not call that individual a witness. The Prosecution -- I'm in agreement with that.

25 In relation to reading the exact statement, the exact portion, there is an issue there,

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1 because there's no legal basis for it, your Honour.

2 The other problematic issue that -- or the crux of the issue here is that that individual
3 and calling him a witness or prior recorded testimony, there's no way of testing that.
4 There's no way of questioning that individual. There's no way of understanding the
5 context in which that individual may have said that information. That's -- that's the
6 crux. So the Defence within the conduct of proceedings can use the information and
7 put a proposition, but there's no way of testing that -- that prior recorded testimony.
8 That's the issue.

9 PRESIDING JUDGE SAMBA: [11:50:21] Isn't it -- wouldn't it be the same if a witness,
10 proper, like one of your witness's statement is used to question a witness on the stand
11 before the Court? It's the same. I mean that person would not have known the
12 context in which that statement was made, albeit that the statement would be in
13 evidence so the Chamber can look at it.

14 MS CHOUDHRY: [11:50:49] Your Honour, there is one distinction and that is that
15 that individual in that context and scenario could be recalled to this Court and could
16 answer questions by parties. That is not available in this particular instance.

17 PRESIDING JUDGE SAMBA: [11:51:00] Thank you very much.
18 mister -- Ms Naouri, I saw you on your legs.

19 MS NAOURI: [11:51:06](Interpretation) Yes, I'm sorry, your Honour. I'm just
20 going to add a couple of points which go in the sense of what you have just clarified
21 yourself with regards to the idea of prior recorded testimony.

22 What we wanted to answer to, firstly, is that our colleague has said to us that it wasn't
23 possible, for example, in an investigation to confront a witness -- a potential witness
24 from the Defence with an excerpt from prior recorded testimony. And I'm using the
25 words -- well, whereas there's a protocol in place which allows us to do so.

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1 So it's normal, as you've said, when you disclose an item of evidence, you have the
2 right to use it. The most important thing is not to disclose the identity of the person,
3 which hasn't been done, and not to mislead with regards to what was said. You
4 have to be fair to the witness and that's why the way in which we're -- it was called
5 misleading, but it's quite the opposite. It was very fair with the witness, because we
6 read what a person said, and by way of answer, it's in answer to an interview of the
7 Office of the Prosecutor it says. So when we speak about the context, it's the Office
8 of the Prosecutor who asks the questions.
9 Now, with the use of the term "witness" we can agree that perhaps you could say
10 "somebody who was interviewed by the Prosecutor investigators said the following",
11 and in that way, it would be clear. Because we can't go backwards applying your
12 decision on the conduct of proceedings, paragraph 19, that you mentioned. We have
13 submitted lots of witnesses during the -- put to them a lot of prior recorded testimony,
14 excerpts which, whether or not they were retained by the Prosecution, it wasn't a
15 problem and it makes the Defence -- it makes it possible to -- for the Defence to make
16 their case and to confront them with elements that the Defence has, either prior
17 recorded testimony, people interviewed by the Prosecutor, or other
18 documents -- decrees, press articles, et cetera. So you confront a witness with that
19 and a responsible witness can comment on the excerpt.
20 So I think that apart from clarifying the name that we use for that person, I think
21 we've clarified this question.

22 PRESIDING JUDGE SAMBA: [11:53:44] Yes. Yours is to do with the protocol, the
23 information -- the confidential information protocol is what you are referring to.
24 Because, Mr Choudhry, you see, the issue there is that paragraph 19 of our conduct of
25 proceedings, as I say, you know, allows counsel to use -- maybe the word "witnesses"

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1 I'll strike out, but the prior recorded testimony of other persons. And the problem
2 there, or the warning is that they do not identify the witness.
3 But as Ms Naouri has said, I mean, is it okay that, you know, putting questions to a
4 witness who appears before the Court, they can say, "Well, we have information from
5 another person who spoke to the Office of the Prosecutor" or maybe we have
6 information that, you know, this and this, paraphrasing what they want to put to the
7 witness; is that okay? I would think so.
8 MS CHOUDHRY: [11:54:55] Your Honour, in relation to that, yes. What the
9 Prosecution doesn't seek to do is to limit the testing of evidence or, in fact, the
10 inability for the search for the truth.
11 What -- my submissions are simply geared towards what is legally permissible and
12 what's appropriate. And the fact that my learned friend raises an issue which states
13 that prior practice has been one way does not mean that if the practice can be
14 improved upon or altered, it should go forward that way. And your Honours have,
15 in fact, altered various practices in relation to that at different stages and have issued
16 orders for that purpose. For example, in relation to clarification of witnesses, there
17 have been advancements.
18 In this case, I'm in agreement with your Honours in relation to the manner in which
19 that's put. It's simply not putting a statement, not showing a statement and not
20 identifying the witness in exact terms. But the propositions and underlying
21 information is, in my submission, fair game for my learned friends.
22 PRESIDING JUDGE SAMBA: [11:55:55] Yes, and I dare say that, well, maybe, you
23 know, when those other statements were read out to witnesses, you know, there was
24 no red flag. Maybe counsel didn't realise or they didn't check whether or not those
25 persons were, in fact, witnesses before the Court.

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1 But so that we move on, if we agree on the manner in which such questions may be
2 put, because they're there to defend their client and to test the evidence, you know,
3 just don't refer to -- if that's a legal issue, referring to persons as witnesses who are not
4 witnesses before the Court; because, as you referred to such persons, Ms Naouri, at
5 the time that they took those statements or testimonies they were potential witnesses,
6 they were not yet witnesses before the Court.

7 So let's make some progress along those lines so counsel will be guided in the manner
8 in which they put questions to the witnesses who appear before us. I think that
9 settles it. Thank you very much.

10 Can I ask the court officer to get the witness in. Thank you.

11 And while we do that, Mr Choudhry, you know, maybe you look at the confidential
12 information protocol also just in case maybe later on you want to say anything again
13 in respect of this practice.

14 MS CHOUDHRY: [11:57:26] Thank you very much, your Honours.

15 (The witness enters the courtroom)

16 PRESIDING JUDGE SAMBA: [11:57:59] Good morning, and welcome again to the
17 courtroom, Mr Witness. We're going to continue with your cross-examination. I'm
18 going to ask Mr Jacobs to continue putting questions to you. Thank you very much.
19 Mr Jacobs your witness please.

20 MR JACOBS: [11:58:17](Interpretation) Thank you, your Honour.

21 Q. [11:58:19] Good morning, once again, witness.

22 Before the break we were talking about Ngrémangou and I had a question about this
23 person, Ngrémangou. After 5 December 2013, Ngrémangou joined Samba-Panza's
24 government, did he not?

25 A. [11:58:57] Yes, that's correct.

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1 Q. [11:59:17] (No Interpretation)

2 A. [11:59:21] He is deceased.

3 Q. [11:59:33] I'm sorry, there was a problem with my sound.

4 Very well. Do you know how long he was in Catherine Samba-Panza's government?

5 A. [11:59:50] He wasn't there for a long time. After that, he became the chef de
6 cabinet of the chief of general staff and he died between 2022 and 2023.

7 Q. [12:00:22] Thank you, Mr Witness. What can you tell us about Sylvestre
8 Yagoussou?

9 A. [12:00:38] He was an Anti-Balaka leader but he has passed away.

10 Q. [12:00:59] Very well. Just for the transcript, I have a -- this spelling for the
11 gentleman in question: Y --

12 A. [12:01:19] Yes, I believe so.

13 THE INTERPRETER: [12:01:25] Y-A-G-O-U-S-S-O-U.

14 MR JACOBS: (Interpretation)

15 Q. [12:01:34] Thank you, Mr Witness. And do you know what this person was
16 doing during the presidency of Mr François Bozizé?

17 A. [12:01:46] No, I don't know, but -- but when François Bozizé was president, he
18 was a carpenter.

19 Q. [12:02:11] And where -- what city was he working in as a carpenter, or a
20 cabinetmaker?

21 A. [12:02:19] He was living in Combattant.

22 Q. [12:02:32] Thank you. I'll move on to the next person. Florent Kema, or
23 Flavien Kema. I have two possible first names for this person; I'm giving you both
24 possibilities. Do you know this person?

25 A. [12:02:56] Yes, I know Flavien Kema.

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- 1 Q. [12:02:59] So the first name is Flavien?
- 2 A. [12:03:06] Yes, that's right.
- 3 Q. [12:03:14] And can you tell us what he was doing -- or, rather, during the time of
- 4 President Bozizé's term?
- 5 A. [12:03:26] He was a FACA member. He was a soldier.
- 6 Q. [12:03:39] And after 5 December 2013, after that time, what did he do?
- 7 A. [12:03:49] After that date he was an Anti-Balaka official and then later on he
- 8 became a member of parliament.
- 9 Q. [12:04:19] Very well. I'd like to move on to the next person. Guonifio or
- 10 Modibo, what can you tell us about this person?
- 11 A. [12:04:39] He, too, is an Anti-Balaka official.
- 12 Q. [12:04:51] Very well. And what was he doing when Bozizé was the president?
- 13 A. [12:05:02] Under the presidency of Bozizé he was a farmer. He was farming in
- 14 Bossangoa.
- 15 Q. [12:05:21] Very well. And is his true name Guonifio; is that correct?
- 16 A. [12:05:34] Yes, that's right.
- 17 Q. [12:05:38] "Modibo", what does that mean?
- 18 A. [12:05:44] It's a nickname.
- 19 Q. [12:06:00] And what does this nickname mean, "Modibo".
- 20 A. [12:06:10] Well, I don't know the explanation for the name. It's a name that
- 21 makes reference to a *féticheur*. That's why he was referred to as Modibo.
- 22 Q. [12:06:32] Very well. Now, you say that this makes reference to a *féticheur*.
- 23 Could you explain to us what you mean by that.
- 24 A. [12:06:45] I don't know exactly what his work was as a *féticheur*, but he engaged
- 25 in rituals. That's why he was referred to as Modibo.

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1 Q. [12:07:12] Now, in your prior recorded statement, tab 3, CAR-OTP-2072-1397,
2 page 1427, line 1056, when you make mention of this person you said his real name is
3 Guonifio. Modibo is his nickname as a leader, and it means the leader of -- "leader of
4 the other leaders".

5 Could you explain to us what this expression means, "leader of the other leaders",
6 "chief of the other chiefs"?

7 A. [12:08:21] He was the one who taught the mystical practices to others. He was
8 a marabout, in a way.

9 Q. [12:08:44] Very well. And what was the role of Modibo after 15
10 December 2013?

11 A. [12:09:01] After 5 December, he went back to his town, and then he went back to
12 Bangui and he was put in prison. He spent six months in prison and after that he
13 was released.

14 MR JACOBS: [12:09:35](Interpretation) Your Honour, for a follow-up question
15 I think we need to go into private session, please.

16 PRESIDING JUDGE SAMBA: [12:09:40] Madam Court Officer, can you get us into
17 private session, please.

18 (Private session at 12.09 p.m.)

19 THE COURT OFFICER: [12:09:58] We are in private session, Madam President.

20 PRESIDING JUDGE SAMBA: [12:10:01] Thank you very much.

21 Mr Jacobs, continue please.

22 MR JACOBS: [12:10:11](Interpretation) Thank you, your Honour.

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 A. [12:10:35] Yes, indeed. When his accomplices and he (Redacted), since he
2 didn't speak Sango, (Redacted)

3 Q. [12:10:53] Very well. And you didn't know him before (Redacted)
4 (Redacted)

5 A. [12:11:03] No, I didn't know them before then.

6 Q. [12:11:14] Now, you say that you (Redacted)-- we're in private session right now.
7 (Redacted)
8 (Redacted)

9 A. [12:11:38] They held a meeting of all the various officials within the Anti-Balaka.
10 Since they knew (Redacted), for those reasons
11 (Redacted)
12 (Redacted) to the president of the republic.

13 Q. [12:12:13] Very well. Now, in your prior statement, tab 17,
14 CAR-OTP-2072-1881, page 1889, line 261, and this is something that you said to
15 (Redacted). This is the -- you said this to (Redacted) and you said, after this
16 statement, "It was after the statement (Redacted)

17 And you were asked, "Do you remember why he called you?" "Do you remember
18 more about this conversation?"

19 Then you said, "Well (Redacted) without Ngaïssona's authorisation -- or without his
20 authorisation." And then (Redacted)
21 (Redacted)

22 You added this, a few lines lower down, line 402, (Redacted)
23 (Redacted)
24 (Redacted)
25 (Redacted)

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1 Just a moment, I'm waiting for the interpretation to end.

2 So you said prior that some of the (Redacted)

3 but not necessarily all (Redacted); have I understood the situation

4 correctly?

5 A. [12:14:56] The Anti-Balaka were in various locations. Some were in Boeing,

6 others were in other locations. It was (Redacted)

7 (Redacted). Ngaïssona and Maxime Mokom were not in Bangui. Ngaïssona was in

8 Cameroon and Maxime Mokom was in the DRC. (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted). That was the content of the discussion, basically.

12 Q. [12:15:49] Very well. So, I understand that the decisions were made locally and

13 people in Bangui made decisions about Bangui and people elsewhere made decisions

14 about other places; is that what I should understand from your statement?

15 A. [12:16:15] In actual fact, the movement was not really structured. The ones

16 who came to Bangui, those were the ones (Redacted). They were the ones who

17 (Redacted). I didn't have control over other parts of the movement. When

18 Ngaïssona arrived, (Redacted)

19 (Redacted). That's my explanation to you of what

20 happened in the past.

21 Q. [12:16:52] That's very clear. That's very useful. Thank you very much for the

22 explanations.

23 Your Honour, we can go back into open session.

24 PRESIDING JUDGE SAMBA: [12:17:01] Yes.

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

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1 (Open session at 12.17 p.m.)

2 THE COURT OFFICER: [12:17:16] We are back to open session, Madam President.

3 PRESIDING JUDGE SAMBA: [12:17:19] Yes. Thank you.

4 Mr Jacobs, continue with your questions, please.

5 MR JACOBS: [12:17:27](Interpretation) Thank you very much, your Honour.

6 Q. [12:17:31] Mr Witness, do you know, or what can you tell us about Bertin

7 Nganabaem?

8 A. [12:17:49] He was one of Rhombot's elements and he lived in Boeing.

9 Q. [12:18:02] Very well. And what did he do -- what did he do during the time of
10 Mr Bozizé's presidency?

11 A. [12:18:13] At that time he was a football player.

12 Q. [12:18:30] And if you know, could you tell us -- well, you've told us he was one
13 of Rhombot's elements. What was his exact role when he was working with
14 Rhombot?

15 A. [12:18:51] When he and Rhombot got to Bangui, {ICR: (Redacted)} he was
16 Rhombot's secretary.

17 Q. [12:19:10] Thank you, Mr Witness. When did they get to Bangui? You said
18 when they "got to Bangui", do you remember when that was exactly?

19 A. [12:19:27] I don't know when Mr Nganabaem got to Bangui. I don't know
20 exactly when. We ran into one another after 5 December, but I couldn't tell you
21 exactly when he arrived in Bangui.

22 THE INTERPRETER: [12:19:52] Mr Nganabaem was the name just mentioned.

23 MR JACOBS: [12:19:56](Interpretation)

24 Q. [12:19:56] You say that he was Rhombot's secretary. How long had he been in
25 that position?

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1 A. [12:20:08] I couldn't tell you. I don't even know where he and Rhombot met
2 one another. {PFR: (Redacted)}.

3 He was a football player and he was the one who told me that he was Rhombot's
4 secretary from Pissa and their march upon Bangui,
5 ever since that time.

6 Q. [12:20:48] Do you know whether he had other duties after 5 December within
7 the government, within the state?

8 A. [12:21:00] No. He didn't work for the government.

9 Q. [12:21:27] Mr Witness, do you know Cyril Tougouma (phon), a person by that
10 name? Cyril Tougouma.

11 A. [12:21:44] The first name rings a bell, but I don't exactly remember the family
12 name.

13 Q. [12:22:01] Thank you, Mr Witness.

14 MR JACOBS: [12:22:15](Interpretation) Your Honour, out of caution, I could try to
15 do this in open session, but I think it would be better to go into private session for the
16 next few questions.

17 PRESIDING JUDGE SAMBA: [12:22:28] Yes. Madam Court Officer, can you get us
18 into private session, briefly, please.

19 (Private session at 12.22 p.m.)

20 THE COURT OFFICER: [12:22:49] We are in private session, Madam President.

21 PRESIDING JUDGE SAMBA: [12:22:52] Thank you very much.

22 Mr Jacobs, your witness, please.

23 MR JACOBS: [12:22:59](Interpretation) Thank you, your Honour.

24 Q. [12:23:02] You've told us several times now when you were interviewed by the
25 OTP and here during this hearing you have said that you worked for reconciliation.

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1 Did you know whether there were (Redacted) Anti-Balaka members who took that
2 same approach; namely, that they changed positions and they wanted to bring the
3 war to an end?

4 A. [12:23:40] Yes. After 5 December, (Redacted) Anti-Balaka members no longer
5 wanted to continue the hostilities. They wanted peace to return. Others didn't
6 want that.

7 Q. [12:24:07] Very well.

8 Court officer, if we could please have -- if we could please bring up tab 70,
9 CAR-D33-0014-0319, tab 70.

10 This can be shown to the witness but not to the public. But it can be shown to the
11 witness.

12 Can you see the list, Mr Witness?

13 A. [12:25:20] It's not up on my screen.

14 Q. [12:25:49] Can you now see the list?

15 A. [12:25:54] Yes, now I see it.

16 Q. [12:25:59] This is a written list, handwritten, and it's entitled "List of Converted
17 ATBs" and then there's a list of names, a series of names. Do you know this
18 expression "Anti-Balakas who have converted"?

19 A. [12:26:30] Yes. Jean Noel Orofei, Ngaïssona, these are Anti-Balaka members
20 who had converted and who had committed to peace.

21 Q. [12:26:46] So let's make this quite clear. So this -- this expression "converted",
22 or "a convert", refers to Anti-Balaka members who made a commitment to peace?

23 A. [12:27:02] Yes, that's right.

24 Q. [12:27:10] Now, I don't know whether -- if we could scroll down slightly.

25 Do you see any names that ring a bell and might be useful to us; if so, could you let us

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1 know?

2 I'm sorry, if we could just stop there. The 12th name (Redacted)

3 (Redacted)

4 A. [12:27:52] Yes. That's his nickname. (Redacted) his real name. He was
5 (Redacted) and I said to him he should cease the armed struggle, and I later asked
6 him (Redacted).

7 Q. [12:28:19] Thank you.

8 If we could move to the next page please, court officer.

9 If we could please have a look at name number 25.

10 Can you see the name, "Beina-Vivien, AG Yekatom"? Do you know what that means,
11 Mr Witness?

12 A. [12:29:05] Beina-Vivien, he was the general secretary for Yekatom. That was
13 after 5 December.

14 Q. [12:29:26] Thank you, Mr Witness.

15 If we could please scroll down and have a look at number 29. Number 29,
16 "Makandji - Jean Jacques (Demafout)". If you have any information, what can you
17 tell us about this person, in particular in -- in relation to his being a converted
18 Anti-Balaka member, a convert?

19 A. [12:30:09] Demafout was his nickname. He was an Anti-Balaka who had
20 converted. He went back to Boali and he had a pharmacy there, he had a business.
21 I think that at one particular point in time he also was responsible for guarding some
22 Muslim people who had been threatened.

23 Q. [12:30:52] Very well.

24 If we could go down to number 33, court officer, if you'd be so kind.

25 You can see the name, Touazoumbona Sebastien. Do you have any information

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1 about this, witness?

2 A. [12:31:17] This is a soldier who currently is a chief sergeant, or sergeant-in-chief.
3 He's in the national army.

4 Q. [12:31:35] Very well. And to be complete, do you know what he was doing at
5 the time of François Bozizé?

6 A. [12:31:45] At the time of François Bozizé, he was a member of the presidential
7 guard of Bozizé.

8 Q. [12:32:08] Very well. And after 5 December 2013 what did he do exactly?

9 A. [12:32:19] After 5 December 2013, he took up his functions again -- that is to say,
10 he continued to serve in the army.

11 Q. [12:32:46] Thank you, witness.

12 If we could go to the page -- to the next page, 0321.

13 If we could go to the last name on the list. I'm sorry, 47, firstly.

14 You see, witness, you can see here, Lieutenant Konate Yvon, former spokesperson.
15 Do you know what he was a spokesperson of?

16 A. [12:33:47] In the Anti-Balaka movement there were different entities. In a
17 group, one person can be appointed spokesperson. I could tell you -- I know that he
18 was a soldier and he was said to be a spokesperson of the soldiers who were in the
19 movement.

20 Q. [12:34:16] So, each group could have its own spokesperson; is that right?

21 A. [12:34:22] Yes, that's correct. At the start, that's how each group had their own
22 spokesperson.

23 Q. [12:34:39] Very well. And number 53, if you would be so kind, court officer.
24 Witness, you can see sergeant, "Sgt" - I think it's sergeant - "Touaboy (PK16)". Do
25 you have any information about this person that you can share with us, witness?

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1 A. [12:35:15] Touaboy was a member of the presidential guard under the Bozizé
2 regime. After that, he joined the Anti-Balaka movement and, afterwards, he joined
3 the ranks again.

4 Q. [12:35:35] Thank you, witness.

5 If we could go to the last page of the document, if you'd be so kind, so 0323.

6 Witness, there's just one name, you see (Redacted)

7 (Redacted)

8 (Redacted)

9 A. [12:36:10] No. No, that's not correct. (Redacted)

10 (Redacted)

11 Q. [12:36:25] Thank you very much for this clarification. We are in private session,
12 could you give us the name of (Redacted)

13 A. [12:36:42] (Redacted)

14 -- it depended on different posts that I occupied.

15 Q. [12:37:02] Very well. Thank you, witness.

16 I've finished with this list, court officer, and I would like this formally submitted into
17 the case file. I therefore give -- it's tab 70, CAR-D33-0014-0319. Tab 70,
18 CAR-D33-0014-0319.

19 Witness, what can you tell us about the presence of the French in Bangui in 2013,
20 before or after March -- well, firstly, before March and then after March 2013?

21 A. [12:38:17] The French were based at the airport before March 2013. There were
22 400 of them. They were calming the tension and they ensured the protection of the
23 population. They were in the Central African Republic within another framework,
24 but when there were hostilities in the different neighbourhoods they would intervene
25 to ensure the protection of the population. And, after December, they were

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1 given -- they were renamed Operation Sangaris and they received a mandate from the
2 United Nations under resolution 2127 which gave them authority to disarm the
3 Balaka and the Seleka.

4 If the Sangaris were not in the Central African Republic, the situation would get
5 worse. Their presence helped to calm tension and made disarmament possible, and
6 they also supported MISCA in their functions.

7 Q. [12:40:18] Thank you, witness. And the reason I stayed in private session:
8 (Redacted)
9 (Redacted)

10 A. [12:40:41] At a certain time, when the violence was becoming inter-community
11 violence, the French wanted to meet the leaders of different movements in order to
12 see what could be done in order to calm down the situation. And it was from this
13 perspective that (Redacted) so that when there was any damage then
14 (Redacted) and calm the situation down. And that's what made it possible for the
15 situation to be brought under control.

16 The role of the international forces in the presence was different to that of the French
17 in the Central African Republic. I can tell you that their presence helped to bring
18 peace to the situation.

19 Q. [12:41:58] And more precisely, (Redacted)
20 French embassy; (Redacted), witness?

21 A. [12:42:14] (Redacted)
22 (Redacted)
23 (Redacted)

24 were also playing the role in social cohesion. They would contact the Muslims, the
25 Christians, and the Anti-Balaka who wanted peace, and every week (Redacted)

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- 1 the French embassy. And the reason for the -- (Redacted)
- 2 could be done such that peace could be re-established. And it was within this
- 3 framework that (Redacted)
- 4 THE INTERPRETER: [12:43:13] Correction: (Redacted)
- 5 the French "ambassador", not the French "embassy".
- 6 MR JACOBS: [12:43:19](Interpretation)
- 7 Q. [12:43:20] And just to put this in the time frame. This is when (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 A. [12:43:34] (Redacted)
- 11 (Redacted). But the person (Redacted),
- 12 but that was from 2013.
- 13 THE INTERPRETER: [12:43:59] Correction from the interpreter: It was from 2015.
- 14 MR JACOBS: [12:44:05](Interpretation)
- 15 Q. [12:44:07] Thank you.
- 16 And to the best of your memory, what role did (Redacted) have within -- what role
- 17 did (Redacted) have within (Redacted)?
- 18 A. [12:44:28] He was (Redacted)
- 19 (Redacted)
- 20 Q. [12:44:49] Thank you, witness.
- 21 So, witness, after 5 December 2013, you told us that (Redacted);
- 22 that's correct, is it not?
- 23 A. [12:45:04] Yes. Well, (Redacted) as such, but you know that
- 24 (Redacted) even after 5 December.
- 25 THE INTERPRETER: [12:45:19] Even before 5 December.

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1 MR JACOBS: [12:45:24](Interpretation)

2 Q. [12:45:24] Very well. And did you have another role than your role as a
3 (Redacted), witness?

4 A. [12:45:41] (Redacted)

5 (Redacted)

6 (Redacted)

7 before Madam Montaigne, who was the minister of reconciliation at the time. I had
8 got some people to come, some Anti-Balaka, some Seleka, Christians, and Muslims,
9 and I got them all to come to the (Redacted)

10 was mainly a role of reconciliation.

11 Q. [12:46:40] Very well. So a certain number of people that the Office of the
12 Prosecutor spoke to indicated that (Redacted) in (Redacted).

13 So I'll give you some examples thereof.

14 So the first is at tab -- in CAR-2127-0074, which can't be shown to the witness. So

15 tab 63.1. And it says that: (Redacted),

16 and other people who I've forgotten the name of."

17 Another example of people who were interviewed by the Office of the Prosecutor is at

18 tab 67 on our notification list. CAR-OTP-2061 - it can't be shown to the witness - so

19 2061-1534. And this person says that: (Redacted)

20 (Redacted)

21 That's page 1563.

22 Another example, and this is at tab 72 on our list of notification, so

23 CAR-OTP-2094-0228. And it's 02 -- so it can't be shown to the witness, but it's

24 page 0273, paragraph 259:

25 (Redacted) who was sowing terror in Bangui.

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1 He was essentially based in the 4th arrondissement in the Boy-Rabe neighbourhood"

2 and "he was one of the leaders who was leading operations and coordinating the

3 attacks in the neighbourhood. He was a ComZone" and "he came from Bozizé's

4 region ... he was close to Ngaïssona."

5 One last example, witness.

6 If we look at tab 73.1 on our list of notification, CAR-OTP-2122-4802, and page 4822

7 and 4823. It's not to be shown to the witness -- 4823 and 4824, not to be shown to the

8 witness. This person says:

9 (Redacted)

10 A lot of the attacks in Kilometre 5 were led by him. I know that because there are

11 videos showing him claiming responsibility for it. (Redacted)

12 and articles were published about him."

13 So, witness, I wanted to give you the opportunity to react to these people who say

14 that (Redacted)

15 the attacks carried out by the Anti-Balaka.

16 A. [12:50:28] Your Honour, I think that this is a relevant question which I'm going

17 to answer.

18 Firstly, where it concerns Boy-Rabe, (Redacted)

19 (Redacted)

20 (Redacted)

21 And, afterwards, it was said (Redacted)

22 No, (Redacted), and they were the ones

23 (Redacted)

24 Contrary to what was said here, I can tell you (Redacted)

25 (Redacted) You know, that at a particular time the inhabitants of KM5 buried their

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1 dead within the -- outside the churches next to the roadside, and (Redacted)
2 (Redacted)
3 (Redacted) before the entire international community.
4 (Redacted)
5 (Redacted)
6 I was just working for the good.
7 Madam President, you know that when you commit yourself to doing good, there are
8 your detractors who will get up to defame you. (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted)
13 (Redacted) who worked for peace, and that happened before the imams, before the
14 pastors, before the cardinals and before Madam Montaigne.
15 (Redacted)
16 Madam President, everything that is said here is just a gross lie. That's the answer
17 that I can give you.
18 Q. [12:53:20] Your answer is well noted, witness.
19 I'm going to try and make progress. What can you tell us -- just one minute.
20 (Counsel confers)
21 MR JACOBS: [12:53:40](Interpretation)
22 Q. [12:53:41] What can you tell us about (Redacted) that were you subjected to in
23 2014, witness?
24 I don't know if my question was interpreted. I'm going to put my question again.
25 So, (Redacted), and what I wanted to know if you could explain to us what

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1 happened?

2 A. [12:54:32] (Redacted).

3 You haven't shown any references (Redacted), never.

4 Q. [12:54:50] Very well. So we'll try to clarify the situation together, witness.

5 So I would like the tab 74 to be shown, CAR-OTP-0080-0685.

6 And this document can be shown to the witness.

7 So it's -- is it on evidence 1 or 2?

8 THE COURT OFFICER: [12:56:03] It's back to evidence channel 1. Normally the
9 witness should be able to see it up on the screen. Thank you.

10 PRESIDING JUDGE SAMBA: [12:56:13] Do you have it before you, Mr Witness? Is
11 it showing on your screen? Evidence channel 1.

12 THE WITNESS: [12:56:20](Interpretation) No.

13 PRESIDING JUDGE SAMBA: [12:56:22] Can the court officer help him.

14 THE WITNESS: [12:56:26](Interpretation) No, I don't see the document.

15 MR JACOBS: [12:56:51](Interpretation)

16 Q. [12:56:51] Can you see the document, witness?

17 A. [12:56:58] Yes, I can see it now. I would ask you to move it down so I can read
18 it down to the end.

19 Q. [12:57:08] Absolutely. We'll go back to the beginning, just to start at the
20 beginning.

21 So you can see that this is a *message porte*. If we go down you can see -- I'll read it for
22 the record. I'll read it at the same time. So:

23 (Redacted)

24 (Redacted)

25 And for:

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1 "Information: Minister of Justice, Guard of the Seals responsible for judicial reform".

2 And:

3 "The Prosecutor General with the Court of Appeal".

4 And then we can go down a bit further with the text.

5 And so, you have the referral number of the document, which -- well, I can read it.

6 It's:

7 "No. 047/CAB/PP/TGI/BG of 11 February 2014 stop extremely urgent stop following

8 the increase in acts of criminality and barbarism carried out by the Anti-Balaka militia

9 stop ask you to without delay arrest the members of the armed group whose names

10 are -- whose names are written so they can be given -- handed over to justice"

11 And then there's a list of names below.

12 And if we could go to the next page, please, court officer.

13 And there (Redacted).

14 And if we go down to the bottom just so that it's complete for the record, you will

15 see -- you see "Bangui, 11 February 2014". And it's signed by the Prosecutor of the

16 Republic Ghislain -- who is a magistrate. Ghislain Grezenguet. So on 11

17 February 2014, a request was filed (Redacted) available to justice -- or the judicial

18 authorities.

19 Do you have any comment to make on that, witness?

20 A. [13:00:02] Madam President, (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 Q. [13:00:39] Thank you, witness, for this clarification.

25 I have finished with this document and I would like to request that it be formally

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- 1 submitted. And I'll repeat the reference number: Tab 74, CAR-OTP-0080-0685.
- 2 Tab 74.
- 3 MR JACOBS: [13:01:14] I was going to turn to another topic, but I see the time, your
- 4 Honour.
- 5 PRESIDING JUDGE SAMBA: [13:01:21] Yes, certainly. We are -- Mr Witness, we're
- 6 going to stop here with your testimony for today, and I'm going to ask that you do
- 7 not discuss your testimony with anyone when you leave this courtroom. We still
- 8 consider you to be under oath even when we meet tomorrow at 9:30 in the morning.
- 9 So I rise the Court for 9:30 tomorrow morning, please.
- 10 THE COURT USHER: [13:01:52] All rise.
- 11 (The hearing ends in private session at 1.01 p.m.)