

Trial Hearing
WITNESS: CAR-OTP-P-2504

(Open Session)

ICC-01/14-01/21

- 1 International Criminal Court
- 2 Trial Chamber VI
- 3 Situation: Central African Republic II
- 4 In the case of The Prosecutor v. Mahamat Said Abdel Kani - ICC-01/14-01/21
- 5 Presiding Judge Miatta Maria Samba, Judge María del Socorro Flores Liera and Judge Sergio
- 6 Gerardo Ugalde Godínez
- 7 Trial Hearing - Courtroom 2
- 8 (The hearing starts in open session at 9.31 a.m.)
- 9 THE COURT USHER: [9:31:49] All rise.
- 10 The International Criminal Court is now in session.
- 11 Please be seated.
- 12 PRESIDING JUDGE SAMBA: [9:32:11] Good morning, everyone.
- 13 Madam Court Officer, can you kindly mention the case.
- 14 THE COURT OFFICER: [9:32:31] Good morning, Madam President, your Honours.
- 15 Situation in the Central African Republic II, in the case of The Prosecutor versus Mahamat
- 16 Said Abdel Kani, case reference ICC-01/14-01/21.
- 17 And we are in open session.
- 18 PRESIDING JUDGE SAMBA: [9:32:47] Thank you very much.
- 19 Can I ask for your representation, starting with the Prosecution, please.
- 20 MS MAKWAIA: [9:32:53] Good morning, Madam President, your Honours. For the
- 21 Prosecution this morning, Kamran Choudhry, Alessia Vitiello, Sanyu Ndagire, and myself,
- 22 Holo Makwaia. Thank you.
- 23 PRESIDING JUDGE SAMBA: [9:33:05] Thank you very much, Ms Makwaia.
- 24 Ms Pellet for the victims, please.
- 25 MS PELLET: [9:33:11](Interpretation) Thank you, Madam President.

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- 1 The victims are represented this morning by Tars Van Litsenborgh and by myself,
2 Sarah Pellet, counsel with the Office of Public Counsel for Victims.
- 3 PRESIDING JUDGE SAMBA: [9:33:25] Thank you very much. Ms Naouri for the Defence,
4 please.
- 5 MS NAOURI: [9:33:29](Interpretation) Thank you, Madam President. Good morning.
6 To my right, we have Capucine Banet; to my left, we have Maître Jacobs; behind, we have
7 Léa Allix; and I am Jennifer Naouri, lead counsel for Mr Said.
- 8 PRESIDING JUDGE SAMBA: [9:33:44] Thank you very much, Ms Naouri.
9 And for the record I note that Mr Said is in court.
- 10 A very good morning to you, Mr Said.
- 11 MR SAID: [9:33:54](Interpretation) Yes, good morning, Madam President.
- 12 PRESIDING JUDGE SAMBA: [9:34:03] Good morning.
13 Good morning, Mr Witness. I hope you rested well.
- 14 WITNESS: CAR-OTP-P-2504 (On former oath)
15 (The witness speaks French)
- 16 THE WITNESS: [9:34:10](Interpretation) Good morning, Madam President. Yes, I did rest
17 well.
- 18 PRESIDING JUDGE SAMBA: [9:34:16] Very good. We are going to continue with your
19 testimony. We'll allow Defence counsel, Ms Naouri, to continue with her cross-examination.
20 But before we do that I'm going to remind you that you are still on oath to tell the truth to this
21 Court.
- 22 I'll also wish to remind yourself and counsel about the five-second rule so that we are in a
23 position to help the interpreters with the testimonies that we get from you. Thank you very
24 much.
- 25 Ms Naouri, your witness, please. And we are in open session, just so you know

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1 MS NAOURI: [9:34:59](Interpretation) Yes, thank you, Madam President. In fact, to
2 continue the cross-examination, I believe that it would be necessary for us to move into
3 private session, please.

4 PRESIDING JUDGE SAMBA: [9:35:13] Okay.

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

6 THE COURT OFFICER: [9:35:30] We are in private session, Madam President.

7 (Private session at 9.35 a.m.)

8 PRESIDING JUDGE SAMBA: [9:35:34] Thank you very much.

9 Ms Naouri, you may continue, please.

10 MS NAOURI: [9:35:38](Interpretation) Thank you, Madam President.

11 QUESTIONED BY MS NAOURI: (Interpretation)

12 Q. [9:35:40] Good morning, Mr Witness.

13 A. [9:35:42] Good morning.

14 Q. [9:35:44] So we are going to take off from where we left off yesterday. I have a little
15 question before that.

16 You said yesterday - and that is at transcript T-63, real-time version, French version, page 10,
17 line 28 to page 11, line 6 - in response to the question: Do you have a current identity card or
18 is it the same identity card that you are using? To which you answered: Well, I lost this
19 one and the director-general (Redacted) signed a new card for me that stayed in
20 Bangui.

21 Now, my question to you is: Which ID did you use in order to travel to testify before the
22 ICC today?

23 A. [9:36:39] Thank you. I shall answer your question. I said that I lost the old one, and
24 when you have a new rank you need to have a new identity card. The old card was when I
25 was (Redacted), which is (Redacted). But now I am an (Redacted).

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1 So on 6 March, the director (Redacted) issued to me a new identity card to reflect my new
2 rank, but in order to come here to the ICC I came on my passport.

3 Q. [9:37:32] Very well. Thank you for that clarification.

4 Now, you said that you have a new card and that it has remained at home. Now, if
5 necessary, would you be in a position to provide a photocopy or a scanned version of the new
6 professional card that you have?

7 A. [9:37:50] Well, as I don't have it here with me, maybe if I were to go back home, I would
8 indeed be able to send that to you.

9 Q. [9:38:09] Perfect. That was my question.

10 And equally, would you be in agreement for us to take a copy of the passport that enabled
11 you to travel to us today?

12 A. [9:38:18] Yes, I am in agreement.

13 Q. [9:38:25] Thank you very much, Mr Witness.

14 Now, yesterday we talked about the individuals who were present at Damala OCRB. So, I'm
15 going -- that's where we left off yesterday. I'm going to show to you a document, which is
16 number 37 in our list.

17 So that's CAR-OTP-2082-0465 and it is a document that can be shown to the witness.

18 Can you see the document, Mr Witness? This is a list that the Office of the Prosecutor
19 obtained of the elements that were present at the Damala antenna. I would like for us to
20 have a look at this list together. Have you already seen this list, Mr Witness?

21 A. [9:39:39] We need to scroll down on this.

22 Q. [9:39:44] Yes. Well, we're going to be scrolling down on these names in a moment, but
23 my first question to you is whether you personally have ever laid eyes on this list.

24 We can see that the heading is from the minister of security and emigration.

25 We're going to scroll down on this document somewhat until the bottom of the page, please.

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1 (No interpretation)

2 A. [9:40:30] I have not seen this list, but this is part of a list of the elements at Damala.

3 * Q. [9:40:46] You were able to see all the names on the list, and you can confirm that these
4 people were present at the OCRB Damala. Is that what you're telling us?

5 A. [9:40:55] Yes.

6 MS NAOURI: [9:41:05](Interpretation)

7 Q. [9:41:06] So, Mr Witness, can you see number (Redacted) on that list, "Soldat;
8 (Redacted)"? Can you see that name at number (Redacted)?

9 THE INTERPRETER: Says counsel.

10 THE WITNESS: [9:41:22](Interpretation) Yes.

11 MS NAOURI: (Interpretation)

12 Q. [9:41:23] Is that your brother, Mr Witness?

13 A. [9:41:36] Yes, that's my younger brother.

14 Q. [9:41:38] Very well. Thank you for that point of clarification, Mr Witness.

15 And at number (Redacted), you can see "Soldat; (Redacted)". Did you know him?

16 A. [9:42:03] Yes, he is also my younger brother, but he died in the battlefield.

17 Q. [9:42:13] Very well. Thank you for that clarification.

18 And you, sir, your name does not appear on this list. Do you have a comment to make on
19 the fact that your name does not appear on this list?

20 A. [9:42:26] Yes, I do have a comment to make. All those that you see here on this list are
21 civilians who have not yet at this stage been incorporated. They have not yet been
22 incorporated and this list was drafted with a view to incorporating them into the army,
23 subsequent to which * my younger brother, (Redacted) passed a test and was recruited into
24 the army. And it was at the beginning of the CPC that he went out into the battlefield and
25 fell in the battlefield in Bouali.

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1 Q. [9:43:20] Thank you very much for that clarification, Mr Witness.

2 And you, personally, you undertook certain administrative measures for that person to be
3 registered by the minister of defence, did you not, these individuals who were present at
4 OCRB?

5 A. [9:43:49] Yes.

6 Q. [9:43:50] And subsequently all of these elements received a serial number, did they not?

7 A. [9:43:55] Yes, for the most part.

8 Q. [9:43:59] Very well. And most of them were subsequently integrated into the FACA.

9 Do you remember the date of their integration?

10 A. [9:44:13] Well, it was on the basis of the decision of their incorporation, but I do not
11 know the date.

12 Q. [9:44:22] So we have finished with this document.

13 I'm going to be showing you another document now, Mr Witness. This is tab 34 of our list,
14 CAR-OTP-2100-0825, and I would like for us to consult page 0829, please.

15 MS NAOURI: [9:45:04](Interpretation) Madam President, as I am trying to broach a number
16 of matters in open session, maybe we could move into open session to continue and see how
17 things go with the witness.

18 PRESIDING JUDGE SAMBA: [9:45:14] Okay. We are in private session.

19 Ms Naouri, we are in private session. Do you want us to go into open session?

20 MS NAOURI: [9:45:27](Interpretation) Yes, that's right. I would like to continue and try
21 continuing with this matter in open session, dependent on the answers he provides.

22 PRESIDING JUDGE SAMBA: [9:45:37] Thank you.

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

24 Thank you.

25 (Open session at 9.45 a.m.)

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1 THE COURT OFFICER: [9:45:56] We are now in open session, Madam President.

2 PRESIDING JUDGE SAMBA: [9:45:58] Thank you.

3 Ms Naouri, continue, please.

4 MS NAOURI: [9:46:02](Interpretation) Thank you, Madam President.

5 Q. [9:46:05] Now, Mr Witness, can you see the document that has been brought up on the
6 screen?

7 A. [9:46:11] Yes, I can see the document.

8 Q. [9:46:14] So, it is a decision incorporating young recruits into the Central African armed
9 forces and I'm going to be showing to you 0919 of that same document.

10 And I would like that slide. Perfect. I would like for us to go to the bottom of the page,
11 please. Thank you.

12 And we can see that this decision dates back to 10 October 2013. Does that refresh your
13 memory, Mr Witness?

14 A. [9:47:02] Yes.

15 Q. [9:47:07] Thank you. And after this decision, there were attempts to try and stop these
16 elements from Damala OCRB being integrated into the army, were there not?

17 A. [9:47:28] It was not only the elements from Damala OCRB, this decision incorporating
18 the young recruits applies to all the Seleka elements that were to be incorporated. It was not
19 only the Damala OCRB, it was the various bases. So this is part of the decision. All of these
20 elements came up against issues after Djotodia's resignation and they came up against issues
21 which they raised as a matter of judicial interest.

22 Q. [9:48:08] So, with regard to the issues that they came up against and filed a judicial
23 matter, this is -- we're going to discuss this.

24 That's tab 8 on our list, CAR-OTP-2111-0213, and of course this document can be shown to the
25 witness and to the public gallery, because it is a decision, a judgment, handed down. So if

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1 we could zoom into it somewhat, please. Thank you. * So, perfect. We have here at the
2 very top a judgment of 5 September 2013 --- I beg your pardon, 5 September 2018, which
3 orders the entirety of the second class soldiers into the FACA, in accordance with the decision
4 of 10 October 2013.

5 MS NAOURI: [9:49:25]

6 Q. [9:49:25](Interpretation) You've already seen this document, have you not?

7 A. [9:49:30] Well, I'm just seeing it now. They came together as a collective to undertake these
8 ministrative matters. {ICR: (Redacted)}, so it was their collective.

9 Q. [9:49:42] I'm sorry, you've just given an identifying element and I suppose that that is
10 why my learned friend has just got to her feet.

11 So we're going to move back into private session, with the leave of the Presiding Judge, and
12 maybe when we go back into open session subsequently let's try and not identify ourselves.

13 MS NAOURI: [9:50:07](Interpretation) Madam President, could we please move back into
14 private session.

15 PRESIDING JUDGE SAMBA: [9:50:10] Yes, we'll move back into private session, but
16 listening from the English booth, I heard the year 2013, but what I see on this document is
17 2018. So I don't know whether there's a --

18 MS NAOURI: [9:50:25](Interpretation) I did correct myself in French, but, of course, if it
19 does not appear, then I shall repeat it. It was indeed the decision of 5 September 2018 and
20 which bears on the incorporation subsequent to the decision of 2013. But it is a judgment
21 from 2018.

22 PRESIDING JUDGE SAMBA: [9:50:52] Okay. Thank you very much.

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

24 (Private session at 9.50 a.m.)

25 THE COURT OFFICER: [9:50:57] We are in private session, Madam President.

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1 PRESIDING JUDGE SAMBA: [9:51:09] Thank you very much. Ms Naouri, please.

2 MS NAOURI: [9:51:11](Interpretation) Thank you very much, indeed, Madam President.

3 Q. [9:51:18] So, you have just told us that this document -- well, you said that you have

4 only just seen it now. So, this is the document, annex 6 of your prior statement, and it is you

5 who gave this document to the Office of the Prosecutor. Do you remember that?

6 A. [9:51:42] Are you talking about this judgment, please?

7 Q. [9:51:51] Mr Witness, when I don't answer you immediately, it's because I'm waiting for

8 the five seconds. There we go.

9 Yes, indeed, I am talking about this judgment. It is annex 6 to a prior statement that you

10 provided to the Office of the Prosecutor. So you met with investigators, they took down

11 your testimony, you handed over this document to them and they named it annex 6. Do you

12 remember having handed over this document to the investigators from the OTP?

13 A. [9:52:23] I do remember.

14 Q. [9:52:26] Very well. Perfect.

15 A. [9:52:32] Perfect.

16 Q. [9:52:33] How did you obtain that document, Mr Witness?

17 A. [9:52:35] I obtained it from my brother, (Redacted), who was part of the group that had

18 left to undertake the administrative matters associated with their incorporation.

19 Q. [9:52:59] Very well. Thank you for that clarification, that's very useful for us.

20 And the soldiers won and were integrated into the FACA as a result of this judgment, were

21 they not?

22 A. [9:53:16] They were not all incorporated. Part of them were and the others were not

23 and to date have not been.

24 Q. [9:53:28] Very well. Thank you for that clarification.

25 So I'm going to move on to another matter now. I'd like to come back briefly to the events

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1 that unfolded at *Tapis rouge*. You said to us yesterday, transcript real-time 63, French version,
2 page 27, lines 10 to 14, in response to a question put to you:

3 Question: Do you remember in which month this occurred?

4 To Which you answered: I am not in a position to tell you because I'm not good at dates. It
5 lasted quite some time. That was a long time ago. I have forgotten the date.

6 That's what you told us during the hearing.

7 Now, I'm going to be reading an excerpt from your prior statement and this is what the
8 investigators took down in note form. This is tab 1 of our list and it's tab 2 for the witness
9 statement in English. So, CAR-OTP-2107-8430 and it is paragraph 48, which is at page 8439,
10 which is of interest to me.

11 And what is of interest to me is when you say -- and it is in the middle of the paragraph, and
12 you can see that the title is "Kidnapping of military man (Redacted)". You say:

13 "I do not remember the date but the arrest -- (Redacted)'s arrest occurred sometime before the
14 disarmament operation against OCRB Damala, which I will talk in detail about later".

15 Subsequently you said in another section that we are going to look at now, that's still in your
16 prior witness statement, that's paragraph 55 at page 8440, so we are going to scroll down a
17 little bit. Can you see under this section entitled: "Seleka's disarmament operation at the
18 OCRB Damala"?

19 And you say:

20 "In April 2013, the sous-chef d'état-major in charge of operations, General Ibrahim Salfradine,
21 came to OCRB Damala with about 50 vehicles full of Seleka elements on board and
22 surrounded our base."

23 End of quote.

24 Now, do you confirm today, does this refresh your memory -- do you confirm that the events
25 in *Tapis rouge* occurred in April 2013?

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1 And I have finished with this document, thank you.

2 A. [9:56:57] This is the date of the disarmament operation that occurred at OCRB Damala,
3 but as to the specific date upon which the kidnapping occurred, I am not in possession of that
4 specific date. I don't know it.

5 Q. [9:57:23] Very well. At paragraph 48, you said to us that *Tapis rouge* occurred before
6 the disarmament operation. Can you confirm that it was indeed before the disarmament
7 operation?

8 A. [9:57:40] Well, as to the precise date, I'm not in a position to say.

9 Q. [9:57:46] Very well. I don't need the precise date, I just need to know whether it was
10 before, because you can remember in which order things unfolded, can you not? First, it
11 was the kidnapping, then the disarmament; that's what you say in your statement. Are you
12 confirming that today?

13 A. [9:58:05] Which paragraph is that? I said which paragraph -- can you tell us which
14 paragraph?

15 Q. [9:58:12] It's paragraph 48, which is before you. You say:
16 "I no longer remember the date, but (Redacted)'s arrest occurred sometime before the
17 disarmament operation against OCRB Damala".

18 And you said:

19 "I will talk about it in detail later."

20 That's when you say that it was before the disarmament operation.

21 A. [9:58:41] Yes, that's right.

22 Q. [9:58:45] Thank you, Mr Witness.

23 Now, what was (Redacted)'s occupation before the Seleka groups arrived?

24 A. [9:59:03] (Redacted), he is a civilian.

25 Q. [9:59:19] Very well. And you knew him personally, did you not?

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1 A. [9:59:22] I do know him. He is the younger brother of the deceased.

2 Q. [9:59:33] Very well. And it was you who gave the telephone number of (Redacted),
3 that's (Redacted), to the representative of the OTP; is that not true?

4 A. [9:59:52] Yes.

5 Q. [10:00:06] Very well. Now, I'd like to come back to something that you said
6 yesterday - French real-time version of the transcript, page 25, lines 22 to 27, and it is in the
7 part when you're talking about the events at *Tapis rouge*, and you say, I quote:

8 "So, I was saying that at that time I was at the base working and I received a call from

9 (Redacted) who was also an element at our base. He called me and he said that his elder

10 brother had been arrested by the Seleka and that he did not know this place Tapis Rouge, and
11 asked whether our base could intervene."

12 End of quote.

13 Now, in your prior statement that will be brought up - and that's still at tab 1 of our list of
14 material, and tab 2 for the English version - CAR-OTP-2107-8430 at page 8439, it's paragraph
15 49. In fact, it's still up on the screen. Wonderful.

16 So, we're just going to come up somewhat on the screen to see paragraph 49. And you say:

17 "The Combattant neighbourhood fell under OCRB Damala's jurisdiction and the Seleka

18 elements from our base who were there immediately called me. His brother, (Redacted),

19 came to OCRB Damala and asked me for my help." End of quote.

20 So you said to the investigators that the OCRB Damala elements were already in Tapis Rouge
21 and that it was they who warned you that something was unfolding there. Now, why was it
22 that the OCRB Damala elements were already in Tapis Rouge at that moment in time?

23 * A. [10:02:36] Yes. I will give you clarifications. On that day, (Redacted) and his Seleka

24 colleagues who were at the base were walking around. They were coming back from the

25 Combattant market and automatically, when they appeared at that location, they called me.

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- 1 * Since they were civilians, they were not yet integrated so they could not yet intervene.
- 2 They.... it was elements, they took the motorcycle, and they left. (Redacted) first called me on
- 3 the phone. I told him to come. They got there, and they told me that his brother had been
- 4 kidnapped. And as they were telling me this, I took two motorcycles with three elements
- 5 and we went to Tapis rouges, to get the colonel's two vehicles with (Redacted)'s brother, were
- 6 leaving. The elements and I, we followed them all the way to the OCRB.
- 7 MS MAKWAIA: [10:03:38] Sorry, Madam President. I think the interpretation, we missed
- 8 a crucial piece of the witness's evidence. I heard it on the floor listening to the French.
- 9 THE INTERPRETER: [10:03:51] Witness said: I took two motorcycles with three elements.
- 10 We went right up to *Tapis rouge* and the train was leaving. I myself and the elements, we
- 11 followed them right up to OCRB.
- 12 MS NAOURI: [10:04:00] (Overlapping speakers)
- 13 MS MAKWAIA: [10:04:07] Actually, it's to do with the two vehicles, and then he named of
- 14 whom.
- 15 MS NAOURI: [10:04:25](Interpretation) Since it is well captured in French, do you want me
- 16 to re-read that passage? Maybe that will be the right thing to do. As from line 9:
- 17 Yes, I will give you clarifications. On that day, (Redacted) and his colleagues were strolling
- 18 in town. They were coming back from *marché Combattant*. (Redacted) and his colleague,
- 19 automatically, they found themselves at that location and since they were civilians, they did
- 20 not have the possibility of intervening. * They took the motorcycle. That is, the elements
- 21 took the motorcycle.
- 22 MS MAKWAIA: [10:05:51] I can help my learned sister, your Honours. Actually, the area
- 23 of interest is at line 7, and what is missing, "and we saw the two vehicles of the colonel", that's
- 24 what's missing in the interpretation in the English, your Honours. Thank you.
- 25 MS NAOURI: [10:06:14](Interpretation) Thank you, learned friend. I'm reading the excerpt

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1 because I was told that for clarification it was better to read the passage so that it should be
2 better captured in both languages. I'm going to complete the reading of the passage:

3 * This was the elements who took the motorcycle. First of all, (Redacted) called me on the
4 phone, they said that -- he said that his brother had been kidnapped. I took two motorcycles
5 with three elements. We went right up to Tapis rouge * and found the two vehicles of the
6 colonel with the (Redacted) brother, they were about to leave, and myself and the elements,
7 we followed them right to the OCRB base.

8 PRESIDING JUDGE SAMBA: [10:07:33] Can I ask the witness to confirm what counsel just
9 read out.

10 Mr Witness, can you confirm what Ms Naouri, the lawyer, just read out? Can you confirm
11 that that's what happened?

12 THE WITNESS: [10:07:47](Interpretation) Yes, I confirm that. I said that on that day,
13 (Redacted) and his colleagues, they were coming back from the Combattant market. When
14 they saw what was happening, (Redacted) took the phone and called me that * his brother
15 was being kidnapped at *Tapis rouge*. * They took the motorcycle and came to the base and
16 automatically I took three elements with me and we went to Tapis rouge. In fact, I found the
17 two vehicles with the colonel and the colonel -- who had taken the soldier, (Redacted), and
18 put in their vehicle. And I followed them right up to OCRB Central. That's is what I said.

19 PRESIDING JUDGE SAMBA: [10:08:46] Thank you very much, Mr Witness.

20 MS NAOURI: [10:08:48](Interpretation).

21 * Q. [10:08:50] Thank you, Mr Witness. I have heard it well. So, I don't know if it's been transcribed
22 and if I heard it correctly, but I'm going to refer to your prior statement where you said that
23 (Redacted) came to OCRB Damala to ask you for help. Do you confirm that he came... do you
24 confirm what you told the investigators, that he came to see you at OCRB Damala?

25 * A. [10:09:22] Yes, he came and he took the motorcycle automatically. He came to OCRB Damala.

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1 * Q. [10:09:34] And Once (Redacted) came to see you at OCBR Damala, that's when you left,
2 is that correct, left for *Tapis rouge*?

3 A. [10:09:42] Yes.

4 Q. [10:09:45] Very well. It's clear now, thank you, Mr Witness. It is very clear. * You said
5 --- and you just repeated this ---you said that you stopped some motorcycles, you intercepted
6 some motorcycles. Was it easy to stop motorcycles just like that in Bangui during that time?

7 A. [10:10:04] During that time, there were people who had come to the base on motorcycle.
8 I asked for the keys of the motorcycle while I was dealing with something. I told them to give
9 me the keys and they did. And then we took the keys and we took the motorcycles. We left
10 with the motorcycles, and then later we returned them to the people in question.

11 Q. [10:10:37] Now, when you said intervene and stop them, these were people who were not
12 working in the OCBR; they are people on the street? That is on the street?

13 *A. [10:10:48] I was saying that, during that time, there were people who came... civilians who
14 weren't at OCBR Damala, who came to solve their problems; they came on motorbikes. There
15 were lots of motorbikes in front of the base. I asked: "Who are the owners of these motorbikes?"
16 They raised their hands. I said, "Give me the keys, I'm going for an intervention and I'll be
17 right there or back. They gave me the keys to the bike, and we left with those two bikes.

18 * Q. [10:11:18] I will quote a transcript from an OTP witness. It is transcript T-42, page
19 53, lines 27 to page 54, line 2.

20 This witness says -- it's a different person who is speaking, not you, okay? He says --- and he
21 is talking about the same period of time as you --- at that time, motorcycles were not
22 circulating. I was walking home. There were no motorcycles, no one was travelling by
23 motorcycle. We were in a situation of conflict and people preferred to keep their motorcycles
24 at home. Motorcycles were not circulating. What do you think of that, Mr Witness?

25 A. [10:12:16] During that time, motorcycles were circulating. Motorcycles were

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1 circulating. There were even people who took meat on their motorcycle to the Ngola abattoir
2 and then they took it to the market. So motorcycles were circulating.

3 Q. [10:12:40] Thank you. Thank you for the clarification. And what was the weather
4 during the day of the incident of *Tapis rouge*?

5 A. [10:12:55] It was around 11 to 12 o'clock.

6 Q. [10:13:06] 11 to 12 o'clock in the morning or in the evening?

7 A. [10:13:10] In the morning.

8 Q. [10:13:13] And what was the weather like? Was it sunny?

9 A. [10:13:25] I'm not a weatherman. I could not know.

10 Q. [10:13:35] But you can tell us whether it was a sunny day or a rainy day?

11 A. [10:13:38] It's from a long time ago. I no longer remember.

12 Q. [10:13:41] Very well. You no longer remember. Thank you for answering,
13 Mr Witness. It's noted you don't. And you are the one who called (Redacted) the next
14 morning; is that correct?

15 A. [10:14:08] I didn't quite understand your question. Can you repeat?

16 Q. [10:14:11] Very well. The day after the incident, the day after, you called (Redacted); is
17 that correct?

18 A. [10:14:21] I did not call him on the phone. I myself went to the base and told him that I
19 had gone and I was told that his brother was no longer there, he had already been executed.
20 That is -- when he left the base, he went back to the family home. He left our base and then
21 he returned.

22 Q. [10:14:51] Very well. If I understand you correctly, they themselves did not go to the
23 OCRB?

24 *A. [10:15:01] No, no, no, no. I said to him, "You're a parent, when you get there, there
25 might... there might be something, stay here." Even when I left for the OCRB, I didn't say that

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1 I knew Mr (Redacted). I went there because it was in my area of jurisdiction my area of
2 competence. Because if I said I knew (Redacted), I too would have limited power, I have to
3 protect myself too. That's it.

4 Q. [10:15:43] Very well. What I understand, the body of the dead (Redacted) was never
5 found; is that correct?

6 A. [10:15:52] I said that I informed (Redacted) and he returned home. I did not try to find
7 out whether they found it or not, but it was during the investigation when I was asked
8 whether I could find (Redacted). That's how I went to see him and I asked him whether he
9 could give me his number, because during the investigation, I talked about the "kidnapping
10 of your brother, I do not know whether you found him", because I did not know. Because
11 many people had been killed and found at the * river Oubangui. And he told me that they
12 found the body on the same road. That is what I said, and I indicated, that's what I said. I
13 went -- I went to the family house and I said, "Regarding the kidnapping of your brother", of
14 his brother, "they asked for your number and I gave it to the investigators". They said that
15 they had found the body behind the palace while going towards the mountain of Andja, and
16 it was after that I returned to the OCRB. Actually, it was after that that I found (Redacted).

17 Q. [10:17:34] Thank you, Mr Witness. I have a few questions. If I understand what you
18 said, you informed the (Redacted) family that you were talking about, you told them that you
19 had talked about the kidnapping. With who? The investigators of the OTP at the ICC? Is
20 that what you said?

21 A. [10:18:04] Yes.

22 * Q. [10:18:07] I would like to read paragraph 54 of your prior statement. It is the page following
23 the one that is displayed right now. It's page 8440, and it's still CAR-OTP-2107-8430, paragraph
24 54. It is the next page, yes, page 8440. Yes, that's the one. Perfect. So, at paragraph 54, you say:
25 "I felt obliged to tell (Redacted)'s family what had happened to him. They were devastated

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1 and were crying. They were too scared to go and inquire at OCRB because the situation was
2 extremely tense at the time. Later, his family told me that they had heard that two others
3 had been killed with (Redacted) and that their bodies had been thrown into the river. They
4 have not been able to find (Redacted)'s body to date."

5 Q. [10:19:52] That is what you said in 2019 to the investigators of the OTP. So, my
6 question to you is this: It was after 2019 when you met the OTP investigators, how long
7 after that did you say the body had been found?

8 A. [10:20:13] What I am saying is after the time of the kidnapping of the late (Redacted), his
9 small brother (Redacted) left the base at OCRB Damala and I did not see him again until I met
10 with the OTP investigators. Now, when I finished with the OTP investigators they asked me
11 whether it was possible for me to have the number of the parents of (Redacted). It was at
12 that time that I went to the home of the (Redacted) to take (Redacted) phone number. I
13 found (Redacted) in their family home and I told him that, "The investigators of the OTP
14 needed you". He told me that indeed after he had left our base, they in fact found the body
15 of their brother before the palace, closer to the Andja mountain.

16 Q. [10:21:36] Thank you for that clarification, Mr Witness. It is very clear. I will come
17 back to something that you said yesterday. What is of interest to me is transcript, real-time
18 French version, page 23, lines 23 to 26.

19 A question was put to you:

20 "Q. Are you able to tell the Court how many times you visited the OCRB Central during
21 that period? A. More than four times."

22 * Now, I will read an extract of your prior statement that you gave to the investigators. That
23 is tab 1 on our list, and tab 2 for the English version. It's paragraph 41 that interests me, at
24 page 8438. And for the record, it's CAR-OTP-2107-8430, and I am on page 8438, paragraph 41.
25 And you say:

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1 "In 2013 I went three times to the OCRB Central. The first time was when a military man,
2 called (Redacted), was imprisoned there. The second time was the following day of
3 (Redacted)'s imprisonment, when I went to receive information of his situation. I will explain
4 this incident in detail later. The third time, I was coming back from Camp de Roux where I
5 had delivered some documents to the Etat-Major and I passed by OCRB to greet Said."
6 And I'm done with that document.

7 Do you confirm what you told the OTP investigators, Mr Witness?

8 A. [10:24:06] I remember, I told them that I went to the OCRB three times, but it was four
9 times. But twice I went to the Camp de Roux and I passed by there and two times I went
10 back there. The first day when (Redacted) was arrested I went there, and the day after that I
11 went there also.

12 Q. [10:24:33] Very well. So today you are saying four times; is that correct?

13 A. [10:24:37] Yes, that is correct.

14 Q. [10:24:40] Thank you, Mr Witness.

15 I would like to try and verify some phone numbers with you, please. Can you confirm to us
16 that (Redacted)?

17 A. [10:25:08] (Redacted), no. It is (Redacted).

18 Q. [10:25:16] Very well. Thank you for that clarification, Mr Witness.

19 Now, talking about your phone numbers, and, Court Officer, we would like to display tab 40
20 of our list, CAR-OTP-00000496, page 000003. This can be shown to the witness. Can you
21 scroll up so that we can see the titles? We need to see the number. A little bit down. Yes,
22 that's perfect, thank you.

23 Now, Mr Witness, you see the first number. I'm going to show you a document, a report of
24 the OTP, that attributes phone numbers to you. The first number that is attributed to you as
25 being your number, you can see it displayed there, it is (Redacted). Do you confirm that it is

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1 indeed your number?

2 A. [10:26:58] It is a number of my junior brother, (Redacted). Since it is a good number, I
3 told him to give it to me and I bought a new number for him. So I was using that number.

4 Q. (Overlapping speakers)

5 MS MAKWAIA: [10:27:21] No. Actually, Madam President -- sorry to intervene. For the
6 clarity of the record, because counsel has referred to the first number, she should also inform
7 the witness what the paragraph states in full, so his response is complete.

8 PRESIDING JUDGE SAMBA: [10:27:43] I believe I heard the witness attribute that number
9 to his brother. And that is, if you read the body -- the contents of what's under that number,
10 I think it does speak to what the witness just said. So I understand the witness to have
11 understood what is written under that number.

12 MS MAKWAIA: [10:28:06] If the Chamber is satisfied, then I shall sit.

13 PRESIDING JUDGE SAMBA: [10:28:08] That's how I understand it. Thank you very much,
14 counsel.

15 Ms Naouri, please.

16 MS NAOURI: [10:28:13](Interpretation) Thank you, Madam President.

17 Q. [10:28:16] Now, let's go to the second number that was attributed to you, and that is
18 (Redacted). Do you confirm that this is your number?

19 A. [10:28:27] Yes.

20 Q. [10:28:30] Thank you very much, Mr Witness. Can you tell us what was -- well, did
21 you have any relationship with MINUSCA people to talk about the events that took place in
22 2013?

23 A. [10:28:53] Yes.

24 Q. [10:28:56] Very well. I will show you a document.

25 It is tab 33 of our list, CAR-OTP-00001668. It is an investigator's report, so it can be shown to

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1 the witness, and it is the first paragraph that is of interest to me.

2 So this is an investigator's report. It is written in English, but I will give you an unofficial
3 translation:

4 "It is indicated that on 30 May 2019, Associate Investigator Zsolt Szalay and Assistant Legal
5 Officer Ester Kosova received the following information from (Redacted) (P-2504) in the
6 Central African Republic (CAR): P-2504 provided information to the MINUSCA in relation
7 to the events he witnessed in 2013."

8 Now, my question is to know did you speak with the people of MINUSCA about the same
9 events that you talked about here?

10 A. [10:30:32] No.

11 Q. [10:30:35] Very well. Thank you, Mr Witness.

12 So you told us yesterday - and I'm referring to transcript, real-time version, French version,
13 page 10, lines 25 to 27:

14 "Currently, my current post is, yes, I am the (Redacted)
15 (Redacted)."

16 Could you tell us who your hierarchical superior is today?

17 A. [10:31:10] The director general of the (Redacted).

18 Q. [10:31:25] Very well. Now, who is in charge of (Redacted)
19 (Redacted)?

20 A. [10:31:31] It is Captain -- (Redacted).

21 Q. [10:31:45] Very well. Thank you, Mr Witness.

22 And did you indeed obtain authorisation from your hierarchical superiors or the Central
23 African authorities to collaborate with the investigators of the OTP?

24 A. [10:32:03] Yes. I did receive one authorisation to leave before I came here.

25 Q. [10:32:14] Could you please provide it to us, if we do what we need to do to obtain it?

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1 MS MAKWAIA: [10:32:20] It has become a practice of the Defence team to solicit from
2 multiple Prosecution witnesses all kinds of identifying information, whether it's requests for
3 assistance, that is actually done by the Office of the Prosecutor, or with this witness, his
4 passport. What is the relevance? It's a bit worrying that they're amassing a certain amount
5 of information that is identifying of witnesses that has absolutely no relevance on the bearing
6 of all their testimony. And, if it did, they have already acquired this information.

7 And, in any event, Madam President, we've noticed that if they have got any questions with
8 respect to the identification of the witnesses, they do not then put that particular line of
9 questioning so the witnesses can then defend themselves. So we object to this request for an
10 RFA that is actually done by the Office of the Prosecutor.

11 PRESIDING JUDGE SAMBA: [10:33:24] I had wanted to ask really what's the relevance of
12 wanting to see the authorisation for his presence here today. What's important for the Court
13 is him being here to testify as to, you know, what happened in CAR during the period
14 concerned. What really is the relevance - if it were no other document - but that particular
15 document of authorisation, how does it -- how is it linked, actually, to the crimes for which
16 we are finding information here?

17 MS NAOURI: [10:33:54](Interpretation) Well, to respond to your question,
18 Madam President, this witness is testifying in his capacity as (Redacted). He is explaining
19 the post that he had and why it is that he was at a specific post in the CAR in 2013, saying
20 that -- or presenting himself that he was a (Redacted) and whether he occupied a specific post
21 or not at a given moment in time. If we ask for the authorisation of his superiors, then we
22 can find out whether he did occupy an official post, whether he had the specific
23 authorisations. This is really a kind of classic investigation that we have done in all cases up
24 to now.

25 Now, I can't say too much about it, but the names that have been given to us about the

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1 witness does not correspond to the information that we have as to the people who are in
2 charge and who their hierarchical superiors are. So if we obtain an authorisation document
3 to verify whether the names are -- on the document, whether they corroborate or whether
4 there are problems in his testimony, that is my responsibility. I need to assess whether the
5 witness is telling us the truth as to his status as a (Redacted).
6 And the same applies to the passport. I believe that we are all in agreement to say that
7 somebody who comes to testify before the ICC must be in a position to identify him or herself.
8 It is up to the OTP to ask for the passport and it is up to -- and to show us a valid ID. This is
9 what happens in every case in France, a valid ID is shown. Here we have a military card
10 that has disappeared, so, of course, there is a scan that was made of it but has disappeared as
11 well. There was also another military card, but we're not being presented, quite simply,
12 with his passport. From the moment in time that I have a passport, then I have no further
13 questions. I will accept the passport, the witness has identified himself. I don't have any
14 line of questioning. If he tells me that he has a passport. Very well, we tender it into
15 evidence and we are sure that is (Redacted) and it's his passport. That is our job.
16 As for his qualities and his qualifications, I'm not going to say much more here in order not to
17 influence his testimony, but we did obtain information during the cross-examination that
18 casts doubt as to some of the posts that he occupied. And if we see the post that he is
19 occupying currently, it will be able for us to see that this was corroborated by the
20 authorisation given by his superior.
21 So, we need to know whether he did receive authorisation from his hierarchical superior,
22 which will enable us to verify who these superiors are and which post he currently occupies.
23 Thank you, Madam President.
24 PRESIDING JUDGE SAMBA: [10:36:45] There is certainly another way of knowing who his
25 superiors are, if you have any doubts, instead of you requiring an authorisation form for him

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1 coming here. And, as far as I know it, this witness has told the Court that he's got a passport,
2 which he is willing, if it has not been -- if a copy has not been given to you, which he's willing
3 to give to you. He has also told you that he's got an identity document as to his post, which
4 he did not bring here with him. It's not here in The Hague with him. But he did confirm or
5 agree with you that, when he goes back, he'll give you a copy of it or a scanned copy.

6 So, really, I don't see why you would need his authorisation for him being here. What's
7 important is that he's here to testify before the Court.

8 I'll ask that you continue with your cross-examination and there's no need for him giving us
9 any authorisation for him being here. He is here, we are happy that he is here, to help the
10 Court. Please carry on with your cross-examination. Thank you.

11 MS MAKWAIA: [10:37:54] Thank you for that ruling. But just an additional point on this:
12 It is standard practice in cross-examination when asking a witness about his identity, and
13 now we've heard from counsel that they may be thinking or doubting that he is not who he is
14 or he has not occupied certain positions that he said he had occupied, it is standard practice to
15 then put it to him, these propositions, so then the Chamber can hear from the witness and
16 ultimately make the assessment they're required though do when they are deliberating.

17 PRESIDING JUDGE SAMBA: [10:38:35] Thank you very much, counsel.

18 Ms Naouri, please continue with your cross-examination.

19 MS NAOURI: [10:38:41](Interpretation) Thank you, Madam President.

20 Q. [10:38:46] Now, the last item or matter that I'm going to broach with you, Mr Witness,
21 today, I'm going to come back to what you said to the OTP with regard to the Anti-Balaka.
22 And you said to us yesterday - that's transcript T-63, page 40, lines 3 to 12 - in response to the
23 question:

24 "Very well, do you know who headed up the Anti-Balaka?"

25 Answer:

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1 "Well, the Anti-Balaka were headed up by two or three individuals. Others are under the
2 command of Ngaïssona, others are under the command of Mokom and others are under the
3 command of Wenezoui. So there were three individuals who -- well, there are three
4 Anti-Balaka groups. The Anti-Balaka are divided into three. There are those who support
5 Ngaïssona, those who support Mokom and those who support Wenezoui." End of quote.

6 So, Mr Witness, if I understand correctly, you have a lot of information with regard to the
7 functioning and the structure of the Anti-Balaka; is that correct?

8 A. [10:40:05] Not all information.

9 Q. [10:40:10] Very well. I'm going to be reading an excerpt of your prior statement.

10 That's tab 1 of our list of notifications, so CAR-OTP- -- page 84.

11 THE INTERPRETER: [10:40:30] Could counsel please repeat the reference which she reeled
12 off at the speed of light.

13 THE COURT OFFICER: [10:40:37] Could you please repeat the reference for the interpreter?

14 Thank you.

15 MS NAOURI: [10:40:44](Interpretation) Of course. It is paragraph 71 from the prior
16 statement of the witness, which is tab 1 for the French version, tab 2 for the English version,
17 page 8438, page 8443.

18 Sorry, that was a mistake in my document. It is paragraph 71, indeed, that is of interest to
19 us.

20 Q. [10:41:24] So I'm going to be reading it to you:

21 "I heard from Anti-Balaka members that the Seleka" -- "sic", that means that it's perhaps not
22 what you meant to say -- "had the following structure. Ngaïssona was the General
23 Coordinator of the Anti-Balaka. The Assistant Coordinator was Papa Dié, currently the
24 Minister of Art and Tourism. Andjilo [was in charge of] Boy-Rabe. Bawa was ruling over
25 Combatant in the 8th Arrondissement. Edjezekane was ruling over the 5th Arrondissement.

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1 Thierry, nicknamed 12 Puissances, ruled the 6th Arrondissement. Eddy ruled [...] Gobongo
2 and PK12. All of them were under the coordination of Ngaïssona. Another coordinator
3 appeared later on who was not under Ngaïssona. His name is Maxime Mokom who is
4 currently the Minister of Disarmament. He lives at Cite Jean [in the] XXIII. There is a third
5 coordinator who is the former Minister of Environment Wenezoui, who works in
6 collaboration with Rambho".

7 Do you confirm what you said to the investigators of the Office of the Prosecutor,
8 Mr Witness?

9 A. [10:43:04] Yes.

10 Q. [10:43:08] And you obtained this information after the fall of Djotodia, did you not?

11 A. [10:43:17] Yes.

12 Q. [10:43:20] Very well. And you have relations with Bawa, do you not?

13 A. [10:43:32] Yes.

14 Q. [10:43:35] What was Bawa's role in the Anti-Balaka, to your knowledge?

15 A. [10:43:43] Well, I knew a little bit about him because when the Anti-Balaka occupied the
16 town of Bangui, or the city of Bangui, as I told you in my statement, I sought exile in the
17 Sica 3 neighbourhood with my parents. But Bawa is a brother of the neighbourhood. We
18 live in the same neighbourhood, Combattant, and I have information about him with regard
19 to my brother who fell on the battlefield. He was the one who collaborated a lot with him,
20 and he informed me about what he did. He is the chief of the Anti-Balaka of the
21 8th arrondissement.

22 THE INTERPRETER: [10:44:40] The witness provided the name of his brother, (Redacted)
23 (phon), and the rest was inaudible.

24 MS NAOURI: [10:44:55](Interpretation)

25 Q. [10:44:56] Mr Witness, could you please say the name of your brother again because the

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1 interpretation did not have the time to hear it.

2 A. [10:45:03] It was my younger brother, the deceased, (Redacted). He was the one who
3 collaborated a lot with him, because it was, or he was, our neighbour.

4 Q. [10:45:25] Very well. Thank you very much for that clarification.

5 Now, you had relations with Sebastian Wenezoui, did you not?

6 A. [10:45:39] I did not entertain intimate relations with him, but it was through
7 Touazoumbona, a sergeant, a military man, that I met once or twice Mr Wenezoui.

8 Q. [10:46:12] Very well. Thank you for that clarification, Mr Witness.

9 Now, I would like to show to you a document, Mr Witness. This is number 45 on our list.

10 And, Madam Courtroom Officer, to make things easy, we are going to have a look at this
11 document. It's number tab 45 on our list, CAR-D33-0014-0324, and we're going to be in
12 charge of this document.

13 So this is an Excel table that we prepared on the basis of information that was available to us
14 with regard to the call-data records in the Nuix database and the sources that we used are
15 indicated in a dedicated column of this Excel table.

16 THE COURT OFFICER: [10:47:10] The Defence has the floor evidence channel 2. The court
17 clerk is currently displaying evidence channel 2 to open this. Thank you.

18 MS NAOURI: [10:47:26](Interpretation)

19 Q. [10:47:27] And here we have calls that are attributed to number 75 that which you
20 identified to us as being yours -- (Redacted). So between that number and a number
21 attributed to Sebastian Wenezoui. You can see the dates column in the second column.
22 You can see that (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 So, my question to you is: Do you remember all these communications with Wenezoui in

16 2014 and what did you talk about?

17 A. [10:50:38] Thank you. Well, I'm going to answer this to you. I told you at an earlier

18 stage that I knew Wenezoui through a sergeant by the name of (Redacted), and at that time,

19 this was during the transitional phase from the former President Samba-Panza. I can't talk

20 to you about the post that I unofficially occupied in that country.

21 At that point in time, (Redacted)

22 (Redacted). So my ethics could not tell you

23 what I was doing unofficially. I can tell you what I was doing officially.

24 Well, if you have the audios from these calls, it was to bring him together with President

25 Samba-Panza.

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1 Q. [10:51:51] That is more than enough for me, Mr Witness. Thank you for that
2 clarification.

3 So, (Redacted)- and I'm sorry if I mispronounced that - he is also witness of the events of *Tapis*
4 *rouge*, is he not?

5 A. [10:52:09] Yes, but during that time I did not see him, and it was only subsequently that
6 he told me that he was also there when things unfolded. But I didn't see him when I got
7 there.

8 Q. [10:52:29] Very well.

9 And after the disarmament operation in Damala, he, (Redacted), integrated an Anti-Balaka
10 group in Boeing, did he not?

11 A. [10:52:41] I did not see him during that period when he was an Anti-Balaka. It was
12 only when the Anti-Balaka had come to an end and that he had gone back to work that I saw
13 him in the company of Wenezoui when he came to give me a document to President
14 Catherine Samba-Panza, and when he was -- became minister of the environment, he took
15 (Redacted).

16 Q. [10:53:13] Very well. And more recently you collaborated or worked together - I'm
17 going to make a mess of his name again, I do apologise - with (Redacted), you worked with
18 him again?

19 A. [10:53:24] Yes, Touazoumbona is my brother from the church. He is my brother, my
20 religious brother, if you like.

21 Q. [10:53:37] Very well. I'm going to show you another document, it's document number
22 49 on our list, CAR-D33-0014-0295.

23 So, we are going to be looking at the first page, first and foremost. This is a statement
24 published in *Fraternité* -- I see that you do not have it yet, I'm going to wait.

25 So this is a statement published in (Redacted)

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- 1 (Redacted)
- 2 I'd like for us to go to page (Redacted).
- 3 PRESIDING JUDGE SAMBA: [10:54:42] Yes, Madam Prosecutor.
- 4 MS MAKWAIA: [10:54:43] Madam President, this article is published in 2021 from -- the
- 5 counsel has got the source. We are objecting with respect to it's outside the scope of the
- 6 charges against the accused.
- 7 PRESIDING JUDGE SAMBA: [10:54:57] Well, I don't know -- she was just referring us to a
- 8 page. You don't know what question she wants to ask. I note the year 2021, but referring
- 9 us to a page, I don't know which page counsel just referred to, maybe it is to do with
- 10 something within the temporal scope.
- 11 MS MAKWAIA: [10:55:22] I shall then enter my objection if that is not the position, your
- 12 Honour.
- 13 PRESIDING JUDGE SAMBA: [10:55:26] Yes, let's wait. Thank you.
- 14 Ms Naouri, please.
- 15 MS NAOURI: [10:55:30](Interpretation) Thank you, Madam President.
- 16 Q. [10:55:33] Yes, I was going to page (Redacted), because I had established the foundation
- 17 of the nexus between the report and (Redacted) and the witness, and it is important to
- 18 understand how these relations evolved and the role of each and every one of them.
- 19 Now, on this page, (Redacted), if you could go up somewhat, Madam Courtroom Officer --
- 20 MS MAKWAIA: [10:56:06] Objection, Madam President. The events counsel is about to
- 21 put to this witness -- sorry, let me go to the English channel. I'm hearing the French.
- 22 The events counsel is about to put to this witness in cross-examination, and she's told your
- 23 Honours that this is an evolution, these are events that occurred after 2023. There is no
- 24 linkage whatsoever to the charges against Mr Said.
- 25 PRESIDING JUDGE SAMBA: [10:56:32] Well, we will allow the witness to say that, counsel.

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1 We will allow the witness to say that.

2 Ms Naouri, please continue.

3 MS NAOURI: [10:56:41](Interpretation) Thank you very much, Madam President.

4 So what I was saying is that we need to scroll up somewhat on the document, please. Oh,

5 sorry, I mean scroll down. Oh, dear. Yes, of course, we need to scroll down towards the

6 part in bold. Stop. That's a little bit too far. That's where it was. Perfect. A little bit

7 further down. I would like the first sentence that precedes the colon, please.

8 So "This operation, need we to remind you, is placed under the auspices of the brave and

9 dignified sons of the country".

10 We see * a number of names, we see the "(Redacted)".

11 Q. [10:57:43] Can you confirm that it was you in this article?

12 A. [10:57:52] Yes, it is indeed me.

13 Q. [10:57:54] And can you confirm that you collaborated with all of the names that we see

14 here, Nganazoui, Ngaikosset, et cetera?

15 MS MAKWAIA: [10:58:09] Excuse me, for the clarity of the record, Madam President, can

16 we have the time period when it is he is being asked if he collaborated with these

17 individuals?

18 PRESIDING JUDGE SAMBA: [10:58:19] Yes, Ms Naouri, what time are we looking at?

19 Certainly not 2021.

20 MS NAOURI: [10:58:24](Interpretation) Well, I am laying a foundation to go back in time, to

21 obtain the information that I need and to confront him with things that he said yesterday.

22 Because I want to confront him with something that he said on the transcript yesterday. We

23 need to know whether he collaborated, as is indicated in this article, with these individuals in

24 2021.

25 MS MAKWAIA: [10:58:51] This is why I entered an objection, Madam President. This

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1 article is with respect to events post-2013. As reported in this article, it is 2021. So if
2 counsel can just situate the time frames, then we will sit and listen and be guided by the
3 Chamber.
4 MS NAOURI: [10:59:12](Interpretation) Well, Madam President, I've been told that I
5 was -- it was not interpreted that I have follow-up questions. It seemed important for me to
6 say that.
7 And, secondly, I am starting to get a little bit worried because the credibility of the witness is
8 my -- it is my right to test it, to test the credibility of the witness during the hearing. We are
9 not talking only about what happens in the charges. This is my job.
10 We have somebody in front of us. I'm not asking many questions and I would quite frankly
11 have finished had objections not been raised. I'm not spending too long on it. I'm going to
12 be using a transcript where he says himself in response to the OTP that today * (Redacted)
13 (Redacted). So he is asked what he does today. He
14 tells us: "(Redacted)
15 (Redacted). And I refer to the transcript, page 59 line 26 to page 60 line 16. I'm asking him a
16 follow-up question. I have a foundation. I'm putting a document.
17 This is the creditability of the witness that is at stake. It is my job. Of course there are
18 going to be questions that did not occur specifically in 2013. I've done an extremely targeted
19 cross-examination. It's very clear. We have come back to the incident, we have come back
20 to many important things, but also with regard to the credibility of the witness, and now we
21 have three questions of credibility to put which are fundamental.
22 It is my job, it is my responsibility, to defend as a defender and counsel for Mr Said to
23 examine his credibility. It's part of the investigation. It is also part of my defence strategy
24 that I do not have to tell the OTP, but it will be very clear in our final brief, that all of these
25 questions are really classic. I'm doing my job in the most classic way possible and if I am

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1 stopped from doing so, then there will be consequences.

2 PRESIDING JUDGE SAMBA: [11:01:24] Whatever the consequences may be, Ms Naouri, I

3 don't know what consequences you are referring to, but nobody's stopping you from doing

4 your job, just so that you have that clear. We do know that this is a criminal trial and we do

5 know that you are there to defend your client the best you could.

6 The only thing we are -- I mean, as a bench, we are wanting to know, and to be fair with the

7 witness, for the witness to understand, is that this document that you now refer to, and this

8 particular page of (Redacted), is a collaboration of this witness with these persons in 2021. If

9 you can confirm that, then we also as a Chamber are guided, and then I could understand

10 what counsel for the Prosecution is saying. It will be left for us to see what weight, if any at

11 all, we will put to that kind of testimony. I mean, when that time comes at the end of this,

12 when we are doing or Article 74.

13 But I don't know how much time more you want -- you have with this witness. I don't know

14 whether your indication is that you were going to finish off with this witness at this session

15 had counsel for the Prosecution not raised an objection. So if that is your position -- may I

16 ask, is that your position, can you first confirm, please, as to time?

17 MS NAOURI: [11:02:56](Interpretation) That is precisely my position. I will finish three or

18 four questions left. And I would have finished if I had not been interrupted on this question.

19 PRESIDING JUDGE SAMBA: [11:03:07] Thank you very much. Madam Court Officer.

20 THE COURT OFFICER: [11:03:16] We are still in private session.

21 (Discussion between the Chamber and the court officer)

22 COURT OFFICER: [11:03:35] Could my colleagues confirm that we could extend by 15 to

23 20 minutes? Thank you very much.

24 Madam President, my colleagues just agreed to extend the session by 15 to 20 minutes.

25 Thank you.

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1 MS NAOURI: [11:03:54](Interpretation) I'm sorry, Madam President, I would need to
2 consult my client, because it may not be possible for him to remain seated for another
3 15 minutes. I think we have to have a margin of security.

4 PRESIDING JUDGE SAMBA: [11:04:13] That's okay. Please check with him.

5 MS NAOURI: [11:04:26](Interpretation) I'm sorry, with all the goodwill in the world, it will
6 be very difficult for him to keep on for a bit further.

7 PRESIDING JUDGE SAMBA: [11:04:37] That's understandable. In which case, thank you
8 very much, Madam Court Officer, and thank you very much interpreters. I'm going to ask
9 that we come back in 30 minutes so that Mr Said can rest a bit.

10 Mr Witness, we'll finish off with you hopefully in the next session.

11 So I rise the Court for 30 minutes, please. Thank you.

12 (Recess taken at 11.05 a.m.)

13 (Upon resuming in open session at 11.34 a.m.)

14 THE COURT USHER: [11:34:54] All rise.

15 Please be seated.

16 PRESIDING JUDGE SAMBA: [11:35:17] Good morning, again, everyone.

17 Mr Witness, we are going to continue with your cross-examination by counsel for the Defence,
18 Ms Naouri.

19 Ms Naouri, your witness. And, Ms Naouri, if you have questions certainly that you want
20 to -- this witness to clarify, maybe you have other information that other witnesses may have
21 given. I mean, you have a right, actually, to put it to him so that, you know, he can give
22 some clarifications as to information that you may want to solicit without naming the names
23 of those witnesses, as you've been doing. Just saying. But otherwise, please continue with
24 your cross-examination.

25 MS NAOURI: [11:36:23](Interpretation) Thank you very much for that clarification.

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1 Q. [11:36:27] Mr Witness, I would like to go back to where we stopped before the break
2 and I will show you a document.

3 I don't know whether it's confidential or not. It is tab 49 in our list. It is -- we were on
4 the page {PFR: (Redacted)} and it is CAR-D33-0014-0295.

5 I have just been told that we were in public, so, Madam President, maybe we should go into
6 private session, because it is potentially identifying.

7 PRESIDING JUDGE SAMBA: [11:37:15] That's okay.

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

9 (Private session at 11.37 a.m.)

10 THE COURT OFFICER: [11:37:21] We are in private session, your Honours.

11 PRESIDING JUDGE SAMBA: [11:37:34] Thank you very much.

12 Ms Naouri, your witness, please.

13 MS NAOURI: [11:37:39](Interpretation) Thank you, Madam President.

14 Q. [11:37:41] Once again, if you can go down towards the bottom. Perfect.

15 Mr Witness, let's go back to the names listed here. If I understand well, it is an article of
16 July 2021. So you collaborated in July 2021, for example, with Captain Eugene Ngaikosset; is
17 that correct?

18 A. [11:38:14] Here, I can see the list of the (Redacted)

19 (Redacted). Some names have been mentioned, but the person who published this
20 newspaper, I really do not understand why he included the name of Captain Eugene

21 Ngaikosset and Captain Herve Nganazoui, because during that period they only came to see
22 how things were going. They were not members (Redacted), and they

23 came frequently and the minister of defence issued a note indicating that they should not take
24 part in that (Redacted) because their presence was sensitive. So they had been coming, but I

25 don't know who included those names in the list to be published. So, with the minister of

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1 defence and others, it was some names only, but the minister of defence had asked that those
2 two should be excluded because they came about two times or so to see how things were
3 going on, but they were not members of (Redacted).

4 Q. [11:39:48] Very well. It is clear. Thank you for that clarification. It is very useful.
5 You said that they are not members of the (Redacted) and that it was sensitive. Why would
6 the presence of Ngaikosset and Nganazoui be sensitive, would it be because of certain
7 positions that they occupied in 2013-2014, maybe?

8 A. [11:40:17] Well, when we were carrying out this operation, they were not part of it and,
9 quite suddenly, we saw them infiltrate during that period, and their presence was sensitive
10 and the minister of defence asked that they should return home and not follow up the
11 (Redacted).

12 Q. [11:40:47] Very well. Do you have any examples of incidents in which Ngaikosset and
13 Nganazoui tried to infiltrate the (Redacted)? And I'm thinking * about 2014, 2015, maybe
14 2013. Do you have any examples of their attempts to infiltrate that (Redacted)?

15 * A. [11:41:15] During that period, (Redacted) took place on the (Redacted) at (Redacted),
16 and they were seen coming towards us. We told them no, that this operation did not concern
17 them.

18 Explanations were given to the minister of defence, who ordered that they should be
19 sidelined.

20 Q. [11:42:06] What is the role --

21 A. [11:42:07] Please, repeat your question. I did not understand you.

22 Q. (Overlapping speakers)

23 PRESIDING JUDGE SAMBA: [11:42:21] Sorry, Counsel, can you -- can you repeat your
24 question for the interpreter. I did not understand it.

25 MS NAOURI: [11:42:24](Interpretation) Yes. Very well, very well. I will repeat the

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1 question.

2 Q. [11:42:31] We have talked about Wenezoui, who had given information for
3 Samba-Panza. Ngaikosset, which role did he play in 2014 under Samba-Panza?

4 A. [11:42:51] I do not know the role that Ngaikosset played during the tenure of former
5 president Samba-Panza.

6 Q. [11:43:08] Very well. And Captain Herve Nganazoui, do you know what he was doing
7 under Samba-Panza?

8 A. [11:43:14] No, no.

9 Q. [11:43:26] Can you scroll the document. Stop there. Stop there.

10 Mr Witness, I would like to ask you about Ringui Le Gaillard, whose name is there. What
11 was his role in 2013, 2014 under Djotodia or Samba-Panza?

12 A. [11:43:53] I do not know his role under Samba-Panza.

13 Q. [11:44:01] And the same question concerns Clotaire Adramane Baron?

14 A. [11:44:11] I did not know.

15 Q. [11:44:15] I was just looking for the last name.

16 The name Balemya, what was he doing during the Djotodia tenure?

17 * A. [11:44:56] Yes. Balemya is a gendarme, so during the time of Samba-Panza, after the
18 resignation of Djotodia, he joined the Balaka. Unfortunately, today, his soul is departed, he is
19 no more, so I cannot say very much.

20 MS NAOURI: [11:45:19](Interpretation)

21 Q. [11:45:19] The last question on that topic. Did he provide you information during that
22 period on what he was doing in the Anti-Balaka?

23 A. [11:45:25] No, he was not providing me any information.

24 Q. [11:45:29] Mr Witness, I was waiting for the end of the interpretation. That was my last
25 question for you, and I thank you.

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- 1 A. [11:45:47] Okay.
- 2 PRESIDING JUDGE SAMBA: [11:45:51] Well, thank you very much, Ms Naouri.
- 3 Ms Makwaia, do you have any questions in re-examination?
- 4 MS MAKWAIA: [11:46:01] Thank you, your Honours. We don't have any questions in
- 5 re-examination for the witness.
- 6 PRESIDING JUDGE SAMBA: [11:46:05] Thank you very much.
- 7 Now, Mr Witness, I'm going to ask my colleagues on the Bench to put a few questions to you.
- 8 Maybe one or two.
- 9 Judge Ugalde?
- 10 JUDGE UGALDE: [11:46:24] Thank you, Mr Witness.
- 11 Thank you, Madam President.
- 12 I just have one question that I would like to clarify, if it is possible. So, the question is:
- 13 How long did it take you to go from OCRB Damala to *Tapis rouge*?
- 14 THE WITNESS: [11:47:19](Interpretation) I really do not understand that question.
- 15 Perhaps you could kindly rephrase it, please.
- 16 JUDGE UGALDE: [11:47:37] I don't have the exact words that you used, but if I recall
- 17 correctly, in your testimony you stated that after you were contacted by phone and the
- 18 brother of (Redacted) called you, you told him to go to see you at the OCRB in Damala, and
- 19 that then you took some bikes and then you biked all the way to Tapis Rouge, where you saw
- 20 his brother being detained by the Seleka.
- 21 So the question that I'm asking you is if you remember how long it took you to bike from the
- 22 OCRB Damala to Tapis Rouge?
- 23 I mean, did it take you a few minutes, 15 minutes, 10 minutes, five minutes? How long did
- 24 it take you to go from the OCRB Damala to Tapis Rouge on that day?
- 25 * THE WITNESS: [11:48:57](Interpretation) On the motorcycle, it was less than five minutes.

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- 1 It took me less than five minutes. I would say four minutes.
- 2 JUDGE UGALDE: [11:49:12] Okay. Thank you, Mr Witness. That's all I have to ask.
- 3 Thank you so much.
- 4 Thank you, Madam President.
- 5 PRESIDING JUDGE SAMBA: [11:49:18] Thank you very much, Judge Ugalde.
- 6 Judge Flores Socorro says she has no question for you.
- 7 Ms Naouri, I'm sure you have no follow-up question from Judge Ugalde's question.
- 8 So, Mr Witness, on behalf of the Chamber I want to thank you very much.
- 9 Madam Court Officer, can we go back into open session, please. Thank you.
- 10 (Open session at 11.49 a.m.)
- 11 THE COURT OFFICER: [11:49:44] We are back to open session, Madam President.
- 12 PRESIDING JUDGE SAMBA: [11:49:57] Thank you very much.
- 13 Mr Witness, on behalf of the Chamber, I would wish to thank you very much for your being
- 14 here today and helping us in our efforts to find the truth of what happened in CAR during
- 15 the period under consideration.
- 16 We wish you the very best and wish you safe travelling mercies. We wish you well in your
- 17 future endeavours.
- 18 (The witness is excused)
- 19 PRESIDING JUDGE SAMBA: [11:50:23] On that note, I'm going to rise the Court and ask
- 20 that we come here again on 15 May to hear the Prosecution's next witness, supposedly the
- 21 26th witness, if I'm not mistaken.
- 22 Thank you very much. Thank you, Counsel. Thank you, interpreters. We wish you all a
- 23 very happy Easter. Thank you.
- 24 THE COURT USHER: [11:50:51] All rise.
- 25 (The hearing ends in open session at 11.51 p.m.)