

Trial Hearing
WITNESS: CAR-OTP-P-1528

(Private Session)

ICC-01/14-01/18

1 International Criminal Court
2 Trial Chamber V
3 Situation: Central African Republic II
4 In the case of The Prosecutor v. Alfred Rombhot Yekatom and Patrice-Edouard
5 Ngaïssona - ICC-01/14-01/18
6 Presiding Judge Bertram Schmitt, Judge Péter Kovács and Judge Chang-ho Chung
7 Trial Hearing - Courtroom 1
8 Wednesday, 23 November 2022
9 (The hearing starts in private session at 9.35 a.m.)
10 THE COURT USHER: [9:35:16] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE SCHMITT: [9:35:33] Court officer, please call the case.
14 THE COURT OFFICER: [9:35:39] Good morning, Mr President, your Honours.
15 Situation in the Central African Republic II, in the case of The Prosecutor versus
16 Alfred Yekatom and Patrice-Edouard Ngaïssona, case reference ICC-01/14-01/18.
17 And we are in private session.
18 PRESIDING JUDGE SCHMITT: [9:35:54] Thank you.
19 The appearances of the parties, first.
20 MS BERDENNIKOVA: [9:36:01] Good morning, your Honours. Good morning,
21 everyone who is present. This morning the Prosecution is presented by Sylvie
22 Wakchom, Kweku Vanderpuye, Yassin Mostfa and myself, Maria Berdennikova.
23 PRESIDING JUDGE SCHMITT: [9:36:11] Thank you.
24 I turn to the representatives of the victims.
25 MS DOUZIMA-LAWSON: [9:36:18](Interpretation) Good morning, Mr President,

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1 your Honours. The victims of the other crimes are represented by Mr Enrique
2 Carnero and myself, Ms Douzima.

3 PRESIDING JUDGE SCHMITT: [9:36:32] Thank you.

4 Mr Suprun next.

5 MR SUPRUN: [9:36:35] Good morning, Mr President, your Honours. The former
6 child soldiers are represented by myself, Dmytro Suprun, counsel at the Office of
7 Public Counsel for Victims. Thank you.

8 PRESIDING JUDGE SCHMITT: [9:36:42] Thank you very much.

9 I turn to the Defence. Ms Dimitri first.

10 MS DIMITRI: [9:36:47] Good morning, Mr President. Good morning,
11 your Honours. Good morning, everyone in the courtroom. Mr Yekatom is present
12 in the courtroom this morning, and he is represented by Ms Anta Guissé,
13 Florent Pages-Granier, Ms Raphaël Godue and myself, Mylène Dimitri.

14 PRESIDING JUDGE SCHMITT: [9:37:06] Thank you.

15 Mr Knoops.

16 MR KNOOPS: [9:37:08] A very good morning, Mr President, your Honours,
17 everyone in the courtroom. We are appearing today on behalf of Mr Ngaïssona
18 with Ms Marie-Hélène Proulx, Michael Rowse, Ms Despoina Eleftheriou and
19 Mr Simon Décot.

20 PRESIDING JUDGE SCHMITT: [9:37:26] Thank you.

21 And, most importantly, we are here because we have a new witness, and this is
22 Mr Ndiaye. Good morning, Mr Ndiaye. Can you hear and understand me well?

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24 (The witness speaks French)

25 (The witness gives evidence via video link)

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1 THE WITNESS: [9:37:50](Interpretation) Good morning. Good morning.

2 PRESIDING JUDGE SCHMITT: [9:37:51] So I understand that we have a good
3 connection, that you -- we hear you very well. I understand that you hear me too.

4 THE WITNESS: [9:38:04](Interpretation) Yes, I can see you and I can hear you.

5 PRESIDING JUDGE SCHMITT: [9:38:07] Thank you very much.

6 So just an explanation, transparency for the parties. The witness has refused to
7 testify without protective measures, and I have to address that on behalf of the
8 Chamber, so that you know what's going on now and are not surprised by it. I
9 didn't know that you don't know, frankly speaking. I have just been informed.

10 Mr Ndiaye, the Chamber is grateful that you have appeared today to help establish
11 the truth in this case. The Chamber has been informed that during your last meeting
12 with the Prosecution in June 2022, this year, you indicated that you were willing to
13 testify openly, without the need for in-court protective measures.

14 Did something happen after this meeting with the Prosecution that made you change
15 your mind? Has someone threatened you or your family in connection with your
16 cooperation with the Court?

17 THE WITNESS: [9:39:18](Interpretation) No, not at all. (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 PRESIDING JUDGE SCHMITT: [9:39:57] Yeah. So this is exactly the information
24 that I have. So, Mr Ndiaye, on behalf of the Chamber, of the judges, I would like to
25 address you on that matter, and please listen carefully. When I mean the judges, it's

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1 to my right, Judge Péter Kovács; to my left, Judge Chang-ho Chung; and myself,

2 Judge Bertram Schmitt. Transparency, Mr Witness, Mr Ndiaye, is extremely --

3 THE WITNESS: [9:40:25](Interpretation) Pleased to meet you.

4 PRESIDING JUDGE SCHMITT: [9:40:27] Transparency, Mr Ndiaye, is extremely

5 important in the proceedings before this Court. The people in your country have a

6 right to hear and understand what happened during the crisis in 2013 and 2014.

7 This is the reason why this Court needs witnesses that testify openly so that your

8 people in your country can follow and can understand what happened.

9 The Victims and Witnesses Unit has carried out an assessment of your security

10 situation and has concluded, based on the information that you provided, that there is

11 no need for in-court protective measures. You yourself said that you have not

12 received any threats. We have the information (Redacted) and, very importantly,

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 The Chamber, we the judges, also note that you are a religious leader, an imam of a

17 mosque in Bangui. Let me assure you - this case is going on since last year

18 already - that it is in the very nature of the cases dealt at this Court, and specifically

19 also in this case, that high-profile witnesses testify to assist the Chambers. And you,

20 as one such high-profile witness, will play a crucial role in assisting the Chamber in

21 its determination of the truth. That is our mandate, to find out, really, what

22 happened to establish the truth.

23 As a religious leader, I am convinced, and we are convinced, that you recognise the

24 importance of dealing before this Court with the violence committed in your country.

25 We had other religious leaders from your country who testified openly, and I would

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1 ask you to reconsider your decision, because -- we understand, of course, that you
2 have concerns. That is absolutely normal. However, by testifying publicly, you
3 will send a clear signal of support for dealing with the violence committed in your
4 country and is on the basis of the very premises of the Court, namely, as I have
5 mentioned several times, to establish the truth, to end impunity and, importantly, to
6 preserve public trust and confidence in international justice.

7 This was a long speech, Mr Ndiaye, but I wanted to explain to you on behalf of the
8 Chamber what is at stake. And, as I said before, we would kindly ask you to think
9 about this. Perhaps my words have to settle a little bit. So we have a break of, let's
10 say, 10, 15 minutes, and please tell our Registry people who are at the location then
11 when we can continue and, please, as I said, decide that you testify publicly.

12 Thank you for the moment. We have, as I said, this break for 10 minutes, 15 minutes,
13 and then we sit.

14 Ms Dimitri, shortly, yeah.

15 MS DIMITRI: [9:44:31] Mr President, while we -- while the witness reflects, can I use
16 this -- two minutes of the ten-minute break to address your Honour in public? And
17 it has nothing to do with the witness. So the witness could step out and reflect on
18 what you said.

19 PRESIDING JUDGE SCHMITT: [9:44:47] Yeah, perhaps we --

20 MS DIMITRI: [9:44:47] It's just the proposition to use the time.

21 PRESIDING JUDGE SCHMITT: [9:44:50] Yeah, we can do that.

22 So, Mr Witness, we will disconnect you now for the moment. And, as I said, please
23 consider my words that are sincerely and honestly, and we hope that you'll change
24 your mind. Thank you very much.

25 (The witness exits the video-link room)

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1 PRESIDING JUDGE SCHMITT: [9:45:18] Can we go to public session then.

2 (Open session at 9.45 a.m.)

3 THE COURT OFFICER: [9:45:42] We are back to open session, Mr President.

4 PRESIDING JUDGE SCHMITT: [9:45:44] Thank you.

5 Ms Dimitri.

6 MS DIMITRI: [9:45:45] Thank you, Mr President.

7 As I said, I will only take two minutes, and it's an issue that has a direct impact on

8 Mr Yekatom's fair trial rights. And more importantly, it's, in my opinion, an issue

9 that merits two minutes of public awareness in light of the Registry's lack of response.

10 As your Honours are aware, given the email you received yesterday from the

11 Yekatom Defence support staff, counsel and Defence support staff are working under

12 a framework of a legal aid policy that was adopted in 2013, almost 10 years ago. It's

13 outdated and it's inadequate.

14 In 2020, an independent expert review identified legal aid as a priority, your Honours.

15 And it noted that further matters need to be urgently addressed before it can truly be

16 said that the Defence is accorded the respect and fair treatment that its important role

17 in the Court merits.

18 The substantial disparity, your Honours, between the OTP and the Defence pay rates

19 has a direct impact on team productivity and motivation. Since team members are

20 paid at roughly 70 per cent of their OTP counterparts, they are effectively working an

21 extra 30 per cent for free. This is simply not tenable.

22 Now that we are entering a period of significant inflation and very high electricity

23 and heating costs, their living wage is on the cusp of becoming unlivable. Every

24 person in this court, except for the Defence, has received at least one salary increase,

25 notably to take into account the inflation.

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1 The status quo of the Defence members, which is the 2013 remuneration rate and
2 working conditions, will have a direct impact on my ability to retain those skilled
3 team members at a crucial juncture of these proceedings.

4 Mr Yekatom already lost two team members who left because of the working
5 conditions. One of those team members went and worked for the Registry because
6 they offer, for the same work, better working conditions.

7 If the support staff is no longer assisting in court, or if more support staff quit the
8 team, it's the memory of the case that Mr Yekatom is losing. I cannot do this job
9 alone. We are a team. And some of them have joined this case as early as

10 April 2019. If I cannot retain staff members in Mr Yekatom's team, unlike the

11 Prosecution and his team, the Prosecution will have an unfair advantage. And

12 Mr Yekatom's right to have time and facilities to prepare his defence and to examine
13 witnesses under the same conditions as witnesses against him will be jeopardised.

14 So I'm asking you to take measures, as you have the power to intervene when it
15 affects the fair trial rights. The Registry has failed for several years to make a change,
16 any change whatsoever, let alone increase the remuneration based on the inflation,
17 which is now the reason why I'm turning towards your Honours to do something.

18 PRESIDING JUDGE SCHMITT: [9:49:21] Well, we don't want any further political

19 speeches here, please. That was already borderline, a little bit, I think, because -- I

20 tell you why, because the judges are not the right addressees, so to speak. And we

21 are not in a position as judges to order the Registry anything. I think you are aware

22 of that. So -- but I will not cut you completely off. So I think it would be enough if

23 you say you agree with Ms Dimitri.

24 And, as you recognise, we don't have any problems with your ribbons and everything.

25 We understand the situation. But, please, also understand that normally these

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1 things are not discussed in the court, yeah, during court hearings.

2 Yeah, Ms Proulx.

3 MS PROULX: [9:50:16] Thank you for giving me the floor, Mr President.

4 Obviously, I fully endorse what my colleague from the Yekatom team has said. Our
5 ribbons are burgundy to symbolise the colours of our badges. They are cut unevenly
6 also to symbolise the inequality of treatment between our team and the Prosecution
7 team.

8 These issues affect counsel and support staff alike, but in particular support staff who
9 have no protection and are facing considerable pressure. Support staff are essential
10 for the work of the Defence inside the courtroom and outside the courtroom. Our
11 support for them will be unwavering until we see change.

12 I understand that this is not the forum to ask for this change, but I note that the
13 Assembly of States Parties is upcoming, and we certainly hope that this issue will be
14 raised and seriously debated, and that we will see change following the ASP.

15 Thank you.

16 PRESIDING JUDGE SCHMITT: [9:51:09] Thank you.

17 Then we have now the break. And, well, perhaps we can be informed when we
18 have something new, hopefully, from the witness.

19 THE COURT USHER: [9:51:19] All rise.

20 (Recess taken at 9.51 a.m.)

21 (Upon resuming in open session at 10.14 a.m.)

22 THE COURT USHER: [10:14:34] All rise.

23 Please be seated.

24 PRESIDING JUDGE SCHMITT: [10:14:53] Mr Witness, I have been informed that
25 you have changed your mind and that you are willing to testify openly. The

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1 Chamber -- on behalf of the Chamber, I want to tell you that we appreciate that a lot.
2 And I can also assure you, if, for example, we are going to address matters that you
3 think perhaps are sensible with regard to your family, I think we can go to private
4 session. So when there are certain discreet issues, we can also go to private session
5 to alleviate your concerns.

6 But thank you very much for that. That is -- let me put it this way: To change one's
7 mind is one of the most difficult things, especially in such a situation, and we
8 appreciate that.

9 Mr Witness, there should be a card in front of you with the solemn undertaking to tell
10 the truth. Could you please read out this card aloud.

11 THE INTERPRETER: [10:16:20] The witness's utterance was inaudible.

12 PRESIDING JUDGE SCHMITT: [10:16:25] Mr Witness, excuse me, we had a
13 problem with the sound here. So I apologise for that. Can you please repeat it.

14 THE WITNESS: [10:16:36](Interpretation) I solemnly declare to tell the truth, the
15 whole truth and nothing but the truth.

16 PRESIDING JUDGE SCHMITT: [10:16:44] Thank you very much.

17 With regard to slow speaking, and so on and so forth, since Ms Berdennikova will
18 address that anyway, so I don't want to repeat it.

19 So, without further ado, I give you the floor, Ms Berdennikova. And, like always, I
20 think we have gotten to know each other in the course of these proceedings. You
21 know what Rule 68(3) means. Okay. Thank you.

22 MS BERDENNIKOVA: [10:17:15] Thank you, Mr President.

23 QUESTIONED BY MS BERDENNIKOVA:

24 Q. [10:17:23] Good morning, Mr Witness.

25 So my name is Maria Berdennikova, and I'm one of the lawyers for the Office of the

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1 Prosecution who is going to be asking you a few questions this morning.

2 Now, you probably remember that we had the chance to briefly meet each other last
3 week on Friday. I only have a few questions for you today. So I believe I won't
4 take more than a couple of hours of your time this morning.

5 Now, you already know that we have several different languages being spoken in the
6 courtroom here. There are interpreters and transcribers who interpret, and we
7 should be able to understand each other with their help, because I will be asking you
8 questions in English, as you can tell. But it's very important that you and I both
9 speak slowly to give the interpreters time to do their work.

10 It's also important to make a little pause in between my question and your answer.

11 And I'm going to do the same, again, to give the interpreters the time to -- to finish
12 interpreting and transcribing into the different languages.

13 Are you with me so far?

14 A. [10:18:45] Yes, I have followed what you've said.

15 Q. [10:18:47] Thank you. I will -- if ever you don't understand the questions that
16 I'm asking you, please feel free to let me know, and then I can rephrase or repeat the
17 question for you. So there is no problem at all with that.

18 I might be asking you some questions --

19 THE INTERPRETER: [10:19:10] Utterance inaudible.

20 MS BERDENNIKOVA:

21 Q. [10:19:12] I might be asking you some questions to which the answers may seem
22 obvious to you. In that case, I just ask you to please be patient, because providing
23 certain details will be helpful for the judges and everyone in the courtroom to
24 understand how you know things and to understand really what happened.

25 I think the last thing is, if you need a break at any point, also feel free to let the judges

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1 know, and that's -- that's fine as well.

2 So I will ask -- I will start by asking you a few questions, just about your identity, for
3 the record. Could you please give us your name.

4 A. [10:20:01] Yes. Ndiaye Salehou is my name, and I was born on 20 September
5 1959 in Bangassou.

6 Q. [10:20:19] Thank you. Can you confirm that you're a national of the Central
7 African Republic?

8 A. [10:20:27] Yes, I am a Central African.

9 Q. [10:20:32] And what is your religion, please?

10 A. [10:20:35] I'm a Muslim. So I follow Islam.

11 Q. [10:20:38] So I won't -- I will now ask you a few questions about your statements.
12 First of all, is it correct that you were interviewed and you gave statements to the
13 Office of the Prosecutor twice? In fact, first in March 2017 and then again in
14 January 2020.

15 * A. [10:21:05] Yes indeed. I gave two statements, yes.

16 MS BERDENNIKOVA: [10:21:09] Your Honour, just for the record, I'll read out the
17 ERNs of the statements. So the ERN of the first statement is at tab 4 of the
18 Prosecution list. It's CAR-OTP-2048-0757. And there is a French translation, which
19 is at tab 25, CAR-OTP-2102-0184.

20 Now, the second statement is at tab 27, CAR-OTP-2121-2831. And its French
21 translation is at tab 32, CAR-OTP-2122-4659.

22 Q. [10:22:12] Mr Witness, that's just a procedural matter to have all the relevant
23 references on the record for us.

24 Could you tell -- could you tell the Court if you made those statements voluntarily.

25 A. [10:22:34] Yes, I made them voluntarily, because I wanted to say what I

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1 experienced and what I knew.

2 Q. [10:22:48] And I understand that you had the opportunity to reread these
3 statements recently, last week, in preparation for your testimony. Can you confirm
4 that?

5 A. [10:23:02] Yes, I do confirm that.

6 Q. [10:23:04] And you made a few changes, a few corrections when you went
7 through those statements; is that right?

8 A. [10:23:15] Yes, I did.

9 MS BERDENNIKOVA: [10:23:21] So, your Honours, just for the record, again, the
10 ERNs of the corrections made by the witness are at CAR-OTP-00000693 and at
11 CAR-OTP-00000692.

12 Q. [10:23:51] Now, Mr Witness, can you confirm that your statements, read
13 together with the corrections that you made, are true and accurate to the best of your
14 recollection and knowledge.

15 A. [10:24:09] Yes. Yes, they are.

16 Q. [10:24:10] And then do you agree for the Chamber to use these statements with
17 the corrections as evidence in this case?

18 A. [10:24:20] Yes, I do.

19 Q. [10:24:22] Thank you.

20 PRESIDING JUDGE SCHMITT: [10:24:23] Thank you. I think -- only for the record,
21 it's not, let's say, essential, but I think it's good for the record, that with this, the
22 conditions for these mentioned statements for Rule 68(3) are fulfilled, taking also into
23 regard the corrections made by the witness.

24 Please continue.

25 MS BERDENNIKOVA: [10:24:45]

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1 Q. [10:24:45] Now, Mr Witness, the statements that you made are already quite
2 complete, and I want to assure you that the judges and those present in the courtroom
3 have had the chance to go through them and to familiarise themselves with what you
4 had previously said. So today I won't go through everything that you already said
5 in your statements. What I'm going to do is I'm just going to ask you a few
6 additional questions, and I will ask you also a few clarification questions on what is in
7 your statements. And my first --

8 A. [10:25:26] Very well.

9 Q. [10:25:26] So my first topic will relate to the Nour Alyaguin mosque or the
10 Boeing mosque.

11 Now, I understand that you were the principal imam of this mosque from 2005 until
12 2013; is that right?

13 A. [10:25:51] That's right, yes.

14 Q. [10:25:53] And, first, could you just tell us whether the Nour Alyaguin mosque
15 had any other names aside from being called also the Boeing mosque.

16 * A. [10:26:11] Well, when people are talking.... even the name of the Nour
17 Alyaguin mosque, many people do not know that it is the Boeing mosque... the
18 Boeing mosque. That is the name known by everybody.

19 Q. [10:26:22] And was this the principal mosque of Boeing and Cattin?

20 A. [10:26:31] Yes. It's the only mosque that is in Boeing.

21 Q. [10:26:36] And now, you described, at paragraph 16 of your first statement, with
22 the corrections that you made, that before 5 December 2013, about 20 disciples would
23 regularly attend the morning prayers on a daily basis at the Nour Alyaguin mosque.
24 Could you tell us how many people approximately would attend the mosque for
25 special occasions, for example, for the Friday prayers or for special religious or

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1 cultural events.

2 A. [10:27:20] Well -- well, *when people go to the mosque, we don't try to count
3 them to determine how many people prayed that day. * Not everyone has the
4 courage to get up in the morning at 4.30. Not everybody is ready to break their sleep
5 and come and pray, but good Muslims, people who are faithful, they get up at 4 to
6 4.30 in the morning to come and pray. So it could be 20, it could be 15. It can be
7 more. It varies. When it's rainy, you see less. You have all these parameters. So
8 there's no fixed amount of the faithful who would come day in, day out for the
9 morning prayers.

10 Q. [10:28:07] Thank you very much. And I absolutely understand that there is no
11 exact number, which is normal and natural, but maybe you could provide just an
12 approximation of how many people would attend the mosque on the bigger occasions,
13 not necessarily the daily prayers, but maybe some special religious events.

14 PRESIDING JUDGE SCHMITT: [10:28:33] Or perhaps the Friday prayers, for
15 example.

16 THE WITNESS: [10:28:42](Interpretation) Well, apart from the daily prayers in the
17 mosque, every Friday, there are the Friday prayers, and there are no other particular
18 events. It's primarily the prayers that we do regularly. Friday, say morning
19 prayers, 20 or so people. People who live in the vicinity of the mosque come. And,
20 as you know, the Boeing market is near the mosque, so the people who are in the
21 immediate vicinity come. But on Friday, it's the entire neighbourhood *of Boeing, as
22 well as people who live two or three kilometres away, who comes to pray. They
23 come for the Friday prayers. * So the number of people increases. It can go from 20
24 *to more than 50 who come to those prayers.

25 MS BERDENNIKOVA: [10:29:33]

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1 Q. [10:29:34] Okay. Thank you for that clarification. And could you, you know,
2 as the imam of that mosque, could you just elaborate a little bit more on the role that
3 this mosque played in bringing the Muslim communities of Boeing and Cattin
4 together.

5 A. [10:29:55] Yes. That mosque -- well, it was the person who owned the land
6 who built that mosque. It was then extended, and we called for funds to do that.
7 What we have already tried to do -- obviously, we have to abide by Muslim rules and
8 make sure that Muslims can properly abide by the rules of their religion. Islam is
9 not only what people may think it is, that it boils down to prayers and that you fast in
10 Ramadan. No. * All of that, the religious side of Islam, represents perhaps five to
11 ten per cent, but 90 percent is behaviour.

12 In our preaching on Fridays, we try to sensitise minds, the faithful, about how to
13 comport themselves appropriately.

14 Q. [10:30:50] And would you say that the Boeing mosque was also important in
15 terms of bringing the Muslim community together and allowing them, you know, to
16 socialise? In those terms, was it also important?

17 A. [10:31:11] Yes, exactly, because Friday, people who you haven't seen for an
18 entire week, people will be busy during the week, but they'll try very hard to come on
19 Friday and meet up. So the Friday prayers is an opportunity for people to greet one
20 another, to see one another.

21 Q. [10:31:35] Now, in your second statement, and it's at paragraph 13, you describe
22 that the last time you saw the mosque intact was on the Friday before the 5 December
23 2013 attack. And you also explained - and this is at paragraph 41 of your first
24 statement and paragraph 14 of your second statement - that less than two weeks after
25 the 5 December attack, you were informed by the deputy imam and the muezzin that

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1 the mosque had been pillaged and destroyed. So I just want to ask you a couple of
2 clarification questions on that portion.

3 First of all, can you elaborate on what exactly the deputy imam and the muezzin told
4 you about what happened to the mosque when they informed you.

5 * A. [10:32:52] One week before the attack, I had led the Friday prayers, as usual,
6 and then after the attack of 5 December, I no longer set foot in the mosque until that
7 team of investigators took me in their vehicle and -- there, and I could see the mosque.
8 I was told that they had looted the mosque. They took the mats. They had
9 removed the doors and the windows. That is what I was told. But ever since then,
10 I haven't set foot there.

11 The team of investigators took me there, and I saw the mosque after the -- that is, I
12 saw the mosque after 5 December.

13 Q. [10:33:49] (Overlapping speakers) know how the deputy imam --

14 PRESIDING JUDGE SCHMITT: [10:33:50] Ms Berdennikova, you were too quick.
15 The translation was not finished. No problem, but I mention it because we want to
16 have the record complete.
17 Please continue.

18 MS BERDENNIKOVA: [10:34:02] My apologies.

19 Q. [10:34:04] Are you -- are you aware of how the deputy imam and the muezzin
20 who told you initially about the pillaging and some destruction of the mosque, are
21 you aware of how they themselves knew what had happened to the mosque?

22 A. [10:34:34] I don't know. Perhaps it was through being in the same
23 neighbourhood, the Muslims -- well, there are non-Muslims who also live around
24 there. So people were asking, "What has happened to our mosque?" I don't know
25 what their source of information was, but they told me that the mosque had been

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1 vandalised. They had removed doors and windows. But I don't know what their
2 source of information was or who the information came from.

3 Q. [10:35:14] Thank you for the clarification.

4 Now, you already kind of led me into the next questions that I was going to pose to
5 you. You mentioned this visit that you did with the OTP staff to the former location
6 of the mosque, which was in January 2020. Can you just describe a little bit more
7 this visit that you did. You said you went in a vehicle with the OTP staff. Can you
8 describe to us how that went about.

9 A. [10:36:00] They absolutely wanted me to take them there to see the mosque.

10 THE INTERPRETER: [10:36:07] Inaudible.

11 THE WITNESS: [10:36:08](Interpretation) We got there. We got out of the car.

12 We saw the mosque. They took some photographs. They also tried to situate the
13 mosque on their maps and their GPS.

14 MS BERDENNIKOVA: [10:36:23]

15 Q. [10:36:23] I understand that when they -- the OTP staff left the vehicle to take
16 photographs and GPS coordinates, did you remain in the vehicle?

17 A. [10:36:47] No. I got out of the vehicle.

18 Q. [10:36:52] All right. And can you describe the location where it was that you
19 brought the OTP staff to take the photographs and the GPS of the former location of
20 the Boeing mosque.

21 A. [10:37:21] I don't know how to explain it to you because we were, if I remember,
22 maybe 50 metres away. We parked and then we went on foot to see the mosque.
23 You see, a vehicle can't drive right up to the mosque. We stopped at a bit of a
24 distance from the mosque, and then we walked to it.

25 PRESIDING JUDGE SCHMITT: [10:37:45] Ms Berdennikova.

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1 Mr Ndiaye, I have a question in that regard. Is this mosque that you worked in until
2 2013 still in function as a religious place, as a mosque for people from Muslim faith?

3 * THE WITNESS: [10:38:10](Interpretation) Yes. It was barely a year ago. My.... my
4 deputy, who had stayed there, they tried to see if, with the support of the MINUSCA
5 forces, something like that, if they could have them set up a tent. So they resumed
6 prayers there.

7 But since that time, I haven't actually set foot there myself to see the state of, to see
8 whether they have rebuilt the mosque or if they are using tents. I haven't set foot
9 there again. I went with the investigators, but other than that, I haven't set foot there.
10 So between 2013 --- from 5 December 2013 --- up until now, I've only been at the
11 mosque once, and that was with the investigators.

12 PRESIDING JUDGE SCHMITT: [10:38:49] Yes. Thank you. And this was 2020, so
13 we don't know what happened in the meantime, Ms Berdennikova.
14 Ms Dimitri.

15 MS DIMITRI: [10:38:59] Thank you, Mr President.

16 I'm just a bit concerned because there is -- as you can hear on the original channel,
17 there is a background noise. I thought it would go away, but it's now affecting the
18 French transcripts. Some words are missing. And I noticed that my colleagues
19 from the English booth are struggling. It's not their fault. But they are not
20 capturing all -- all of what is being said. So both French and English are incomplete
21 now.

22 PRESIDING JUDGE SCHMITT: [10:39:28] Yeah, we try to -- yeah, actually, I would
23 have interfered earlier, but the inaudible sections seemed not to be the most decisive
24 ones of the answer, so to speak. So we try to continue until 11 o'clock now when we
25 have the break. If we can fix it during that period, during these 20 minutes, fine. If

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1 not, we have to do it during the break.

2 Please continue, Ms Berdennikova.

3 MS BERDENNIKOVA: [10:39:59]

4 Q. [10:40:01] So I'd -- thank you.

5 I'd like to go back to the trip that you did with the -- with the OTP staff. You

6 mentioned that you, you know, you brought them to the area next to where the

7 mosque used to be.

8 Now, we have -- we have footage of that area, and I would like to show it to the

9 witness. It's at tab 31, and that's CAR-OTP-2121-2859. And if it's played without

10 sound, it could be public.

11 And this is, of course, footage from January 2020.

12 (Viewing of the video excerpt)

13 PRESIDING JUDGE SCHMITT: [10:41:23] I think we've seen it.

14 Mr Witness, have you seen the footage?

15 MS BERDENNIKOVA: [10:41:30] I believe the footage has not been played yet.

16 PRESIDING JUDGE SCHMITT: [10:41:34] Well, I have seen something.

17 Well, I don't know what -- I have seen, let's say, an *église*, and I have seen something --

18 THE INTERPRETER: [10:41:48] The witness said something.

19 THE COURT OFFICER: [10:41:51] Mr President, if I may. My colleagues from the

20 AV booth just informed me that they indeed missed a portion of the -- or an excerpt of

21 the video. So maybe it would be wise to play it again to be sure --

22 PRESIDING JUDGE SCHMITT: [10:42:08] Then let's play the video again.

23 THE COURT OFFICER: Thank you very much.

24 PRESIDING JUDGE SCHMITT: [10:42:07] Mr Witness, there was a portion missing

25 on this video footage. We are playing it again.

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1 (Viewing of the video excerpt)

2 MS BERDENNIKOVA: [10:42:36] Now I also saw it.

3 PRESIDING JUDGE SCHMITT: [10:42:38] Yeah.

4 MS BERDENNIKOVA: [10:42:39]

5 Q. [10:42:39] Mr Witness, did you recognise the area that was shown in the footage
6 just now?

7 A. [10:42:50] Yes, I saw the church.

8 Q. [10:42:53] Could you -- could you describe what it was that you saw in the
9 footage. Did you recognise the -- the location?

10 A. [10:43:05] I know that the church is close to the mosque. It's not very far away.

11 MS BERDENNIKOVA: [10:43:14] All right. And could we pause at 00:08, please.

12 Q. [10:43:31] Mr Witness, do you -- can you tell us what the concrete slab in this
13 image is.

14 A. [10:43:53] That's the foundation.

15 PRESIDING JUDGE SCHMITT: [10:43:56] So, Mr Witness --

16 THE WITNESS: [10:43:59](Interpretation) That's a foundation.

17 PRESIDING JUDGE SCHMITT: [10:44:02] So, Mr Ndiaye, is this the foundation of
18 the mosque where you have been the imam in 2013?

19 THE WITNESS: [10:44:20](Interpretation) It's very difficult to tell you that. It is
20 difficult to say that.

21 PRESIDING JUDGE SCHMITT: [10:44:30] But do you, in general, recognise the
22 location displayed on the video footage as the location where the mosque has been
23 located at the time?

24 THE WITNESS: [10:44:51](Interpretation) The photograph is a bit too -- I don't know.
25 I'm trying to look at it, but I can't really get my bearings. Is it from -- is it -- is it at the

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1 front? Are we looking at it from one side, from the other side? I -- I really don't
2 know.

3 PRESIDING JUDGE SCHMITT: [10:45:12] Well, one more shot, please,
4 Ms Berdennikova, and then we move on.

5 MS BERDENNIKOVA: [10:45:20]

6 Q. [10:45:20] Could you tell us about the church that appears at the beginning of
7 the footage. And it's also visible in a photograph, which is at tab 29,
8 CAR-OTP-2121-2857.

9 Mr Witness, is this -- do you recognise this church? Is this a church that --

10 A. [10:45:56] Yes.

11 Q. [10:45:58] How close was this church to the -- to the mosque?

12 A. [10:46:09] *Yes, yes, it was not -- it is close to the mosque. The distance
13 between the mosque and the church was not more than *100 metres. It was less than
14 100 metres, in my opinion.

15 Q. [10:46:37] (Overlapping speakers) you another footage, and it's a footage that
16 was filmed about a year later, after the trip that you made with the OTP staff in
17 February 2021. And it's a footage of the same area, but it's a longer footage that
18 shows various angles of it.

19 This is at tab 1 of the Prosecution binder. It's CAR-D29-0008-0001. And this is a
20 video that is dated 26 February 2021. If we could play that for the witness.

21 THE COURT OFFICER: [10:47:47] Can it be published with sound?

22 MS BERDENNIKOVA: [10:47:50] Yes, this is a public video.

23 THE COURT OFFICER: [10:47:53] The Prosecution has the floor. Thank you.
24 Evidence channel 2.

25 MS BERDENNIKOVA: [10:48:04] I believe this one can be played by the court

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1 officer.

2 THE COURT OFFICER: [10:48:16] At the moment, we are encountering a technical
3 difficulty, unfortunately. So I will kindly ask the Prosecution bench to play it.

4 Thank you very much. I'm sorry for the inconvenience.

5 PRESIDING JUDGE SCHMITT: [10:49:03] Is it possible to play this from Prosecution
6 side? So otherwise we are sitting here --

7 MS BERDENNIKOVA: [10:49:10] Yes, your Honours.

8 PRESIDING JUDGE SCHMITT: [10:49:11] -- and -- and do not know what we have
9 to expect, so to speak.

10 MS BERDENNIKOVA: [10:49:14] I'm sorry. It's just a small delay. We are
11 bringing it up because we didn't expect to --

12 PRESIDING JUDGE SCHMITT: [10:49:20] But you can do it?

13 MS BERDENNIKOVA: [10:49:22] We can do it, I think, yes. We can do it.

14 PRESIDING JUDGE SCHMITT: [10:49:24] Fine. Then we do it.

15 So here it is. Please look carefully, Mr Ndiaye.

16 (Viewing of the video excerpt)

17 MS BERDENNIKOVA: [10:52:02] So we stopped it at ...

18 Q. [10:52:12] Mr Witness, were you able to identify the area that was shown in that
19 footage? Was that familiar to you?

20 A. [10:52:27] Yes, yes, I recognise it.

21 Q. [10:52:30] And could you describe what it is that you recognised.

22 A. [10:52:38] That is the place close to the church where the mosque actually was
23 when it was in existence. So that's the place. Because the mosque -- well, I can
24 describe it like this: The church is behind the mosque. If -- from the east, if you
25 look -- the mosque --

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1 Q. (Overlapping speakers)

2 THE INTERPRETER: [10:53:11] Overlapping.

3 PRESIDING JUDGE SCHMITT: [10:53:12] Ms Berdennikova, there is overlapping,
4 please.

5 Mr Witness, please repeat your last answer. There was an overlap in speaking. It
6 was not your fault. Apologies.

7 THE WITNESS: [10:53:32](Interpretation) Yes. I said that the mosque is oriented to
8 the east, and the church is just behind the mosque. So when Muslims pray, they
9 look to the east. And behind the mosque, that is where the church was, behind the
10 mosque.

11 MS BERDENNIKOVA: [10:54:07]

12 Q. [10:54:07] Thank you, Mr Witness.

13 So is my understanding correct, that the concrete slab that we were talking about, is
14 that the former foundation of the Boeing mosque?

15 A. [10:54:30] Yes.

16 PRESIDING JUDGE SCHMITT: [10:54:33] Mr Ndiaye, when you see this footage,
17 and it necessarily reminds you of the time, the long years, 2005-2013, when you
18 worked there and it was in full existence and the building was complete, how do
19 these memories affect you, if you see this footage, emotionally?

20 THE WITNESS: [10:55:16](Interpretation) It's difficult to explain what I feel within.
21 It's difficult to describe what I feel, because I don't see why. When there is a problem,
22 why is it that religious buildings are destroyed? For what reason? No matter what
23 the problem might be, these are places where people take refuge when there are
24 problems. And when I see this, it's true, it hurts. It's very -- it's very sad to see the
25 house of God destroyed. This is my opinion. I might be wrong, but if there are

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1 problems and if someone goes to a religious place, a church or a mosque, in principle,
2 the action should stop. But to destroy it, a church or a mosque, to my mind, that
3 makes no sense. That's what I feel. When I see it, it brings back all the memories of
4 everything that was destroyed.

5 PRESIDING JUDGE SCHMITT: [10:56:26] Thank you very much, Mr Witness.

6 Do you have -- on this issue, do you have something else, or --

7 MS BERDENNIKOVA: [10:56:36] I do have a couple more questions on this topic, so
8 I think we will be able to stop at 11.

9 PRESIDING JUDGE SCHMITT: [10:56:43] Please continue then.

10 MS BERDENNIKOVA: [10:56:48]

11 Q. [10:56:48] Mr Witness, were you aware of the reopening of the Boeing mosque in 2021?

12 A. [10:57:09] Yes, yes, *I had been informed of the preparations of the reopening. During
13 the reopening, I believe I was not in Bangui. From the footage, you can see I wasn't there.
14 I wasn't in Bangui. It was my deputy who officiated at the mosque. But I did know about
15 the preparations and all the various arrangements made with the municipality, with the
16 authorities from the town hall, from Boeing, from the community leaders, but I was away
17 on the actual day of the reopening. I was not there.

18 Q. [10:57:45] And did you recognise people who were in the footage that was just shown?

19 * A. [10:57:52] Yes, I did recognise some people. I saw one imam with a red shawl
20 and another old man, who had been at the base. He came and asked me to be an
21 imam in 2002 and 2003, and at that time, I refused. But in 2005, I agreed. The old
22 man's name is Daoud. I also saw him in the footage.

23 MS BERDENNIKOVA: [10:58:19] Just for the record, we have a time stamp where
24 we stopped the video, and that was at 02:13.

25 Q. [10:58:27] Mr Witness, I only have two more questions for you on this topic before we have

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1 a break, and I move on. Obviously, we've just seen the state of the mosque, you know, six and
2 seven years after the events of 2013. During those six or seven years, the regular disciples
3 who used to frequent the mosque before the 5 December 2013 attack, are you aware of
4 whether they were able to continue practicing their religion? And if so, how?

5 * A. [10:59:15] I don't know. I don't know. Did other people stop praying, I don't know. But to
6 be sure, Muslims will continue to pray, whether or not there is a mosque, they will always
7 pray, because it is their religion. And I will pray at home, the prayers can be said at home,
8 wherever people are located. So to say that they stopped, that they completely stopped
9 praying, I no longer go to that neighbourhood, so I no longer am in touch with the faithful
10 who were there. I no longer go to the neighbourhood. But all I know is that * some would
11 come to Kilometre 5 on Fridays where there were still mosques, to conduct the Friday prayer,
12 because there's no longer any mosque in Boeing. So now the faithful go to the mosque at PK5.
13 It is the closest neighbourhood where there are mosques. They go there for their Friday
14 prayers and then they leave. And also the prayers for the two celebrations, Eid and the feast
15 at the end of Ramadan. They all go to KM 5. But for daily prayers, I think people now do their
16 daily prayers at home because there is no longer any mosque.

17 Q. [11:00:21] Thank you for that clarification. I will --

18 PRESIDING JUDGE SCHMITT: [11:00:26] Yeah. We have then the break until
19 11.30. Thank you.

20 THE COURT USHER: [11:00:32] All rise.

21 (Recess taken at 11.00 a.m.)

22 (Upon resuming in open session at 11.30 a.m.)

23 THE COURT USHER: [11:30:31] All rise.

24 Please be seated.

25 PRESIDING JUDGE SCHMITT: [11:30:47] Ms Berdennikova, you still have the floor.

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1 MS BERDENNIKOVA: [11:30:56] Thank you, your Honour.

2 Q. [11:31:04] So, Mr Witness, here we are back after the break, and I will switch
3 topics from the one we were discussing. And what I would like to do is turn to the
4 events that were leading up to the 5 December 2013 attack on Bangui, and I'll ask you
5 some clarification questions on that.

6 So, first, you describe in your statement a conversation that you had with an
7 individual called Jerome on the eve of the attack. And I will quote a part of your
8 statement just to situate you, so please listen carefully. And after I've quoted that
9 part, I will ask you some follow-up questions.

10 So at paragraph 24 of your first statement, you explain that on 4 September 2013, at
11 about 10 p.m., I quote: "Jerome came to my house and told me that the Anti-Balaka
12 had held their last meeting and were ready to launch an attack at any time on the
13 Muslims. He was not able to give the exact date of the attack but said that the
14 Anti-Balaka had received instructions to be ready."

15 So I would just like you to elaborate a little bit more on this conversation that you had
16 with Jerome and maybe you can give us some additional details of what was said
17 during that discussion.

18 A. [11:32:53] Now, Jerome came, as I said, about 10 p.m. He knew where I lived,
19 and he knocked on my door and I -- I let him in. And I asked him what was going
20 on. And he told me, based on the information that he had had, that the Anti-Balaka
21 had received instructions to get themselves ready for an attack, but without any
22 specifics about the date of the said attack. And, according to him, they'd received
23 gas canisters and firearms. But as to the date of the attack, he didn't know.
24 Anyway, there was an imminent attack.

25 Q. [11:33:39] And are you aware of how -- are you aware of how Jerome obtained

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1 this information himself?

2 A. [11:33:53] No. He is in Boeing. Now, it's a working class neighbourhood,
3 young people know each other. He'd received information, I don't know how, but
4 he gave me that information, as I said, at 10 p.m.

5 Q. [11:34:16] And when he spoke to you about these preparations, did he tell you
6 where the meeting that the Anti-Balaka had took place?

7 A. [11:34:33] No. In Boeing, in the Boeing neighbourhood. That's what he said.

8 Q. [11:34:40] Do you recall whether he told you about who was present at that
9 meeting of the Anti-Balaka?

10 A. [11:34:52] He said that there were gendarmes and FACA elements, and there
11 were also other people. That's what he told me.

12 PRESIDING JUDGE SCHMITT: [11:35:03] This is covered by *paragraph 25 of the
13 witness statement. He has already said that he cannot tell us who participated in
14 these meetings.

15 MS BERDENNIKOVA: [11:35:18] All right.

16 Q. [11:35:19] You also mentioned in your statements that about three or four days
17 before the 5 December attack, you saw palm branches in front of Christian homes.
18 And while you say you didn't know the significance of that at the time that you saw
19 them, you say, at paragraph 33, of your first statement, I will quote: "I later learned
20 that the Christians were warned of the impending attack by the Anti-Balaka and were
21 told to place branch[es] from a palm tree in front of their home to indicate that it was
22 a Christian home."

23 So what I would like to know is: How did you learn this? You say that you learned
24 later that that's what the Christians were told. So how did you learn that?

25 A. [11:36:17] That was after the 5 December attack, when people started talking.

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1 There was -- there were signs of alert, it was said. How can I put it? There were
2 words, rumours circulating. When the name Muslims is heard, people said, people
3 are coming, but we didn't know what that meant. And a few days prior to the attack,
4 I saw these palm branches. Often you see them in Christian festivals. You may see
5 that type of thing. So I didn't really link it in with anything whatsoever. I didn't
6 really take much notice of it. Because either what with Christian festivities, they put
7 their palm branches particularly in a place of where the -- of graves. But anyway, as
8 I understood it, there were instructions given to say that, if you put palm branches at
9 your house, then that would distinguish your house from a Muslim house. That was
10 what I'd learnt.

11 But when I heard it -- when I saw the palm branches prior to that, I didn't make any
12 link, obviously, with that.

13 Q. [11:37:57] Thank you. So I understand that you learned a few days later the
14 significance of this. Do you know how this instruction was disseminated among the
15 Christian population? By what means was it disseminated?

16 A. [11:38:17] No, I have no idea.

17 Q. [11:38:24] So I would now like to move on to the 5 December attack itself. And
18 you provide a very detailed account already of what you and your family members
19 lived through on that day. I'm not going to ask you to go through all of that again.
20 And I will only ask you for a few clarifications on a couple of isolated issues.

21 In particular, I would like to talk to you about the incident that you describe that
22 happened in front of your house. And this is at paragraph 31 to 32 of your first
23 statement. And there you talk about a Muslim man that was killed in front of your
24 house on that day.

25 Now, to situate you a little bit better, I will quote a part of your statement, which is at

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1 paragraph 31, where you say the following: "Between 8 and 9, the Anti-Balaka
2 chased a Muslim man and caught him in the road in front of my house. The
3 attackers were shouting 'This is an Arab'. I could hear the man pleading for help but
4 the Anti-Balaka beat him and killed him. I did not witness the killing but later saw
5 four Anti-Balaka elements standing next to his body."

6 So, first of all, could you -- could you just provide more details on what you saw with
7 your own eyes in relation to that particular event.

8 A. [11:40:11] Now, what I saw in actual fact -- well, initially, I heard this man
9 shouting, "This is an Arab." An Arab equates to Muslim in Central African Republic.
10 That's how it is. When you see a Muslim, you automatically say it's an Arab.
11 Anyway, I listened. I heard somebody shouting and shouting. And then he
12 stopped shouting -- well, the shouting stopped. And later on when we -- when we
13 went out, when I went out of my house to run away, I saw the body.
14 Obviously, you are not going to take much time looking at the body because of
15 everything that was -- the maelstrom that we're living in. And I was driving, so I
16 just drove off. It was later on that I learned that it was somebody who had come
17 from another neighbourhood into the plateau who fell into these people's hands and
18 they ultimately killed him.

19 Q. [11:41:16] All right. And can you clarify -- because you say that you did not
20 witness the killing but that you later saw four Anti-Balaka elements standing next to
21 the body of this -- of this Muslim man. Can you clarify how much later you say you
22 saw these four Anti-Balaka next to the body?

23 A. [11:41:44] Well, when it happened, and the shouting or the noise stopped, I
24 looked through a hole in the compound's wall and I saw four individuals. There
25 was one of them who was carrying a weapon. The others were holding machetes.

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1 And I couldn't see the person on the floor -- on the ground, rather, but I did see the
2 four individuals. And then it was later on, when I came out to my car with my
3 family, that I saw the body. And so then I surmised what had happened.

4 Q. [11:42:23] I want to ask you another clarification on this, because at paragraph
5 32 of your first statement, you also mentioned that the attackers were on foot and
6 were followed by a crowd of locals who were encouraging the Anti-Balaka.
7 First of all, so you clearly mentioned there were locals following the Anti-Balaka.
8 Can you explain to the Chamber how you made that distinction between the locals
9 and the Anti-Balaka.

10 A. [11:43:00] Well, the crowd was coming, and I -- through the hole in the
11 compound wall, I could see the people at the head of the crowd, people who wanted
12 to do something nasty. There were a crowd who were possibly encouraging, but at
13 least were following the Anti-Balaka. And often people at the head of the crowd,
14 you can see them, and you can see that they've got resolve to do something.
15 Anyway, there was a big crowd behind them that were shouting, that was
16 encouraging them.

17 Q. [11:43:39] Can you elaborate a little bit more on how these locals were
18 encouraging the Anti-Balaka. Were they saying something? You know, were
19 they -- how were they encouraging?

20 A. [11:43:57] It was only shouting, shouts. And others were saying, for example,
21 "Djotodia is going to go and we're going to -- and there's going to be an attack on the
22 Muslims." Anyway, that came to my ears. "We're going to finish with Djotodia,
23 and now we're going to finish up the Muslims."

24 Q. [11:44:23] Now, you mentioned just now and you also say in your statement
25 that you saw the body of the Muslim man that was killed. And in your statement

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1 you say that he had sustained wounds all over his body. And that's at paragraph 31.

2 Can you -- can you describe the type of wounds that this person sustained. Was

3 it -- what type of weapon would have caused those wounds, if you can tell us?

4 MR KNOOPS: [11:44:55] Well, Mr President, I believe this is not a question for this
5 witness.

6 THE WITNESS: [11:45:03](Interpretation) I saw blood, rather.

7 PRESIDING JUDGE SCHMITT: [11:45:06] Well, Mr Witness, you can answer the
8 question.

9 I explain, Mr Knoops. Of course, the witness is no expert and cannot say exactly
10 what kind of weapon it was, but he can describe what kind of wounds he saw. You
11 know, for example, if the head was wounded or if it -- you know, even a layman or a
12 laywoman can detect if it was gunshots or something like that.

13 So you may answer the question, Mr Witness. So what kind of wounds did this
14 person that was killed and lay on the ground sustain, as far as you could perceive it?

15 * THE WITNESS: [11:45:49](Interpretation) Yes, I only saw blood on his face, and then,
16 underneath him, a bit of blood that had seeped out. Blood was on his -- on the ground
17 and underneath the body and on his face. I don't know whether he had received a
18 head wound or a chest wound or legs. I really can't tell you because I was driving. I
19 was going by. I just glanced by. But I couldn't really establish what wounds he had
20 sustained.

21 PRESIDING JUDGE SCHMITT: [11:46:25] Understandable. Thank you, Mr Witness.
22 Ms Berdennikova.

23 MS BERDENNIKOVA: [11:46:31]

24 Q. [11:46:31] That is, yeah, indeed, absolutely understandable. Thank you.

25 I'd now like to turn to you and your family's own experience on that day without

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1 going into too much detail because you do detail it quite a lot in your statement. But
2 you describe how on 5 December you and your family members had to flee from your
3 family compound in Cattin, and you describe that you had to seek shelter at PK5.
4 You then explain at paragraph 26 of your second statement that when you were in
5 PK5, you received information that the Anti-Balaka were going to attack your older
6 brother's compound, as well as other Muslims that remained in the neighbourhood.
7 And what is a little bit unclear in the statement is, how you received this information;
8 you know, from who did you receive this information, and how did that information
9 come to your source of information, let's say.

10 A. [11:47:43] Well, with this type of situation at hand, you meet up, you talk, 10 or
11 15 people receive information, and then we learned what had happened. We
12 understood that there will be a cleaning operation, if you will, a cleansing, and that
13 they were going to sort out the Muslims. So this came to us. But it's all impossible
14 to check the information. These are rumours. But it's best to be cautious, even
15 though they are rumours. It's best to be on your guard. They might be wrong,
16 might be right, but you need to take your precautions.

17 So in the hangar, we were talking, and people were saying, "Right, this night, the
18 Balaka could be doing their cleansing operation." And so I was with my nephew,
19 and I said, "Look, this is what I heard. And they are going to clean up that
20 neighbourhood so it's best to go, it's best to leave the neighbourhood." And that's
21 how they actually left.

22 But to tell you who brought the information per se, I couldn't tell you. I just can't. I
23 just don't know. I just learnt it in the way -- the information the way I told you.

24 PRESIDING JUDGE SCHMITT: [11:49:05] Mr Ndiaye, I've been told by the
25 interpreters that they have difficulties to follow you. Could you please be so kind to

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1 speak a little bit slower so that they can get everything you say. Thank you.

2 THE WITNESS: [11:49:21](Interpretation) Very well. Thank you.

3 PRESIDING JUDGE SCHMITT: [11:49:23] Ms Berdennikova.

4 MS BERDENNIKOVA: [11:49:31]

5 Q. [11:49:31] And I understand that you and -- in the end, you and all your family
6 members fled from the place where you used to live in Cattin either on 5 December or
7 some days following that attack.

8 A. [11:49:51] It was on the 5th, on the very same day that I left.

9 Q. [11:49:55] And the remaining family members of yours, they fled from the area
10 where they lived just some days after the attack as well.

11 A. [11:50:12] Exactly, it was a few days later. I can't remember the exact date, but
12 a few days later, I'd left. And then I learned that they left a few days later
13 after -- after I did. Not the same day as me, but a few days later.

14 Q. [11:50:26] I'd like to turn to a different topic now and ask you some follow-up
15 questions on that. And this is an incident involving your brother-in-law, Yousseuf
16 Gaston Koyatoro. Now, again, you provide quite a detailed account of the painful
17 experience and the painful event about him, so I will not ask you to repeat all of that.
18 I will ask only for one or two clarifications, if that's okay with you.

19 A. [11:51:03] Please go ahead. I'm all ears.

20 Q. [11:51:06] So at paragraph 43 of your first statement, you explain that sometime
21 between 12 and 17 December 2013, Jerome called you and informed you that your
22 brother-in-law, Yousseuf, was captured by the Anti-Balaka.
23 Then you also say at paragraph 44, I will quote: "The Anti-Balaka accused Yousseuf
24 of being a Muslim as they saw a mark on his forehead." And that "Yousseuf was
25 also accused of being the brother-in-law of an imam."

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1 So can you please just explain how you know that these accusations were made
2 against Youssouf by the Anti-Balaka that captured him.

3 A. [11:52:00] Well, yes, it was Jerome, that young chap, he called me up and he said
4 that Mr Youssouf had been arrested by the Anti-Balaka. They had taken him out.
5 And this is in public, they ask him. And, you know, they took him out of his house.
6 And based on what Jerome told me, this chap said, "I'm -- my name is Gaston
7 Koyatoro and I'm a civil servant." And they said, "You're a Muslim and -- and you
8 have a prayer mat, and this -- and you're a brother-in-law of an imam." This was in
9 public. And he said, "You are Muslim," despite his protestations.

10 Q. [11:52:52] So is my understanding correct then that Jerome, who passed this
11 information on to you, was he present in that crowd when -- when your
12 brother-in-law was taken by the Anti-Balaka?

13 * A. [11:53:11] Was he there? Or did someone tell him about it? Anyway, this is what he told
14 me. He said to me that when Youssouf was arrested... He said who he was, but they said, "No,
15 no, no, you are not... *It is true that your name is Gaston, but you are a Muslim. And you are
16 the brother-in-law of an imam." Was he there when they were questioning Youssouf, when
17 Youssouf was defending himself, or did someone tell him about it? Anyway, I can't tell you.
18 But this is what he told me. And I didn't dwell on the fact and ask him, "Were you there?" * I
19 didn't ask him anything like that because I was in a state of shock. Because, you know, when
20 a Muslim... the anti-Balaka, you think of the worst. So you don't have the time to find out
21 about those tiny details. That wasn't of interest. You wanted to think primarily about how to
22 save him.

23 Q. [11:54:03] Of course, I understand that. And thank you for your patience in answering
24 these kinds of questions because sometimes we ask for specific details that, you know, of
25 course for you are not necessarily, you know, the most important in the moment. So thank

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1 you.

2 I'd like to discuss now a little bit the situation following the 5 December attack. And
3 as we previously mentioned, you said that the events of that day forced you and your
4 family to flee to PK5. You also say at paragraph 38 of your first statement that, I
5 quote: "Kilometre 5 was the only safe place to go as the majority of the population
6 were Muslim." You explain at paragraph 48 of your first statement that after the 5
7 December attack you spent about a month living in PK5. Is that about right?

8 A. [11:55:12] Yes, that's right.

9 Q. [11:55:14] And PK5, that's in the 3rd arrondissement of Bangui, isn't it?

10 A. [11:55:22] Yes, it is.

11 Q. [11:55:26] So after 5 December, were there Muslims living also in other
12 arrondissements in Bangui?

13 A. [11:55:42] Before 5 December, in all neighbourhoods, in all Bangui arrondissements,
14 there were Muslims. They were everywhere. Where there are Christians, there
15 were also Muslims. And after 5 December -- after 5 December, we stayed locked
16 into PK5. We didn't just go into other neighbourhoods to see if there were Muslims.
17 And I have already said here, people were saying that Muslims had gone to PK5, but
18 we didn't seek to establish whether in other neighbourhoods there were still Muslims
19 there. We didn't try and find that out. I mean, at least that's true of me anyway.

20 Q. [11:56:26] And did you come to learn, perhaps through gatherings that you had
21 mentioned -- you said that sometimes people would gather and they would discuss,
22 you know, upcoming events or rumours. Did you learn during maybe some of those
23 gatherings what the experience of other Muslims was who were not living at PK5 but
24 in other areas of Bangui?

25 A. [11:56:55] So I didn't understand your question. You are talking about

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1 experience -- sorry, I didn't understand what you said.

2 Q. [11:57:04] I'm sorry. Indeed, my question, I think, was not very clear.

3 Did you learn through other people at PK5 whether other Muslims were living in
4 different arrondissements outside of the 3rd?

5 A. [11:57:27] Well, on the 2nd arrondissement, I mean, there are other Muslims
6 who were there in the 2nd arrondissement. But for the rest, I've got no idea.

7 PRESIDING JUDGE SCHMITT: [11:57:40] Well, the question is, and I think the
8 witness has answered this, is what was the situation after the 5 December attack.
9 That is the question.

10 And I have understood from your testimony, Mr Witness, that most of the Muslims
11 went to PK5 because there was already the majority of the population Muslims.

12 And is the understanding correct that also from the other arrondissements, the
13 Muslims went to this part of Bangui to seek shelter, so to speak?

14 THE WITNESS: [11:58:20](Interpretation) Yes, absolutely, absolutely, because it was
15 the only area where Muslims felt safe. Because a given point in time, all the
16 Muslims -- well, not all Muslims but most of the Muslims all fell back on PK5 and
17 that's why there was a lot of people who arrived in droves in the Central Mosque in
18 Bangui and the schools. All the Muslims fell back on PK5 because that's where they
19 were safe.

20 PRESIDING JUDGE SCHMITT: [11:58:53] Please move on.

21 MS BERDENNIKOVA: [11:59:05]

22 Q. [11:59:05] And could you explain how the security of the Muslims was ensured
23 at PK5.

24 A. [11:59:21] Because there was a Rwandan or Burundi contingent there who were
25 working and there was also MINUSCA to try and stop Anti-Balaka attacks. Anyway,

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1 some Muslims made the mistake of going out of that PK5 area and most * were killed
2 because of that, because in PK5 there were MINUSCA soldiers who were patrolling
3 and to protect the Muslims in that place. And so that's why the Muslims felt safe.

4 Q. [12:00:10] Mr Witness, I'd like to show you a short footage now which is at tab 3
5 of the Prosecution binder, and it's CAR-OTP-2023-1863. And this is a footage where
6 Madam Samba-Panza speaks about the situation in the 3rd arrondissement where
7 you were and the 5th, as well, of Bangui. For the record, the video is from April 2014.
8 And we will play the extract from minute 07:32 until 09:22. And the relevant
9 transcript reference is tab 33, CAR-OTP-2122-9401.

10 So for the interpreters, it's at page 9403, starts at line 89 until line 109. Maybe if the
11 interpreters could let us know when they are ready in the booth.

12 THE INTERPRETER: [12:01:27] The interpreter is ready.

13 THE COURT OFFICER: [12:01:36] The Prosecution has the floor. Is it a public
14 video?

15 MS BERDENNIKOVA: [12:01:40] Yes, it's a public video.

16 (Viewing of the video excerpt)

17 THE INTERPRETER: [12:01:46] (Interpretation of the video excerpt) Sight
18 translation:

19 "Samba-Panza. We disarmed some neighbourhoods. We began to disarm the 5th
20 arrondissement where there is a large Muslim community. As soon as we began to
21 disarm these communities, these Muslim communities, they were attacked by the
22 Anti-Balaka. There were many acts of violence and abuses that were committed in
23 those neighbourhoods. When I was asked to disarm the 5th -- correction, the 3rd
24 arrondissement, I said 'Hop to it!' With the experience of the 5th, if we disarm the
25 3rd, we will be delivering these Muslim communities over to the Anti-Balaka. That

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1 is why I refused to disarm the 3rd arrondissement. And there are only a few pockets
2 of Muslim communities. I thought I couldn't encourage -- this allows us to have sort
3 of a mixing of people of different ethnicities and religions in the Central African
4 Republic. If I let this community leave, I will be in a way siding with the people who
5 talk about religious ethnic cleaning in the Central African Republic."

6 End of sight translation.

7 MS BERDENNIKOVA: [12:03:46]

8 Q. [12:03:46] Now, Mr Witness, in your experience, was the situation in the
9 3rd arrondissement as described by Madam Samba-Panza in the extract that we have
10 just seen?

11 A. [12:04:08] Yes, indeed. At one particular point in time, according to the
12 rumours that we heard, the Anti-Balaka were ready to take on Kilometre 5, that is to
13 say, attack the last Muslims who had remained. At the time, all the Muslims were
14 ready to leave. They had loaded up their trucks. They were asking MINUSCA for
15 help to protect them, to get them out of Bangui and get them to the border of Chad.
16 Then Madam President wanted to stop them. She tried to persuade them not to
17 leave. That was the experience we went through at the time.
18 So we were in an enclave. We couldn't go beyond the borders of Kilometre 5. We
19 were hemmed in, pinned down and -- hemmed in from all sides. We were really in
20 an enclave. Even to get food, it wasn't an easy thing, or other provisions.
21 With this decision she took, the Muslims remained, unloaded their possessions.
22 Some left their houses. And at least they felt safe in the mosques. So that is what
23 happened at that time.

24 Q. [12:05:46] And were you also aware of the events that she describes in the
25 5th arrondissement?

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1 A. [12:05:58] Of course, we were informed about that. When -- when the Muslims
2 were disarmed, they were immediately attacked by the Anti-Balaka. As soon as they
3 had -- as soon as they had weapons, people left them alone. If they were disarmed,
4 they would be abandoned and the Anti-Balaka would attack them. And they had no
5 means to defend themselves. That's what happened in the 5th and the 8th
6 arrondissement. They were disarmed, then they were attacked and killed.

7 Q. [12:06:42] All right. And since you mentioned -- you commented on the
8 disarmament and the -- and the defence, were you aware of any self-defence groups
9 that were organised in PK5 to protect the Muslims?

10 A. [12:07:06] The self-defence groups were set up once I had left. I did all I could
11 to get my family out of there -- out of the country. I sent them out of the country,
12 and I was helping -- I was focusing on getting them set up. That was in January,
13 February. That's when I evacuated my family. After that, you see -- after that,
14 there was a self-defence group that gradually emerged. Once it was when I was
15 away that (Overlapping speakers)

16 Q. [12:07:49] I will move on to a slightly different topic.

17 Your Honours, I would like to cover just the next -- the next limited topic in private
18 session.

19 PRESIDING JUDGE SCHMITT: [12:07:58] Okay. Then let's go to private session.
20 (Private session at 12.08 p.m.)

21 THE COURT OFFICER: [12:08:17] We're in private session, Mr President.

22 MS BERDENNIKOVA: [12:08:25]

23 Q. [12:08:25] Mr Witness, so we're in private session, which means that only people
24 who are in this courtroom can -- will be able to hear your answers right now, not the
25 public.

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1 I'd just like to follow up with a little bit more detail on the self-defence groups, and I
2 want to ask you about a specific group called Texas. Have you heard about this
3 group?

4 A. [12:08:58] Texas, Texas, Texas? Well, I don't remember that.

5 PRESIDING JUDGE SCHMITT: [12:09:16] Well, then all connected questions I think
6 we can spare each other, if he hadn't heard of it. We can go to open session, I think,
7 and continue.

8 MS BERDENNIKOVA: [12:09:37] Your Honours, there are a couple of lead-up
9 questions that I would like to ask still on this topic.

10 PRESIDING JUDGE SCHMITT: [12:09:43] Yes, but when the answer on the first
11 question is "I have not heard of it, I don't know," well, you might try another angle,
12 but all experience in courtrooms shows that it is not very promising. But please, I
13 give you another try.

14 MS BERDENNIKOVA: [12:10:05]

15 Q. [12:10:06] All right. Mr Witness, we -- we have a document that indicates that
16 you may have been involved or associated with a group called Texas.

17 PRESIDING JUDGE SCHMITT: [12:10:19] That's, of course, okay. That's okay.

18 MS BERDENNIKOVA: [12:10:23]

19 Q. [12:10:23] And I would like to show it to you so that you have the chance to
20 comment on it.

21 PRESIDING JUDGE SCHMITT: [12:10:31] That's okay.

22 Where is it?

23 MS BERDENNIKOVA: [12:10:35] So, for the record, it's at tab 2 of the Prosecution
24 binder. It's CAR-OTP-2003-1654. And it's at page 1756. For the record, it's an
25 extract from (Redacted) dated 6 October 2014.

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1 Q. [12:11:10] Mr Witness, I'll read out the relevant portions for you, but I think it
2 can also be displayed.

3 PRESIDING JUDGE SCHMITT: [12:11:18] I think we should display it so it's easier
4 for the witness to know what we are talking about.

5 MS BERDENNIKOVA: [12:11:25] So I think the way that it is now is fine, and maybe
6 as I read, we can scroll down a little bit. But I will read out the relevant portion in
7 French for the interpreters.

8 Q. [12:11:39] So the relevant part of the document that I want to quote to you says
9 the following:

10 (Interpretation) "Texas was created on 24 February 2013 at a press conference
11 organised by the political office of the new militia at the Bangui Central Mosque. At
12 that occasion, Mr Walidou Modibo Bachir, deputy imam of said mosque and current
13 minister of administration of the territory, that is, minister of the interior, had called
14 upon the allied imams to mobilise their young people to face off against the attacks of
15 ne'er-do-wells."

16 (Speaks English) So a little bit lower down that document adds: (Interpretation)

17 "The organisers of the press conference are no others than the founders of this
18 infamous militia who are, among the others, other than -- well, in addition
19 to" -- (Overlapping speakers)

20 (Speaks English) (Overlapping speakers) list of names, associated names. And as
21 you can see, the second to last name says "Salehou Ndiaye."

22 So I just wanted to ask, if you can tell anything -- if you can tell us anything about this
23 document and the information that it provides. And, again, we are in private
24 session.

25 A. [12:13:30] I don't know where this document comes from. That's first thing.

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1 And secondly, on 24 February, I wasn't in the Central African Republic. (Redacted)

2 (Redacted) I wasn't even in the Central African Republic. I was

3 not in the country at the time. You can cross-check. Late January, by then I was

4 already in (Redacted) I wasn't in the Central African Republic.

5 PRESIDING JUDGE SCHMITT: [12:14:06] Just a second.

6 Ms Guissé, you have recognised what I have also recognised, probably.

7 MS GUISSÉ: [12:14:13](Interpretation) Yes, your Honour. Thank you, your Honour,

8 for allowing me to address the Court. I don't know whether it's a translation

9 problem, but in the document, the date is 2013. The witness seems to think it's 2014.

10 Perhaps he should be given an opportunity to clarify what the date was.

11 PRESIDING JUDGE SCHMITT: [12:14:35] Indeed, that was -- actually, I would also

12 have addressed it, that they were speaking about a meeting on 24 February 2013. I

13 don't know how much sense it makes with regard to the other information entailed in

14 that document, but still. So the witness obviously has answered under the premise

15 that we are speaking about a meeting, as Ms Guissé has pointed out, in February 2014.

16 Yet, the document speaks of 2013.

17 So why not simply wrap this up.

18 Mr Ndiaye, you hear that this document speaks about a certain group called Texas

19 and mentions your name in that regard. So have you been a member of this group,

20 according to your recollection?

21 THE WITNESS: [12:15:38](Interpretation) No, not at all. Not at all. What's more,

22 the -- I haven't been able to read this document. At the time whether -- there weren't

23 any Balaka in February 2013, there weren't any Balaka. The Balaka came in

24 December 2013. So this group allegedly created at the Central Mosque with

25 Mr Modibo, I wasn't part of that. These are lies. We never -- the problems came

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1 later. I think that some people have invented this to --

2 THE INTERPRETER: [12:16:29] No, correction --

3 PRESIDING JUDGE SCHMITT: [12:16:39] Well, this seems to be important. We
4 know -- we have to know what the witness has said in the end. Can we recover that,
5 or shall we ask him to repeat?

6 Mr Witness, unfortunately, the last portion has not been captured by the
7 interpretation. Really, I apologise. You don't have to repeat everything. But just
8 in the end, the last two or three phrases that you have told us, can you please repeat
9 that again. My apologies.

10 THE WITNESS: [12:17:28](Interpretation) I believe in February 2014 -- this here
11 reads 20 -- February 2013 and talks about the Anti-Balaka. No, I don't think so.
12 This is the first time I've ever heard about this, first time I've heard about a group
13 called Texas. With the names here -- where does this come from? To my
14 knowledge, to my knowledge, as I said, there was never any talk about a group called
15 Texas organised at the Central Mosque with Minister Modibo.

16 PRESIDING JUDGE SCHMITT: [12:18:08] Thank you. And, actually, it would also
17 be surprising if we would speak about 2013, but I think the witness is absolutely clear
18 in his answer.

19 Can we go back into open session?

20 MS BERDENNIKOVA: [12:18:30] Just maybe one or two questions, and then we can
21 go back in open.

22 PRESIDING JUDGE SCHMITT: [12:18:35] Okay. Yeah, please.

23 MS BERDENNIKOVA: [12:18:37]

24 Q. [12:18:37] Thank you, Mr Witness, for those clarifications. And, indeed, it's
25 very possible that there is a typo in the year of the document, but I understand that in

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1 February 2014, you were not in CAR anymore.

2 I just wanted to ask you a couple of -- just one follow-up question, in fact.

3 And if we could scroll down a little bit in the document so the witness can see. So

4 there the sentence that starts (Interpretation) "Other than the ministers" (Speaks

5 English) (Overlapping speakers) the middle of the page, there's a list of names.

6 Could you just tell us if you -- if you know the people who are listed here.

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 of those people, they had always been living in Kilometre 5.

19 Q. [12:20:54] Okay. Thank you. Your Honours, we can go in open session.

20 PRESIDING JUDGE SCHMITT: [12:21:00] Open session.

21 (Open session at 12.21 p.m.)

22 THE COURT OFFICER: [12:21:11] We are back to open session, your Honours.

23 MS BERDENNIKOVA: [12:21:19]

24 Q. [12:21:19] So, Mr Witness, we are -- we are in public session again. And this

25 brings me to the last topic of my questions for you today. Since we are in

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1 private -- in public session, I'm going to refrain from referring to specific locations,
2 especially when it comes to locations of you and your family members. So I just
3 invite you to do the same thing and to be a little bit careful when talking about
4 specific places.

5 So at paragraph 48 of your first statement, you explain that after spending about a
6 month living at PK5, you took your family out of the country in January. And in the
7 same paragraph, you also say that in June 2014, you returned to Bangui. Again, I
8 won't mention the place where you were in between.

9 Did other members of your family manage to return to CAR as well, or not?

10 A. [12:22:33] When I left, I had nearly all my family members out of the country,
11 with the exception of the people who were in the house with us. I had my three
12 nieces and one niece with her daughter. I had my wife, the two girls. * My sister
13 whose husband was killed, she was there with her daughter. The three nieces and a
14 niece with her daughter. And they all left the country. I sent them all away. Then
15 I came back alone around the month of June 2014 and I set them up at school. I came
16 back. And in 2019, 2018, I no longer recall, my sister whose husband had been killed
17 came back with her daughter because she had to take care of her mother. We have
18 the same father, but different mothers. Her mother was alive and my sister came
19 back to take care of her mother who was really tired. And then also in 2018, I had
20 my two daughters come back to continue in Bangui, because when I left them {PFR:
21 (Redacted)} their schooling had suffered and I didn't want to leave them there. As
22 we speak, one of them has left as she didn't like living with me, but one is still
23 with me in Bangui.

24 THE INTERPRETER: [12:24:16] Message from the interpreter: The last part of the
25 reply was unclear.

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1 PRESIDING JUDGE SCHMITT: [12:24:22] Well, I think it would be good for the
2 English transcript, I think in French it says, "*ma sœur parce qu'on*" -- no, where is it?
3 "... *qu'on a assassiné son mari*". So "whose husband was killed" I think would be
4 correct interpretation. And we have talked about that. But just to have it -- have it
5 correct there.

6 Please continue, Ms Berdennikova.

7 Perhaps if you allow me, I will have a question on that.

8 Mr Witness, your family nowadays, what are the living conditions, if you compare
9 them to the time when you were still living in the Central African Republic?

10 THE WITNESS: [12:25:20](Interpretation) Just to clarify, it was Gaston Koyatoro, my
11 brother-in-law, the husband of my sister, he was the one they caught.

12 As for current living conditions, living far away from your family is not a simple
13 thing, far from it. Being far away from your family, that's not easy, particularly after
14 now I'm unemployed, I have no work, I do no -- nothing. {ICR: (Redacted)
15 (Redacted). I'm here and I have to cover expenses even -- I don't know.

16 Other than the financial problems, when you also have the family problems -- you
17 know, if you're poor that's one thing, but at least you can be together, but when you
18 are not even together -- so it's difficult. It's really difficult.

19 Even, you know, if you are together, you can at least share the burden. But the fact
20 that I'm far away from my family and my family is far away from me, this is very
21 difficult, and also it is very harmful for the schooling of my children.

22 PRESIDING JUDGE SCHMITT: [12:26:41] Thank you, Mr Witness. And were you
23 able -- were you and your family able to bring some of the property to the place
24 where they live now? Or was everything destroyed or has been -- let's say, has to be
25 left behind in the Central African Republic, your property, I mean?

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1 THE WITNESS: [12:27:16](Interpretation) Unfortunately, those were the
2 consequences of these unfortunate events. And you can't really even measure the
3 consequences. The consequences have been terrible for the people who have
4 experienced this situation and I'm not the only one. Many people, both Muslims and
5 Christians. Not only Muslims were victims, Christians too.
6 I left my house on 5 December. On the way out, I -- there were other events. I left
7 with my family, and just with the clothes on my back, some clothing and my -- my car.
8 That's it. Everything else we left behind in the house. And a few days later, my
9 neighbour called me and said, "Neighbour, people are going into your house and they
10 are emptying it." And I said to her, "Let them empty the house." Because the son of
11 the neighbour was in the house -- I had asked him to stay in the house, to keep an eye
12 on things. And when I heard that people had come to the house to vandalise the
13 house, I said to my neighbour, "Tell your son to get out of there. Possessions are
14 nothing. Life is more important." So the boy left and they looted my house. They
15 left me nothing. Even documents, my diplomas, my children's birth certificates.
16 They took everything.
17 I thank God that I'm still alive. And most of my family is alive, with the exception of
18 my brother-in-law who was murdered. Because, you know, a soul does not come
19 back. Possessions, if I work hard, I can get -- buy some more. But when a soul is
20 torn away from you, you cannot call that soul back. That bothers me the most.
21 I have lost everything. I left the house with nothing except for my car and the
22 clothes on my back.
23 PRESIDING JUDGE SCHMITT: [12:29:32] Mr Ndiaye, thank you very much for
24 providing us with this information.
25 Ms Berdennikova.

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1 MS BERDENNIKOVA: [12:29:43]

2 Q. [12:29:43] Thank you, Mr Witness.

3 So obviously, you were not able, unfortunately, to go back to your family compound
4 in Cattin. Are you aware of whether other Muslims who used to live in Boeing and
5 Cattin were able to go back?

6 A. [12:30:10] I think that -- well, some returned. Some Muslims were able to
7 return to their residences, that is to say, the places they lived before the events.

8 Q. [12:30:30] Are you aware of those that were not able to go back to their homes in
9 Boeing and Cattin? Aside from you and your family, of course.

10 * A. [12:30:50] Well, yes, there is the person who performs the call to prayer -- the
11 muezzin of my mosque, Ali Kamara. Since that time he has not gone back to Cattin.
12 He still lives at PK5. He goes there often for the prayers. And there is the example
13 also of a man who -- who bought me land next to the mosque to extend the mosque,
14 Ibrahim Macole, he also left his home. Unfortunately, he left and he crossed into
15 Zongo, and he died there, in fact. He never came back. And those are the cases
16 that I can cite. Either they left and never came back, or they died, or people left and
17 actually never came back ever. There's also that.

18 Q. [12:31:39] Mr Witness, I have one last question left for you today. So -- and it's to ask
19 you to elaborate a little bit on paragraph 48 of your statement where you say, I quote: "I
20 do not see a clear future for us as Muslims in the Central African Republic country and I
21 believe that the problems are not over and our personal safety is at risk."

22 Could you please just elaborate on that statement you made to the OTP.

23 A. [12:32:18] Yes. Just to say that, up until this day, even though things have
24 calmed down, there is still a prevailing sense of insecurity. Because with everything,
25 all the weapons that are in circulation in the country, there are thieves that are armed.

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1 And so there are lots of attacks. There is no shortage of attacks, I can tell you.
2 And for Muslims as well, they are not really safe. And this problem which occurred
3 is a clash between armed people, Seleka, Anti-Balaka, but the Christian and Muslim
4 civilians shouldn't be involved. But, unfortunately, the civilians fall victim to that.
5 There are more victims among civilians. They have got absolutely nothing to do
6 with politics and they don't know Bozizé or Djotodia personally, but they,
7 nevertheless, fell victim, and they are the sole victims. And for them to be in safety,
8 well, of course, first, we need to disarm all the people carrying weapons around the
9 country, otherwise you won't feel safe.
10 In any event, we are here, but we can move around. We can go into all the
11 neighbourhoods, the arrondissements in Bangui, we can leave our homes, but,
12 nevertheless -- but the foundations for this situation, this safety and security, is not
13 solid. Things can unravel very quickly. And, you know, in 2013, look at that.
14 Muslims may kill Christians and vice versa, things like that. You know, this may
15 happen. We don't know what the future holds. And I have no -- I've got nothing to
16 tell me that this problem is now behind us and we can move forward like before, like
17 before 2013. I've got nothing that can suggest that that can be the case. So we live
18 in a climate of fear. We live -- we live a bit hemmed in and we're just placing our
19 hands in destiny.
20 Q. [12:34:32] Well, Mr Witness, I -- that concludes my questions for you, and I just
21 want to thank you very much for responding to my questions and for your patience.
22 So thank you again.
23 Your Honours, we're done.
24 THE WITNESS: [12:34:45](Interpretation) You're welcome.
25 PRESIDING JUDGE SCHMITT: [12:34:47] Thank you very much.

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1 Do the representatives of the victims have questions to the witness?

2 MS DOUZIMA-LAWSON: [12:34:55](Interpretation) Yes, we do have one or two
3 questions for this witness.

4 PRESIDING JUDGE SCHMITT: [12:34:57] Please continue.

5 MS DOUZIMA-LAWSON: [12:35:13](Interpretation) My thanks, your Honour.

6 Some questions that we have elected to put to the witness, well, these questions have
7 already been put by the Prosecution, so we only have one or two remaining.

8 QUESTION BY MS DOUZIMA-LAWSON: (Interpretation)

9 Q. [12:35:33] Good morning, Mr Witness.

10 A. [12:35:34] Good morning.

11 Q. [12:35:35] So let me introduce myself, first of all. My name is Marie-Edith
12 Douzima. I'm one of the lawyers that represents the victims in the instant case.

13 A. [12:35:46] Pleased to meet you, counsel.

14 Q. [12:35:50] So, Mr Witness, I'm going to put one or two questions to you. These
15 questions relate to the statements that you gave to the Prosecutor.

16 A. [12:36:04] Yes.

17 * Q. [12:36:05] My first question is the following: Page 10, CAR-OTP-2102-0194,
18 page 11. At this juncture you said that when you returned on 26 December 2016 to
19 Cattin, you saw that the family compound had been totally looted and was almost
20 entirely destroyed. Now, that particular family compound, was it there that a
21 number of houses and flats were located?

22 A. [12:36:52] Yes. It was on that compound, there were a number of flats and
23 apartments, houses, yes.

24 Q. [12:37:02] And your family, was your family compensated following that looting,
25 following that destruction, compensated by the state or any particular organisation?

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1 A. [12:37:16] No, nothing at all, counsel.

2 Q. [12:37:23] Paragraph 16 now, CAR-OTP-2122-4662. This is page 3, please.

3 Here you stated, having lost everything, following the 5 December 2013 events, when
4 you were forced to flee, your house was looted and destroyed. So how have you
5 managed since then?

6 A. [12:38:00] I had -- obviously, my primary concern was to make my family in safe,
7 put them in a place of safety and have my children forget what they had experienced
8 and resume their schooling. Now, the little that was left to me was very -- was not
9 much to speak of. And I also -- well, it was a friend of mine, in fact, who gave me a
10 flat with one bedroom with a living room and a shower. Since I've returned to
11 Bangui, that's where I've lived. And I don't have the financial resources to bring my
12 family back to Bangui to live with me.

13 My daughter, who I did bring back, is with a relative in another neighbourhood and
14 I'm alone. I only have, as I said, a bedroom, a living room and a shower. And my
15 wife and my children, I can't bring them back because to do so would be very
16 complicated. So I'm here, I'm jobless, and I'm muddling through. I'm doing the
17 best I can, but how can I do that with the little resources that I have?

18 I give -- well, my friends, they buy and sell, and they give part of their profits. And
19 with that, I can -- I try to survive, covering the expenses in both places, {ICR:
20 (Redacted)} and in Bangui.

21 PRESIDING JUDGE SCHMITT: [12:39:33] Ms Guissé.

22 MS GUISSÉ: [12:39:36](Interpretation) I do apologise to interrupt my learned
23 colleague, but it's just for the record. I think there are one or two hiccups in the
24 references that were given by my friend. So it's difficult for us to really follow.

25 And I'd also like to draw her attention to the fact that she cited a paragraph that had

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1 been corrected and amended by the witness. So, just for the clarity of the record, this
2 should be duly noted and for what comes next, it might be helpful to have the
3 accurate and amended reference, and that will help me follow appropriately. But I
4 do apologise for standing up and talking about this.

5 PRESIDING JUDGE SCHMITT: [12:40:08] You don't have to apologise. You had
6 good reason to do that. So I think we have figured out what was meant. And if
7 you have a final question, I think, because you said you had two questions, had
8 already been three, Ms Douzima, so please continue -- continue with your questions.

9 MS DOUZIMA-LAWSON: [12:40:35](Interpretation) I've put two questions, but I do
10 have two remaining, your Honour.

11 CAR-OTP-2122-4665. Hopefully that's the right reference, paragraph 27.

12 Q. [12:40:55] At this point you stated the following, Mr Witness. You said that
13 what means -- "What prompts me to provide a modest contribution by appearing
14 before this Court is to make sure that justice is done." That's what you said in your
15 statement, Mr Witness. What do you understand by justice being done?

16 A. [12:41:16] Well, justice being done. Well, you are here, that you are -- you have
17 convened the Court, and those who've done bad things and evidence to the effect is
18 provided, that those perpetrators acknowledge that. If the victims want to forgive
19 them, that's another thing altogether. But justice should be done.

20 You know, those who have committed these acts, there are laws to hold them to task.
21 And, of course, that's what you need to do. But if there is no justice, no peace will be
22 possible. For justice, you need to have peace.

23 * For example, when... when someone is walking around and I am walking around,
24 and I see the person who killed my brother-in-law. He is driving around in his car, all
25 of that. Even if it wasn't him, even if it was his group who killed him, that, that is

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1 painful for me. Now if it is a person who destroyed my property, he is around, he has
2 not been arrested. He is not bothered. He can move around free as a bird. And, of
3 course, this can trigger other problems, because everybody sees things in their own
4 way. And if you do bad things, and if you're a victim of that, then you might just
5 accept that. But if you don't -- I mean, if there is something that happens, some people
6 might say, "Right, I want to commit revenge." And you don't want revenge. Because if
7 justice is done properly, then things calm down in people's hearts. But if justice is not
8 done properly, then people always turn to vengeance. And vengeance will continue
9 and continue and continue. There will never be any peace. What we want is peace.
10 We want peace. And peace will be produced by justice. And this is what you are
11 doing, and this is what you are doing very well.

12 PRESIDING JUDGE SCHMITT: [12:43:30] So, Ms Douzima, further questions?

13 MS DOUZIMA-LAWSON: [12:43:36](Interpretation) Yes, I do have further
14 questions. This is my last question, my very last question, your Honour.

15 Q. [12:43:42] So, Mr Witness, you were prompted to do things that otherwise you
16 wouldn't have done. For example, paragraph 36, CAR-OTP-2102-0191, you state
17 that your family and yourself were compelled to climb a 3-metre wall to seek refuge
18 in the neighbouring compound.

19 A little further on - this is CAR-OTP-2102-0194, paragraph 49 - at this point you say
20 that when you returned, you were forced to disguise yourselves so that you wouldn't
21 be recognised as Muslims, leaving aside the fact that in order to move around in some
22 areas, you had to be escorted by blue helmets, and you couldn't go into some areas.

23 PRESIDING JUDGE SCHMITT: [12:44:48] Ms Douzima, I have to interrupt.

24 Rule 68(3) only makes sense if we don't repeat the totality of the information that is
25 entailed therein. You have to ask a question that goes beyond that and not to simply

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1 read out what is being said in the Rule 68(3) statement, because this procedurally
2 simply means that it is part of the evidence that the witness has also been giving.

3 MS DOUZIMA-LAWSON: [12:45:23](Interpretation) I take due note, your Honour.
4 I just wanted to remind him of the content of his statement.

5 Q. [12:45:30] But here is my question: How do you feel from an emotional
6 perspective based on everything I have read out?

7 A. [12:45:39] What, in terms of the events? What do you mean exactly? Can you
8 tell me a bit more.

9 PRESIDING JUDGE SCHMITT: [12:45:46] Really, I think --

10 THE WITNESS: [12:45:47](Interpretation) Can you shed light on what question you
11 are putting to me, counsel.

12 PRESIDING JUDGE SCHMITT: [12:45:53] I think the witness has described these
13 events, and he has also been asked already about his emotional reaction to certain
14 events. I think we should leave it at that.

15 MS DOUZIMA-LAWSON: [12:46:10](Interpretation) Your Honour, on this
16 particular point, I have noted that nobody has asked a question about --

17 PRESIDING JUDGE SCHMITT: [12:46:21] Well, then let me -- then let me do it.

18 Mr Witness, it's about that you, for example, you explained that you seek shelter with
19 a Christian neighbour, that you climbed into his compound, and for a certain time,
20 you took refuge there. And later you said that you came back and you disguised the
21 fact that you were a Muslim. So to wrap it up a little bit.

22 Did this -- this is the question by Ms Douzima: Did this specifically emotionally
23 affect you, perhaps still until today?

24 THE WITNESS: [12:47:03](Interpretation) Yes, it's true. On 5 December, when the
25 Balaka went up to -- wanted to try to get to PK5, at least, they were pushed back by

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1 some soldiers. I suppose it was Seleka and all that.
2 My direct neighbour, the house was under construction, and the owner had asked a
3 young person who was jobless, he was asked to live in that house to look after it, to
4 watch over it. And when I heard the chap shouting outside and was ultimately
5 murdered, I asked the wife of our neighbour to accept that my family should be there.
6 And they were Christians, so my family could be there and the Christian would
7 therefore stay in the compound.
8 And, obviously, at a given point in time, the wife of that young man I was speaking
9 about, he came into the house. He took his -- took clothes and he was ready to take
10 his children out. And I said, "Are you going?"
11 He said, "No."
12 And I said, "Well, look, tell me. Look, we've been neighbours for many years, and
13 we've helped each other out when there's been problems."
14 And he said, "No. When the Balaka were pushed back, they said they'll be back and
15 they were going to each Cattin house. If they would find a Christian with a Muslim,
16 they would kill them."
17 And that's why he said, "Look, good luck."
18 And I said, "Look" -- to my neighbour behind me I said, "Can I -- can you look after
19 my family then?" He's a man of God. And that's why my friend gave me a ladder
20 so that my entire family could go into that neighbouring compound. And they were
21 there until -- until my friend, who I live -- with whom I live now, came to collect us.
22 And then we went back, going back over the wall to go out and leave.
23 But in the normal course, at my age, I'm not going to get over a 3-metre wall, but I'd
24 prefer to get my girls and my wife over the wall.
25 But anyway, you take life as it come -- came. And you had to save your skin. And

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1 that's what we did. But, you know, all these events, I think it's very difficult. It's
2 very, very difficult to forget all that happened. It's very, very difficult, very difficult.
3 And even to this day, when my mind rakes over it, it's a source of pain. And this is
4 why I even avoid going to where I used to live. I avoid going there, because as soon
5 as I go in the area, all this comes flooding back to me, and so I would spend a
6 sleepless night then.

7 So, really, it's -- because, you know, I'm basically, you know, almost on the floor here.

8 MS DOUZIMA-LAWSON: [12:50:15](Interpretation)

9 Q. [12:50:16] Mr Witness, I've reached the end of the questions that I wanted to put
10 to you. I'd like to thank you very warmly for having answered all my questions.

11 A. [12:50:26] Thank you, counsel.

12 PRESIDING JUDGE SCHMITT: [12:50:27] So we are shortly before the lunch break.

13 My question -- well, let me think aloud, like I sometimes do. You said -- the
14 Yekatom Defence said six to seven hours of questioning. This seems to be quite a lot.
15 But still, Ms Guissé, what is your stance on that? Do you -- do we continue at 2.30,
16 or do you think you can wrap it up tomorrow?

17 MS GUISSÉ: [12:51:01](Interpretation) Your Honour, I think you will be happy to
18 learn that I think my cross-examination will be shortened, particularly based on the
19 questions that were put this morning. And the witness is scheduled until Friday.
20 So if we start tomorrow, I can guarantee that we will finish Friday. And I had an
21 opportunity of talking with my learned friend. You know, if there are questions on
22 their side, then it won't be very long. And I think we can use that time to shorten
23 and endeavour to make things very streamlined tomorrow.

24 PRESIDING JUDGE SCHMITT: [12:51:39] Thank you very much.

25 So, Mr Witness, this means we conclude for today and resume tomorrow at 9.30.

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- 1 And also from the side of the Chamber, thank you very much for testifying today and
- 2 answering all the questions, but it's not over. Tomorrow we see each other again.
- 3 THE WITNESS: [12:51:58](Interpretation) Thank you very much.
- 4 THE COURT USHER: [12:52:00] All rise.
- 5 (The hearing ends in open session at 12.52 p.m.)