

Trial Hearing
WITNESS: CAR-OTP-P-1263

(Open Session)

ICC-01/14-01/21

- 1 International Criminal Court
- 2 Trial Chamber VI
- 3 Situation: Central African Republic II
- 4 In the case of The Prosecutor v. Mahamat Said Abdel Kani - ICC-01/14-01/21
- 5 Presiding Judge Miatta Maria Samba, Judge Maria del Socorro Flores Liera and Judge
- 6 Sergio Gerardo Ugalde Godinez and Judge Keebong Paek
- 7 Trial Hearing - Courtroom 2
- 8 Tuesday, 3 September 2024
- 9 (The hearing starts in open session at 9.33 a.m.)
- 10 THE COURT USHER: [9:33:45] All rise.
- 11 The International Criminal Court is now in session.
- 12 Please be seated.
- 13 PRESIDING JUDGE SAMBA: [9:34:02] Good morning, everyone.
- 14 Madam Court Officer, can you kindly mention the case.
- 15 THE COURT OFFICER: [9:34:17] Good morning, Madam President, your Honours.
- 16 The situation in the Central African Republic II in the case of the Prosecutor v.
- 17 Mahamat Said Abdel Kani, case reference ICC-01/14-01/21.
- 18 And we are in open session.
- 19 PRESIDING JUDGE SAMBA: [9:34:31] Thank you very much.
- 20 Can I ask for representations, starting with the Prosecution.
- 21 MS MAKWAIA: [9:34:38] Thank you, Madam President. Good morning,
- 22 your Honours.
- 23 For the Prosecution this morning, Alessia Vitiello, Sanyu Ndagire, Marie-Jeanne
- 24 Sardachti and myself, Holo Makwaia.
- 25 PRESIDING JUDGE SAMBA: [9:34:47] Thank you, Ms Makwaia.

Trial Hearing
WITNESS: CAR-OTP-P-1263

(Open Session)

ICC-01/14-01/21

1 Ms Pellet for the victims.

2 MS PELLET: [9:34:53](Interpretation) Thank you, Madam President.

3 The victims are represented by Adeline Bedoucha and myself, Sarah Pellet, counsel at
4 the OPCV.

5 PRESIDING JUDGE SAMBA: [9:35:04] Thank you very much, Ms Pellet.

6 Mr Jacobs for the Defence.

7 MR JACOBS: [9:35:11](Interpretation) Good morning, Madam President.

8 To my right, Florian François-Jacquemin, Fiana Gantheret, and myself, I'm Dov Jacobs,
9 assistant counsel for Mr Said.

10 PRESIDING JUDGE SAMBA: [9:35:24] Thank you very much, Mr Jacobs.

11 And for the record, I do take note that Mr Said is here in court with us.

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

13 MR SAID: [9:35:39](Interpretation) Yes, good morning, Madam President.

14 PRESIDING JUDGE SAMBA: [9:35:44] Good morning.

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

16 WITNESS: CAR-OTP-P-1263 (On former oath)

17 (The witness speaks Sango)

18 THE WITNESS: [9:35:54](Interpretation) Good morning, your Honour. I rested
19 well.

20 PRESIDING JUDGE SAMBA: [9:36:02] Good.

21 Now, we're going to continue with your testimony in cross. Defence counsel is
22 going to continue putting questions to you, so I remind you that you are still on oath
23 to say the truth to the Court.

24 Mr François-Jacquemin, your witness.

25 And please note that we are in open session, and speak slowly so that the interpreters

Trial Hearing
WITNESS: CAR-OTP-P-1263

(Open Session)

ICC-01/14-01/21

1 can get each and every word that you say.

2 Thank you very much.

3 MR FRANÇOIS-JACQUEMIN: [9:36:36](Interpretation) Thank you,

4 Madam President.

5 QUESTIONED BY MR FRANÇOIS-JACQUEMIN: [9:36:49](Interpretation)

6 (Continuing)

7 Q. [9:36:52] Good morning, Mr Witness.

8 A. [9:36:53] Good morning.

9 Q. [9:36:56] The President has already told you that we are in public session. I'm
10 going to put a few questions to you in open session, please don't identify yourself,
11 focus on answering my questions and that would ensure that you are not identified.
12 I'm not going to mention your name or any information relating to your name in the
13 questions I will put to you.

14 Is that clear?

15 A. [9:37:23] Yes, I've fully understood you.

16 Q. [9:37:28] Very well.

17 Yesterday, you told us that you had been injured and that you had taken photographs
18 of your injuries; is that correct, Mr Witness?

19 A. [9:37:47] Yes, that's correct.

20 Q. [9:37:51] Those --

21 THE INTERPRETER: [9:37:52] Question --

22 MR FRANÇOIS-JACQUEMIN: [9:37:53](Interpretation)

23 Q. [9:37:53] -- were allegedly taken ten days after you received the injuries; is that
24 correct?

25 A. [9:38:07] Yes, that is correct. It is after I was injured that some visitors came to

Trial Hearing
WITNESS: CAR-OTP-P-1263

(Open Session)

ICC-01/14-01/21

1 see me and advised me to take photographs of the wounds so that I could keep for
2 my use.

3 Q. [9:38:34] Thank you, Mr Witness.

4 You also had an X-ray made of your injury; is that correct?

5 A. [9:38:45] Yes, that is correct. However, the X-ray showed that my bones had
6 not been hit by the bullet.

7 Q. [9:39:12] Thank you, Mr Witness.

8 Where is that X-ray?

9 * A. [9:39:20] I had the X-ray in my belongings, but unfortunately there were termites
10 in the house where I used to live and the termites destroyed the film and the results,
11 and I threw the remaining waste into the garbage.

12 Q. [9:39:52] Very well, Mr Witness.

13 Now the photographs you showed us and you showed the Prosecutor were not
14 destroyed by termites; right?

15 A. [9:40:06] I had preserved the documents in different ways. The photographs
16 were in an album, whereas the X-ray was in a carton that was placed in the room and
17 that's how they got destroyed by the termites.

18 Q. [9:40:38] Very well.

19 Did you have a health booklet at the time, Mr Witness?

20 A. [9:40:45] Yes, yes, I had a health booklet which had been issued at the
21 community hospital. I have it with me.

22 Q. [9:41:04] If you have it with you, is it possible for you to subsequently make it
23 available to the Court?

24 A. [9:41:17] Yes, yes. It is among my belongings and I can make it available.

25 Q. [9:41:31] Yes, that would be most useful, I believe.

Trial Hearing
WITNESS: CAR-OTP-P-1263

(Open Session)

ICC-01/14-01/21

1 The investigators of the OTP did not ask you for that booklet?

2 A. [9:41:45] I do not think they asked me for it, but as I have already told you, I
3 have it in my belongings. They didn't ask me about the booklet, otherwise I would
4 have given it to them.

5 Q. [9:42:08] Besides that booklet, do you have any other medical documents from
6 the time that you can give us, Mr Witness?

7 A. [9:42:21] Could you please repeat your question, I did not understand it.

8 Q. [9:42:36] Of course. You provided the investigators of the OTP with
9 photographs of your injuries. What I'm trying to find out from you is whether you
10 have any other documents, apart from those photographs, which are the only
11 documents I have with me in the case file; that's why I'm asking you, Mr Witness,
12 whether you have any other medical documents at your home or anywhere else
13 relating to the injuries that you received?

14 A. [9:43:25] No, I don't have any additional documents, besides the health booklet
15 which I have talked about. I also have a prescription -- a medical prescription for the
16 depression which I suffered.

17 Q. [9:43:44] Thank you, Mr Witness.

18 MR FRANÇOIS-JACQUEMIN: [9:43:54](Interpretation) Madam President, the next
19 series of questions would require us being in private session, please.

20 PRESIDING JUDGE SAMBA: [9:44:01] Certainly. And maybe by way of guiding
21 you in respect of timing, we expect the cross-examination of this witness to be done at
22 least by quarter after 10.

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

24 I mean in the absence of any interruption.

25 Thank you.

Trial Hearing
WITNESS: CAR-OTP-P-1263

(Private Session)

ICC-01/14-01/21

1 (Private session at 9.44 a.m.)

2 THE COURT OFFICER: [9:44:32] We are in private session, Madam President,
3 your Honours.

4 PRESIDING JUDGE SAMBA: [9:44:36] Thank you very much.

5 Mr François-Jacquemin, please continue with your questions.

6 MR FRANÇOIS-JACQUEMIN: [9:44:42](Interpretation) Thank you,
7 Madam President.

8 Q. [9:44:48] Mr Witness, you told us yesterday and on Friday that you -- there were
9 allegedly four of you in the ditch where you were allegedly fired upon; is that correct?

10 A. [9:45:07] Yes, that is correct.

11 Q. [9:45:12] I'm going to read out an excerpt from your prior statement and I seek
12 your reaction to it.

13 I'm referring to tab 1, and 1.2 for the English version, I'll be looking at paragraph 96,
14 CAR-OTP-2045-0821.

15 I'll read back to you your statement, Mr Witness, as taken down by the investigators
16 of the OTP.

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 Mr Witness, upon reading this prior statement, which you had an opportunity to
22 reread, particularly, this paragraph, it is to be understood that there were three of you
23 in this ditch. Why is it then that when you were being questioned by the
24 investigators of the OTP, there were three of you in the ditch and then, when you
25 reread the document, you didn't correct it and there are still three of you in the ditch,

Trial Hearing
WITNESS: CAR-OTP-P-1263

(Private Session)

ICC-01/14-01/21

1 but then here, there are four of you in the ditch.

2 Can you explain this discrepancy to me, Mr Witness?

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 I told him that the ICC had called me asking me to testify about what had happened

24 and that there were arrangements for me to travel. I told him what I was supposed

25 to do and he informed me -- or he advised me not to lie but to say everything about

Trial Hearing
WITNESS: CAR-OTP-P-1263

(Private Session)

ICC-01/14-01/21

1 everything that I experienced.

2 Q. [9:50:48] Mr Witness, when you say that arrangements are being made for you
3 to travel to the ICC, what did he do in order to make arrangements for you to travel
4 here?

5 A. [9:51:11] I have not understood your question. Can you repeat it, counsel.

6 Q. [9:51:23] Of course, Mr Witness.

7 Let me read out the transcript from today. T-106, French real-time, which takes
8 down what you have said. I'm at page 8, and I'll read from line 3. (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted) for me to travel there and then I explained to him later on what I had
13 experienced."

14 That's end of quote.

15 Who made the --

16 PRESIDING JUDGE SAMBA: [9:52:40] Mr François-Jacquemin, what we have in the
17 English channel - and there might be some interpretation problem - I read, he said:
18 "I told him that the ICC had called me asking me to testify about what had happened
19 and that there were arrangements for me to travel", not that arrangements were made
20 (Redacted). But that is what I have in the English channel.

21 MR FRANÇOIS-JACQUEMIN: [9:53:19](Interpretation) That's very clear. But there
22 was some ambiguity in the French version because "*il*", in the singular, in French,
23 would be a singular. But I'll let go of this question.

24 PRESIDING JUDGE SAMBA: [9:53:40] No, you can ask him and he will clarify that.

25 MR FRANÇOIS-JACQUEMIN: [9:53:45](Interpretation)

Trial Hearing
WITNESS: CAR-OTP-P-1263

(Private Session)

ICC-01/14-01/21

1 Q. [9:53:48] Did (Redacted) help you to travel to The Hague, Mr Witness?

2 A. [9:53:57] No, no, he did not. He gave me advice. He advised me, he did not
3 help me, he did not give me money, he just advised me. You see, after what had
4 happened to me and the depression I went into, I got help (Redacted), including
5 medication for my treatment for depression.

6 Q. [9:54:26] Thank you very much, Mr Witness.

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 A. [9:55:47] The complaint, well, it's not a complaint, it's an -- it's an NGO that I
16 contacted.

17 Q. [9:55:58] I'll show you the document, Mr Witness, to make things easier.

18 Court officer, please, could you display tab 12, CAR-OTP-2045-0863.

19 Do you see that document, Mr Witness?

20 THE INTERPRETER: [9:56:45] Message from the Sango booth: The interpreter did
21 not receive the witness's answer.

22 MR FRANÇOIS-JACQUEMIN: [9:56:52](Interpretation)

23 Q. [9:56:54] Do you remember providing this document, Mr Witness?

24 A. [9:56:55] Yes, I do remember.

25 (Redacted)

Trial Hearing
WITNESS: CAR-OTP-P-1263

(Private Session)

ICC-01/14-01/21

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. [9:57:59] Who -- who -- well, are you the one who filled out this document by
10 hand?

11 A. [9:58:10] No, this text is not written in my hand. I spoke to the staff of the NGO.
12 They drafted the document. They acknowledged my statement. I told them
13 everything that I had experienced and they drafted the document themselves.
14 I did not write out this document that is now before you.

15 Q. [9:58:34] Do you recall the date on which this document was produced?
16 When was this document produced, Mr Witness? What date?

17 A. [9:59:09] It is after the events that I experienced, but I don't remember or know
18 the date on which the document was drawn up.

19 Q. [9:59:24] Would you say that it was a week, a month -- more, approximately?

20 A. [9:59:31] (No interpretation)

21 THE INTERPRETER: [9:59:42] The Sango booth didn't get the message from the
22 interpreter -- from the witness.

23 MR FRANÇOIS-JACQUEMIN: [9:59:52](Interpretation) I'm sorry, but the Sango
24 booth told me that they didn't hear the message of the witness.

25 PRESIDING JUDGE SAMBA: [10:00:01] Then can you maybe put the question again

Trial Hearing
WITNESS: CAR-OTP-P-1263

(Private Session)

ICC-01/14-01/21

1 so that he can answer.

2 MR FRANÇOIS-JACQUEMIN: [10:00:06](Interpretation) Of course, your Honour.

3 Q. [10:00:17] Witness, your answer wasn't translated for me. So I would ask you
4 once again, would you say that it was approximately -- well, how much time after the
5 events that you drafted this complaint, this document?

6 PRESIDING JUDGE SAMBA: [10:00:38] But he has said that he did not draft this
7 document; he said he explained to somebody who handwrote what we see on the
8 document.

9 MR FRANÇOIS-JACQUEMIN: [10:00:51](Interpretation) That's what I said in
10 French, Madam President, I said "had drafted". I'm sorry.

11 Q. [10:01:10] So I'll put the question again, witness.
12 This document, which was drafted by somebody for you, was it approximately -- how
13 much time after the events that it was drafted? Was it one month? A week? How
14 much time?

15 A. [10:01:31] As I told you already, after these events, I no longer remember the
16 duration or the date or the year or the month. You know, it was after the events,
17 having recovered my health, the people from the NGOs advised me to come to them
18 and to give my testimony with a view to benefit from certain assistance from them,
19 and that's why I went there, and they took my testimony and documented it.

20 Q. [10:02:21] Very well. And do you remember the name of the person who
21 drafted this document?

22 A. [10:02:29] No. I don't know the name.

23 Q. [10:02:37] So I would ask the formal submission of tab 12 from our list of
24 materials, CAR-OTP-2045-0863. Thank you.

25 Did you go and see another NGO, witness?

Trial Hearing
WITNESS: CAR-OTP-P-1263

(Private Session)

ICC-01/14-01/21

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. [10:04:02] Thank you, witness. So we've almost finished.

5 I'm going to ask you a few questions with regards to your relationship with the Office
6 of the Prosecutor.

7 Now, how many times did you meet the Office of the Prosecutor and the investigators
8 from the Office of the Prosecutor?

9 A. [10:04:36] We met several times. Unfortunately, I do not remember the dates
10 on which we met. Sometimes we would meet physically or we would also discuss
11 what happened to me by phone. So that gives you an idea.

12 Q. [10:05:09] I forgot a question, witness. Thank you.

13 (Redacted)

14 A. [10:05:27] I don't know.

15 (Redacted)

16 (Redacted)

17 A. [10:06:04] Yes, I know him; yes.

18 Q. [10:06:11] Court officer, could we go to tab 21 please, CAR-D33-0014-0853.

19 (Redacted)

20 (Redacted)

21 Could we go to the page 0856.

22 Thank you very much, court officer.

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: CAR-OTP-P-1263

(Private Session)

ICC-01/14-01/21

1 (Redacted)

2 (Redacted)

3 Q. [10:07:58] Was he the person who drafted the document I showed you
4 a moment ago, the written testimony sheet?

5 A. [10:08:12] Yes, the document was written by him. He's the person who wrote
6 it.

7 * Q. [10:08:26] So I would ask for the formal submission of the document at tab 21,
8 CAR-D33-0013-0853.

9 Witness, a moment ago, I asked you for the name of the person who drafted this
10 testimony sheet with you and you said:

11 "I don't know his name."

12 Why did you say that you didn't know the name of the person who drafted it, if it
13 was (Redacted)?

14 Just to be precise or clear, it's in the transcript 106, real-time -- in the French transcript,
15 page 13, lines 6, and: "Do you remember the name of the person who drafted this
16 document, Mr Witness?"

17 And you answered: "No, I don't know the name".

18 Transcript 106.

19 A. [10:10:07] I don't have a close relationship with him. We don't see each other
20 regularly. We met a long time ago and that means that I didn't remember who had
21 drafted the document, if it was him or not, and that's the reason why I said that I
22 didn't know who the person was who drafted the document.

23 Q. [10:10:29] Very well. (Redacted)

24 (Redacted)

25 A. [10:10:48] No, I don't know. I don't know such people.

Trial Hearing
WITNESS: CAR-OTP-P-1263

(Private Session)

ICC-01/14-01/21

1 Q. [10:11:05] Very well. Thank you, witness.

2 I've finished, really this time.

3 Now, the investigators of the Office of the Prosecutor, did they call you by phone
4 sometimes to meet you?

5 A. [10:11:23] I haven't understood your question well.

6 Q. [10:11:33] I'm going to put two or three questions to you about how it went with
7 the investigators of the Office of the Prosecutor.

8 Now, you met them several times, we are in agreement on that?

9 A. [10:11:48] Yes. When they called me, I would go to meet them.

10 Q. [10:11:57] And they called you on a telephone that they had given you or one
11 that you had already had, witness?

12 A. [10:12:09] They didn't provide me with a telephone. We communicated on my
13 personal telephone.

14 Q. [10:12:25] Thank you, witness.

15 And when you met, did they pay your travel costs such that you could make the
16 meeting?

17 A. [10:12:42] The first meeting, they didn't pay the transport costs.

18 At the second meeting, well, often I would arrive and they would reimburse the
19 travel costs, so that I wouldn't get attacked on my way back. They asked me to go
20 back in a taxi directly from my house and not to go on foot, so to go back in a taxi
21 directly to my house.

22 PRESIDING JUDGE SAMBA: [10:13:25] Yes, Mr François-Jacquemin, do you still
23 want for us to stay in private session?

24 MR FRANÇOIS-JACQUEMIN: [10:13:35](Interpretation) I have just got one
25 question, your Honour, and I've finished. I just wanted to know how much the OTP

Trial Hearing
WITNESS: CAR-OTP-P-1263

(Private Session)

ICC-01/14-01/21

1 officers gave for these travel costs. I didn't want to continue further.

2 Do you want me to ask it in public session -- in open session? We can go in open

3 session -- I'm sorry. We can go in open session

4 PRESIDING JUDGE SAMBA: [10:13:58] Yes, let's go to open session for that

5 question.

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

7 (Open session at 10.14 a.m.)

8 THE COURT OFFICER: [10:14:06] We are back to open session, Madam President.

9 PRESIDING JUDGE SAMBA: [10:14:20] Thank you very much.

10 Please put your question, counsel.

11 MR FRANÇOIS-JACQUEMIN: [10:14:24](Interpretation) Thank you very much,

12 your Honour.

13 Thank you, court officer.

14 Q. [10:14:32] Witness, when the OTP officers gave you money to pay for your

15 transport when you met them, how much money did they give you? What amount

16 of money did they give you?

17 A. [10:14:49] Well, the first meeting I -- I don't know the amount of money they

18 gave me. But when I was getting prepared before coming here to the Court, when I

19 went to meet them, they gave me 4,000 CFA francs to buy things to eat, and 2,000

20 CFA francs to cover the transport.

21 Q. [10:15:26] These 4,000 plus 2,000, did they give it to you once or did they give

22 this to you at every meeting?

23 A. [10:15:36] Every time we met, they would provide me with a sum of money, this

24 amount.

25 Q. [10:15:52] Very well. Thank you very much, witness, for having replied to my

Trial Hearing
WITNESS: CAR-OTP-P-1263

(Open Session)

ICC-01/14-01/21

1 questions.

2 MR FRANÇOIS-JACQUEMIN: [10:16:00](Interpretation) Your Honour, I have no
3 further questions for this witness.

4 PRESIDING JUDGE SAMBA: [10:16:03] Thank you very much,
5 Mr François-Jacquemin.

6 Can I ask the Prosecution whether you have any question in re-examination for this
7 witness, please?

8 MS SARDACHTI: [10:16:15](Interpretation) We have no additional questions,
9 your Honour.

10 PRESIDING JUDGE SAMBA: [10:16:20] Thank you very much, counsel.

11 Now, Mr Witness, we have come to the end of your testimony. On behalf of the
12 Chamber, I thank you very much for your support to the Court as to giving
13 testimonies as to what you know happened in the Central African Republic during
14 the period concerned. We wish you well in your future endeavours and we do wish
15 you safe travelling mercies as you leave here going back home.

16 Thank you very much.

17 (The witness is excused)

18 PRESIDING JUDGE SAMBA: [10:16:53] Now, to the Prosecution, we note that we
19 should be having our -- the 48th Prosecution witness, P-2161, tomorrow at 9.30.
20 Can you confirm that, please?

21 MS MAKWAIA: [10:17:07] I can confirm that. I was informed the witness travelled
22 yesterday, so he should be arriving in The Hague as we speak, I hope,
23 Madam President.

24 PRESIDING JUDGE SAMBA: [10:17:18] Okay.

25 So we'll look forward to hearing that Witness P-2161 tomorrow at 9.30.

Trial Hearing

(Open Session)

ICC-01/14-01/21

WITNESS: CAR-OTP-P-1263

- 1 I rise the Court for 9.30 tomorrow morning.
- 2 THE COURT USHER: [10:17:33] All rise.
- 3 (The hearing ends in open session at 10.17 a.m.)