

Trial Hearing

(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, Judge
6 Sergio Gerardo Ugalde Godínez and
7 Judge Keebong Paek
8 Trial Hearing - Courtroom 2
9 Monday, 4 November 2024
10 (The hearing starts in open session at 9.33 a.m.)
11 THE COURT USHER: [9:33:05] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE SAMBA: [9:33:22] Good morning, everyone.
15 Madam Court Officer, can you kindly mention the case.
16 THE COURT OFFICER: [9:33:37] Good morning, Madam President, your Honours.
17 The situation in the Central African Republic II, in the case The Prosecutor versus
18 Mahamat Said Abdel Kani, case reference ICC-01/14-01/21.
19 And we are in open session.
20 PRESIDING JUDGE SAMBA: [9:33:51] Thank you very much.
21 Can I ask for representation, starting with the Prosecution, please.
22 MS MAKWAIA: [9:33:58] Good morning, your Honours. For the Office of the
23 Prosecutor this morning, myself Holo Makwaia, senior trial lawyer; Kamran
24 Choudhry, trial lawyer; Anusha Rawoah, assistant legal officer; and Alessia Vitiello,
25 analysis assistant. Thank you.

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- 1 PRESIDING JUDGE SAMBA: [9:34:16] Thank you very much, Ms Makwaia.
2 And welcome again to the courtroom, Mr Choudhry.
3 Ms Pellet for the victims, please.
4 MS PELLET: [9:34:27](Interpretation) Thank you, Madam President. The victims
5 are represented by Adeline Bedoucha and by myself, Sarah Pellet, counsel for the
6 Office of Public Counsel for Victims.
7 PRESIDING JUDGE SAMBA: [9:34:40] Thank you very much, Ms Pellet, and you
8 are also welcome again to the courtroom.
9 Ms Naouri for the Defence.
10 MS NAOURI: [9:34:51](Interpretation) Thank you very much, Madam President.
11 To my right, we have Maître Jacobs; by his side we have Elina Legat; behind we have
12 Clémence Farigoule; and then I am Jennifer Naouri, lead counsel for Mr Said.
13 PRESIDING JUDGE SAMBA: [9:35:09] Thank you very much, Ms Naouri. A very
14 good welcome -- morning, sorry.
15 So, Rule 74 counsel, please.
16 MR LELIVELD: [9:35:19] Good morning, Madam President, your Honours,
17 Johannes Leliveld.
18 PRESIDING JUDGE SAMBA: [9:35:30] Good morning.
19 And for the record, I do take note that Mr Said is in court here with us.
20 A very good morning to you, Mr Said. I hope you had a restful weekend.
21 MR SAID: [9:35:39](Interpretation) Yes. Good morning, Madam President.
22 PRESIDING JUDGE SAMBA: [9:35:41] Good morning.
23 Good morning, Mr Witness, I hope you rested well.
24 CAR-OTP-P-1339 (On former oath)
25 (The witness speaks Sango)

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1 (The witness gives evidence via video link)

2 THE WITNESS: [9:36:03](Interpretation) Good morning, Madam President. I feel
3 very well today.

4 PRESIDING JUDGE SAMBA: [9:36:06] Good.

5 Now, Mr Witness, we're going to continue with your testimony this morning, and the
6 Prosecutor, Ms Makwaia, will continue putting questions to you in chief.

7 I wish to remind you that you are still on oath to say the truth to this Court, and I'll
8 still assure you of your Rule 74 assurances that this Chamber has given you.

9 Ms Makwaia, your witness, please.

10 MS MAKWAIA: [9:36:52] Thank you, Madam President.

11 QUESTIONED BY MS MAKWAIA: (Continuing)

12 Q. [9:36:54] Good morning, Mr Witness.

13 A. [9:37:06] Good morning.

14 MS MAKWAIA: [9:37:09] Madam President, your Honours, before I continue with
15 the examination-in-chief, with your leave can we please go into a closed session.

16 PRESIDING JUDGE SAMBA: [9:37:17] Certainly.

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

18 (Private session at 9.37 a.m.)

19 THE COURT OFFICER: [9:37:35] We're in private session, Madam President.

20 PRESIDING JUDGE SAMBA: [9:37:40] Thank you very much.

21 Ms Makwaia, please continue.

22 MS MAKWAIA: [9:37:44]

23 Q. [9:37:44] (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

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4 I would now like to have displayed, your Honours, at tab 17, CAR-OTP-2041-0802.

5 PRESIDING JUDGE SAMBA: [9:38:45] Could I suggest, counsel, when you are
6 making reference to the testimony that the witness may have given, if you can give
7 the reference number like page number and lines, that should help us when we are
8 doing our analysis. Thank you very much. So carry on.

9 MS MAKWAIA: [9:39:06] I shall endeavour to do so, your Honours.

10 Q. [9:39:10] Mr Witness - I'm trying to get the right channel - you should have
11 before you a document, can you see it?

12 A. [9:39:27] Yes, I can see the document on the screen.

13 Q. [9:39:40] With the assistance of the court officer, can we please scroll down
14 slowly so the witness can have the benefit of a perusal of the document.

15 Can you go back to the top of the page, there's a few pages to the document, but I'll
16 have him identify it first.

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 A. [9:41:54] (Redacted). These are people who had come from

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1 Bossembélé.

2 Q. [9:42:07] They came from Bossembélé to -- what was their destination?

3 A. [9:42:16] They came from Bossembélé and their destination was Bangui. The
4 distance between the two is approximately 108 kilometres. They had come for the
5 Bangui battle, they took part in the attack of 5 December.

6 MS MAKWAIA: [9:42:55] If the document can be scrolled up a bit, I would like to
7 ask the witness a question.

8 We also --

9 Thank you, that's good. Thank you very much, Madam Court Officer.

10 Q. [09:43:14] We also see the name of "DANBOY - ZEPHERIN" on this document.
11 Who was that person within the Anti-Balaka?

12 A. [9:43:32] "Danboy Zepherin" was the leader of one of the Anti-Balaka bases.
13 He was a soldier. His nickname was Fazo. He was a soldier, and this was his base.
14 It was located not far from the Muslim cemetery. He entered the army during the
15 time when Bozizé was in power.

16 Q. [9:44:19] If you know, what was his rank as a soldier within the Anti-Balaka?

17 A. [9:44:27] I told you that it was he, the leader of that base. He was the leader of
18 that base.

19 Q. [9:44:56] As a leader, did he have a rank within the Anti-Balaka?

20 A. [9:45:04] Well, I can't tell you precisely, I do know that a lot of people had come
21 to fight, but every time that fighting occurred, he would come amongst the
22 Anti-Balaka and he took part in those battles. I just know that he was the chief of the
23 base.

24 Yvon Donoh was the leader in Boeing, and then it was Gotias. (Redacted)

25 (Redacted).

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1 But I don't know if he had another function within the movement.

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

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9 (Redacted)

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11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 Q. [9:49:15] And you spoke about an anti-aggression pact, what was this about?

20 * A. [9:49:25] The anti-aggression pact that I just mentioned, well, you know, well

21 before that time, the Muslim cemetery was behind our sector in Boeing, and the

22 Muslims were determined to come bury their relatives in that sector. They were told

23 that they could not go past bearing weapons on their way there to bury their relatives.

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. [9:50:50] Was this after the 5 December battle, Mr Witness?

5 A. [9:51:18] It was after the attack of 5 December. This was completed in 2015 and
6 the pact was signed on 11 June 2016. (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 MS MAKWALA: [9:53:48] With that, your Honour, I would like to submit formally

24 this document found at tab 17, starting at CAR-OTP-2041-0802 and ending at

25 CAR-OTP-2041-0808.

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1 Q. [9:54:18] Mr Witness, I would now like to show you another document and put
2 questions to you, and, where possible, please provide full and complete answers as
3 we are in a closed session and nobody can -- in the public can hear your answers or
4 evidence. Okay?

5 MS MAKWAIA: [9:54:46] Can we have displayed, your Honours, tab 13,
6 CAR-OTP-2041-0779.

7 Can the court officer please scroll down or minimise the document so the witness can
8 have a full visual of it.

9 Q. [9:55:38] Can you see the document before you, Mr Witness?

10 A. [9:55:42] Yes, I can see the document on my screen.

11 Q. [9:55:57] And what is this document?

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

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25 (Redacted)

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10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 A. [10:01:04] It was a clash between Boeing and Kilometre 5. * I told you that
20 there was a red line. It was at the demarcation between the Ali church and Boeing.
21 That is where the various parties who took part in the conflict were located.

22 Q. [10:01:40] And who was the Anti-Balaka fighting during this fight?

23 A. [10:01:48] We were fighting against the Seleka.

24 Q. [10:02:05] You have also mentioned Boy-Rabe. Can you tell us -- if you don't
25 know the exact, can you tell us or can you give the Court an approximate, what

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1 would be the distance between Boy-Rabe and Boeing?

2 A. [10:02:29] Well, you know, between Boeing and Boy-Rabe, I don't know exactly
3 what the distance is, but I would estimate it as four or five kilometres. * During
4 these conflicts, it was not possible to cross Kilometre 5 to get to Boy-Rabe. So people
5 would go by way of Combattant; then from Combattant, they would continue to the
6 Marabena roundabout, and from there, they went straight up to Boy-Rabe. But I really
7 can't tell you exactly what the exact distance is between Boeing and Boy-Rabe.

8 Q. [10:03:24] Why was it impossible to pass through Kilometre 5 during
9 the -- during the fighting? Why was it impossible, can you please tell the Court?

10 A. [10:03:57] At the time, even a child couldn't cross Kilometre 5. A Christian, when he
11 would go by way of Kilometre 5, he would be automatically killed by the Muslims who
12 were defending Kilometre 5. It was only after this signing of the nonaggression pact that
13 people could begin going to Kilometre 5, gradually. Thank God, now there is peace. But,
14 at first, at the height of the conflict, people could not cross Kilometre 5. If you went by
15 way of Kilometre 5, it was as if you were heading directly towards death.

16 MS MAKWAIA: [10:04:57] I would like to formally submit the document at tab 13,
17 your Honours, CAR-OTP-2041-0779.

18 Q. [10:05:28] Mr Witness, you've testified since Friday, and again today, about the
19 attack on 5 December. And you also testified on Friday, during the course of your
20 evidence, starting page 39 thereon, at lines 20 to 25 - for purposes of the record,
21 transcript 131, the edited version, we don't have the final version, your Honours - on
22 this issue.

23 With your leave, Madam President, I would like displayed at tab 7,
24 CAR-OTP-2041-0767.

25 (Redacted)

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5 Q. [10:25:00] And these soldiers were from which army? The ones who had fled
6 and joined you here.

7 A. [10:25:09] They were FACA elements. Most of the soldiers were being tracked
8 down by the Seleka. After they hid their weapons, they fled. * When we retreated
9 to (Redacted) and entrenched there, the ones who still had their weapons came and
10 joined us at (Redacted) base. They were part of the Central African Republic forces
11 under the Bozizé regime.

12 Q. [10:26:09] How do you know the Seleka was tracking FACA soldiers?

13 A. [10:26:38] Even a child in Bangui could tell you what I've just told you. * The
14 objective of the Seleka, after the invasion of Bangui, was to be done with the
15 Anti-Balaka. So when the FACA learned about the Anti-Balaka movement, and when
16 people realized after that both were military, they decided to join the ranks of the
17 Anti-Balaka.

18 Q. [10:27:26] Apologies, Mr Witness. I may just ask you to repeat your answer.
19 It's not entirely clear.

20 The question was: How did you know the Seleka were tracking FACA soldiers?

21 A. [10:27:46] Everyone knew. (Redacted) had been arrested and he was asked to
22 take out his weapon. After a while, he was released, but some people who had been
23 captured by the Seleka were -- they died.

24 The Seleka showed no mercy. They took people hostage and that's why young
25 people joined the Anti-Balaka.

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1 It was because the evil deeds of the Seleka. As I've been telling you, what the Seleka
2 did scarred the people of the Central African Republic. There is still a scar, a wound
3 on the people of the Central African Republic.

4 MS MAKWAIA: [10:29:16] I'd like to formally submit the document at tab 9,
5 your Honours, CAR-OTP-2041-0775.

6 Q. [10:29:39] Mr Witness, during the conflict, did the Anti-Balaka destroy any of
7 the buildings that belonged to Muslims? And just to focus your mind, we can start
8 with the Boeing, the Boeing neighbourhood.

9 PRESIDING JUDGE SAMBA: [10:30:27] Yes, Mr Jacobs?

10 THE WITNESS: [10:30:34] (No interpretation)

11 PRESIDING JUDGE SAMBA: [10:30:37] Just a moment, Mr Witness. Just a moment,
12 please. Yes, Mr Jacobs.

13 MR JACOBS: [10:30:41](Interpretation) Thank you, Madam President. * It's just
14 that, could the question be more specific, particularly in terms of time? Because when
15 counsel says "during the conflict", that's somewhat broad. I don't believe the witness
16 used that word. So if I have understood correctly, we are still talking about 5
17 December, and if... this is what I gathered from the witness's testimony. I think it
18 would be more fair to specify that rather than talking about "during the conflict",
19 which the witness has not said.

20 PRESIDING JUDGE SAMBA: [10:31:17] Madam Prosecutor.

21 MS MAKWAIA: [10:31:21] I can do that, your Honours.

22 Q. [10:31:24] Mr Witness, between the Anti-Balaka attack -- I'll take that up again.
23 Can you -- can you describe for the Court what happened during the Anti-Balaka
24 attack of 5 December 2013 with respect to Muslim buildings or property?

25 A. [10:31:52] The buildings or houses belonging to the Muslims of Boeing had been

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1 destroyed. As I said to you, when the Seleka arrived, they took virtually everybody
2 as hostage. Everyone was very angry, which meant that the Christians had looted
3 and broken the houses of the Muslims, but the Anti-Balaka did not have the
4 opportunity to go and loot those houses and take the belongings of the Muslims
5 because the Anti-Balaka were there to fight.

6 The mosque of Boeing, as far as I'm aware, a rocket had been fired upon that very
7 mosque and the population had then come to destroy the mosque and the house of
8 the imam. The population had also looted the shops belonging to the Muslims.

9 Q. [10:33:32] Do you remember when, the month and the date, if you remember,
10 the mosque of the Muslims was destroyed?

11 A. [10:33:49] As I said to you, it was on 5 December, the attack took place on
12 5 December 2013.

13 Q. [10:34:18] Were Anti-Balaka attacks carried out after the 5 December 2013?
14 Were there other attacks?

15 A. [10:34:32] In my testimony, I said that the Seleka had fought a great deal in the
16 Boeing sector and in Kilometre 5 and also in Fatima sector. The Fatima
17 neighbourhood is very close to Kilometre 5, Kilometre 5, and I can't tell you precisely
18 when those battles took place, but if I remember correctly, after the 5th, there was
19 fighting that occurred on the 7th, and the Seleka were saying, "Well, we're going to
20 attack you in the morning" or, "We're going to attack you at midday", or in the
21 evening, they would then come and open fire and the Anti-Balaka would retreat.
22 When you go past Boeing market and you get to the intersection, there were also
23 elements who were there, that we had placed there at our advanced post and
24 were -- were the Muslims to open fire, they would then tell us and the elements based
25 behind Bercaye and Boeing would come in order to respond to the Muslims attacked

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1 and then when that attack was over, we would retreat in order to rest.

2 Q. [10:36:38] During the course of these attacks, were there any victims, Mr
3 Witness?

4 A. [10:36:44] You know that in any war there are victims. There were losses on both
5 sides, from our side and theirs. * There was an Anti-Balaka element who was part of
6 Leroi's group who also died during that battle. A soldier by the name of Basile, who
7 was from the army's class of 2012, also died in that battle. He had been trained in 2012.
8 There were many elements who disappeared and, to date, they have never been
9 found, which goes to show that they also died.

10 MS MAKWAIA: [10:37:46] Can we please have displayed, your Honours, at tab 10,
11 CAR-OTP-2041-0776.

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

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1 (Redacted)

2 Q. [10:40:55] Thank you, Mr Witness.

3 MS MAKWAIA: [10:40:56] I would like to tender this as a Prosecution exhibit,
4 your Honour.

5 Q. [10:41:05] Mr Witness, you've spoken at length about the Anti-Balaka and their
6 various attacks, during your testimony. Can you please tell the Court how did the
7 Anti-Balaka communicate? Let's start with the leaders.

8 PRESIDING JUDGE SAMBA: [10:41:45] Yes, Mr Jacobs.

9 MR JACOBS: [10:41:47](Interpretation) Yes, thank you. I think that this question is
10 leading, because the witness has not talked about communication between the alleged
11 Anti-Balaka leaders for the time being. He's talked specifically about his group. So
12 it would seem to me that the question is going a little bit too fast, because before we
13 talk about how they communicated, we need to ask him in a rather more open
14 manner whether, indeed, they did communicate.

15 So I do have an objection as to the manner in which the question has been put. I
16 think we're getting ahead of ourselves a bit.

17 PRESIDING JUDGE SAMBA: [10:42:28] Mr Jacobs, I don't see any way how that
18 question is leading.

19 I'll allow it, please.

20 Carry on, Madam Prosecutor.

21 MS MAKWAIA: [10:42:46] [10:42:46] Thank you, Madam President.

22 Q. [10:42:48] Mr Witness, I'm going to put the question again to you: How did the
23 Anti-Balaka communicate? And can you please start with the leaders.

24 A. [10:42:59] I said in my testimony that from Kalangoi, Kpato and Gbangba, when
25 the new recruits would arrive their telephones were taken away. You did not have

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1 the right to communicate. If a telephone was found on you, you were killed as you
2 were described as a traitor. * (Redacted).

3 Until the attack of the 5th, the elements did not have a telephone. It was the leaders
4 who were in possession of a telephone. When those from Boy-Rabe called in order to
5 say that an attack was taking place in Boy-Rabe or Boeing, it was the leaders who had
6 telephones and who were called, and then the leaders would take some of the
7 elements and go via motorbike to reinforce the location where the attack was
8 occurring. There was -- whenever there was a certain level of stability, the leaders of
9 all the bases had bought a telephone and the leaders of the bases would communicate
10 in order to enable us to coordinate our actions.

11 However, the use of telephones started from 2014, 2015 onwards. But at the beginning
12 of the movement, it was only the leaders who had telephones. (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted). And when a certain level of stability was obtained, all of the leaders
17 bought their own telephones.

18 Q. [10:45:52] And you may have done it in bits and pieces during the course of
19 your evidence, Mr Witness, but for the clarity of the record, I will ask you this
20 question: How was your reporting line from your section upwards and then
21 downwards? Can you tell the Court, please?

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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6 (Redacted)

7 MS MAKWAIA: [10:50:54]

8 Q. [10:50:56] Mr Witness, when you were a member of the Anti-Balaka, starting in

9 the bush and then thereafter, but I'd like you to focus your mind during the period

10 you were in the bush, how were the elements punished? Can you tell the Court?

11 A. [10:51:34] In my statement, I mentioned this. For example, when an element

12 was surprised with a telephone, then he was described as a traitor. (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

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21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted). That was the punishment.

25 The elements would be tied up in *arbatachar* fashion and they would be beaten, and,

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1 after 30 minutes, they would be untied.

2 And do you know once they had been untied after those 30 minutes, their hands were
3 paralysed.

4 Q. [10:54:07] Can you just repeat again. It's -- I think I know what mode of
5 punishment you're talking about but I'd rather hear it from you. What was the
6 method called when they were tied up?

7 PRESIDING JUDGE SAMBA: [10:54:24] It's -- it's on the transcript, counsel. He
8 said and "The elements would be tied up in *arbatachar* fashion".

9 MS MAKWAIA: [10:54:47] Yes. Apologies, your Honours. I have also located it
10 in the -- in the transcript.

11 Q. [10:54:51] And who would instruct when elements should be punished; can you
12 tell the Court, please?

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 Q. [10:56:32] And how would one identify an Anti-Balaka? And here, I'm talking
24 about whether or not they possessed any form of uniform?

25 A. [10:56:55] Essentially, we did not have a uniform. We had a red and white

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1 headband. Some were red or white in colour and that's how we would recognise
2 each other. Once we came out of the bush, when we went to Mbaiki, after receiving
3 instructions, some elements erected roadblocks and received money and they bought
4 some military outfits.

5 Some elements were wearing military garb. They might have bought them from
6 soldiers, but most of them were wearing civilian attire.

7 The Anti-Balaka who came from the provinces recognised each other by virtue of
8 their amulets. They were -- they had nothing on top, and they wore amulets.

9 Those who came from the provinces had many *gris gris*. They would wear --

10 THE INTERPRETER: [10:58:53] Correction from the Sango booth:

11 THE WITNESS: [10:58:54] (Interpretation) They would wear red and white
12 armbands. The ones who -- the Anti-Balaka wore these armbands.

13 MS MAKWAIA: [10:59:09]

14 Q. [10:59:11] Thank you, witness.

15 (Redacted)

16 (Redacted)

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22 (Redacted)

23 (Redacted)

24 Q. [11:00:37] Thank you, witness.

25 MS MAKWAIA: [11:00:43] Madam President, it's the 11 o'clock break.

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- 1 PRESIDING JUDGE SAMBA: [11:00:47] Yes, we are going to take a short break.
- 2 When we come back, Madam Prosecutor, or while we are away, if you can look at the
- 3 court transcript and check tab 13, whether or not we have an identification for who
- 4 signed that particular document. It's one of the sketches, just so that we have it on
- 5 the record. I mean, if we have done it, that's fine. If not, please deal with that when
- 6 we come back.
- 7 Mr Witness, we are going to go away for some 30 minutes and we will be back to
- 8 continue with your testimony.
- 9 I rise the Court for 30 minutes, please.
- 10 THE COURT USHER: [11:01:31] All rise.
- 11 (Recess taken at 11.01 a.m.)
- 12 (Upon resuming in open session at 11.31 a.m.)
- 13 THE COURT USHER: [11:31:43] All rise.
- 14 Please be seated.
- 15 PRESIDING JUDGE SAMBA: [11:32:01] Good morning again, everyone.
- 16 Madam Prosecutor, please carry on with your examination-in-chief. We're in open
- 17 session.
- 18 MS MAKWAIA: [11:32:29] Thank you, your Honours.
- 19 Perhaps we can revert back to a closed session.
- 20 PRESIDING JUDGE SAMBA: [11:32:33] Certainly.
- 21 Madam Court Officer, can we go back to private session, please.
- 22 (Private session at 11.32 a.m.)
- 23 THE COURT OFFICER: [11:32:48] We are back to private session, Madam President.
- 24 PRESIDING JUDGE SAMBA: [11:32:51] Thank you very much.
- 25 Ms Makwaia, please continue.

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1 MS MAKWAIA: [11:32:54] Thank you, Madam President.

2 Following your instructions before we took the break, Madam President, if we can
3 have displayed tab -- the document at tab 13, CAR-OTP-2041-0779, so the witness can
4 identify the signature on the document.

5 Q. [11:33:39] Sorry to bring you back to this document, Mr Witness, but for the
6 purposes of the record, can you tell the Court --

7 PRESIDING JUDGE SAMBA: [11:33:47] It's not yet on his screen. Just a moment,
8 please.

9 It's on now, Ms Makwaia.

10 MS MAKWAIA: [11:33:56] Thank you, Madam President.

11 Q. [11:33:58] I was saying, Mr Witness, sorry to bring you back to this document,
12 but for the purposes of the record, can you please tell the Court whose signature it is
13 we can see on this document.

14 A. [11:34:09] It's my signature.

15 Q. [11:34:24] Thank you, Mr Witness.

16 Can we now also have displayed at tab 12, CAR-OTP-2041-0778, please.

17 (Redacted)

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16 Q. [11:38:54] And who or what happened at the *Foyer Charité*?

17 A. [11:39:13] The people who had fled the attack of the 5th took refuge there. It's a
18 Catholic Church, actually. The priests live there. It's a large Catholic Church.

19 Q. [11:39:47] And who are the persons who fled there? What type of persons,
20 what category, do you remember?

21 A. [11:39:56] Christians. The Muslims could not dare to venture over there as of
22 the 5th. But, you know, all Muslims were deemed to be Seleka. A Muslim could
23 not go and live amongst the Christians. At that time, all the Muslims were trying to
24 go back to Kilometre 5, and the Christians, in turn, they were running away and they
25 took refuge at the *Foyer de la Charité*.

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1 Q. [11:40:49] Mr Witness, why do you say all Muslims were deemed to be Seleka?

2 Why do you say that? Can you please tell the Court.

3 A. [11:40:59] Thank you. Well, you know, in 2012, when the Seleka came in, they
4 behaved badly towards the population. Some Muslims were -- had been born in the
5 Central African Republic, they grew up there, but when the Seleka came in, they all
6 took up weapons and they were happy enough to -- well, they really were just
7 thinking about the present, not the future.

8 They joined the Seleka movement so that they could hurt the population. Some of
9 them were wearing -- they -- boubous, like the Muslims. They got into the Seleka
10 vehicles and they came, they committed exactions. As of 5 December, even if you
11 were to get a Muslim, the other people would say, "Hey, that's a Muslim". For
12 example, Mandra, he was a Muslim who had grown up in the Boulata area, but
13 during those events, those two children joined the Seleka movement. He was forced
14 to leave the neighbourhood and take shelter at the mosque, at the Central Mosque,
15 and then, when he was caught, ultimately he was executed. So, you see, it was the
16 behaviour of the Seleka that led to all Muslims being deemed Seleka members. They
17 were likened to Seleka members.

18 Q. [11:43:31] And you spoke of Mandra, and that when he was caught, he was
19 executed. Do you know by who?

20 A. [11:43:38] No, I don't know. I believe it was the ones who took shelter at the
21 airport. They surrounded him and then they killed him.

22 Q. [11:44:11] What was his religion?

23 A. [11:44:19] He was a Muslim. And his children, as I was saying, joined the
24 Seleka, yet they had all been born in the Central African Republic, and it was because
25 of the behaviour of his children, the Christians got worked up and attacked the father

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1 and killed him.

2 MS MAKWAIA: [11:45:02] Your Honours, we'd like to formally submit the

3 document at tab 12.

4 Can I now please have displayed at tab 18, the document at tab 18,

5 CAR-OTP-2041-0809.

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1 (Redacted)

2 Q. [11:57:41] Thank you, witness.

3 I think it's already formally submitted, your Honours.

4 Mr Witness, were you subsequently part of the DDR process of the United Nations?

5 A. [11:58:12] Yes.

6 Q. [11:58:19] If you could briefly describe for the Court what this entailed or what
7 this consisted of?

8 A. [11:58:30] The DDR program occurred after the end of the conflict, and the goal
9 was to allow the elements who reported to a leader -- that these elements could find
10 some sort of work or job. These elements had fought as Anti-Balaka members. If
11 they had some kind of activity or job, or work, they would be able to return to it. For
12 example, they could be a driver or something like that, or become farmers. So they
13 would get some training to prevent them from going back or ensuring that they did
14 not go back to a group and go back to combat. So that was the goal of this program.

15 (Redacted)

16 (Redacted)

17 PRESIDING JUDGE SAMBA: [12:00:08] Can you rephrase, counsel.

18 MS MAKWAIA: [12:00:16]

19 Q. [12:00:16] How did Anti-Balaka elements get to be demobilised?

20 A. [12:00:23] I'm sorry, I can't answer the question because I haven't understood it.
21 Could you please repeat it.

22 Q. [12:01:16] Yes, of course.

23 How were Anti-Balaka elements demobilised? What process had to be followed
24 before they were demobilised?

25 A. [12:01:36] Yes, that's how it happened, as I said to you. The MINUSCA came to

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1 see us in order to convince us to open the road to the cemetery once again, and we
2 said to them that that should not be done by violent means and that if they were
3 stubborn enough to use violence again, it would be impossible. In order to facilitate
4 this, we needed to ask the Seleka leaders who were at Kilometre 5 -- (Redacted)
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19 (Redacted)
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24 (Redacted)
25 Q. [12:05:47] In your testimony on Friday, 1 November - transcript 131, the English

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1 edited version at page 39, around lines 23 to 24 - you told the Court that you
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2 PRESIDING JUDGE SAMBA: [12:18:24] That's fair, Mr Witness. Thank you very
3 much.

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4 This would be the transcript T-131, the English edited version, page 44, lines 12 to 13.

5 With your leave, your Honours, we would like to play a short video and then I would
6 ask the witness a couple of questions.

7 I think we agreed with the court officer we would take control for this.

8 (Viewing of the video excerpt)

9 THE COURT OFFICER: [12:26:36] I'm not sure whether this was intended, but I saw
10 the video without the sound being played. The Prosecution has the floor.

11 Is it possible to state the ERN for the record? Thank you very much.

12 MS MAKWAIA: [12:27:18] So the ERN of the video would be, your Honours,
13 CAR-OTP-2012-0523, as displayed on the footage.

14 I'm just looking for the tab number and I'll --

15 THE COURT OFFICER: [12:27:41] tab 31.

16 MS MAKWAIA: [12:27:44] Yes, indeed, tab 31.

17 We shall play it again with the sound.

18 THE COURT OFFICER: [12:27:57] Would you wish the Registry to display any
19 transcript?

20 MS MAKWAIA: [12:28:07] That would also be useful for the interpreters.

21 THE COURT OFFICER: [12:28:17] Would it be possible to give us the exact reference
22 on the transcript to match with the time code, please, for the interpretation assistance?
23 Thank you.

24 MS MAKWAIA: [12:28:33] So that would be CAR-OTP-2118-5507, transcription of
25 the video.

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- 1 So we shall -- it's very long footage, your Honours, so we shall start the viewing or the
2 showing at 00:35, about 00:35:50 of the transcript.
- 3 (Viewing of the video excerpt)
- 4 * THE INTERPRETER: [12:29:54](Interpretation of the video excerpt)
- 5 Sight translation:
- 6 "Unidentified speaker: Looting is prohibited. If I catch someone looting, I'll kill him.
- 7 Journalist [voice-over]: If I find someone looting, I'll kill him.
- 8 Unidentified speaker: I'm telling you, I'll kill you. We are not going to loot our
9 country like the Arabs did. Is that clear?
- 10 Journalist [voice-over]: Is that understood? You must not envy your neighbour.
- 11 Don't attack civilians. Understood?
- 12 CAB: Yes boss.
- 13 Journalist [voice-over]: Understood?
- 14 CAB: Yes boss.
- 15 Unidentified speaker: Bring us a long bench.
- 16 MJ [voice-over]: What we worry about the most is a leak. As a security measure,
17 mobile phone are prohibited.
- 18 Unidentified speaker: If someone makes the mistake of using a mobile phone, if I
19 catch someone making a telephone call, I will consider him to be a traitor. I can ask
20 ten people to catch him [incomprehensible] brutally, and we don't care, we have no
21 qualms about that.
- 22 Journalist [voice-over]: If someone has a phone and he is seen using it, he will be considered
23 to be a traitor. Even if we need ten people to catch him, he will be killed brutally.
- 24 MS MAKWAIA: [12:30:54]
- 25 Q. [12:30:55] Now, Mr Witness, I'll take you back to the beginning of the footage.

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24 PRESIDING JUDGE SAMBA: [12:35:22] Mr Jacobs.

25 MR JACOBS: [12:35:24](Interpretation) Yes, I'm rising to speak and just to help

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1 everyone. I didn't want to speak before. It might be a good idea to take a
2 screenshot of the other people at the other time stamp so that it can be registered with
3 the Registry ID number. I think it would be a good idea to take a screenshot and to
4 have the time stamp on that screenshot. I think that might be an easier way to go
5 about it each time the witness recognises someone. I think that -- I believe that
6 would be useful to proceed in that manner.

7 PRESIDING JUDGE SAMBA: [12:36:12] Certainly. Madam Court Officer, you
8 heard Mr Jacobs just now, to help the Court in respect of the time stamp and the
9 screenshot on the exhibit.

10 THE COURT OFFICER: [12:36:36] So, I'm in the Chamber's hands for this process.
11 Usually we record the exact time stamp where it was paused in the metadata of each
12 of the videos. However, if it assists, of course, the Chamber, the parties and
13 participants, we can definitely then ask the Prosecution to pause at the relevant time
14 code so we can screenshot. They can do a snip and send it to us and I will
15 subsequently assign a Registry number accordingly.

16 PRESIDING JUDGE SAMBA: [12:37:08] Is that fine, Madam Prosecutor?

17 MS MAKWAIA: [12:37:12] I've been reading the time stamp on the record, so I think
18 it's there. I am not sure how fast we can -- can we do that, a snapshot and send it.

19 Okay. We can also do a snapshot as recommended. It makes the record fuller.

20 PRESIDING JUDGE SAMBA: [12:37:34] Okay, let's carry on, please.

21 MS MAKWAIA: [12:37:37]

22 Q. [12:37:38] I'm afraid, Mr Witness, we cannot zoom in on the footage so that you
23 can get a better look of the chap in the purple hat. Could you try? But, if you can't,
24 that's okay, we'll continue to have a look and see if you recognise anybody else.

25 A. [12:38:11] The person who's sitting down, and he's wearing a black T-shirt and

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1 black trousers, that's Yekatom Rambo. The other person who is seated, who is
2 wearing a cap and a military -- some military attire, I can't identify him. And the
3 person who's standing up, I can't identify him either because his face is not in the
4 image. I only recognise one person and that's Yekatom.

5 PRESIDING JUDGE SAMBA: [12:38:47] Madam Prosecutor, how about the process
6 the court officer wanted to do a little while ago to help?

7 MS MAKWAIA: [12:39:02] That is also viable, your Honours.

8 PRESIDING JUDGE SAMBA: [12:39:05] Madam Court Officer, can you help, please,
9 in any way?

10 MS MAKWAIA: [12:39:25] Actually, your Honours, I am satisfied. I wanted to
11 identify -- there are other individuals he can identify, but these are the key ones that
12 are relevant.

13 PRESIDING JUDGE SAMBA: [12:39:35] Okay, thank you very much. I'm just
14 looking at the time. Yes, carry on, counsel.

15 MS MAKWAIA: [12:39:41]

16 Q. [12:39:42] Thank you, Mr Witness. Now, my final question to you today is this:
17 What motivated you to come forward to give your evidence before the Court today?

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21 What motivated me to come and give testimony? I joined the movement to defend
22 the people, the population, not to do wrong, to harm anyone. That is what
23 motivated me, your Honour.

24 Q. [12:45:01] Thank you, Mr Witness.

25 MS MAKWAIA: [12:45:04] Your Honours, that is my final question. I have no

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1 further questions for the witness.

2 PRESIDING JUDGE SAMBA: [12:45:07] Thank you very much, Madam Prosecutor.

3 Mr Witness, I'm sorry about your outburst. Hopefully the process you are now

4 going through will help you -- it will help with your trauma.

5 But I have one question to ask you before I turn over -- turn you over to the Defence,

6 to counsel for the -- for Mr Said.

7 I want some confirmation on tab -- Mr Court Officer, if you can bring it up on tab 15.

8 Tab 15.

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7 PRESIDING JUDGE SAMBA: [12:49:03] Okay. Thank you very much, Mr Witness.

8 Yes, Madam Prosecutor.

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 PRESIDING JUDGE SAMBA: [12:49:28] It's noted. Thank you very much.

13 So, Mr Witness, I'm now going to turn over to the Defence to put questions to you, so

14 we will expect your cooperation, pretty much as you've done with the Prosecution, to

15 give your testimony to the Court.

16 Mr Jacobs, I see we have about 12 minutes, so let's start with the Defence questions,

17 please.

18 MR JACOBS: [12:50:42] Thank you, Madam President.

19 QUESTIONED BY MR JACOBS: (Interpretation)

20 Q. [12:50:45] Good day, Mr Witness?

21 A. [12:50:49] Good day.

22 Q. [12:50:53] My name is Dov Jacobs, and today I will be asking you some

23 questions on behalf of Mr Said's Defence team. As it has already been explained to

24 you, everything that is being said here is being interpreted into French, into English,

25 into Sango, and also it's being written down. You can see that I have a screen here

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1 with a transcript. Everything has to be just right on the transcript. That's why I'm
2 speaking slowly and I'll try to stop after your answers and I'm going to ask you to do
3 the same; that is to say, when I put a question to you, please pause for a few moments
4 before you answer. If ever you see me raising my hand, it's because I'd like you to
5 stop speaking, to slow down. So you, you see, I may be giving you a hand gesture - is
6 that understood - so that you will understand that you need to stop, or pause?

7 A. [12:52:10] Yes, I understand that.

8 Q. [12:52:13] Mr Witness, we're still in private session. Only the people here in
9 this courtroom can hear what you're saying.

10 I would like to hark back to your profession before the year 2013 and your path
11 through life. I do have a question.

12 Now, on Friday you told us - this is transcript 131, edited version, page 9, lines 18 to
13 24 - you said that you got to Bangui when you were one year old; correct?

14 A. [12:53:12] Yes, that's right. I grew up in Bangui.

15 Q. [12:53:28] You also said that your father had been assigned to Bangui and put
16 up there.

17 Why did he move to Bangui at that time, Mr Witness?

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: CAR-OTP-P-1339

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- 1 MR JACOBS: [13:03:05] Madam President.
- 2 PRESIDING JUDGE SAMBA: [13:03:09] Yes. Thank you very much. If you all
3 can afford us just a few minutes, because the witness was unable to answer -- or make
4 certain identification in respect of the video that was shown him, but we understand
5 that the Registry has taken some screenshots of portions of the video which I'd like to
6 put to this witness. Let's show this witness so that, you know, where possible, he
7 can -- I know he's made certain identifications, at least of two or three persons.
8 Maybe he can identify some other persons, at least in the three minutes remaining.
9 Madam Court Officer, can you help us, please.
- 10 THE COURT OFFICER: [13:03:54] May I ask the Chamber which time stamps would
11 like the Registry to display?
- 12 PRESIDING JUDGE SAMBA: [13:04:04] Which one? Sorry.
13 (Trial Chamber confers)
- 14 PRESIDING JUDGE SAMBA: [13:04:20] Madam Prosecutor, which of the photos of
15 the persons do you want this witness to identify for the record?
- 16 MS MAKWAIA: [13:04:25] We identified them on the record. Perhaps we can send
17 via email the time stamps of the --
- 18 PRESIDING JUDGE SAMBA: [13:04:31] So are you saying you don't want any more
19 identification? It's fine, the ones that you identified?
- 20 MS MAKWAIA: [13:04:37] Yes, those are fine.
- 21 PRESIDING JUDGE SAMBA: [13:04:40] Okay. Thank you very much then.
22 Thank you very much, Madam Court Officer. That's fine.
- 23 So, Mr Witness, we are going to end your testimony here today and we'll come again
24 tomorrow. So, before we leave, I'd like to remind you that you will still be on oath
25 when we meet again tomorrow and I advise you not to discuss your testimony with

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- 1 anybody when you leave your current location.
- 2 I rise the Court for 9.30 tomorrow morning, please.
- 3 THE COURT USHER: [13:05:05] All rise.
- 4 (The hearing ends in private session at 1.05 p.m.)