

Trial Hearing
WITNESS: CAR-OTP-P-0529

(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 Tuesday, 8 October 2024
10 (The hearing starts in open session at 9.33 a.m.)
11 THE COURT USHER: [9:33:47] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE SAMBA: [9:34:09] Good morning, everyone.
15 Madam Court Officer, can you kindly mention the case.
16 THE COURT OFFICER: [9:34:23] 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: [9:34:38] Thank you very much.
21 Can I ask for representation, starting with the Prosecution, Ms Makwaia.
22 MS MAKWAIA: [9:34:45] Good morning, Madam President, your Honours. For
23 the Prosecution this morning, myself, Holo Makwaia, senior trial lawyer;
24 Marie-Jeanne Sardachti, trial lawyer; and Anusha Rawoah, assistant legal officer.
25 Thank you.

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- 1 PRESIDING JUDGE SAMBA: [9:34:57] Thank you very much, Ms Makwaia.
2 Ms Pellet for the victims, please.
3 MS PELLET: [9:35:03](Interpretation) Thank you, Madam President. Representing
4 the victims today are Miriam Ramos and myself, Sarah Pellet, counsel at the Office of
5 Public Counsel for Victims.
6 PRESIDING JUDGE SAMBA: [9:35:19] Thank you very much, Ms Pellet.
7 Now Ms Naouri for the Defence, please.
8 MS NAOURI: [9:35:25](Interpretation) Thank you, Madam President. Good
9 morning.
10 To my right, *Maître* Jacobs, and next to him Elina Legat. And myself, I am Naouri,
11 Ms Naouri, lead counsel for Mr Said.
12 PRESIDING JUDGE SAMBA: [9:35:44] Thank you very much, Ms Naouri.
13 And for the record, I do take note that Mr Said is in court with us.
14 A very good morning to you, Mr Said. I hope I see you well.
15 MR SAID: [9:35:53](Interpretation) Yes. Good morning, Madam President.
16 PRESIDING JUDGE SAMBA: [9:36:00] Good morning.
17 Good morning, Mr Witness. I hope you rested well.
18 WITNESS: CAR-OTP-P-0529 (On former oath)
19 (The witness speaks French)
20 THE WITNESS: [9:36:09](Interpretation) Yes. Good morning, Madam President. I
21 am fine.
22 PRESIDING JUDGE SAMBA: [9:36:14] Good.
23 Now we're going to continue with your testimony and I'm going to ask the Defence,
24 Mr Jacobs, to continue putting questions to you, but I wish to remind you that you are
25 still on oath to say the truth to this Court.

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- 1 Mr Jacobs, please, your witness. We are in open session, please.
- 2 MR JACOBS: [9:36:37](Interpretation) Thank you, Madam President.
- 3 QUESTIONED BY MR JACOBS: (Continuing) (Interpretation)
- 4 Q. [9:36:48] Good morning, Mr Witness.
- 5 A. [9:36:50] Good morning, counsel.
- 6 MR JACOBS: [9:36:57](Interpretation) Madam President, for my next topic, I think
- 7 we need to go into private session.
- 8 PRESIDING JUDGE SAMBA: [9:37:02] Madam Court Officer, can we go into private
- 9 session, please.
- 10 (Private session at 9.37 a.m.)
- 11 THE COURT OFFICER: [9:37:20] We are in private session, Madam President.
- 12 PRESIDING JUDGE SAMBA: [9:37:23] Thank you.
- 13 Mr Jacobs, please continue.
- 14 MR JACOBS: [9:37:26](Interpretation) Thank you, Madam President.
- 15 Q. [9:37:31] We will continue from where we were yesterday, Mr Witness, and we
- 16 will continue the account with the incident of the minibus.
- 17 I would like to go back to something that you told us yesterday during the hearing,
- 18 and it is transcript - I want to be sure that it is well transcribed - T-118, page 64, line 9,
- 19 and you said, "We knew it because it was in relation to a communiqué which stated
- 20 that bodies had been found in the waters of the Oubangui River and the Red Cross
- 21 had taken those bodies to the morgue and the relatives should have -- should come
- 22 and identify." So that's page 64, line 9.
- 23 Now, can you elaborate a little bit. * Do you remember the date and time of when
- 24 you heard this communiqué and where you were?
- 25 A. [9:38:50] Thank you, Madam President, counsel.

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1 I said yesterday that, if I remember correctly, * it was the following day, 13 July, yes.
2 When we were in the premises of the gendarmerie and the police to look for these
3 people, they also told us that they had been taken -- had told us that they were going
4 towards the town, so we thought OCRB. And I was told I could not go there and I
5 said I did not know why the vehicle had been taken away, (Redacted)
6 (Redacted). I called OCRB and they said they were not there. They had been there,
7 but they had taken away and were no longer there. And I started moving around
8 where there were the zone commanders, because they were scattered all over the
9 brigades and police stations by ComZones.

10 Q. [9:40:19] Mr Witness, in your prior statement you described * all the places you
11 say you went to find (Redacted). That statement has been admitted, so my point is
12 to ask questions for clarification, that is in areas where you do not have specific
13 information. So my question was specific about the communiqué. Where were you
14 when you heard this communiqué and on what day?

15 A. [9:40:56] Thank you, counsel. It was the following day, and personally I did
16 not hear that communiqué because I was searching for them. But it was the friends
17 and relatives who heard that communiqué who called me by phone and said that
18 they had heard that communiqué that lifeless bodies had been found and the Red
19 Cross had deposited them to -- in the morgue of the community hospital. That is
20 why we went to the morgue to find the bodies.

21 Q. [9:41:33] Very well. So you, yourself, you did not hear the communiqué.
22 Now, these people who called you, did they tell you where they heard it from? Was
23 it over the radio, television, from the press, media? If you know.

24 A. [9:41:51] They heard the communiqué over the radio.

25 Q. [9:41:57] Very well. Which radio station, please?

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1 A. [9:42:12] They did not specify it, but I think I know it was Radio Centrafrique.

2 Q. [9:42:24] Very well, that is useful.

3 Now, how do you know it was Radio Centrafrique?

4 A. [9:42:32] It is the station that people listen to most, Radio Centrafrique, and

5 Ndeke Luka. But this was an official communiqué, and for those type of

6 communiqués it would be Radio Centrafrique.

7 Q. [9:42:54] Thank you. When you say it was an official communiqué, from

8 whom?

9 A. [9:43:04] It was the people of the Red Cross.

10 Q. [9:43:09] Very well. So it was other people who called you to say that the

11 official communiqué from the Red Cross had been broadcast and that you had to go

12 to the morgue. And you have said it was on 13 July, right?

13 A. [9:43:38] Yes. * It was 13 July, not the following day, that the communiqué was

14 published telling us that the lifeless bodies had been found at the level of the Sofitel

15 hotel. So it was the Red Cross that deposited those bodies there and we went there

16 and found those bodies.

17 Q. [9:44:04] Very well. Now, I know it was a long time ago, but do you remember

18 the time at which you arrived the morgue?

19 A. [9:44:14] (Redacted).

20 Q. [9:44:24] Very well. And you said so you arrived the morgue, in plural. So

21 who accompanied you?

22 A. [9:44:40] (Redacted).

23 Q. [9:44:47] (Redacted).

24 A. [9:45:03] (Redacted).

25 Q. [9:45:11] Very well. So you (Redacted) arrived at the morgue, and what

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1 happened after your arrival? Because you said you went there to identify the bodies.

2 Were the bodies shown to you in a particular room? Can you describe how you
3 were received, what happened.

4 A. [9:45:46] There were several bodies on the floor covered by tarps, so it was only
5 their faces that were visible so that the relatives could identify them. And when we
6 entered, (Redacted)

7 (Redacted)

8 They were on the ground. And then I started panicking.

9 Q. [9:46:24] Thank you, Mr Witness, for sharing those details.

10 Now, you said that there were bodies on the ground. Do you remember how many?

11 A. [9:46:39] Several bodies, several bodies. Almost 10.

12 Q. [9:46:52] Very well. Now, did you see a doctor or any staff member of the
13 hospital at that time?

14 A. [9:47:10] No, just the morgue assistant and the families of the other victims.

15 Q. [9:47:21] Very well. So you arrived at about -- (Redacted).

16 Now, if you remember, do you -- when was it that you were able to identify the
17 bodies?

18 A. [9:47:41] Can you repeat the question, counsel.

19 Q. [9:47:44] Yes, maybe I was not clear enough. You arrived the morgue
20 (Redacted). and you were taken to identify the bodies. How long did it take? Was
21 it immediately? Were you asked to be patient? How long did it take for you to be
22 taken to the room where you identified the bodies, Mr Witness?

23 A. [9:48:10] It didn't take long. I just -- it is as if I entered in this room and I see
24 Mr Jacobs, I say, "This is Mr Jacobs." And I can see that is Madam President on that
25 side. That is immediately we entered we identified our relatives.

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1 Q. [9:48:36] Very well. What happened thereafter, Mr Witness? And you said
2 you identified the bodies immediately, according to you, so what happened after that,
3 what did you do?

4 A. [9:48:56] After -- well, what can happen next, counsel? It is crying, it is crying,
5 we had our hands on our heads. And then we had to contact the relatives who were
6 not yet informed, and they came and joined us, and the morgue was invaded.

7 (Redacted)

8 (Redacted)

9 Q. [9:49:40] Very well. Now, when you say you called the relatives, do you
10 remember who you called at that time?

11 A. [9:49:54] Remember who? (Redacted)

12 (Redacted). There were a lot of them.

13 There were a lot of them to contact the others.

14 Q. [9:50:19] Mr Witness, if you can repeat the name of your elder brother, because
15 it was not captured in the transcript.

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 Q. [9:51:17] Thank you, Mr Witness. It is important for us.

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 Q. [9:51:44] Very well. And after that, did you recover the bodies on that day or at
25 another time? What happened afterwards?

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1 A. [9:52:16] Yes, indeed, but the bodies were in an advanced state of decomposition
2 and we could no longer wait, so we had to quickly take the bodies and go and bury
3 them, latest around 11 p.m.

4 Q. [9:52:38] Very well. But concretely, how did it happen? Transportation, for
5 example. Did you have any coffins for the bodies?

6 A. [9:52:58] As I told you, quickly the relatives would find some wood to make
7 a -- a large box and put the bodies in, so they were not really coffins and there were
8 no ceremonies and we had to rapidly find solutions to take plank and then make up
9 something.

10 Q. [9:53:25] Very well. And do you know at what time you left the hospital with
11 the bodies, that is if you remember?

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 MR JACOBS: (Interpretation) [9:55:11] Court officer, if you could display tab 13 on
20 our list of materials, CAR-OTP-2044-0573, and that can be shown to the witness.

21 And move on to page 0634. Thank you, Madam Court Officer. Now, that is perfect.

22 Q. [9:56:02] Can you see that document in front of you, Mr Witness?

23 A. [9:56:04] Yes, I see the names, including my name.

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 A. [9:56:20] Yes, I can. (Redacted)

3 THE INTERPRETER: [9:56:29] The pause, Madam President. The pause is not
4 being observed.

5 PRESIDING JUDGE SAMBA: [9:56:32] Mr Witness and Mr Jacobs, can we observe the
6 five-second rule between questions and answers so we help the interpreters, please.

7 MR JACOBS: [9:56:45] (Interpretation) Thank you, Madam President, we were taken
8 away by the pace.

9 Q. [09:56:54] We are going to pay more attention, Mr Witness.

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 Q. [9:57:46] (Redacted)

16 (Redacted)

17 Did you answer, Mr Witness? I saw you nod but you have to speak out loud.

18 A. [9:58:12] Yes, it is indeed myself, and the document includes my phone number as well.

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 Q. [9:59:47] Thank you, Mr Witness, for those clarifications.

2 That document can be withdrawn because it has already been submitted and I will
3 move on with my questions.

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. [10:00:47] And, now, you said to the Office of the Prosecutor when you met
12 them that (Redacted) were buried? Did you tell them that?

13 A. [10:00:59] Could you repeat the question, please?

14 Q. [10:01:01] When you met the investigators from the Office of the Prosecutor and
15 you told them what had happened, did you tell them where (Redacted) were buried?
16 You did that, did you not?

17 A. [10:01:12] Well, it was a long time ago. I answered their questions and I don't
18 know if that question was put to me or whether it was not put to me, but it's the place
19 that I've just shown you and (Redacted)
20 (Redacted)

21 Q. [10:01:29] Did the investigators ask you to take them there to show where they
22 were buried?

23 A. [10:01:38] Personally, me, I didn't take an investigator there to see the graves.
24 Maybe other relatives or other people, but I didn't. Because I wasn't the only one, *
25 my mother was there, my older brothers and younger sisters, younger sisters and

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1 others, perhaps they accompanied the investigators. I had an uncle, I remember,
2 also, and he was received by the investigators in regards to this case. I don't know if
3 he took the investigators there. That's something I don't know, but personally I did
4 not accompany them.

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 Q. [10:03:58] Thank you very much. I was waiting for the transcript to finish.

18 Thank you, Witness.

19 So, this uncle, was he there on that day at the morgue with you?

20 A. [10:04:14] I didn't see him. He stayed at home -- they stayed at home.

21 Q. [10:04:28] Very well. When you left the hospital, were you given documents
22 from the hospital, administrative documents concerning (Redacted), or to you or to
23 members of your family?

24 A. [10:05:00] On that day, as I told you, it was just the person responsible for the
25 morgue and they had to give us a document and they made a death certificate later,

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1 and it was a death certificate that they made later. But at the hospital, there wasn't a
2 document that was provided to us.

3 Q. [10:05:29] Very well. So, if you remember, if there was a medical examination,
4 post mortem for (Redacted), an autopsy, or any other type of bodily examination that
5 was carried out by the doctor, or forensic expert?

6 A. [10:05:56] At the time, it was really a crisis at the time, we didn't take into
7 account all of that. And, as I told you already, the bodies were decomposing and in
8 an advanced state of decomposition, very advanced, so we didn't have the time to see
9 a doctor to carry out an autopsy, no.

10 Q. [10:06:22] Very well. And you've been speaking about a death certificate.
11 Who was the person who drew up the death certificate -- was it you, witness?

12 A. [10:06:31] No, it was my uncle who got the death certificate drawn up.

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. [10:07:04] Very well. Were you present on that day when the death certificate
17 was made?

18 A. [10:07:17] Well, it was a very long time ago. I don't know if I was with him or
19 not. I was the person who was managing everything. Alone I couldn't have split
20 myself up, so the tasks were divided up for this. So other relatives dealt with that,
21 but I would also deal with that as well.

22 Q. [10:07:42] Very well. Now, I know it's a long time ago, I'm just putting
23 questions and if you remember, that's good, that's very good. So, do you have a
24 copy of this death certificate still?

25 A. [10:08:02] Yes, I've got a copy. There must be a copy.

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1 Q. [10:08:14] But you yourself, do you have a copy thereof?

2 A. [10:08:23] Well, I don't have it here.

3 Q. [10:08:39] Very well. And at the time when the death certificate was being
4 drawn up, I understand there wasn't a document from the hospital. On the basis of
5 what document, therefore, did the civil status officer, the registrar, make a death
6 certificate? What had to be brought by means of proof or a justification to the civil
7 status officer or registrar?

8 A. [10:09:04] I don't know. In our country, when somebody dies -- in the Central
9 African Republic, when somebody dies, the relatives sign with the name of the person
10 who died and the civil status officer, he sets -- he makes the death certificate. But in
11 this case, it was known by everybody, everybody knew, and so even just giving the
12 name, there was no doubt whatsoever. We had the photographs. There were
13 photographs, as I told you before, right up to the burial.

14 Q. [10:09:59] Very well, thank you, witness.

15 I'm sorry, witness, I was just looking to see if there were any clarifications that still
16 needed, but we call move on, I think.

17 A. [10:10:32] I am available to you, counsel.

18 Q. [10:10:34] Thank you.

19 Very well, witness. I think that I have the clarifications that I needed with regards to
20 the morgue and the bodies, and I'm now going on to another issue. Is that okay?

21 A. [10:11:09] Very well.

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 Q. [10:12:26] Very well.

6 So, court officer, if we could show item CAR-D33-0014-1271, and this is at tab 24 in

7 our list of materials. It can be shown to the witness.

8 PRESIDING JUDGE SAMBA: [10:13:44] Do you still want us to be in private session,

9 counsel?

10 MR JACOBS: [10:13:49](Interpretation) Yes, your Honour, because I was speaking

11 directly to the witness, who is mentioned in this article.

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 Q. [10:14:39] I would like us to show page 1275, if you would be so kind. So if we

20 can go down a bit further, you can see number 4. Just to be fair with you, I'm going

21 to present this article for you, it speaks about you, it would seem to me, so I will allow

22 you to read what is written and if you could tell us if you have any comments on it.

23 Thank you.

24 Or perhaps, for the record, I can read it out aloud so that it is interpreted. So I'm

25 going to read it aloud for the interpreting, so:

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 PRESIDING JUDGE SAMBA: [10:16:07] Can I ask that you read slowly so that the
7 interpreters can get what you are reading out, thank you.

8 MR JACOBS: [10:16:18](Interpretation) Absolutely, Madam President. I'm going to
9 slow down a bit.

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 THE INTERPRETER: [10:18:43] "He has a reputation for being greedy", corrects the
21 interpreter.

22 MR JACOBS: [10:18:47](Interpretation)

23 Q. [10:18:48] So, if you could have a look at that, witness, and then I'll go on to the
24 next page.

25 Please tell me when you are ready, witness. If we could show the next page, please,

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1 page 1276. I'm just going to read the last sentence, if you would allow me.

2 A. [10:19:35] Your Honour, with your permission, I know this article, I know who
3 wrote it.

4 Q. [10:19:43] Witness, if you would allow me, I'm just going to read the last
5 sentence and then you can comment on it. And this is the aim of the exercise here.

6 A. [10:19:48] Very well.

7 (Redacted)

8 (Redacted)

9 PRESIDING JUDGE SAMBA: [10:20:08] Yes, Mr Witness?

10 THE WITNESS: [10:20:10](Interpretation) Madam President, with your leave, I
11 would like to relieve myself, to take a break.

12 PRESIDING JUDGE SAMBA: [10:20:18] Okay. We shall wait for you, Mr Witness.

13 (The witness exits the courtroom)

14 (The witness enters the courtroom)

15 THE WITNESS: [10:21:56](Interpretation) Thank you very much, your Honour.

16 PRESIDING JUDGE SAMBA: [10:22:01] Yes, welcome back, Mr Witness.

17 Mr Jacobs, please continue.

18 MR JACOBS: [10:22:04](Interpretation) Thank you, Madam President.

19 Q. [10:22:10] So, Witness, I'm just going to read the last sentence and then you can
20 comment on it.

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 So, witness, now you say that you know this article, so we are listening to you.

25 A. [10:23:06] Thank you, your Honour. Thank you, counsel.

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 Q. [10:24:51] Witness, can I ask you to slow down, just a bit, so that we have

19 everything in the transcript.

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 Q. [10:28:10] Just so it's clear, when you say it was him, you're speaking about the

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1 author of the article, are you not?

2 A. [10:28:23] Yes. When I say it's him, he's -- (Redacted)

3 (Redacted)

4 (Redacted)

5 Q. [10:28:42] I'm trying to wait for the five seconds and that's why I'm looking at
6 the interpreters, to see if they're able to follow.

7 Now, could you give us his name, please.

8 A. [10:28:51] The name?

9 Q. [10:28:49] The name of the author.

10 We're in private session, yes. It would be useful.

11 A. [10:28:58] Shall I give it to you now?

12 Q. [10:29:02] Please do.

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

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14 (Redacted)

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18 (Redacted)

19 (Redacted)

20 (Redacted)

21 * A. [10:33:15] Well, you know, it went on for a long time.

22 Q. [10:33:29] Very well. When you said "a long time", am I to understand that you
23 had many activities of that sort?

24 A. [10:33:43] Several articles.

25 Q. [10:33:56] And just in case you remember - I know that it was a long time

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6 (Redacted)

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9 Q. [10:34:51] Thank you, Mr Witness. I think I'm done with this article. I have all
10 the information I wanted.

11 So I ask for the submission of that article at tab 24, CAR-D33-0014-1271.

12 I will go back -- I will go to the last topic, Mr Witness, and then I would have
13 concluded.

14 Now, do you remember when the Office of the Prosecutor of the ICC contacted you
15 for the first time?

16 A. [10:35:49] I know that it was a long time ago, but I no longer remember a precise
17 date.

18 Q. [10:36:07] Very well.

19 Court officer, please, if we could display, but not to the witness because there is
20 confidential information in relation to the OTP, tab 11 on our list of materials,
21 CAR-OTP-2014-0056.

22 Mr Witness, we have a document here prepared by the Office of the Prosecutor. It is
23 called a "Screening Note" and which reflects the first time that they met with you,
24 according to them.

25 So if you can display page 0057, that is the second page of the document.

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1 So, according to the information given by the OTP, you spoke on the telephone with
2 an investigator, that is two investigators, on 12 September 2015. Now, does that
3 refresh your memory in relation to the time that you spoke with the investigators or
4 with the Office of the Prosecutor, for the first time?

5 A. [10:38:10] I remember that I received several phone calls from the investigators,
6 but I no longer remember the precise date. * It's been years. Many investigators
7 called me for information, but I no longer remember the precise dates. It was a long
8 time ago.

9 Q. [10:38:38] Very well. Not -- it is not very serious, we have this document which
10 can help us to situate ourselves in time.

11 Apart from the date, I have no further questions related to this document and I would
12 like to ask for it to be formally submitted, so that is tab 11 on our list,
13 CAR-OTP-2014-0056.

14 Now, if we accept this date, and there's no reason to doubt it, in September 2015, your
15 interview for your statement was in November 2016, that is one year later. So in
16 between that time, one year, what did happen between you and the investigators?
17 Did you meet with them, did you converse on the phone? What happened,
18 Mr Witness?

19 A. [10:39:54] If I remember correctly, I know that the Office of the Prosecutor, as I
20 told you a short while ago, I received several calls from them. Some investigators I
21 spoke with on the phone; others actually travelled to go -- or to come to our country
22 and we had several face-to-face meetings in Bangui, and it was on the basis of that
23 that we initialled or signed several documents, and many I spoke with on the phone,
24 but I don't remember all the dates.

25 What I know is that there were investigators who travelled to Bangui, we had

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1 discussions, and others called me on the phone and we discussed matters of
2 clarifications.

3 Q. [10:40:51] Thank you. We understand that you do not have the precise dates in
4 mind, we just want to situate ourselves in time.

5 Now, for questions of clarifications, there are phones that you -- the phone calls that
6 you received, was it before or after you gave your statement?

7 A. [10:41:17] Even after my statement, I've continued having interactions with them,
8 that is, after the statement was given.

9 Q. [10:41:31] Very well. Now, when they called you the first time, did they tell
10 you how they found your phone number, how they managed to locate you to be able
11 to speak with you?

12 A. [10:41:44] I, myself, sometimes I am surprised. That is when I told myself, well,
13 the investigators have their own way of working. Just like yesterday, you brought
14 out a copy of my decree of appointment; I don't know how you managed to get that.
15 So it is investigations, so I don't know what they did. They just introduced
16 themselves and asked me about the facts, they asked me to confirm whether I was
17 indeed the person and I did so, and that's how we started our interactions.

18 Q. [10:42:36] Very well. Even if it's not very clear, I will try one last question
19 regarding the time line.

20 Do you know why it took more than one year between the first contact and your
21 statement? Were there problems of communication, any other issues that would
22 explain the lapse of time of one year?

23 A. [10:43:06] Well, it is not up to me. It depends on the organisation, the Office of
24 the Prosecutor or the investigators, it's not up to me to explain that.

25 Q. [10:43:28] Very well.

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1 PRESIDING JUDGE SAMBA: [10:43:38] Do you still want us to be in private session,
2 Mr Jacobs?

3 MR JACOBS: [10:43:42](Interpretation) It is true, in hindsight, I could have been in
4 open session, but right now I want to talk about the identity of the witness, so I think
5 it's better to stay in private.

6 PRESIDING JUDGE SAMBA: [10:44:13] Carry on then.

7 MR JACOBS: [10:44:16]

8 Q. [10:44:17] I had a question for you, Mr Witness. At the time of your meeting
9 with the investigators, in your prior statement - I don't think there is a need to display
10 that, but it is tab 1 for the French and 1.3 for the English - it is indicated that you
11 presented a passport to the investigators and there is the number of the passport.
12 Do you remember whether the investigators made a copy of your passport at that
13 time when you met with them in 2016 to give your prior recorded statement?

14 A. [10:44:57] Yes, I remember, they took a copy of my passport. I initialled my
15 statement and even in the statement, the number of my passport was indicated.

16 Q. [10:45:17] Absolutely, Mr Witness. The number is indicated, but we do not
17 have a copy. We asked the Prosecutor to share a copy with us, but they did not have
18 it, so that is my question. I asked you whether you -- they took a copy.

19 A. [10:45:38] Well, in any case, personally I have a copy of it.

20 Q. [10:45:47] My question is did the investigators make a photocopy or a
21 photograph of your passport at that time? That is my question.

22 A. [10:46:01] I no longer remember. I no longer remember.

23 Q. [10:46:06] So, now, can we display tab 6 of our list of materials, and that is *
24 CAR-OTP-0000-1202, and it can be shown to the witness.

25 Can you see the document, Mr Witness?

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1 A. [10:47:01] Yes.

2 Q. [10:47:02] Can someone zoom in to that document a little bit. That's perfect.

3 So you recognise that document, Mr Witness?

4 A. [10:47:21] Yes, it is my passport. It is indeed me.

5 Q. [10:47:26] Very well. And we can see that that passport was to expire on

6 19 March 2024. So I suppose you had to make a new passport to be able to travel, to

7 come here now?

8 A. [10:47:50] My two passports were handed over to the organisers, both the old

9 passport and the new one.

10 Q. [10:48:05] And that is the old one that expired in March?

11 A. [10:48:10] Yes, it's already expired and a new one was issued just a few weeks

12 ago.

13 Q. [10:48:19] Very well. We do not have a copy of the new one. We have a copy

14 of the old one, which is there. Now, are you prepared to give us a copy?

15 A. [10:48:33] Yes, even today, if you want a copy, it is possible.

16 Q. [10:48:37] Very well. Just one question: Who paid for that new passport to be

17 issued?

18 A. [10:48:44] For the passport, it was the Office of the Prosecutor.

19 Q. [10:49:02] Very well.

20 I would like to ask for this document, the former -- the old passport of the witness to

21 be formally submitted. It's tab 6, CAR-OTP-00001202.

22 Mr Witness, did the OTP reimburse the costs for your meetings, for example, *

23 transport costs or medical expenses or any other expenses related to your

24 collaboration or interaction with the Office of the Prosecutor?

25 A. [10:49:50] As you know, we live in a country with a crisis and there are financial

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1 difficulties, so each time I met with the OTP we would be given transport fares.

2 They took care of us because we don't have the resources, so they take care of us, to
3 facilitate transportation and other things.

4 Q. [10:50:16] When you say "other things", what do you mean?

5 A. [10:50:21] To facilitate the transportation.

6 Q. [10:50:32] I remember -- I realise that I forgot one question before that one. Just
7 a second.

8 After your prior statement, you said that you had other contacts with the OTP for
9 clarifications. Did you give the names of other potential witnesses to the OTP
10 concerning that incident?

11 A. [10:51:23] Yes, yes, names were given. Names were given to the Office of the
12 Prosecutor.

13 Q. [10:51:38] Court officer, please, if we could display tab 10 on our list of materials,
14 and it is * CAR-OTP-0003-7495, and that can be shown to the witness. If you can
15 scroll down to the third paragraph, it is a report by the investigators and it is in
16 English. I will read it out in English and it will be interpreted for you:

17 (Speaks English) "On 26/Mar/2017, Investigators met with P-0529 who introduced
18 another potential witness to the OTP as well as to clarify details regarding a vehicle
19 he used to own."

20 (Interpretation) My question, Mr Witness, is that in March 2017, the investigators said
21 that you introduced to them a potential witness. Did you present that witness in
22 person or was there a connection -- was that in connection with a particular fact and,
23 if so, which?

24 A. [10:54:00] Thank you. As you know, we organised ourselves in Bangui as an
25 association of victims and I am a member of that association, and we know the

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1 problems of each of us victims and we collaborate with the Office of the Prosecutor.
2 If needed, it can be me and it can be others who may come to clarify the OTP or to
3 testify. So I think, indeed, I exchanged with the Office of the Prosecutor on their
4 experiences and the others equally testified or gave information about those incidents.

5 Q. [10:55:03] If I understand you correctly, you are saying that amongst your
6 association of victims, you discuss amongst yourselves in relation to collaboration
7 with the Office of the Prosecutor; is that correct?

8 A. [10:55:17] No, we do not talk about our collaboration with the OTP. We
9 organise ourselves into an organisation with -- different organisation with various
10 leaders, but we know each others' problems. Maybe the Prosecutor can ask about
11 what someone knows or ask about that to any other member.

12 Q. [10:55:50] Thank you very much, Mr Witness.

13 I would like to ask for the formal submission of this document, which is tab 10 on the
14 list of materials, CAR-OTP-00037495.

15 Well, that should have been the end, but I forgot one question, Mr Witness, and that
16 will be my last question.

17 After the events related to the minibus, there was an inquiry by the government; is
18 that correct?

19 The government carried out an investigation of that incident, can you confirm that?

20 A. [10:56:57] Yes, indeed, the government carried out an investigation and, if
21 I remember correctly, the prosecutor of that time issued a statement in relation to that
22 incident. The government was well aware of it and the state prosecutor at the time
23 issued a statement.

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 Q. [10:57:45] Perfect. Thank you very much, Mr Witness.

4 MR JACOBS: [10:57:49](Interpretation) Madam President, that was my last question.

5 PRESIDING JUDGE SAMBA: [10:57:53] Thank you very much, Mr Jacobs.

6 Can I ask the Prosecution whether you have any questions of this witness in
7 re-examination?

8 MS RAWOAH: [10:58:01] No re-examination, your Honour.

9 PRESIDING JUDGE SAMBA: [10:58:03] Thank you very much.

10 There are no questions from the Bench.

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

12 (Open session at 10.58 a.m.)

13 THE COURT OFFICER: [10:58:13] We are in open session, Madam President, your
14 Honours.

15 PRESIDING JUDGE SAMBA: [10:58:26] Thank you very much.

16 Mr Witness, on behalf of the Chamber, I wish to express our appreciation to you for
17 coming here and helping us know what happened in the Central African Republic,
18 the best as you know it, and as you have related it in testimony to the Chamber.

19 We do wish you well in all of your endeavours and we ask that you keep safe and
20 wish you safe travelling mercies as you leave here back for your location.

21 Thank you very much, very much.

22 We note that the next session we shall be having your next witness, P-3112. So I'm
23 going to rise the Court and ask that we come back in 45 minutes. Thank you.

24 THE COURT USHER: [10:59:20] All rise.

25 (Recess taken at 10.59 a.m.)

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1 (Upon resuming in open session at 11.57 a.m.)

2 THE COURT USHER: [11:57:37] All rise.

3 Please be seated.

4 PRESIDING JUDGE SAMBA: [11:58:10] Good morning, everyone. I see a change
5 of -- in representation a little bit. Can I have the names on the record of the new
6 members of the team at the Bar, starting with the Prosecution.

7 MS MAKWAIA: [11:58:31] Good morning, again, your Honours. For the
8 Prosecution this morning, myself, Holo Makwaia, senior trial lawyer; Marie-Jeanne
9 Sardachti, trial lawyer; Ms Sanyu Ndagire, assistant legal officer; Ms Anusha Rawoah,
10 assistant legal officer and Ms Alessia Vitiello, analysis assistant. Thank you.

11 PRESIDING JUDGE SAMBA: [11:58:57] Thank you, Ms Makwaia. I just wanted
12 the new members that joined the team, but that's okay.
13 I see, Ms Pellet, it's the same team.

14 And for the Defence, Mr Jacobs and Ms Naouri, but we have a new member, yes?

15 MS NAOURI: [11:59:10](Interpretation) Yes, Madam President, and the new
16 member who has joined us is Capucine Banet.

17 PRESIDING JUDGE SAMBA: [11:59:15] Thank you very much, Ms Naouri.

18 And for the record, Mr Said is here in Court with us again.

19 The Prosecution is calling P-3112 as its 53rd witness. It is our understanding that
20 this witness will be testifying in French via video link, so I remind everyone of the
21 importance of the need to speak slowly and to observe the five-seconds rule between
22 questions and answers.

23 Now, before commencing, the Chamber notes briefly that this witness will be
24 testifying without protective measures, and that the VWU recommends no special
25 measures.

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1 Mr Court Officer, can you connect us with the witness, please.

2 Good morning, Mr Witness. Can you see me? Can you hear me?

3 WITNESS: CAR-OTP-P-3112

4 (The witness speaks French)

5 (The witness gives evidence via video link)

6 THE WITNESS: [12:00:24](Interpretation) Good morning, Madam President. I hear
7 you very clearly and I see you as well.

8 PRESIDING JUDGE SAMBA: [12:00:32] Very good. Thank you very much.

9 Now, Mr Witness, you're going to testify before the International Criminal Court, so
10 on behalf of this Chamber I welcome you to the courtroom.

11 You should have in front of you, Mr Witness, the solemn undertaking that any
12 witness who appears before us must agree to. Can I ask that you read that out loud
13 for us, please.

14 THE WITNESS: [12:01:04](Interpretation) I solemnly declare that I will tell the truth,
15 the whole truth and nothing but the truth.

16 PRESIDING JUDGE SAMBA: [12:01:12] Thank you very much, Mr Witness.

17 And do you understand and agree to what you just read out?

18 THE WITNESS: [12:01:24](Interpretation) Absolutely, Madam President.

19 PRESIDING JUDGE SAMBA: [12:01:29] Thank you very much.

20 Before we start, I have a few practical matters you should have in mind when giving
21 your testimony. Everything we say here is written down and interpreted. It is,
22 therefore, important to speak slowly and at -- to speak clearly and at a slow place.

23 Please speak into the microphone that you have before you, and only start speaking
24 when the person asking the question has finished speaking.

25 If you, yourself, have any questions, Mr Witness, or if you need a break, do raise your

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1 hand so we know that you want to say something to us. We hope that there are no
2 issues with the video link, however, if there's any issue with the technology, be rest
3 assured that we shall do our very best to sort it out as quickly as possible.

4 Have you understood all of that, Mr Witness?

5 THE WITNESS: [12:02:40](Interpretation) I've understood perfectly, Madam
6 President.

7 PRESIDING JUDGE SAMBA: Thank you very much. So I'm going to invite the
8 Prosecution to put questions to you so that we start your testimony.

9 Madam Prosecutor, your witness, please.

10 MS MAKWAIA: [12:02:59] Thank you, Madam President.

11 QUESTIONED BY MS MAKWAIA:

12 Q. [12:03:02] Mr Witness, my name is Holo Makwaia. We have met before
13 virtually. I shall be assisting you in the presentation of your evidence today.

14 So, to start with, can you please tell the Court your full names?

15 A. [12:03:36] My name is Xavier Laroche.

16 Q. [12:03:41] Can you tell the Court your date of birth and nationality please?

17 A. [12:04:01] I was born on {PFR: (Redacted)} in {PFR: (Redacted)}, France, and my
18 nationality is French.

19 Q. [12:04:20] And have you previously worked for the International Criminal Court?
20 If yes, when did you join?

21 A. [12:04:33] I worked as a forensic expert in the ICC from February 2015 to
22 April 2024, with a pause of several months when I went on leave, * because I worked
23 from March 2019 to September 2020 for the United Nations Commission on the
24 Crimes of the Islamic State in Iraq and Lebanon - in English UNITAD.

25 I also worked for the International Criminal Court on secondment from my post as

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1 forensic coordinator with the Special Tribunal for Lebanon, before I joined the
2 International Criminal Court in February 2015, in particular for crime scenes in
3 Timbuktu.

4 Q. [12:05:57] Thank you, Mr Witness. And in which unit or section was it that you
5 worked when you were at the International Criminal Court?

6 A. [12:06:17] When I was at the ICC, I worked in the section of forensic science
7 within the OTP office.

8 Q. [12:06:33] And what was your function or title? Or your job title?

9 A. [12:06:46] The position was forensic officer, in English. In French,
10 *criminaliste* -- there's not a precise definition or correlation in French.

11 Q. [12:07:13] And who was your head of section at that point, Mr Witness? Can
12 you tell the Court please?

13 A. [12:07:26] During my service time in the forensic service, I had two superiors.
14 The first, Eric Baccard, who was replaced by memory, in 2018, 2019,
15 {PFR: (Redacted)}.

16 Q. [12:08:01] And as a forensic officer, can you tell the Court briefly what were
17 your functions, what did you do?

18 A. [12:08:20] My main work was to carry out investigations of crime scenes on the
19 ground in the field, which could include all type of scientific and ballistic activities
20 from the place, the fixation of the place, the looking at different materials. Also
21 using different devices like the scanners and drones to carry out samples, and using
22 all scientific and police techniques useful to establish the truth and, in any case,
23 according to my letter of instruction, which was submitted to me by the OTP, to
24 follow that through.

25 There was also some work of a laboratory nature, which meant that I would have to

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1 investigate all police activities like improving the audio, in proving fingerprints,
2 taking different samples, sealing them -- laboratory work of the scientific
3 police worked in that area. And also the identification of voices.

4 Q. [12:10:01] Thank you, Mr Witness.

5 Now, where did you receive training for -- for these functions?

6 A. [12:10:16] After a baccalaureate, which was scientific in nature in France, I went
7 to the preparatory class in one of the superior schools, the *Grandes Écoles*, where I took
8 advanced and specialised mathematics. After these preparatory classes I went to the
9 military school in Saint-Cyr where I received an engineering diploma. After this
10 diploma as engineer, I decided I would join the national gendarmerie and I did an
11 additional study leave in the *Gendarmerie Nationale*, during which time I received
12 academic training of a military nature, style gendarmerie, and I received a university
13 diploma of criminal law.

14 After that *I served as chief of a light intervention squad within the mobile
15 gendarmerie and also as mobile gendarmerie squadron commander.

16 * I then joined the Gendarmerie Nationale's Criminal Research Institute (L'Institut de
17 Recherche Criminelle de la Gendarmerie Nationale - IRCGN) in Rosny-sous-Bois as
18 head of the ballistics department. And continued my training as a forensic scientist
19 and had internal and external training in the gendarmerie.

20 I would say the next diploma was a masters in criminal activities, master of forensic
21 science in the University of Lausanne in Switzerland.

22 I received several professional diplomas and became expert not only in ballistics, but
23 also in other domains of forensic science.

24 Q. [12:12:45] Thank you, Mr Witness. And you have recently provided the
25 Prosecution an updated curriculum vitae, your curriculum vitae; correct?

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1 A. [12:13:01] That is correct, Madam Prosecutor.

2 Q. [12:13:05] Can we have displayed tab 141, * CAR-OTP-0003-6948, please.

3 Can you -- Mr Witness, can you see the page displayed on the screen?

4 A. [12:13:56] I can see it, Madam Prosecutor.

5 Q. [12:14:01] If we can flip through this document to the last page, please. Slowly,
6 so the witness can identify it. And then I will ask leave to formally submit it.

7 Thank you, Mr Court Officer.

8 Mr Witness, what was displayed before you in the court is your CV that you gave to
9 the Office of the Prosecutor. And this is a 10-page document; correct?

10 A. [12:16:00] I can confirm that it is my updated CV which I submitted to the OTP.

11 Q. [12:16:12] Thank you, Mr Witness.

12 With that, your Honours, I would like to tender this, to formally submit it as a
13 Prosecution exhibit.

14 It can be removed from the screen.

15 You've testified previously, Mr Witness, that you would undertake forensic
16 examinations following letters of instruction. So now can you please assist the Court
17 by telling it how many situations or cases you were assigned to work on for the
18 Prosecution, or the Office of the Prosecutor, in the year 2016 and 2017.

19 PRESIDING JUDGE SAMBA: [12:17:45] Did the witness get your question?

20 Mr Witness, can you hear us here?

21 THE WITNESS: [12:17:53](Interpretation) Yes, I can hear you.

22 MS MAKWAIA: [12:17:58]

23 Q. [12:17:58] I had asked a question. I'll repeat it.

24 In the year 2016 and 2017, do you recall how many cases, or situations, you were
25 assigned to work on at the International Criminal Court, Office of the Prosecutor?

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1 A. [12:18:25] As regards the dates 2015 to March 2019, I carried out several
2 scientific expertise activities in the majority of cases an investigation was opened.
3 Just to quote some: The Ivory Coast, CIV. The -- the case of Mali, or two cases of
4 Mali, with Mr Al Mahdi Al Faqi. And the other case, Prosecutor versus Al Hassan.
5 For Uganda, Prosecution against Dominic Ongwen. The Democratic Republic of
6 Congo. And also for Georgia.
7 From memory, that's all. But it seems to me everything has been listed on my CV,
8 both the cases where I worked and also the cases where I was witness.

9 Q. [12:20:15] Thank you, witness. You've given a number of situations you've worked on.
10 Now just focusing your mind to the year 2016 and 2017, where else did you conduct
11 forensic examinations?

12 A. [12:20:39] For the case that's of interest to us, I carried out several missions,
13 investigation of crime scenes in the Central African Republic, in Bangui, and the
14 immediate vicinity of Bangui. From memory, during this period, I also carried out
15 other missions in Ivory Coast, in Uganda, in Georgia as well. That's what I think.

16 Q. [12:21:11] Now focusing your attention to the Central African Republic, the case
17 of interest to this Chamber, can you tell us what was the scope of the work you were
18 instructed to undertake?

19 A. [12:21:35] From memory, the initial letter of instruction from the Prosecutor was
20 to carry out investigation of the scene crime in different locations in Bangui and the
21 immediate vicinity of Bangui, the OCRB, the Central Office for the Repression of
22 Banditry, and also CEDAD, * the Extraordinary Committee for the Defence of
23 Democratic Achievements (Comité extraordinaire de défense des acquis
24 démocratiques- CEDAD), the SRI - the Research and Investigation Section. Also the
25 Camp de Roux and the presidential palace, the banks of the Oubangui River, and,

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1 from memory, the *Colline des Panthères*.

2 Q. [12:22:38] Thank you, witness, for that exhaustive answer.

3 Your Honours, with your leave, can we have displayed at tab 17, CAR-OTP-2058-0435,
4 and then thereafter 0437, 0438. Can you go to the -- to the ...

5 (Counsel confers)

6 MS MAKWAIA: [12:23:34] Sorry, Court Officer, 36 as well.

7 Now, if you just stop there.

8 Q. [12:23:44] What is shown on the screen, Mr Witness?

9 A. [12:23:55] What you see on the screen is the letter of instruction from the
10 Prosecutor, Mr Julian Nicholls, dated 3 March 2016, which provides instructions to
11 Eric Baccard for -- forensic coordinator and head of the section of Forensic Science
12 Section of the Office of the Prosecutor, to carry out technical and scientific activities
13 which have been detailed in the pages that follow.

14 I would like to point out, Madam President, if I don't always look at the screen, it's
15 because there's a larger screen on my left-hand side which enables me to see the
16 document better when displayed on the screen.

17 PRESIDING JUDGE SAMBA: [12:24:56] That's okay, Mr Witness.

18 Carry on, Madam Prosecutor.

19 MS MAKWAIA: [12:25:03] Thank you, your Honours.

20 Can we go to 0437, please, of the same document.

21 Can you scroll down. Okay.

22 Q. [12:25:28] If you need for the document to be displayed from the top again, you
23 can say so, Mr Witness.

24 But focusing your mind on the header before you, "Considerations", what --

25 PRESIDING JUDGE SAMBA: [12:25:47] Yes, Mr Jacobs.

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1 MR JACOBS: [12:25:51](Interpretation) Yes, Madam President.

2 As regards the methodology, I've understood that the foundation is that the witness
3 spoke about a letter of instruction, and he has recognised it, but it's not addressed to
4 him. I'm slightly concerned because we're going to start to guide him by showing
5 him information on the screen. So if the Prosecution has questions as regards the
6 date or the place of the mission, I think this has to be done without showing him the
7 letter, otherwise the questions may become leading questions. We have to have
8 open-ended questions. This also applies to the date.

9 So to show him a document which says this mission, this place, this... defeats the
10 purpose. This is the expression I have, "defeats the purpose", since I have from
11 yesterday, so I do not think we should proceed in this way. I wanted to tell you this
12 immediately rather than to interrupt proceedings when a question is raised, so that
13 we can continue this when going through the examination-in-chief.

14 PRESIDING JUDGE SAMBA: [12:27:00] Yes, Madam Prosecutor. Any response to
15 that?

16 MS MAKWAIA: [12:27:04] Yes, Madam President.

17 This witness is not a layman. He authored a report as a result of the work he
18 conducted. I'm merely laying down the steps he took that led to the submission of
19 the expert report which forms part of the Prosecution evidence. I can ask all the why,
20 where, how questions, we shall be here for quite some time, your Honour.

21 PRESIDING JUDGE SAMBA: [12:27:37] I appreciate the management of time, but
22 the document you're now referring to is not his report, is it, Madam Prosecutor?

23 MS MAKWAIA: [12:27:47] This is part of the letter of instruction that led to the
24 actual conduct of the forensic examination and the submission of a report. After this
25 letter of instruction, there's another letter, now from his head of unit, instructing --

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1 MR JACOBS: [12:28:07](Interpretation) I do apologise, Madam President. We
2 should get -- elicit this information from the witness, but not from the Prosecution.
3 I do apologise for my interruption, but it's -- it's the witness that should answer this
4 type of question.

5 PRESIDING JUDGE SAMBA: [12:28:22] Mr Jacobs, if you allow me to deal with the
6 Prosecutor, I'll appreciate that, really.

7 This document is addressed to another person, not the witness; correct?

8 MS MAKWAIA: [12:28:37] It's addressed to Mr Baccard, that he's referred to
9 previously in his testimony as the head of his section.

10 PRESIDING JUDGE SAMBA: [12:28:46] Thank you.

11 And he has said, when he started off, the first page that was shown him, he referred
12 to several other documents forming the body of this. So why don't you ask him to
13 explain -- because this is not yet before us. It would be like leading, if you're putting
14 the document to him and asking him questions on the document. I mean, ask him to
15 give -- to say what he has to say in respect of these documents, or at least this first
16 document, before you put the document to him. That would be my direction.
17 Thank you.

18 MS MAKWAIA: [12:29:21] I stand guided, your Honour.

19 Mr Court Officer, can you remove the document for now.

20 Q. [12:29:30] Mr Witness, I will take you back a little bit to the process, or the steps,
21 that led to your forensic examination of, I think you stated Camp de Roux, OCRB,
22 *Colline des Panthères* and the CEDAD in the Central African Republic.

23 Now, before you undertook these forensic examinations, can you please tell the Court
24 what were the steps that were undertaken within the office before you deployed?

25 A. [12:30:25] So, as for any expert report, you investigate the crime scene. And, in

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1 particular, when you have missions in different countries, you have preparatory
2 meetings between the Office of the Prosecutor and the head of the Forensic Science
3 Section, and possibly you have a meeting in which I participated. And then after
4 that preparatory meeting you have the discussions on the feasibility of the mission, on
5 the scientific capacity and technical capacity of the forensic department to carry out
6 such a mission. A mission letter is systematically sent to the head of the Forensic
7 Section, and obviously, for clear reasons, he has to manage the staff available to him,
8 their availability, their qualifications for -- to carry out the mission.
9 And after that, the chief of the forensic section, as is done in all laboratories - that was
10 also the case when I was an expert and the head of the department for the
11 gendarmerie in France - and so the head of the forensic department designates the
12 experts in charge and also appoints all the additional staff, maybe human resources,
13 for example, for missions in the Central African Republic, and we had assistance of
14 two colleagues from Portuguese police, and * appoints the expert in charge of the case,
15 who is the only person responsible for the proper conduct of the mission. And,
16 finally, the submission of the expert report. That was the case, from memory, for all
17 missions carried out in the Central African Republic.
18 There were, therefore -- or there was a letter, therefore, a mission letter, an instruction
19 from Prosecutor Julian Nicholls which was addressed to the chief of the Forensic
20 Science Section, Eric Baccard, and this letter of instruction was very general because it
21 covered all the different sites that I mentioned previously. And, from my memory,
22 given the multiple missions that there were, they were carried out in the field * in
23 March... in September 2016, March 2017. And I don't think that the aim is here for
24 me to remember exactly the dates on each site, because there were lots of different
25 missions, they were long missions in the Central African Republic, and it depended

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1 on the needs to go from one site to another. I don't think that it's useful for the
2 purposes of the truth to know what day I was there. But it's all mentioned in my
3 expert report, including the logs, for the entries and exits from the crime scenes with
4 the exact times.

5 So the missions, I think there were four missions in the Central African Republic, one
6 after another. And they were decided on * according to workload, because I don't
7 just work in the Central African Republic, there are a lot of other missions to be
8 carried out.

9 And depending on the utility of the opportunity and the need that there was, the
10 weather was a very important factor in this, of course. The availability of all means,
11 and particularly specialised dogs looking for cadavers or bodies, there were a lot of
12 different factors which -- to be taken into account in order to manage everything in
13 the best possible time frame and carry out these expert analysis in the field. And
14 that's why in my report, as I mentioned, with the overload of work from successive
15 missions, there was a delay with regards to the initial time frame given by the
16 Prosecutor. And I think that I asked for an additional deadline to provide the report
17 and then to have priority, compared to all the different sites that had to be subject to
18 scientific investigation in the Central African Republic. And the Prosecutor,
19 Mr Julian Nicholls, he gave his priority order for the carrying out of the mission and
20 for the provision of the expert reports.

21 Q. [12:36:14] Thank you, Mr Witness.

22 So you described various steps that had to take place before you conducted the
23 forensic missions. So after Eric Baccard received the letter of instruction from
24 Mr Nicholls, what did you -- what did he do in order for you to -- what did he do?

25 A. [12:37:01] Having received the letter, the letter of instruction from Mr Julian

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1 Nicholls, Eric Baccard transmitted a letter, a letter of appointment, to appoint me as
2 the person in charge of the execution of all the missions included in this instruction
3 letter. And from that moment I was officially appointed as being in charge of the
4 realisation and implementation of this letter of instruction. And that's why I took all
5 the different measures necessary in order to set up the mission in the different
6 locations and sites, with everything that includes in terms of material, logistics.

7 Q. [12:37:54] And in setting up the mission, I think you have previously testified
8 that one would look at the availability and the qualification of the staff. So what
9 were you looking for in terms of staff who formed part of your mission?

10 A. [12:38:27] Well, I would say that there were several different considerations to
11 be taken into account, the first being looking at their qualifications and putting that
12 with the tasks that needed to be carried out, so balancing the two.

13 Just to give you an example, in the Central African Republic the crime scenes which
14 had to be investigated were relatively significant. In all, they were large in terms of
15 their size, and as such I considered it to be useful to have the assistance of two
16 technicians, two crime scene technicians. They were in the Portuguese police. *
17 Because when you investigate a crime scene by yourself, it's quite complex, and
18 having technicians at the crime scene is something that is the best when it comes to
19 efficiency, in terms of quality, the quality of the actions carried out in place, and in
20 terms of the time frame, because the -- the deadline had been passed or there was a lot
21 of time spent in different crime scenes, but that had to be minimised as far as possible,
22 due to keeping costs down, and also for clear reasons of security and logistics as well
23 which had to be set up around these forensic actions.

24 Now, a second example from the Central African Republic is the use of dogs with
25 their handlers, specialised in searching for bodies, and so there, too, there was a lot of

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1 parameters. The availability of these handlers and their dogs, because these are dogs
2 that also have a -- missions in France, and when it comes to the weather as well,
3 because these dogs, when the temperatures are high, they get tired very quickly, or
4 quicker, and so they need more rest. And the weather conditions can affect their
5 effectiveness when it comes to smelling and detecting bodies.

6 And, of course, you can imagine for -- well, it's relatively easy to have experts travel,
7 but when it comes to dogs, it's more complicated to get them to travel to a foreign
8 country in terms of sanitary issues, whether it's travel, whether it's recuperation time
9 after the trip, these and a lot of other factors.

10 Q. [12:41:59] So you spoke about crime scene technicians. What exactly would be
11 their role during the forensic mission?

12 A. [12:42:18] So, as you can read in the expert report about the OCRB and CEDAD,
13 the first point is the legal framework, and that's the reason you have a search warrant
14 that was issued before we started any investigation of the crime scene. And the
15 technician -- the crime scene technicians under the authority of the forensic
16 coordinator - namely, myself for this mission - would assist the forensic coordinator
17 who coordinates the forensic police activities as was done in all the crime scenes in
18 the Central African Republic.

19 After the search warrants are obtained, then the legal framework is covered. After
20 that, of course, it is about securing the location, and that's something that is carried
21 out with the crime scene. And afterwards you have to detail -- carry out an
22 inventory, which is also graphic as well, also by video, 3D scanners are used for that
23 as well, drones as well, to make it possible to have the most exact view and correct
24 view of the state of the crime scene at the time that the investigation takes place.

25 And, afterwards, you have the work on the crime scene. The crime scene is fixed

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1 and this is a work which is looking for any evidentiary item. It could be physical,
2 visible or latent; for example, latent traces which would be relevant to the case and to
3 the alleged events.

4 Furthermore on that subject, I think that it is good to recall that these investigations
5 on the crime scene are based, as in all expert missions, based on contextual elements.

6 And what is mentioned in the mission letter, the initial mission letter of the
7 prosecutor of the republic -- Mr Julian Nicholls, who gives contextual elements on the
8 alleged event which allegedly happened at the time that the acts occurred. And,
9 from memory, the letter of instruction, the mission letter is relatively complete and it
10 includes photographs, or the indication of evidence which could -- which could be
11 present at the location, evidence that could be relevant.

12 These items of evidence in the case in point are largely sufficient for the forensic team
13 to carry out its analysis of the crime scene, and in fact it's not necessary to have a
14 complete knowledge of the case in order to carry out this investigation. And I would
15 even say that it's preferable not to have a complete overview, which could lead to bias,
16 involuntary bias obviously, but nevertheless. And these contextual elements which
17 are quite minimalists, really, are largely sufficient for the experts to be able to work on
18 the crime scene in a way that is impartial and objective.

19 Q. [12:46:42] Thank you, witness. You have mentioned that before you proceeded,
20 search warrants were acquired. Can you tell the Court, please, from whom were
21 these search warrants acquired?

22 A. [12:47:20] So, search warrants, from the best of my memory, well, we didn't
23 have direct contact with the Prosecutor, so it was the local prosecutors in the Central
24 African Republic in Bangui. They would issue these search warrants. And
25 obtaining these search warrants was carried out by a special division within the ICC

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1 and, from my memory, it is they who carry out the liaison work with the judicial
2 authorities locally to obtain these search warrants.

3 When these search warrants are obtained, and I remember very well having met one
4 of the prosecutors, {ICR: (Redacted)}, at the entry to CEDAD, and he issued in my
5 hands a search warrant before we started any operations on the CEDAD.

6 Q. [12:48:32] You've also testified that you would secure the location. Can you
7 please tell us how this was done?

8 A. [12:48:53] Well, in terms of security and securing the location, there were for
9 every site, for all investigations of the crime scene, you have physical security, which
10 is carried out by a team, which is trained, of security staff from the Office of the
11 Prosecutor. And you also have security staff from the Registry and from the field
12 office, in the field, on location with the assistance of the local authorities, the local
13 police, which -- they are, of course, responsible for security on their territory.
14 Now, where it concerns the crime scene itself, as I mentioned, and as is mentioned in
15 the expert report, the first thing is the freezing of the location such that it is
16 completely secure, the access is completely secure to that location, and you set up a
17 register of entries and exits. You have a logbook, this register, which is also attached
18 to the expert report, and it is maintained by the investigators of the
19 investigation -- investigators of the International Criminal Court who are there to
20 assist the scientific team, and they register, or log, the days and hours of entries and
21 exits to the crime scene on each location.

22 And now these crime scenes were also guarded by the local authorities during the
23 night such that they could assure -- that they could ensure that they would not be
24 entered into. So the investigation of the crime scene would start and any access to
25 the crime scene was forbidden to all unauthorised persons and all authorised persons

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1 were registered for -- in terms of their access to the crime scene.

2 So I think in the expert report you have this register of access to every location. It
3 would seem to me as well that this register of access also mentions the persons from
4 the Office of the Prosecutor, the investigators, who registered the access, but also
5 somebody from the local authorities.

6 Q. [12:51:45] Can you please tell us why was it important not only to secure the
7 locations, but also to keep a register of those who entered and left the area?

8 A. [12:52:06] So, securing the crime scene, that's one of the essential principles of
9 forensic police -- that is, the Locard's principle. And the aim of it is that the crime
10 scene cannot be modified or altered when the investigations have started. And the
11 register is essential for access to the crime scene and, of course -- and, firstly, within a
12 legal framework, because the people have to be legally authorised to enter, and that's
13 the case with the searches.
14 So they have to be authorised to carry out samples. But when it comes to finding
15 latent traces, DNA et cetera, digital imprints, then you have to be able to carry out
16 what is called the elimination -- well, if you find a digital imprint on the crime scene,
17 you have to be able to exclude that this DNA was put there by the experts working on
18 the site.

19 Also where it concerns the logbook, all the samples that are taken have an indication
20 of the date and the time, and the person, of course, who carries out that sampling has
21 to be duly authorised and duly registered on this register or logbook in terms of the
22 entries and exits to the crime scene.

23 Q. [12:54:14] Thank you, Mr Witness.

24 You've mentioned investigators also assisted you. In which way were they assisting?
25 What was their role?

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1 A. [12:54:35] So the investigators who assisted us. They provided logistical
2 assistance, for example, when it came to food. But beyond that, they were
3 responsible, as is the case for all crime scenes, whether it's at national or international
4 level, to keep this logbook and to register the entries and exits to the crime scene.
5 They were also there to carry out their liaison work with the local offices - the Office
6 of the Prosecutor - for any logistical assistant that was necessary. And there was, for
7 example, at CEDAD, you had to obtain a tent to be able to examine the blood, and a
8 ladder was also needed to go into a well. And so their assistance was highly
9 appreciated, because when it comes to the crime scene you can't just have the
10 examinations carried out.

11 And I forgot to mention, if you would excuse me, that there was also a nurse who was
12 present and able to deal with any problems, health problems, that could
13 arise -- sunstroke et cetera.

14 Q. [12:56:23] Amongst the equipment that you have listed previously in your
15 testimony today, you spoke about videos, 3D scanners and drones. Now, can you
16 tell the Court why was it necessary to have this type of equipment?

17 A. [12:56:51] Well, all this equipment made it possible to affix the crime scene, to
18 record the crime scene, and to do so in the most precise and exact way possible. So
19 the photographs are already a major support, but then also recording all items of
20 evidence there videos are also very important, but the drones make it possible to have
21 an aerial view. And the 3D scanners are very interesting, because there was a time
22 when you had to make -- you had to draw the crime scene. It's no longer the case
23 with a 3D scanner, because the 3D scanners are going to register millions of points,
24 geolocation, with precision from tens of millimetres to 50 metres, so it makes it
25 possible to have both. Due to -- they can register all the different evidence that's

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1 present, but they can also make sure that you can carry out all measures afterwards
2 with regards to the different exhibits and how far they were from each other in the
3 crime scene.

4 So these exhibits are gathered in a scientific way because all photographs and videos
5 have metadata which makes it possible to identify where these videos and
6 photographs were taken. It's the same thing for the 3D scanners. And they can be
7 subject to -- they can be worked on. Previously, you can have software which makes
8 it possible to make a 3D model and other software which can be used to use all the
9 photographs and videos and aerial shots and put them together so that you can make
10 a 3D model out of them.

11 So, it would seem to me that there are an enormous amount of photographs and
12 videos. And this, to me, is the best way to carry out a crime scene investigation
13 because we know when we have access, and -- for example, you don't know what's
14 going to happen in the future. You don't know if the exhibits will be still be there.
15 So the aim at the start is, as far as possible, to investigate the zone, because, of course,
16 you have digital formats and it could take up dozens of gigabytes, but that doesn't
17 make a lot of difference in terms of cost, but it does make a difference when it comes
18 to the quality of the evidence that is gathered.

19 MS MAKWAIA: [13:00:19] I'm mindful of the time, your Honours.

20 PRESIDING JUDGE SAMBA: [13:00:21] Yes.

21 MS MAKWAIA: [13:00:23] I could continue.

22 PRESIDING JUDGE SAMBA: [13:00:22] No. We will have to stop here for today.

23 Mr Witness, we're going to end your testimony here for today. We shall continue
24 tomorrow. So I'm going to ask that you do not discuss your testimony so far here
25 today with anybody when you leave your present location. You'll still be on oath

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- 1 when we meet tomorrow.
- 2 I rise the Court for 9:30 tomorrow morning. Thanks.
- 3 THE COURT USHER: [13:00:49] All rise.
- 4 (The hearing ends in open session at 1.00 p.m.)