

Trial Hearing
WITNESS: CAR-OTP-P-0342

(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 Wednesday, 16 October 2024
10 (The hearing starts in open session at 9.32 a.m.)
11 THE COURT USHER: [9:32:41] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE SAMBA: [9:32:59] Good morning, everyone.
15 Mr Court officer, can you please mention the case.
16 THE COURT OFFICER: [9:33:19] Good morning, Madam President. Good
17 morning, your Honours.
18 This is the second situation in the Central African Republic, in the case of the
19 Prosecutor versus Mahamat Said Abdel Kani, case reference ICC-01/14-01/21.
20 And for the record, we are in open session.
21 PRESIDING JUDGE SAMBA: [9:33:37] Thank you very much.
22 Can I ask for representation, starting with the Prosecution.
23 MS MAKWAIA: [9:33:44] Thank you, Madam President. Good
24 morning, your Honours. For the Prosecution this morning, myself, Holo Makwaia,
25 senior trial lawyer; Kamran Choudhry, trial lawyer; Sanyu Ndagire, assistant legal

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- 1 officer; and Hilary Dyer, lead analyst. Thank you.
- 2 PRESIDING JUDGE SAMBA: [9:33:59] Thank you very much, Ms Makwaia.
- 3 Ms Pellet for the victims, please.
- 4 MS PELLET: [9:34:03](Interpretation) Thank you, Madam President. Victims are
- 5 represented by Adeline Bedoucha and myself, Sarah Pellet, counsel at the OPCV.
- 6 PRESIDING JUDGE SAMBA: [9:34:14] Thank you very much, Ms Pellet.
- 7 Mr Jacobs for the Defence, please.
- 8 MR JACOBS: [9:34:25](Interpretation) Good morning, Madam President. Good
- 9 morning, your Honours. To my right, Elina Legat, next to her,
- 10 Florian François-Jacquemin. And myself, Dov Jacobs, co-counsel for Mr Said.
- 11 PRESIDING JUDGE SAMBA: [9:34:38] Thank you. Thank you very much,
- 12 Mr Jacobs.
- 13 And for the record, I do take note that Mr Said is in court here with us.
- 14 A very good morning to you, Mr Said. I hope I see you well.
- 15 MR SAID: [9:34:47](Interpretation) Yes. Good morning, Madam President.
- 16 PRESIDING JUDGE SAMBA: [9:34:52] Good morning.
- 17 Good morning, Mr Witness. I hope you rested well.
- 18 WITNESS: CAR-OTP-P-0342 (On former oath)
- 19 (The witness speaks French)
- 20 THE WITNESS: [9:35:01](Interpretation) Good morning. I'm doing well. Thank
- 21 you.
- 22 PRESIDING JUDGE SAMBA: [9:35:05] Good.
- 23 Now, Mr Witness, we are going to continue with your testimony this morning, and
- 24 the Prosecutor, Mr Choudhry, is going to continue putting questions to you.
- 25 We are in open session and be mindful of the five-second rule between questions and

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1 answers.

2 Mr Choudhry, your witness, please.

3 MR CHOUDHRY: [9:35:26] Your Honour, with that, perhaps we can go into private
4 session, please.

5 PRESIDING JUDGE SAMBA: [9:35:30] Mr Court Officer, can we go into private
6 session, please.

7 (Private session at 9.35 a.m.)

8 THE COURT OFFICER: [9:35:37] We are in private session, Madam President.

9 PRESIDING JUDGE SAMBA: [9:35:55] Thank you very much.

10 Mr Choudhry, please continue.

11 MR CHOUDHRY: [9:35:57] And, your Honour, I do have a technical issue. My
12 computer has just come up with a message stating that "Your computer is about to
13 restart". So perhaps the court officer can assist, please.

14 I do have 12 minutes, so I can start whilst we're waiting.

15 PRESIDING JUDGE SAMBA: [9:36:24] Okay, then start, and the court officer will
16 see that the Registry assists you.

17 QUESTIONED BY MR CHOUDHRY: (Continuing)

18 Q. [9:36:35] Good morning, Mr Witness.

19 A. [9:36:37] Good morning.

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

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7 A. [9:38:17] On the other side, it was the door to Bangui, the entry to Bangui. You
8 see, from Damara, you can get to Bangui in less than 50 minutes. The red line was
9 put in place by the FOMAC at the time in order to use the line to demarcate Bangui
10 from Damara. So the red line is at the door of Bangui.

11 Q. [9:39:02] Who were the people that were in power across the red line from the
12 Seleka?

13 A. [9:39:09] François Bozizé, he was in power.

14 Q. [9:39:29] (Redacted)

15 (Redacted)

16 the Seleka leaders communicate, how did they communicate with each other?

17 A. [9:40:02] Almost all the leaders had Thurayas. They used the Thurayas to
18 communicate.

19 Q. [9:40:28] What is a Thuraya, please?

20 A. [9:40:32] The Thuraya is a satellite telephone.

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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12 (Redacted)

13 (Redacted)

14 Q. [9:43:20] Thank you. Who is -- who was Djotodia at that time, please?

15 A. [9:43:28] Djotodia was the Seleka representative in Bangui. He was the "leader",
16 quote, unquote.

17 Q. [9:43:54] You also mentioned earlier the acronym FOMAC. What does
18 FOMAC stand for?

19 A. [9:44:08] It's the UN soldiers, the UN soldiers.

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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12 Q. [10:03:30] Mr Witness, you should have a photo in front of you on your screen.

13 My question to you is, what does this photo show, please?

14 A. [10:03:41] Here, you can see Seleka elements in their vehicle.

15 Q. [10:03:55] How can -- how do you know that they were Seleka elements, please?

16 A. [10:04:02] Firstly, by their vehicle, and, secondly, by their clothing.

17 Q. [10:04:27] What about their vehicle makes you say that these were Seleka
18 elements?

19 A. [10:04:33] The Seleka used non-conventional vehicles. Here, you have a
20 Land Cruiser, a PG75. They used unmarked vehicles and it has no roof. And
21 sometimes they would put their markings on it or their flags in front of the bumper,
22 and you can see it on the bumper and on the mirror, the flags. And you can also tell
23 from their clothing and how they are seated in the vehicle.

24 Q. [10:05:36] When you say you can tell from their clothing, what about their
25 clothing identifies them as members of the Seleka?

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1 A. [10:05:48] Sometimes they have normal trousers and sometimes the grade or the
2 insignia is the wrong way around. Sometimes they put *babouche* town shoes on and
3 sometimes they have trousers of a high military person.
4 (Redacted)
5 (Redacted)
6 (Redacted)
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9 (Redacted)
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18 PRESIDING JUDGE SAMBA: [10:11:32] I'm sorry, Mr Choudhry.

19 Mr Jacobs, you were on your legs before the witness spoke.

20 MR JACOBS: [10:11:39](Interpretation) Because this is a question of methodology,

21 your Honour. Firstly, as far as we're concerned, they haven't refreshed the memory

22 of the witness because he didn't know. (Redacted) He said "No", he didn't say "I

23 don't remember". So he has to put it to the witness, it has to be on the case record

24 that the Prosecution is confronting the witness with the statement -- with a contrary

25 statement in a previous statement.

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1 And that's the first point.

2 And, secondly, I understand what the Prosecution is doing, but if we are going to spend
3 the entire session -- well, it's one thing to refresh the memory sometimes, from time to
4 time, but if -- if it's a viva voce witness and at a certain time if we spend our time
5 asking the witness to read an extract from his prior recorded testimony, that's going
6 to break the viva voce testimony. And it's not witness refreshing when the -- it's not
7 witness refreshing when the witness says "No".

8 So, just -- I'll just finish with that point. If the Prosecution is going to continue
9 systematically to read extracts of the prior recorded testimony when it doesn't have
10 the right response, the accumulation of this exercise, even if it has the right to do so
11 when it's necessary, will -- the nature -- the testimony and it will change it to 68(3).

12 And that will change the testimony and there has to be a limit. When the witness
13 gives a reply as clear as "No", then, once again, it has to be confronted and it's -- the
14 memory shouldn't be refreshed in that way. So there should be a limit to this
15 exercise of just re-reading what the statement (Redacted)

16 That's a principled objection for the follow-up of the examination-in-chief.

17 PRESIDING JUDGE SAMBA: [10:13:36] Yes.

18 I do agree, actually, that, you know, we do not, like, make it a pattern of refreshing
19 this witness's memory (Redacted)

20 Mr Choudhry. I know that you can refresh his memory, but please let it not be a
21 pattern. Let it not be, like, consistent, each and every thing that he wants to say you
22 have to refresh his memory.

23 (Redacted)

24 (Redacted)

25 (Redacted)

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25 THE WITNESS: [10:20:09](Interpretation) Number 1, Minister Yapende; General

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1 Arda; President Djotodia; Nouradine Adam; General Aba, the minister; and that's the
2 DG of the gendarmerie at the time, Henri Wanzet.

3 MR CHOUDHRY:

4 Q. [10:21:01] I'd like to focus on the person you've labelled as number 4. Who was
5 Nouradine Adam, please?

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. [10:22:13] Perhaps I can assist and rephrase. What role did Adam have?

14 A. [10:22:25] Nouradine Adam, he was, if you like, the brain of the Seleka.

15 Q. [10:22:44] And the person you've labelled number 2, as Arda, what role did he
16 have, please?

17 A. [10:22:55] Arda was a member of the Seleka staff. Seleka staff, general staff.
18 May his soul rest in peace.

19 Q. [10:23:18] Now, you've referred to Arda as a general. How did you know he
20 was a -- had the rank of general?

21 A. [10:23:33] It can be seen on the photograph. So, you can see three stars.

22 THE INTERPRETER: [10:23:46] Two stars, corrects the interpreter.

23 MR CHOUDHRY: [10:23:50]

24 Q. [10:23:51] Can you see anything similar in relation to Adam in this photograph,
25 please?

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1 A. [10:23:58] No.

2 Q. [10:24:14] Mr Witness, on the person that you've identified as Adam, there is
3 something red just in front of his scarf. Do you see that?

4 A. [10:24:38] Yes.

5 Q. [10:24:40] Do you know what that is?

6 A. [10:24:44] These are his stripes, like Arda, but his is general and sometimes you
7 don't know, because red, sometimes these are military doctors. He's put it on, that's
8 it, but these are the stripes that are on there.

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

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9 (Redacted)

10 Q. [10:35:45] Mr Witness, just for the clarification, what is the name of the person
11 you've marked as number 1?

12 A. [10:35:53] That is Mr Nouradine Adam.

13 Q. [10:36:02] What is the name of the person you've marked as number 2?

14 A. [10:36:07] Michel Djotodia.

15 Q. [10:36:11] What is the name of the person you've marked as number 3?

16 A. [10:36:16] Gazambeti.

17 (Redacted)

18 (Redacted)

19 (Redacted)

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7 Q. [10:42:03] When did the Seleka capture Bangui?

8 A. [10:42:08] Well, I no longer remember. It was at the same time

9 frame -- February, March, I think.

10 Q. [10:42:34] When you say March, are you able to remember whether it was the
11 beginning of March or towards the end of March? And if you don't remember, that's
12 okay.

13 A. [10:42:50] I believe it must have been in early March, because March was the
14 month of, well, several stories. An entire month -- Bozizé took Bangui, in March.
15 Then the Seleka chased out the Bozizé regime. I think it was in March, or around
16 that time.

17 (Redacted)

18 (Redacted)

19 (Redacted)

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3 Q. [10:59:10] And how can we tell that this is the entrance of Bangui?

4 A. [10:59:21] First of all, it was ghost time -- or, ghost town at that time and nobody
5 was moving about. The roundabout behind is the Boganda roundabout. There's
6 the Lakouanga neighbourhood behind as well. And there, where the vehicle is,
7 that's the entrance to the town, in the -- around the Boganda roundabout.

8 Q. [10:59:57] Can you please circle the Boganda roundabout on your screen.

9 Mr Witness, when you told us that the Seleka entered Bangui, do you know the route
10 they entered Bangui through?

11 A. [11:00:35] The Seleka entered Bangui through various roads. They came in
12 through the normal road, the Damara Road, the Boali Road and the Mbaïki Road.
13 As well as on foot, through the hills, the Gbazabangui hill.

14 MR CHOUDHRY: [11:01:27] Your Honour, with that, I see the time. Perhaps this
15 will be a good place to break.

16 PRESIDING JUDGE SAMBA: [11:01:36] Certainly.

17 Mr Witness, we're going to stop here for now.

18 Mr Court officer, can we go into open session, please.

19 (Open session at 11.01 a.m.)

20 THE COURT OFFICER: [11:01:46] We are in open session, Madam President.

21 PRESIDING JUDGE SAMBA: [11:01:55] Yes.

22 And if I can ask for an ERN for that annotated exhibit, Mr Court Officer.

23 THE COURT OFFICER: [11:02:01] Yes, your Honours. The document bearing ERN
24 CAR-OTP-2074-1085 will be assigned ERN CAR-REG-0002-0149.

25 PRESIDING JUDGE SAMBA: [11:02:18] Thank you.

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- 1 And, Mr Prosecutor, would you want that formally submitted?
- 2 MR CHOUDHRY: [11:02:23] Yes, please, your Honour.
- 3 PRESIDING JUDGE SAMBA: [11:02:25] Thank you.
- 4 Mr Witness, we are going to break off for now, for some 30 minutes, and come back
- 5 and continue your testimony.
- 6 I rise the Court for 30 minutes, please.
- 7 THE COURT USHER: [11:02:33] All rise.
- 8 (Recess taken at 11.02 a.m.)
- 9 (Upon resuming in open session at 11.37 a.m.)
- 10 THE COURT USHER: [11:37:59] All rise.
- 11 Please be seated.
- 12 PRESIDING JUDGE SAMBA: [11:38:36] Good morning again, everyone.
- 13 Mr Witness, we're going to continue with your testimony and I'm going to ask
- 14 Mr Choudhry to continue putting questions to this witness.
- 15 Mr Choudhry, I see you have about at least more than 30 binders maybe to go
- 16 through. I don't know whether you want to go through all of them, but if even you
- 17 want to, maybe if we can try to make it a little fast so that we can save time.
- 18 MR CHOUDHRY: [11:39:07] Thank you, your Honours. That is something that we
- 19 discussed over the break and which I will try to do just through a narrative as
- 20 opposed to just going through photos.
- 21 Your Honours, could I just check that we are in private session.
- 22 PRESIDING JUDGE SAMBA: [11:39:21] We are very much in open session.
- 23 MR CHOUDHRY: [11:39:23] Then if we can go into private session.
- 24 PRESIDING JUDGE SAMBA: [11:39:26] Mr Court Officer, can we go into private
- 25 session, please.

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1 (Private session at 11.39 a.m.)

2 THE COURT OFFICER: [11:39:34] We are in private session, Madam President.

3 PRESIDING JUDGE SAMBA: [11:39:37] Yeah, Mr Choudhry, please, your witness.

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Trial Hearing
WITNESS: CAR-OTP-P-0342

(Private Session)

ICC-01/14-01/21

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11 MR CHOUDHRY: [11:46:33]

12 Q. [11:46:33] Mr Witness, I want to get an idea of the location of some of the attacks
13 and exactions that you have just spoken about. Can you please tell us what locations
14 do you remember these attacks and exactions taking place in?

15 A. [11:47:09] What you have to remember, well, what you have to know is that
16 when the Seleka re-entered Bangui, there were men who were targeted by the Seleka.
17 For example, at the home of the pro-Bozizé, or of the authorities, of businesspeople,
18 there were targeting of people and there were lots of attacks in the town of Bangui
19 and the different neighbourhoods of Bangui.

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7 Q. [11:49:54] Did you ever learn why the Seleka attacked the Boy-Rabe
8 neighbourhood on that occasion?

9 A. [11:50:06] What you have to know is that the Boy-Rabe neighbourhood is a
10 pro-Bozizé neighbourhood, where there are a lot of soldiers of the Bozizé regime. It
11 was often the Seleka target when they wanted to dismantle or arrest the elements, the
12 FACA, who were living for the most part in this neighbourhood.

13 Q. [11:50:44] And where is the Boy-Rabe neighbourhood, please?

14 A. [11:50:54] The Boy-Rabe neighbourhood is in the 4th arrondissement of Bangui.

15 (Redacted)

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5 Q. [11:53:01] And who were the victims of this particular attack?

6 A. [11:53:10] It was a lot more civilians. The civilians were the most affected by
7 this. The civilian population.

8 Q. [11:53:21] Do you remember the approximate date of this attack?

9 A. [11:53:45] No, I don't remember it. That is something at this time, towards the
10 end of the reign of the Seleka, in fact, when the FACA would propose that they go
11 into a zone, they would go en masse to finish people off. And, unfortunately, this is
12 something -- well, it was the case because every time when they came it was more the
13 civilians who were affected.

14 Q. [11:54:30] So, witness, how soon after the Seleka arrived in Bangui did the attack
15 (Redacted) take place? In terms of weeks or months? And if you don't remember,
16 please say so.

17 A. [11:54:58] If I remember, the reign of the Seleka, that lasted between eight and
18 nine months. But what you have to remember is that from the sixth month, in fact,
19 the nebulous Anti-Balaka were preparing arms and there was information that was
20 circulating around that in Bangui or in the hinterland -- (Redacted)
21 (Redacted), they were already preparing things, and when people
22 prepare things they start by taking the provinces until they get to Bangui. And from
23 the sixth towards -- the sixth month towards December, there were a series of
24 exactions, series of threats, series of kidnappings in the town of Bangui at that time.
25 (Redacted)

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1 (Redacted)

2 Q. [12:46:42] Mr Witness, you mentioned earlier that the Seleka were looking for
3 FACA soldiers. What did you mean when you said they were looking for FACA
4 soldiers?

5 A. [12:47:06] Well, one thing to mention here, throughout the reign of the Seleka,
6 the FACA did not leave that neighbourhood. They stayed there right to the end.
7 As such, it's a neighbourhood which is very complicated. If you see on the
8 photograph, there is a hill at the back. You can see a hill. And the FACA elements
9 took refuge behind there in -- behind the hill and they would come into the
10 neighbourhood, and at the entry, because it's a neighbourhood where all -- everything
11 to do with the intelligence, information, when they know that the Seleka are going in,
12 then that starts at the entry of the neighbourhood where the vehicle was, everybody is
13 informed. All the population, everybody knows about it because they are conniving
14 with the population. So the people are closed up and they start leaving the place, or
15 they take refuge somewhere and they leave the hill, so every time that the Seleka
16 elements come into the neighbourhood, they don't find anyone and when they leave
17 again, people come back. And the people are there and that's how it
18 works -- worked, and it worked like that until the end of the Seleka. The FACA
19 stayed in the neighbourhood because it's a very complicated neighbourhood.

20 (Redacted)

21 (Redacted)

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- 11 (Redacted)
- 12 PRESIDING JUDGE SAMBA: [13:01:03] (Redacted)
- 13 So, Mr Witness, we're going to end your testimony here today. We shall meet again
- 14 tomorrow at 9:30 at the same location. I'm going to ask that you do not discuss your
- 15 testimony with anyone when you leave this courtroom. And you'll still be on oath
- 16 tomorrow when we meet again to continue with your testimony.
- 17 On that, I rise the Court for 9:30 tomorrow, please.
- 18 THE COURT USHER: [13:01:31] All rise.
- 19 (The hearing ends in private session at 1.01 p.m.)