

Trial Hearing
WITNESS: CAR-D33-P-0015

(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 Judge Keebong Paek
7 Trial Hearing - Courtroom 2
8 Wednesday, 4 June 2025
9 (The hearing starts in open session at 9.33 a.m.)
10 THE COURT USHER: [9:33:16] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE SAMBA: [9:33:36] Good morning, everyone.
14 Madam Court Officer, can you kindly mention the case.
15 THE COURT OFFICER: [9:33:57] Good morning, Madam President, your Honours.
16 The situation in the Central African Republic II, in the case the Prosecutor versus
17 Mahamat Said Abdel Kani, case reference ICC-01/14-01/21.
18 And we are in open session.
19 PRESIDING JUDGE SAMBA: [9:34:10] Thank you very much. Can I ask for
20 representation by the parties and participants.
21 MS MAKWAIA: [9:34:20] Good morning, Madam President, your
22 Honours. For the Prosecution this morning, myself, Holo Makwaia, senior trial
23 lawyer; Thomas Bifwoli; Anusha Rawoah; Brunhild Le Bailly; Marie-Jeanne Sardachti;
24 Vanessa Grée and Sanyu Ndagire. Thank you.
25 PRESIDING JUDGE SAMBA: [9:34:37] Thank you very much, Madam Prosecutor.

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- 1 Ms Pellet for the victims, please.
- 2 MS PELLET: [9:34:41](Interpretation) Thank you, Madam President.
- 3 The victims are represented by Tars Van Litsenborgh and myself, Sarah Pellet,
- 4 counsel at the office of public counsel for victims.
- 5 PRESIDING JUDGE SAMBA: [9:34:56] Thank you very much, Ms Pellet.
- 6 Ms Naouri for the Defence, please.
- 7 MS NAOURI: [9:35:01](Interpretation) Thank you, Madam President. Good
- 8 morning.
- 9 To my right, Dov Jacobs. Next to him, Elina Legat. Behind me, Maya
- 10 Ley-Robertson and Joy Rodrigues dos Santos. And myself, Jennifer Naouri, lead
- 11 counsel for Mr Said.
- 12 PRESIDING JUDGE SAMBA: [9:35:26] Thank you very much. Ms Naouri.
- 13 And for the record, I 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: [9:35:35](Interpretation) Yes, good morning, Madam President.
- 16 PRESIDING JUDGE SAMBA: [9:35:39] Good morning.
- 17 WITNESS: CAR-D33-P-0015 (On former oath)
- 18 (The witness speaks French)
- 19 PRESIDING JUDGE SAMBA: [9:35:42] And good morning, Madam Witness,
- 20 Dr Bellal.
- 21 THE WITNESS: [9:35:47](Interpretation) Good morning, Madam President.
- 22 PRESIDING JUDGE SAMBA: [9:35:49] I hope you had a restful night.
- 23 THE WITNESS: [9:35:52](Interpretation) Yes, thank you very much.
- 24 PRESIDING JUDGE SAMBA: [9:35:55] Good. We are going to continue with your
- 25 testimony. The Prosecution is going to put questions to you in cross, and I wish to

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1 remind you that you are still on oath to say the truth to this Court.

2 So I turn over to the Prosecutor, Mr Bifwoli, for your questions to this witness.

3 Thank you very much.

4 QUESTIONED BY MR BIFWOLI:

5 MR BIFWOLI: [9:36:24] Thank you, Madam President, your Honours.

6 Q. [9:36:27] Good morning, Madam Witness.

7 A. [9:36:31] Good morning, Mr Prosecutor.

8 Q. [9:36:38] My names are Thomas Bifwoli, and this morning I will be asking you a
9 few questions on behalf of the Prosecution. So, Madam Witness, before
10 24 March 2013, the Seleka were fighting against the pro-Bozizé forces, who included
11 the Central African Republic military, known as the FACA. Was that the case?

12 A. [9:37:13] Yes, Mr Prosecutor.

13 Q. [9:37:24] When the Seleka took over power on 24 March 2013, the pro-Bozizé
14 forces did not surrender, did they?

15 * A. [9:37:46] Based on the information that I had, the FACA forces lost part of the
16 control of their territory, in particular over a large part of their territory, according to
17 the information I was able to gather they lost control over the capital and over large
18 part of the territory. In any case, I don't know exactly where they went, but they lost
19 a large part of their territory. I don't know to what extent they surrendered, but they
20 lost a large part of this territory.

21 Q. [9:38:48] Thank you, Madam Witness. You have slightly touched on my next
22 question, but when the Seleka took over power on 24 March 2013, did they
23 sign -- they did not sign a peace agreement with the pro-Bozizé forces, did they?

24 A. [9:39:08] I do not have any information on that, and I did not seek to know, at
25 least in my article, so I rely on you. I do not have that information at all.

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1 Q. [9:39:39] Now, Madam Witness, after the Seleka took over power on
2 24 March 2013, Bozizé and some of the pro-Bozizé forces fled to Cameroon; are you
3 aware of that?

4 A. [9:40:01] I knew that Bozizé had fled, but I did not know that he had fled with
5 some of his forces to Cameroon.

6 Q. [9:40:22] After the Seleka took over power again on 24 March 2013, other
7 pro-Bozizé forces fled to the DRC; are you aware of that?

8 A. [9:40:45] As I said before, I was aware that Bozizé and at least some of his
9 supporters had fled the country, but I did not know precisely to where and I did not
10 seek to find out, so I do not know whether it was in Cameroon or the DRC. But I
11 trust you. If you have that information in documents, then I will agree with you.
12 But I did not carry out any research for that purpose.

13 Q. [9:41:38] Thank you.
14 After the Seleka took over power on 24 March 2013, other pro-Bozizé forces remained
15 in various parts of the Central African Republic; are you aware of that?

16 A. [9:41:59] Yes, I was aware of that. Indeed, there were armed elements that
17 remained in the country after the Seleka took over power under Mr Djotodia.

18 Q. [9:42:23] Madam Witness, after the Seleka took over power on 24 March 2013,
19 pro-Bozizé forces who were in the Central African Republic and those who were in
20 Cameroon regrouped shortly thereafter; are you aware of that?

21 A. [9:42:54] Yes, I was aware. My research focused on the degree of organisation
22 of the * armed elements and the intensity of the fighting between those armed
23 elements against the Seleka, who were leading the country. So my research focused
24 on the fulfilment of the two criteria, including organisation and the intensity of the
25 conflict between those armed forces in the country as you have just underscored, and

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1 it was on those two points that my research was focused.

2 PRESIDING JUDGE SAMBA: [9:43:59] So, Mr Prosecutor, can we get the answer
3 again to the question you just asked, based on the answer that this witness has just
4 given. Can you put that question again, whether or not she is or was aware of
5 certain things that you put in the question. Can you put the question again, so we
6 get a short answer.

7 MR BIFWOLI: [9:44:21] Thank you, Madam President.

8 Q. [9:44:24] Madam Witness --

9 MS NAOURI: [9:44:26](Interpretation) Madam President, I'm sorry. The question
10 is going to be put again, so I would like to say that it would be useful to specify at
11 what period, because saying that they regrouped, that's very general, because we
12 have elements in the file talking about regrouping in regions of Cameroon.

13 PRESIDING JUDGE SAMBA: [9:45:02] Ms Naouri, can we -- I mean, the question is
14 clear. Allow the Prosecutor to put the question again. The question is whether or
15 not after the Seleka took over power on 24 March 2013, pro-Bozizé forces were in the
16 Central African Republic and those who were in Cameroon regrouped shortly
17 thereafter -- shortly thereafter, after 24 March. Allow the witness to answer the
18 question.

19 Madam Witness, please.

20 THE WITNESS: [9:45:39](Interpretation) Thank you, Madam President. As I stated
21 in my article, after 24 March, the research showed that there were armed elements
22 that had remained in the country. I do not know precisely whether these were
23 pro-Bozizé forces who regrouped and at what time. I really do not know, but my
24 research focused on the armed elements which remained in the country, as I said in
25 part 1621 of my article, and then there was the level of violence perpetrated by those

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1 armed elements, so I tried to analyse whether those armed elements fulfilled those
2 two criteria of organisation and intensity of fighting.

3 So, there were in fact armed elements. Whether they were pro-Bozizé forces or
4 criminal gangs, I really do not know, from my research, whether those pro-Bozizé
5 forces were sufficiently organised to fulfil the criteria of international humanitarian
6 law. I do not know whether I have answered your question correctly,
7 Mr Prosecutor.

8 MR BIFWOLI: [9:47:36]

9 Q. [9:47:37] Madam witness, I will seek your clarification on that question.

10 Are you aware or not whether the pro-Bozizé forces who remained in the Central
11 African Republic regrouped with the pro-Bozizé forces who fled to Cameroon after
12 24 March, shortly after 24 March 2013?

13 PRESIDING JUDGE SAMBA: [9:48:05] She has said that she does not know whether
14 the forces who remained in the DRC were in fact pro-Bozizé forces. She knows that
15 there were armed forces who remained, but she doesn't know whether they were
16 pro-Bozizé forces.

17 MR BIFWOLI: [9:48:20] Thank you.

18 Q. [9:48:31] Now, Madam Witness, after the Seleka took over power on
19 24 March 2013, the pro-Bozizé forces in various parts of the Central African Republic
20 reorganised themselves into self-defence groups to fight against the Seleka; are you
21 aware of that?

22 A. [9:49:12] Yes, I was aware of that.

23 Q. [9:49:19] After the Seleka took over power on 24 March 2013, the pro-Bozizé
24 forces in the Central African Republic recruited new members into their ranks; are
25 you aware of that?

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1 A. [9:49:50] No, I was not aware that they recruited new elements.

2 Q. [9:50:07] Thank you. And, now, Madam Witness, after the Seleka took over
3 power on 24 March 2013, the pro-Bozizé forces trained their members about military
4 combat tactics and strategies; are you aware of that?

5 MR JACOBS: [9:50:30](Interpretation) Madam President --

6 PRESIDING JUDGE SAMBA: [9:50:33] Mr Jacobs.

7 MR JACOBS: [9:50:37](Interpretation) I think my learned friend said "after
8 24 March", but we don't know whether it was June, July, September, October. You
9 have to be more specific concerning time. You cannot simply say "after 24 March".
10 You have to situate the information that the Prosecution has in time. You have to
11 give it a time frame. When we cross-examined witnesses, we were more specific.
12 We showed documents and asked the witness, "What do you think?" But here, we
13 have statements being made which is tantamount to testimony in lieu of the witness,
14 and they are just generic statements being made.
15 So I think we need to have more clarifications on the questions. That is my objection.
16 Otherwise, we wouldn't be fair with the witness.

17 PRESIDING JUDGE SAMBA: [9:51:56] Otherwise, we'll take the testimony as it
18 comes to the Chamber, Mr Jacobs. He is doing his cross-examination. We cannot
19 tell him what he should do. He knows what he should do. If things are left open,
20 we will read it -- we will read the information given to us as they are when it is time
21 for us to do our Article 74 decision. Hopefully the Prosecutor is guided. Thank
22 you very much.

23 Mr Prosecutor, please continue.

24 MR BIFWOLI: [9:52:28] Thank you, Madam President.

25 Q. [9:52:44] Madam Witness, between April and December 2013, the pro-Bozizé

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1 forces trained their members about military combat tactics and strategies; are you
2 aware of that?

3 A. [9:53:00] No, I was not aware of that particularly. What I can say at this point
4 is that on the basis of my research, from April to December, as you have said, but
5 more specifically as from the end of September to December and January of the
6 following year, it was at that time that the various organisations of the UN, or the *
7 reports in particular of the International Crisis Group or Human Rights Watch, were
8 able to observe a spike in the violence and an increase in confrontations between
9 various armed elements.

10 * Now, still based on my research, from the month of March until, let's say, the end of
11 September, there were certainly some small clashes - that's exactly the kind of
12 vocabulary found in the reports. There was also some degree of violence amongst
13 the civilian population. That said, based on my research and the analysis thereof,
14 these two elements - that is, the level of violence between those armed elements and
15 the level of organisation of those various groups - even if there had been recruitment,
16 as you have said, or even if they had started reorganising, at that point, that is
17 between April to the end of September, and even beyond, they did not fulfil the
18 criteria for the application of international humanitarian law, based on my analysis
19 and the analysis that was also carried out by other organisations.

20 Q. [9:55:36] Madam Witness, when the Seleka took over power on 24 March 2013,
21 pro-Bozizé forces, such as the ex-FACA, fled with some of the weapons in their
22 possession at the time, didn't they?

23 A. [9:55:56] I did not carry out research on that, because I concentrated my work on
24 the legal situation, the judicial situation. But if that is what you are saying, then I
25 will trust you on that.

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1 Q. [9:56:26] Madam Witness, between April and December 2013, pro-Bozizé forces
2 in the Central African Republic coordinated their activities using mobile phones,
3 didn't they?

4 A. [9:56:49] Once again, I do not know the details of how the Bozizé forces
5 reorganised themselves. Nevertheless, I can take the liberty to say that the time frame,
6 April to September, is a little broad. But, generally speaking, for the purposes of my
7 article, it was not really relevant. What is relevant is the time at which the two criteria
8 were fulfilled, that is a sufficient degree or level of organisation. So one can imagine
9 that a reorganisation can be carried out over a certain period of time, either by
10 telephone, the acquisition of weapons or the development of certain strategies, but the
11 two elements have to be there. So there has to be a time when there is *confrontation
12 between various parties to the conflict which organized at the time of the attack.

13 Now, based on my research, those two criteria were not fulfilled before March 2014, if
14 I am to rely on the qualification that was made by the ICRC. Now, this means that
15 even if one concedes that the qualification that was done, and in fact the observation
16 that was done by the security council in December 2013, to the effect that
17 international humanitarian law and human rights law had to be respected in the
18 Central African Republic, it means that it is only from the moment that these two
19 criteria were met, the degree of the organisation of the forces and the intensity of the
20 fighting, that one can conclude that international humanitarian law was applicable.
21 Now, these two conditions are cumulative and, a priori, if an * armed force starts to
22 reorganise, there has to be a link between that reorganisation and the level of intensity
23 of fighting against the other armed force.

24 Q. [10:00:12] Madam Witness, between May and November 2013, pro-Bozizé forces
25 in the Central African Republic who fought against the Seleka had zone commanders;

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1 are you aware of that?

2 A. [10:00:38] Once again, I am not aware in what manner those forces were
3 organised or reorganised.

4 Q. [10:00:58] Thank you. In August and September 2013, pro-Bozizé forces
5 launched organised attacks in a number of towns across the Central African Republic,
6 including Bossangoa; are you aware of that?

7 A. [10:01:21] According to my research, there were clashes between certain armed
8 elements in the Central African Republic. My research did not show that there were
9 coordinated attacks, organised attacks, of a great enough level to justify the
10 application of international humanitarian law in August 2013. However, as I said,
11 the intensification of the violence from October and November, according to my
12 research and according to the reports that I was able to examine, do indicate that
13 indeed there was a renewal and an increase in violence, which means that there was a
14 degree of attack and coordination that might suggest that there was a better
15 organisation of the groups. That said, whether it be with regard to the pro-Bozizé
16 forces, as you call them, and the Seleka, or especially for the Anti-Balaka, that violence,
17 to my mind, or the degree of organisation of those elements, was not obvious in the
18 research that I conducted, and that is why there is doubt associated with the
19 qualification, as I explained, associated with the situation at the end of that year and
20 at the beginning of the year 2014 in the Central African Republic.

21 Q. [10:03:21] Madam Witness, in September -- in August and September 2013, the
22 civilians in places such as Bossangoa and Bouca were displaced following attacks by
23 the pro-Bozizé forces; are you aware of that?

24 A. [10:03:46] Yes. My research does indeed show that there were attacks against
25 civilians, and violations that I characterised as violations of human rights against

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1 civilians in the period to which you are referring.

2 Q. [10:04:23] In April 2013, the Seleka carried out a military operation in Boy-Rabe.

3 Are you aware of this operation?

4 A. [10:04:35] No, I was not aware.

5 Q. [10:04:47] On or about 18 August 2013, pro-Bozizé forces launched an attack in

6 Bangui to prevent Djotodia from being sworn into office as the president of the

7 Central African Republic. Are you aware of this attack?

8 A. [10:05:16] Yes, I did know about it. However, as I said, violence needs to be

9 protracted, it needs to be intense, and there needs to be confrontation between the

10 parties to the conflict. And, once again, according to my analysis and the research

11 that I conducted, but also according to other organisations, this level of attack or the

12 violence that existed between these armed elements does not satisfy, according to my

13 analysis and according to a good number of other commentators, does not meet the

14 requisite level for international humanitarian law to be applied. * This means, in

15 other terms, that law enforcement operations shall prevail and that the law applicable

16 in terms of law enforcement in the CAR is the legal framework to be applied, not

17 international humanitarian law, which only applies in cases of intense violence

18 between different parties to the conflict. And the level of violence that is required for

19 the non international armed conflict is extremely high. This has been confirmed in a

20 number of cases of jurisprudence, because the states wanted to exclude situations of

21 domestic violence from international humanitarian law regulations. So I do not

22 deny, and I am completely conscious that there were clashes between various armed

23 elements. There might have been attacks, there might have been skirmishes during

24 the swearing-in ceremony of the president, but those elements, according to my

25 analysis and according to the research that I conducted, did not meet the requisite

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1 criteria of the jurisprudence and international humanitarian law for this to meet, as I
2 said, the two criteria that I mentioned previously.

3 Q. [10:08:01] Now, Madam Witness --

4 PRESIDING JUDGE SAMBA: [10:08:04] Sorry. Mr Jacobs, please.

5 MR JACOBS: [10:08:06](Interpretation) I just wanted to clarify with regard to the
6 transcript. The witness talked about -- or Dr Bellal talked about peace-keeping or
7 law enforcement operations. That should be the correct translation. I wanted to make
8 the most of this opportunity to correct the transcript for things to be precise, thank
9 you, and legally precise. So, law enforcement, as I said, is the translation. Thank you.

10 THE INTERPRETER: [10:08:48] Thank you from the booth.

11 PRESIDING JUDGE SAMBA: [10:08:54] Please continue, Mr Prosecutor.

12 MR BIFWOLI: [10:08:56] Thank you.

13 Q. [10:08:57] Now, Madam Witness, on or about 19 August 2013, the Seleka carried
14 out a retaliatory military operation in Boy-Rabe. Are you aware of that military
15 operation?

16 A. [10:09:18] I was not aware of that military operation. However, the Seleka, as it
17 was now a member of the new government, one could also qualify this operation as a
18 law enforcement operation. I don't know why you would qualify it as a military
19 operation rather than a law enforcement operation.

20 Q. [10:09:58] Thank you, Madam Witness. That's all.

21 MR BIFWOLI: [10:10:05] Thank you, Madam President, your Honours, that's the
22 end of cross-examination.

23 PRESIDING JUDGE SAMBA: [10:10:18] Thank you very much, Mr Prosecutor.

24 Mr Jacobs, do you have any questions in re-examination?

25 MR JACOBS: [10:10:35](Interpretation) No, Madam President, not for the time

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1 being.

2 PRESIDING JUDGE SAMBA: [10:10:40] Thank you very much, Mr Jacobs.

3 Dr Bellal, I wish on behalf of the Chamber to thank you very much for your testimony,
4 for helping us in the determination of getting to know the truth about what happened
5 in the Central African Republic. We do wish you well and we wish you a safe
6 journey and good luck in your future endeavours.

7 Now, as I said yesterday to the Prosecution and the victims representative, we do
8 have a status conference after this witness, now that we are done with this witness
9 today.

10 So I'm going to adjourn. As for the next possible witness, we will get to know after
11 our decision, I'm sure, after we have done our status conference and the information
12 will be given to you, the Prosecution and the victims representatives.

13 For now, I'm going to ask that we adjourn and come back in 45 minutes. Or, let me
14 see, let me be specific. 11 o'clock for the status conference.

15 Thank you very much and good luck, Dr Bellal.

16 THE COURT USHER: [10:12:04] All rise.

17 (The hearing ends in open session at 10.12 a.m.)

18 CORRECTIONS REPORT

19 The following interpretation corrections, marked with an asterisk *, are brought into
20 the transcript.

21 Page 3 line 16-18:

22 "A. [9:37:46] Based on the information that I had, the FACA forces lost part of the
23 control of their territory, the larger part of their territory, based on the information
24 that I was able to gather. So they lost a large part of the capital and a large part of
25 the territory. "

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1 is corrected to:

2 "A. [9:37:46] Based on the information that I had, the FACA forces lost part of the
3 control of their territory, in particular over a large part of their territory, according to
4 the information I was able to gather they lost control over the capital and over large
5 part of the territory . "

6 Page 4 line 22:

7 "armed forces"

8 is corrected to:

9 "armed elements"

10 Page 8 line 7-9:

11 "reports of the international crisis centre, or human rights organisations, were able to
12 observe a spike in the violence and an increase in confrontations between the armed
13 groups."

14 is corrected to:

15 "reports in particular of the International Crisis Group or Human Rights Watch, were
16 able to observe a spike in the violence and an increase in confrontations between
17 various armed elements."

18 Page 8 line 10-12:

19 "Now, still based on my research, from the month of March to the end of December,
20 there were of course some small skirmishes which led to the type of vocabulary that
21 you find in the reports."

22 is corrected to:

23 "Now, still based on my research, from the month of March until, let's say, the end of
24 September, there were certainly some small clashes - that's exactly the kind of
25 vocabulary found in the reports."

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1 Page 9 line 12:

2 "confrontation between the various groups."

3 is corrected to:

4 "confrontation between various parties to the conflict which organized at the time of
5 the attack."

6 Page 9 lines 21 and 23:

7 "armed group"

8 is corrected to:

9 "armed force"

10 SECOND CORRECTIONS REPORT

11 The following interpretation corrections, marked with an asterisk *, are brought into
12 the transcript.

13 Page 11 lines 14-18

14 "So, peace keeping operations need to be come into the fore, and it is the legal
15 process that applies here, and international humanitarian law can only apply if there
16 is violent and intense confrontation between the parties to the conflict, and the level
17 of violence that is required for the non international armed conflict is extremely
18 high."

19 Is corrected to

20 "This means, in other terms, that law enforcement operations shall prevail and that
21 the law applicable in terms of law enforcement in the CAR is the legal framework to
22 be applied, not international humanitarian law, which only applies in cases of intense
23 violence between different parties to the conflict. And the level of violence that is
24 required for the non international armed conflict is extremely high."