

Trial Hearing
WITNESS: CAR-OTP-P-2012

(Open Session)

ICC-01/14-01/18

1 International Criminal Court
2 Trial Chamber V
3 Situation: Central African Republic II
4 In the case of The Prosecutor v. Alfred Rombhot Yekatom and Patrice-Edouard
5 Ngaïssona - ICC-01/14-01/18
6 Presiding Judge Bertram Schmitt, Judge Péter Kovács and
7 Judge Chang-ho Chung
8 Trial Hearing - Courtroom 1
9 Wednesday, 28 April 2021
10 (The hearing starts in open session at 9.32 a.m.)
11 THE COURT USHER: [9:32:56] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE SCHMITT: [9:33:23] Good morning, everyone.
15 Good morning, Mr Agger, at the video-link location.
16 Could the court officer please call the case.
17 THE COURT OFFICER: [9:33:31] Good morning, Mr President, your Honours.
18 The situation in the Central African Republic II, in the case of The Prosecutor versus
19 Alfred Yekatom and Patrice-Edouard Ngaïssona, case reference ICC-01/14-01/18.
20 And for the record, we are in open session.
21 PRESIDING JUDGE SCHMITT: [9:33:49] Thank you.
22 Like always, I ask for the appearances of the parties.
23 Mr Iverson first.
24 MR IVERSON: [9:33:55] Yassin Mostfa, Kweku Vanderpuye and Eric Iverson for the
25 Prosecution.

1 PRESIDING JUDGE SCHMITT: [9:34:03] Thank you.

2 Ms Massidda.

3 Oh, okay.

4 MR FALL: [9:34:08](Interpretation) Yes, Mr President, the team who represents the
5 other crimes is represented today by Mrs Paolina Massidda and myself. Thank you.

6 PRESIDING JUDGE SCHMITT: [9:34:19] Thank you.

7 And Mr Suprun.

8 MR SUPRUN: [9:34:20] Good morning, Mr President. Good morning, your
9 Honours. The former child soldiers are represented today by myself, Dmytro
10 Suprun, counsel at the Office of Public Counsel for Victims. Thank you.

11 PRESIDING JUDGE SCHMITT: [9:34:30] Thank you.

12 And I turn now to the Defence, Ms Dimitri.

13 MS DIMITRI: [9:34:36] Good morning, Mr President. Good morning your Honours.
14 Mr Yekatom, who is present in the courtroom this morning, is represented by our
15 associate counsel, Mr Thomas Hannis, our legal consultant, Mr Florent Pages-Granier,
16 and myself, Mylène Dimitri.

17 PRESIDING JUDGE SCHMITT: [9:34:46] Thank you.

18 And Mr Knoops.

19 MR KNOOPS: [9:34:48] Good morning, Mr President, your Honours. Today
20 Mr Ngaïssona is present in the courtroom, and I'm assisted today by
21 Ms Marie-Hélène Proulx, associate counsel, and myself. We have no legal assistant
22 today. Thank you.

23 PRESIDING JUDGE SCHMITT: [9:35:05] Thank you. I understood on Monday that
24 Mr Hannis is going to question, is this correct? Then I give Mr Hannis the floor.

25 MR HANNIS: [9:35:16] Good morning, Your Honour. Thank you.

Trial Hearing
WITNESS: CAR-OTP-P-2012

(Open Session)

ICC-01/14-01/18

1 WITNESS: CAR-OTP-P-2012 (On former oath)

2 (The witness speaks English)

3 (The witness gives evidence via video link)

4 QUESTIONED BY MR HANNIS:

5 Q. [9:35:15] Good morning, Mr Agger.

6 A. [9:35:22] Good morning.

7 Q. [9:35:23] Thank you. I want to start out with -- you worked for The Enough
8 Project from April and May 2012 until May 2016, correct?

9 A. [9:35:35] That's -- that's correct, yes.

10 Q. [9:35:37] Okay. And when you left, did you leave because you had had
11 enough of Enough?

12 A. [9:35:47] Well, I wanted to -- I want -- well, I wanted to do more practical work
13 in the field, let me put it like that. After writing a lot of reports, I wanted to, yeah,
14 get my hands in the -- in the field and try to implement some of the
15 recommendations.

16 Q. [9:36:07] Okay. And since 2016, have you been doing more of that kind of
17 work?

18 A. [9:36:14] Yeah, I've been working for different international organisations in
19 East and Central Africa that, broadly speaking, work with community development
20 and peace building, reconciliation, that sort of work.

21 Q. [9:36:35] Okay. Prior to your first four trips to CAR in 2014 and '15, what
22 research did you do for that trip in advance?

23 A. [9:36:48] You mean before those specific trips?

24 Q. [9:36:51] Yes.

25 A. [9:36:53] Okay. So part of the preparations before each trip would be obviously

1 keeping current with the developments in the country through news media, news
2 articles, so basically following the news, reading up on reports that were published.
3 And then, you know, being a research organisation, we would look at where do we
4 think there are gaps in our understanding of the conflict? What kind of information
5 do we believe that policymakers might be lacking? And before we did -- and then
6 we would have I mean conversations as a team with my colleagues in New York and
7 other researchers and then loosely discuss the areas of interests that we wanted to
8 look at, and then I would have loose sort of overall subjects that would define the trip.
9 And then I wouldn't prepare too much in -- in advance in sort of specific questions. I
10 think I could characterise my -- my methodology very much as snowballing, so you
11 kind of -- you let the field lead you to your conclusions and then you -- when you do
12 the research, then you step back afterwards. So a loose, loose set of questions and
13 areas that -- that I wanted to look into.

14 Q. [9:38:19] Okay. And it's my understanding that the plan was to identify -- was
15 to identify those who you would later describe in your report as the drivers of
16 violence in Central African Republic, correct?

17 A. [9:38:42] Well, so there are two -- the two main reports, right? So the first one,
18 Behind the Headlines, which -- which came at a sort of relatively early stage in the
19 conflict where our interest was, as the title says, to go behind the headlines. So
20 international headlines very much talked about religious conflict and the idea here
21 that our goal and aim was to look behind those headlines and provide policymakers
22 and others a bit more depth in understanding what the concept of the conflict was
23 about. And then the -- the second report was exactly looking at, so what continues
24 to drive the violence, you know, a year later into the conflict, so looking at natural
25 resources, enrichment, sort of those issues.

1 Q. [9:39:37] All right. We'll talk about both those reports more in a bit, but the
2 "Drivers of Violence", what was the origin of that term? Who came up with that as a
3 topic or a title for the report?

4 A. [9:39:54] Well, something like the title is usually something that comes in at
5 quite a late state in a report writing when you -- when you kind of have everything
6 together and you -- and you think what -- what describes the overall thing that we
7 were looking at here. So I don't know exactly who came up with that specific title,
8 but it came between me and discussions with my colleagues.

9 Q. [9:40:23] All right. Now, on your first trip in February, I think from the 7th to
10 the 28th in 2014, you spent the whole time basically within the capital city in Bangui,
11 correct?

12 A. [9:40:38] Yes, that's correct.

13 Q. [9:40:40] Okay. For your research, you took notes of phone calls and in-person
14 interviews you conducted, correct?

15 A. [9:40:54] That is correct.

16 Q. [9:40:56] Now, did you have any prearranged meetings or was this all done sort
17 of ad hoc on the spot?

18 A. [9:41:06] It would -- it would be ad hoc. I mean, trying to set up meetings
19 beforehand through phone and email with the kind of people that I was interested in
20 talking to is very complicated when you're from afar and trying to do research in an
21 active conflict area. So for practical reasons, obviously, I had some contacts in the
22 country from previous trips, but all the sort of key informants and everything were
23 set up. I had a list of and I say of certain people that I would like to meet, certain
24 representatives of certain groups, broad specs of actors on the ground, and I would
25 literally go day by day showing up at people's offices sort of that nature to curate the

1 contacts.

2 Q. [9:41:59] And your fixer/interpreter, how did you find that person?

3 A. [9:42:08] Well, so I worked with a number of different through various trips, but
4 then as you go through the times and do the research and then you -- then you settle
5 on someone that you have a good rapport with, you feel that you click at a personal
6 level, you feel that the kind of -- that person is able to lead you to the people that
7 you're interested in talking to, so in that sense it's something that develops over time.

8 So I -- as I said, I had some former contacts. I asked if they knew someone who
9 might be able translate. I met with various people, I worked with some on and off,
10 and some helped me once in a while, and one in particular obviously became
11 someone that I worked more closely with. But I had a couple of them, depending on
12 who -- some were better to connect me to others and some to other people, yeah.

13 Q. [9:43:07] Okay. But I understand for your time in CAR in 2014, there was
14 primary one fixer/interpreter that you used, correct?

15 A. [9:43:19] I would say -- yeah, I had one that I worked with maybe I would say 70
16 per cent of the time, and then I had others that I also called in now and then.

17 Q. [9:43:31] And the one you worked with in 2014 in connection with this case,
18 what did you know about their personal history, if anything?

19 A. [9:43:44] Well, so I would -- I would do like interview with -- with the various
20 interpreters and fixers that I was -- that I was thinking about working with. I asked
21 them for their résumé, things like that, yeah, so that was my -- that was my level of
22 knowledge, yeah.

23 Q. [9:44:08] And this one that you used 70 per cent of the time, had you worked
24 with them before this trip in February 2014?

25 A. [9:44:19] Yes, as -- let me try and slow down a bit. As you -- as you -- as you

1 also know from my -- from my CV and that I worked for Enough for a while before I
2 owned -- I did previous trips to CAR before these particular trips, so I had worked
3 with him on and off, yes, through -- through actually my first trip in CAR.

4 Q. [9:44:50] Which languages did he interpret from and to for you?

5 A. [9:45:00] So that -- that would mainly be French to English and Sango to English.
6 And as I worked more and more on the conflict, my -- my own French also became
7 better so I could pick up words here and there, but I always felt more comfortable
8 when I -- when I was sure that at least I had someone who could clarify things.

9 Q. [9:45:33] And based on your experience with them during this, would you say
10 he was better in French or Sango?

11 A. [9:45:48] I didn't notice a difference.

12 Q. [9:45:51] Okay. And based on what you know about him personally, might he
13 have had any bias toward any particular group or side in this conflict?

14 A. [9:46:05] Not -- not that I was aware of. The things that was translated to me
15 and the kind of information he provided, the documents, the contacts, it checked out
16 on a general level when I compared to other sources and -- and that was for me the
17 validation. And -- and sort of in off-interview research settings, I did not experience
18 any -- any prejudice as such.

19 Q. [9:46:41] For the other 30 per cent of the translation/interpretation work during
20 your time in CAR, what about the remaining persons doing that, were their language
21 skills as good as his, could you say?

22 A. [9:47:05] Yeah, well, particularly since I had one and two people, for example,
23 for my research on Séléka, most of them obviously speak Arabic, and also getting
24 access to some of the Séléka areas was difficult at times, so I would use translators
25 that were able to speak Arabic and translate from Arabic to English.

1 Q. [9:47:32] (Microphone not activated) 1 on our -- this is number 1 on our
2 document list, CAR-OTP-2091-0127, and I would like to go to paragraph 15 which is
3 on page 0130.

4 Mr Agger, I don't know if you can see your report, but I'll read from it, and if you
5 need something further, we'll find it specifically.

6 In paragraph 15, you talk about your information gathering and note-taking and your,
7 quote, "... eye to triangulating or confirming information." You said, quote, "Most of
8 the time I would write either the names of the person I spoke to or the organisations
9 those persons were from, but rarely both ..." Right?

10 A. [9:48:47] That's correct.

11 Q. [9:48:49] And you say you did that because your notes were, quote, "... intended
12 to be shared with colleagues at Enough" and that you "had an obligation to provide
13 some protection [to] my sources," your sources, right?

14 A. [9:49:10] That's correct.

15 Q. [9:49:11] And what was -- what was the source of this obligation? Is it some
16 kind of standard for journalists or people doing your work or was it just a personal
17 one of your own? What was the source of that obligation toward your sources?

18 A. [9:49:27] well, so I mean, as a researcher with a long experience of doing
19 research and work in -- in particularly conflict areas, I think I have an obligation to the
20 people that share information with me as much as possible to at least provide some
21 kind of layer between the information and -- and whoever receives that information,
22 because you never know exactly where that -- that information might go. And that
23 is something that -- that resonates deeply with me personally. So I feel it's a personal
24 obligation, but obviously also it's something that was discussed at an organisational
25 level. We have -- we had many discussions on these things and how do you engage

1 with vulnerable individuals and how do you take their testimonies and that
2 information and how to use it and how do you try to protect that it doesn't come back
3 and harm. So I think as working and doing research, we always try to be guided by
4 "do no harm", and in this -- this incident, this -- this was one little step of that.

5 Q. [9:50:49] Okay. Well, I mean, you strike me as the kind of person that this is
6 a -- this is a personal thing for you, but did Enough, for example, have any kind of
7 written document that said these are the obligations we owe towards our sources, for
8 example?

9 A. [9:51:11] So at The Enough Project, we have guidelines for how to do the
10 research. We, for example, have guidelines on how to take photos, how to, you
11 know, store our data in safe ways. We had guidelines on -- you see the way our
12 notes are made. So in those sense, we -- we had several discussions on that as -- as a
13 team. And -- and some of them were written, some of them were -- were things we
14 discussed in emails or directly.

15 Q. [9:51:57] Thank you. And what -- what specifically was the extent or range of,
16 quote, some protection that you felt obliged for your sources? Do you understand
17 that question?

18 A. [9:52:21] You mean in -- you mean in specific or -- or -- yeah.

19 PRESIDING JUDGE SCHMITT: [9:52:27] It's a little bit generic, the question, so
20 perhaps you could provide more detail so that the witness understands what you
21 want to hear or not want to hear.

22 MR HANNIS: [9:52:39] Thank you, your Honour. I understand. I'll try to
23 rephrase the question.

24 Q. [9:52:46] I take it partly you feel an obligation to protect your source in the sense
25 of you're not going to go out and tell the world "Bob over there is the one that told me

1 all this bad stuff about Jim over here" because you don't want to endanger that person
2 because of the information you received from them. Is that correct for a start?

3 A. [9:53:11] Yes, that is -- is correct, yeah.

4 Q. [9:53:25] And in -- in your initial meetings with the Prosecution about being a
5 witness in this case, did you have any concerns about some of your sources, about
6 sharing the identity of those sources with the Prosecution?

7 A. [9:53:42] Yes, that was part of these discussions that we had, that there were
8 certain names that -- that -- where I was not -- that I wouldn't give the full details of.
9 But in general, I -- I shared the notes as -- in their original form.

10 Q. [9:54:09] Okay. And did the Prosecution ever request you for more detailed
11 information about the sources?

12 A. [9:54:18] Not any further detail than what I was prepared to -- to share. I didn't
13 feel there was a pressure in any way.

14 Q. [9:54:30] Okay. And they never asked you for more information about
15 someone that you did have more information about and you said, "Sorry, I can't tell
16 you about that one"?

17 A. [9:54:44] No, there was no incident where I -- I withheld information or said I
18 can't share this for X, Y, Z reason. That was not the case.

19 Q. [9:55:02] I want to ask you a little bit about your working method. We'll talk
20 about methodology in more detail in a bit. But you used the term "triangulation" or
21 "triangulating" in describing how you evaluated the information you collected, right?

22 A. [9:55:29] That is correct.

23 Q. [9:55:30] Okay. Now, for me, from my personal military experience ages ago
24 I've learned about triangulation in a different context, where we were trying to
25 determine the location of the source of electronic or oral communications by opposing

1 forces, and sometimes it took three separate units or individuals on our side, listeners,
2 to pick up a signal and then try to determine where it was coming from. So in three
3 different locations, the three of us were able to say, "Oh, it's directly west of me", and
4 my partner says, "Oh, it's north-east from me", and the third one is south. We draw
5 a line, we see where they converge, and then we have a rough approximation of the
6 location.

7 I take it your triangulating in this process of gathering information and trying to
8 determine reliability, et cetera, is somewhat similar, would you agree?

9 A. [9:56:49] Yeah, I would -- I would very much agree. It's -- I mean, I would not
10 look for radio signals, but I would look for other -- other issues that I was looking at
11 and, exactly as you say, multiple sources, firsthand witness, secondhand witness,
12 written sources, and yeah, so the same process of triangulating, comparing
13 information, sort of that nature to assess the validity of the information that you
14 collect first hand.

15 Q. [9:57:27] Yes. And I understand that and that sounds like a good way of doing
16 it, but would you agree with me that what different human beings may say about a
17 particular topic is a little less scientific than tracing the sound-waves and light-waves,
18 correct?

19 A. [9:57:56] Yeah, sure.

20 Q. [9:57:58] Okay. You said that you had a loose agenda of subjects that you used
21 to question the interviewees. Can you give us an example of what that loose agenda
22 was?

23 A. [9:58:20] Yeah, I can do that. So I think from -- from -- if you go into the -- into
24 the notes from the interviews, you will see that there are certain subjects that -- that
25 most of informants talk about. So, for example, I would have sources of revenue, for

1 example, I was looking at that for the -- for the armed groups. So that would be one
2 topic. For example, we could say Anti-Balaka -- if you imagine a piece of paper, I
3 would have Anti-Balaka as a headline, then I would have, like, command structure,
4 sources of revenue, diamond, gold, rope barriers and so forth, then might it be the
5 attack on Bangui. So -- or it could be if we talk about reconciliation process, it would
6 be reconciliation process, who should be involved, what level, what should the
7 process be like, what might it cost.

8 So that was -- that was how -- and, you know, when you start out the research, you
9 literally have this piece of paper and you walk around with it, but after some time,
10 you memorise these things and you -- you know what you want to talk to people
11 about.

12 And also I think an important point here is that you try to keep the conversation as
13 natural and as flowing as possible, so you -- you kind of want to go where the person
14 you're talking to is going and explore each subject fully at a time before you move on
15 to the next. And if someone is very eager to talk about a certain subject, you kind of
16 let them talk out on that subject before you -- you move to the next.

17 Q. [10:00:11] Okay. I think this would be a good point for me to skip forward in
18 your report to talk a little bit about your methodology. And this is at
19 CAR-OTP-2091-0139 in paragraph 56 of your report. And you talked about how you
20 would try to build rapport by allowing the person to talk about their own motivations
21 and their work. And I agree with you, building rapport at the start of an interview is
22 a good idea, an important idea. And to gauge credibility, it's good to ask
23 interviewees about topics that you already know something about, or events, in order
24 to help you gauge their knowledge and their credibility. But in the circumstances of
25 CAR and the events going on during that time, weren't there a lot of unknowns for

1 you? Even though you've done a lot of research, there must have been a lot of
2 unknowns in your discussions with people you're meeting for the first time, right?

3 A. [10:01:38] Yeah, for sure, I mean that's -- that's why you do the field research is
4 because there is a lot of unknowns, so that's the whole premises of -- of making trips.
5 So, yeah, for sure, there's -- and obviously you will never have full knowledge. I
6 don't think that that's -- that's a utopian idea that we would ever have full knowledge,
7 but we strive to get as close as we can to the truth. But as we always know, there's
8 many types of truths. Truth always depends on where you look at it. So this can
9 get very philosophical.

10 Q. [10:02:18] I agree. The search for truth is an ongoing venture in life. But in
11 the course of talking to various people about events and other persons, didn't you
12 often hear things from one person that maybe were 180 degrees contrary to what two
13 other people had told you before?

14 A. [10:02:45] I would say actually, it's -- it's actually quite surprising. Most people
15 will -- in my experience, will actually tell you the truth. They will tell you -- and
16 that's why I stick a little bit on this point of their version of the truth. And it's rarely
17 that I feel that -- people might have a political agenda or speaking from a certain point
18 of view, but most generally my experiences, having done, you know, hundreds and
19 hundreds of this type of interviews, is that most of the time people actually want to
20 tell their story, and they want to have someone that listens to them. And generally
21 people actually tell the way that they experience things, which I tend to say that to me
22 would be the truth for them. Then my role now as a researcher is to compare this
23 from the multiple angles that I get the information and do my analysis of -- of where
24 do I -- how do I see things. That's why I'm the author of the report.

25 Q. [10:04:02] Well, that's interesting. And you strike me as the kind of person that

1 many people would feel comfortable talking with and telling the truth to. I would
2 suggest to you that I know several former professional police, investigators, et cetera
3 who had different view or different experience and would probably come in and say,
4 "Well, most of the people I talked to lied to me." I think that's partly because of the
5 situation, the context they're in, they're investigating someone as a suspect of a crime.
6 Oftentimes a suspect turns out to be the one who did the crime, and therefore,
7 obviously, they have a motive not to be truthful.

8 But okay. I take your point. But still, there must have been times where you got
9 significant inconsistencies about a particular topic or a particular individual or a
10 particular event from different sources, correct?

11 A. [10:05:07] Yeah, sure. There can be incidents where you -- where you try to
12 confirm certain things and someone tells you one thing and another tells you other
13 things, or more in the sense that people claim something, and then when you ask a
14 little bit deeper, they might not be able to substantiate that claim. Yeah, so that
15 happens, yeah, sure.

16 Q. [10:05:34] Okay. And in those situations where you found inconsistent or
17 conflicting accounts from different individuals about events or reports -- events or
18 groups or individuals, how did you go about trying to resolve the inconsistency?
19 Did you talk to more people?

20 A. [10:05:59] Yeah, yeah, I mean, it gets a bit -- I mean, to talk to my -- in my -- you
21 know, you follow the same procedure, you try to talk to more people, you try to
22 substantiate with secondhand sources, other researchers, other reports, that type of
23 nature.

24 Q. [10:06:20] And I'm assuming you would agree with me that in a situation where
25 you may have conflicting accounts about an event, for example, it turns out that

1 neither side is actually fully correct or truthful, nor is the other side correctly -- is fully
2 wrong and lying. Sometimes a truth lies in between the two, right?

3 A. [10:06:48] Yeah, yeah. Exactly. I think that's kind of what we're driving at.
4 Especially in a very complex situation, there are different -- it's very difficult
5 sometimes to, first of all, find out what happened, and some things you get clearly,
6 some things are more uncertain for sure.

7 Q. [10:07:17] (Microphone not activated) statement now, on page 2091-0137 (sic),
8 paragraph 17 near the bottom of the page you say you provided the OTP an electronic
9 copy of the notes you took, which is annex B in our exhibits and quote -- and you,
10 quote, "... provided the OTP with some clarifications they asked me." Right?

11 A. [10:07:54] Yes. Yes, that's correct.

12 Q. [10:07:56] Okay. And I have a general question about clarifications, I guess.
13 Sometimes a clarification may include an expansion or an elaboration or adding more
14 information, correct?

15 A. [10:08:19] Yeah, yeah.

16 Q. [10:08:20] Sometimes a clarification may result in you removing some
17 information or dropping back information, right?

18 A. [10:08:31] Yeah, yeah. Depending on the nature of the clarification, but yes.

19 Q. [10:08:38] Sure. Now, I'm sorry, I have to -- I'm next going to ask you about
20 something from your notes and this arises from reading paragraph 18 in your
21 statement. You -- you make a clarification for the Prosecution, I guess.

22 If we could go to the notes of Mr Agger, this is CAR-OTP-2091 at page 0267, this is
23 annex B to the witness's statement.

24 And this is page 4 where you're talking about the leader of the December 5 attack was
25 "Douze power" or 12-power.

1 Do you remember that?

2 A. [10:09:44] Yeah, I remember.

3 Q. [10:09:45] Okay. And in your clarification, you say to the Prosecution that you
4 did not mean to imply he was the overall leader or the only leader, but was rather
5 mentioned as one of the leaders of the 5 December attack. Do you recall --

6 A. [10:10:04] Yes, that's correct. Yeah, yeah. I mean this is from the notes of the
7 interviews, right? So this might not necessarily be -- I mean, this is what someone is
8 telling me, but, yes, that's -- that is correct.

9 Q. [10:10:18] Okay. But my question is that in your note, the source for that is
10 listed as, quote, "Local NGO Rep[resentative], Bangui" and the date is 9 February 2014.
11 Right?

12 A. [10:10:41] Yeah, that's correct. I just think it's important to distinguish
13 what's -- what's in the notes that I transcribe of interviews and then obviously what's
14 in the report. There's -- there's quite a big difference. But yes, this is what one
15 person told me.

16 Q. [10:11:03] Okay. And I just want to get to that page to be precise,
17 CAR-OTP-0291-0267, which, as I said, is page 4 of your interview notes for the CAR
18 trip February 7-28, 2014 (tinderbox) is the title. And at the bottom of the previous
19 page in my copy of these notes, the last word in bold letters is "Anti-Balaka", and then
20 when you turn the page to page 4 at the top, it says "The leader" with a capital T in
21 "the", "The leader of the Dec[ember] - 5 attack was 'Douze power' ..." So to me that
22 sounds like at the time you wrote it, the information you had from that source was
23 that he was the leader, correct?

24 A. [10:12:10] Yeah, from that one source, which is -- which are the notes from that
25 interview, yes, that is correct.

1 Q. [10:12:15] Okay. So on 9 February 2014, that was the information you had?

2 A. [10:12:20] From that one person, correct.

3 Q. [10:12:25] Okay. And did you -- did you know at the time or did you find out
4 who 12-power was?

5 A. [10:12:41] At a later stage, yes.

6 Q. [10:12:46] Okay. And how did you come to make this clarification? Did OTP
7 say to you, "Are you sure he was the leader?" or "We have some information that
8 others were leading"? Do you know how that clarification came to be made?

9 A. [10:13:01] Well, I think maybe -- it seems that -- that this is an issue of me having
10 an interview with a person, that person tells me something, I write it down in my
11 notes, right?

12 Q. [10:13:16] Right.

13 A. [10:13:16] That's the whole process. And then so this, what is said here might
14 not necessarily be something that I agree with. This is the point of view from one
15 person that I talked to, right? So maybe that's the confusion that -- that -- from OTP
16 or from you or from others, take this as a final conclusion, but these are notes from an
17 interview. What is then put into the report is what has more credibility.

18 Q. [10:13:50] And at the time when you made this clarification, did OTP ask you
19 are you -- do you have other information about who was involved in the December 5
20 attack? Do you recall how it came that you made this clarification?

21 A. [10:14:09] I don't know. I think they just -- they just asked me for the
22 clarification as -- as you are doing now, basically, and I provided that clarification that
23 it's from an interview, yeah.

24 Q. [10:14:19] Okay. In the process, did they tell you, "We have other information
25 that there were others and that he was not the leader of the attack"? Did they say

1 that to you?

2 A. [10:14:29] No, no, we -- we did not go into much detail on the December 5 attack.

3 If I can just elaborate a bit on that, I think you will see from my report that I don't

4 specify much who -- who was indeed behind that attack. I say there were influential

5 leaders of Anti-Balaka, but in my research, I did not go into that much detail on that

6 specific attack. I came to Bangui later. We were looking at other things. I think I

7 mentioned it earlier in my -- when we were here the other day that we're not looking

8 so much directly at individual violent events. There were other organisations, sort

9 of Human Rights Watch, Amnesty International, that did that type of specific violence

10 research, where we were more looking at the political overall process of the conflict.

11 Q. [10:15:32] Thank you. Now, still talking about your notes in the tinderbox

12 exhibit, by my rough count of the different described sources in your notes for that

13 period, it appears you interviewed at least 48 different persons from various positions.

14 And I suspect it's probably more. And people working for government agencies,

15 both foreign and local, NGOs, private businesses, journalists, politicians, educators,

16 military personnel, religious leaders, IDPs, internally displaced persons, both

17 Christians and Muslims, and individuals from the Séléka and from the Anti-Balaka,

18 right? Have I left --

19 A. [10:16:36] Yeah. No, I think that that sounds correct. A broad spectrum of

20 various actors in the conflict, yes. And I would say that maybe I would hit a number

21 around 60, I would assume around that. But, you know, some interviews are more

22 significant than others and then some you get to transcribe and some stay in the

23 notebook and you -- yeah.

24 Q. [10:17:03] And that's consistent with my next question because in paragraph 15

25 of your statement, you say, quote -- you say that your notes, quote, "... do not contain

1 comments on every single person with whom I spoke." Right? So it's more than 48
2 and, as you say, it may be closer to 60 or even more, right?

3 A. [10:17:26] Yeah, that -- that's correct. I mean, when you -- when you do this
4 type of research, anyone you talk to is a potential -- is almost a source, you know.
5 When you drive the taxi, you talk to people: Which is this area where we're driving
6 through? How do you see the conflict? And so you -- I mean, but of course, there's
7 difference between having a formal interview, you sit down and people have
8 prepared that you interview them, but -- but going more into -- in graphic research
9 methods, anyone becomes a source of information. You -- it cannot be any source of
10 information.

11 Q. [10:18:04] Okay. So roughly there may have been 10 to 12 or maybe more
12 that -- of persons that you spoke to who did not get a note written about them?

13 A. [10:18:17] Yeah, that -- that's -- that's probably the -- what that I would say
14 could -- that we could characterise as more formal interviews. There could be
15 maybe -- but yeah, it's -- it's an estimate. I would have to go back and look at my
16 original notebook, but it could be in that range, correct, yeah.

17 Q. [10:18:37] Okay. And I assume that the ones that aren't noted in writing, it was
18 because they didn't have much information to provide and/or the information they
19 provided did not seem to be reliable or trustworthy, correct?

20 A. [10:18:57] Yeah, it can be several factors that -- that means that you don't get to
21 transcribe some -- some interviews, yeah.

22 Q. [10:19:08] Okay. As I read your notes, it struck me there was a -- there was a
23 wide range or variety of answers about the situation in CAR, the current situation,
24 how and why it got to be that way, what was likely to happen next, what the best
25 solutions might be, et cetera. And the different -- correct me if I'm wrong, but the

1 different answers and views covered -- covered a wide range. Séléka was the cause,
2 poverty was the cause, Anti-Balaka was the cause, greedy politicians, foreigners
3 seeking to exploit CAR's natural resources, like the diamonds and gold or elephants,
4 mercenaries from neighbouring countries, et cetera. Would you agree with that?

5 A. [10:20:09] Yeah, I -- I think there are -- there were multiple causes to the conflict
6 in CAR. You can't -- we can't single out one. They are all relevant.

7 Q. [10:20:21] Okay. And in those -- and in your circumstances, it seems it could
8 not have been easy to know how to evaluate or weigh and judge all these different
9 things you were being told. Maybe I'm wrong. Was it easy? It took some work,
10 right?

11 A. [10:20:42] No, it -- obviously it's a lot of work, but I think also that's why
12 you -- you see in the report that it mentions multiple causes, right? It's not just
13 focused on one. It looks at the resources. It looks at neighbouring countries. It
14 looks at political grievances, marginalisation of certain groups, minorities,
15 long-lasting grievances, abuses by former -- all the way back to colonial powers, to
16 former government. So I think the whole idea is to sort of map out and try to distill
17 these different causes.

18 Q. [10:21:30] Thank you. And speaking of the causes, I'm going to jump out of
19 order on my exhibits. I just wanted to show you number 11 on our list,
20 CAR-D29-0002-0031.

21 Mr Agger, this is an article, to which your name is attached, called, "To understand
22 the crisis in the CAR, beware of familiar narratives."
23 Do you know this one?

24 A. [10:22:04] Yeah, I remember the headline.

25 Q. [10:22:05] Okay. And did you contribute to that article?

1 A. [10:22:10] I don't remember the specific article, but if I'm there, yes, I'm sure -- I
2 published many article at that point, so maybe ...

3 Q. [10:22:18] Okay. Can you see it on your screen now?

4 A. [10:22:26] I cannot see it now.

5 Q. [10:22:30] Now?

6 A. [10:22:30] Ah, there it is.

7 Q. [10:22:30] Yeah.

8 A. [10:22:30] Yes, this -- yeah, sure. Thank you. Yes, this one, obviously, I -- I'm
9 familiar with.

10 Q. [10:22:34] Okay. It lists you and Christopher somebody?

11 A. [10:22:37] Yeah, Chris Day, yes.

12 Q. [10:22:40] And as I understand the gist of it, it's -- you're pointing out the
13 problem is that some -- some government, some people take a simplistic approach in
14 talking about the CAR crisis and just say, well, that's Christians versus Muslims, or
15 vice versa, right?

16 A. [10:23:00] Yeah, correct.

17 Q. [10:23:01] And that's -- you don't agree with that, right?

18 A. [10:23:05] Yeah, it was part of it and became later in the story of the conflict, but
19 initially not that much. It was a simple -- simple simplification of the conflict that I
20 think that was not helpful at that point in time.

21 Q. [10:23:27] (Microphone not activated) about why that oversimplified
22 explanation for the conflict was being circulated so much?

23 A. [10:23:36] Sorry. I did not get the first part of your question.

24 Q. [10:23:40] Sorry. If I understand correctly, did you have an opinion about why
25 certain individuals or groups were trying to sort of overlay or oversimplify this

1 matter by saying, "Oh, it's just a religious conflict"?

2 A. [10:24:01] Well, I'm not sure if it was intentional in the sense of trying to be
3 misleading as such. I think more that when a conflict comes up in -- particularly in a
4 country like Central African Republic that the majority of people unfortunately can't
5 pinpoint on a map, then journalists and other reporters hit to -- to what sort of -- what
6 can I say -- sounds familiar, as the headline says, of -- of conflicts from other areas. I
7 think whoever studies conflicts, whether in Africa or the Middle East or South
8 America or wherever, would say that conflicts are victims of simplification at various
9 stages at various levels. So -- so it wasn't -- I don't think it goes much deeper than
10 that, or at least that's not something I looked into particularly, who was driving that
11 agenda.

12 PRESIDING JUDGE SCHMITT: [10:25:02] May I shortly?

13 Still on this article, I would say, at 0033, I quote something. And you said -- since
14 you are one of the authors, I assume you perhaps recall it. It reads here, it's
15 relatively close to the end of this page:

16 "In fact, such self-defence groups - typically armed with simple weapons such as
17 bows and arrows and single-shot hunting rifles - are common across the Central
18 African region. For example, the Arrow Boys in South Sudan and northern Uganda
19 gradually formed throughout the 1990s to protect their villages from the Lord's
20 Resistance Army."

21 I understood from your CV that you also did research in Uganda and that this
22 statement might come from there. And since large parts of this Chamber know also
23 a little bit about this conflict, I would be interested about what parallels you saw or
24 see between these Arrow Boys and the Anti-Balaka.

25 THE WITNESS: [10:26:10] Yeah, that is correct. I -- I -- before I took on

1 Central African Republic as a -- as a specific research object within Enough, I was -- I
2 was the lead field researcher on the conflict of the Lord's Resistance Army. So I did a
3 number of reports and research on that conflict as well. So -- so in terms of
4 similarities, it goes back to a little bit what we -- what we talked about on Monday,
5 that -- that there's a history in certain parts of Central Africa, South Sudan, Eastern
6 DRC that -- that local populations, communities, villagers, particularly in remote
7 areas where the state is not able to provide security, or maybe in some cases even the
8 state is the source of insecurity, local populations will gather up in informal
9 organisation to protect their local village and their local area. And that's something
10 we have seen in multiple cases in Central Africa. So there's -- there's that.
11 And the Arrow Boys in -- in the western part of -- of the Western Equatorias in South
12 Sudan were formalised in the same way as a response to atrocities committed by the
13 Lord's Resistance Army being a very isolated area without any protection from -- or
14 largely without protection from the international community or from the state,
15 formed loosely groups for self-protection armed with machetes, maybe clubs.
16 Literally they would, you know, have a small checkpoint maybe outside of village.
17 They would -- they would walk around, you know, typically the young men, in the
18 evening hours, and just sort of making sure we know who's around here and that
19 type of -- of organised self-defence.

20 PRESIDING JUDGE SCHMITT: [10:28:10] Thank you.

21 Mr Hannis.

22 MR HANNIS: [10:28:13] Thank you, your Honour.

23 Q. [10:28:18] Next, back to your statement, tab 1 at page 2091-0132, you talk about
24 on 20 February you spoke to an Anti-Balaka fighter at the Boy-Rabe area in Bangui.
25 Do you recall that?

1 A. [10:28:38] Yes.

2 Q. [10:28:40] And at tab 6, your notes, page 2091-0284, you say this person told you
3 that quote -- that the, quote, "Goal now" was waiting for the DDR process. I guess,
4 disarming, demobilising and reconciliation?

5 A. [10:29:14] Reintegration.

6 Q. [10:29:15] Reintegration. Thank you. And that he was hoping, quote, "to get
7 support to go to school or ... start a small business. Or to become part of the army,"
8 right?

9 A. [10:29:28] Yeah, that's correct.

10 Q. [10:29:29] Okay. And regarding the Muslims, this individual, this fighter told
11 you, quote, "There are no problems with all the Muslims. We can live together.
12 The problem is not Muslim against Christian. There are also Christians in the Séléka.
13 Those who supported Séléka should just ask for forgiveness."
14 Do you recall that's what you were told by the Anti-Balaka fighter?

15 A. [10:30:04] Yes.

16 Q. [10:30:06] Okay. And was that interview done by your 70 per cent interpreter?

17 A. [10:30:17] I'm not sure who was doing that interview. I can't recall the -- the
18 translator for individual interviews.

19 Q. [10:30:24] Okay. Okay. And well, while we are at Boy-Rabe and talking
20 about Anti-Balaka, on 27 February, according to paragraph 50 of your witness
21 statement at 2091-0137, you talked about speaking with two young men from
22 Boy-Rabe who gave you the template for Anti-Balaka IDs.

23 Do you recall that?

24 A. [10:30:58] Yes, I recall it. Yes.

25 Q. [10:31:01] Did you pay them for that?

1 A. [10:31:03] No, no. I've never paid anyone for any information or any interview.

2 Q. [10:31:09] Okay. Now, I have some questions from your "Behind the Headlines,
3 Drivers of Violence" report and May 2014 I think is the date of the report. In your
4 statement at paragraph 44 you refer to the report, and in the first introduction of
5 that report, the last sentence in the paragraph reads, quote, "The Anti-Balaka ...
6 professionalised, acquired powerful armies, and attacked Bangui in December 2013,
7 weakening the Séléka, who largely left the capital in January."

8 In the report, I see there's no footnote for that statement, right? Is that just because
9 it's the introduction and it's sort of a general summary of what follows?

10 A. [10:32:20] Yeah, usually -- usually you would not -- sometimes you do it, but
11 usually you would not do a lot of extensive referencing in a summary because the
12 assumption is that the summary covers what follows in the report.

13 Q. [10:32:43] Okay. And where it follows in the report with some more specific
14 information supporting that underlying statement, there would be a footnote for
15 those individual sentences or paragraphs, right?

16 A. [10:32:55] That's usually how you -- you build up a report, correct.

17 Q. [10:33:00] Okay. And I think you said that this was a reflection of, quote, "a
18 general sense of individuals that you spoke with."

19 A. [10:33:22] You mean the specific statement on the December 5 attack?

20 Q. [10:33:29] Yes.

21 A. [10:33:29] Yeah, correct. And public sources, yeah.

22 Q. [10:33:32] Okay. And I know this is probably an unfair question or a difficult
23 question.

24 Could you tell us who and how many of the interviewees that you spoke with on this
25 trip in February may have given you the notion that this was a reflection of the

1 general sense?

2 A. [10:33:58] I don't think I can really specify much more than -- than -- yeah, than
3 what I'm trying to say, that various sources, public available information, yeah,
4 provided that -- the background for that statement.

5 Q. [10:34:17] Okay. Fair enough.

6 Further on in that report, you describe how "The Anti-Balaka", quote, "remain[ed]
7 decentralised, divided into multiple groups with different and largely unarticulated
8 political claims."

9 And then you go on to say, quote, "Criminal gangs and unemployed youth continue
10 to unite and form new Anti-Balaka groups that loot and kill civilians, known as Faux
11 Anti-Balakas" or fake Anti-Balaka. And I think it means the group is known as Faux
12 Anti-Balaka, not the looted and killed civilians, right?

13 A. [10:35:12] Yeah, yeah. That's correct.

14 Q. [10:35:14] Okay. The source for that in the report is footnote 85, which can be
15 found at page CAR-OTP-2001-2588 which lists the sources as, quote, "Anti-Balaka
16 fighters and ... commanders, interviews with [the] author." Do you recall that?

17 A. [10:35:41] Yeah.

18 Q. [10:35:48] Do you remember -- well, I -- do you remember who and how many
19 Anti-Balaka commanders and fighters you spoke with from whom you got support
20 for this statement about the Faux Anti-Balakas?

21 A. [10:36:08] Well, I think we -- I can't mention a number as such, but I think there's
22 a number of -- if you look through the notes, there's a number of -- of members of
23 Anti-Balaka that talk about this, and that's what it references.

24 Q. [10:36:21] Okay. I had the difficulty, though, finding where sometimes an
25 Anti-Balaka fighter or commander is mentioned as a source. It doesn't directly go to

1 this point, but I'll --

2 A. [10:36:36] Yeah, yeah.

3 Q. [10:36:37] Okay. And the very next sentence in the report at 2001-2579 says,
4 quote:

5 "There have been reports of fights between the original Anti-Balaka and the Faux
6 Anti-Balakas. The Anti-Balaka despise the Faux because they tarnish their name."

7 And the source for that is footnote 86 at page 2001-2588, and is, quote, "International
8 aid worker and human rights monitor, email communication with author,
9 April 2014."

10 My first question, is that a single source? It's an international aid worker who is also
11 a human rights monitor, or is it two separate sources?

12 A. [10:37:41] I would -- I'm not sure if it's one or two. I would need to look at the
13 way -- where the comma is, but these two -- yeah.

14 Q. [10:37:51] Okay.

15 A. [10:37:52] I'm not sure if it's one or two, yeah.

16 Q. [10:37:56] Okay. Well, and it says "email communication", which sounds like a
17 single communication, which led --

18 A. Yeah.

19 Q. -- me to think that it's one person.

20 A. [10:38:05] Correct.

21 Q. [10:38:07] Okay. Do you still have a copy of that email?

22 A. [10:38:12] No, I don't. I don't have access to my email anymore.

23 Q. [10:38:16] Okay. Did you provide the OTP with a copy of that email?

24 A. [10:38:22] No.

25 Q. [10:38:24] Okay. How many reports of fights between real and fake

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1 Anti-Balaka are you aware of? Any specific number?

2 A. [10:38:37] I don't have a specific number, no.

3 Q. [10:38:45] Okay. Do you recall who that source was? I'm not asking for --

4 A. [10:38:51] Not at -- yeah, yeah, not -- not particularly, no. Not at this point in
5 time, no.

6 Q. [10:38:55] If you needed to find him or her, would you be able to do so, going
7 through your old emails?

8 A. [10:39:05] If I -- yeah, I mean, if I had -- if I would gain access to them. I don't
9 know if they even exist anymore since I stopped working long time ago, but
10 potentially, yes.

11 Q. [10:39:20] Okay. The reason I'm asking would be, it would be interesting for us
12 to see how many reports there were, what they said, who they came from, et cetera.
13 I don't know if this is fair, would you be willing to try and see if you could find that
14 contact and ask them if they could direct you to where you might find such reports?

15 A. [10:39:48] I would prefer if we can maybe follow up on this offline and -- and
16 see what we can do.

17 Q. [10:39:54] Sure.

18 PRESIDING JUDGE SCHMITT: [10:39:55] That is -- I think that is fair.

19 MR HANNIS: [10:39:56] That's very fair.

20 PRESIDING JUDGE SCHMITT: [10:39:56] I understand that you address it, but also
21 the reaction of the witness is absolutely okay, I think, here.

22 MR HANNIS: [10:40:01] Yes.

23 PRESIDING JUDGE SCHMITT: [10:40:01] I think we should continue with what we
24 have at the moment, and which information could be obtained from the witness now.

25 MR HANNIS: [10:40:09] Yeah. That's -- that's all I'm trying to do, your Honour.

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1 Thank you.

2 Q. [10:40:16] Thank you, Mr Witness.

3 And in that paragraph 48 of your statement that I was just talking about, which is on
4 page 2091-0136 and 0137 of your report -- of your statement, I'm sorry -- you said that
5 this stuff about the Anti-Balaka, some you had heard from -- from an Anti-Balaka
6 person you spoke with, but you said you "also heard similar information from local
7 journalists with whom I spoke." And that's -- that's a plural.

8 Do you remember how many journalists you spoke to that said something about
9 fighting between real and fake Anti-Balaka?

10 A. [10:41:24] Not -- not specifically. I can't say if it was three or five or seven
11 or -- but I would assume it's in that range, two, three. I mean, it's plural, so but I -- I
12 don't know exactly how -- how many referenced such events.

13 Q. [10:41:41] Okay. Okay. Next I want to talk about another one of your reports.

14 MR HANNIS: [10:41:53] Sorry, your Honour, I'm just checking the time. 11
15 o'clock?

16 PRESIDING JUDGE SCHMITT: [10:41:59] Yes. I don't know what you have in
17 mind, and especially time-wise.

18 MR HANNIS: [10:42:04] Well, I'm -- number-wise, I'm -- I'm pretty close to the end
19 of my pages. I'm on page eight of ten, so I'll try to finish before the break. And
20 when we get to 11 we can discuss.

21 PRESIDING JUDGE SCHMITT: [10:42:20] Yeah, there's no must, of course. Take
22 your time.

23 MR HANNIS: [10:42:23] Thank you.

24 Q. [10:42:27] In your report -- in the report from June 2015 called "Warlord Business,
25 Violent Armed Groups and their Criminal Operations for Profit and Power", and this

1 is in tab 4 of our list, CAR-OTP-2091-0202 through 0233. And I think you already
2 talked about this a little bit on Monday with my colleagues across the aisle, but at
3 page number 2091-0214 you talk about -- let me find the exact point I want.

4 Yes. You write about how "Anti-Balaka groups" quote "launched a coordinated
5 assault on Bangui on December 5, 2013, which largely pushed Séléka out of the capital
6 in the weeks that followed." And you go on to say that the attack was, quote,
7 "mainly lead by commanders from the residential guard." I'm assuming that's a typo
8 and it was meant to be "Presidential", right?

9 A. [10:44:02] Yes, that's correct. That's -- that's an oversight in the editing process.

10 Q. [10:44:06] Okay. Happens to all of us.

11 A. [10:44:14] Yes.

12 Q. [10:44:14] And -- and then it goes on to say, quote:

13 "... violence was committed by hundreds of untrained civilians, farmers, youth, and
14 some child soldiers who had taken up arms against Séléka because of the group's
15 extensive killings, looting, and other abuses." Right?

16 A. [10:44:36] Correct.

17 Q. [10:44:37] And then the source for that is footnotes 110 and 111, just for the
18 record. We may talk about that in a minute.

19 And at page 0215 of that report you talked about how AB had pushed Séléka out and
20 it had been -- after that it had been struggling, quote, "to form a united front,
21 politically, militarily, and economically." And that's where you then list what you
22 describe as the three clusters of the Anti-Balaka that Ms Proulx talked to you about on
23 Monday.

24 But that quote says these three clusters of armed groups, quote, "identify with the
25 Anti-Balaka or are associated with the group."

1 I personally identify with the St. Louis Cardinals baseball team in the US, but I'm not
2 associated with them in any way. So in that sentence, what's the distinction between
3 a group that is associated with Anti-Balaka and one that, quote, identifies with it?

4 A. [10:46:14] Yeah. Well, I think -- I mean, as we talked about that, we sort of
5 identified these three overall groupings of Anti-Balaka. And -- and some of
6 them -- it's a loose organisation, and I would say some -- like who decides who is a
7 member of an Anti-Balaka, right? That's what it comes back to. And some of these
8 groups are -- organically come up. I mean, I think at some point one of the reports
9 reference how young men heard on the radio where the fighting was and they
10 walked -- and they -- they walked to the front line to join the Anti-Balaka, right?
11 So -- so, for example, in the process of walking towards the front line, you would say
12 once they arrive, they certainly are associated with the larger group of Anti-Balaka
13 that is advancing towards the capital. But when they're in that process of -- of
14 reaching the front line, the larger group, I would say that they might identify with
15 Anti-Balaka, but they haven't sort of joined yet. But it's a fluent -- fluent process or a
16 fluent distinction. It's difficult to pinpoint exactly.

17 Q. [10:47:49] Okay. I understand.

18 PRESIDING JUDGE SCHMITT: [10:47:50] So you identify with this team, but you're
19 not associated in a way that you would be active -- actively involved in that team.

20 MR HANNIS: [10:48:02] Yes. And as much as I would love to have been on the St.
21 Louis Cardinals baseball team, your Honour, I couldn't cut it.

22 PRESIDING JUDGE SCHMITT: [10:48:10] (Overlapping speakers) mention some
23 football teams with regard to me, but we should not continue that.

24 MR HANNIS: [10:48:15] Thank you.

25 Q. [10:48:17] Witness, the footnotes for these -- for the comments in the report

1 about these three clusters can be found on page 2091-0230, and the sources are
2 described as, quote, "Author interviews with senior humanitarian coordinator,
3 international aid workers, local journalists; participation in UN-led security meetings
4 in Bangui, February 2015."

5 If you can, can you describe some details? Was that one single
6 humanitarian -- senior humanitarian coordinator, if you recall?

7 A. [10:49:14] I'm not a hundred per cent sure, but I believe it's -- you know, those
8 are multiple individuals, and I believe that is one individual, yes.

9 Q. [10:49:21] Okay. And do you know for which entity that person was the
10 coordinator?

11 A. [10:49:28] I believe it's -- it's the one that usually also hosts the security meetings,
12 which would most likely have been UN OCHA at that point.

13 Q. [10:49:41] UN O --

14 A. [10:49:42] OCHA. O-H-C-A (sic). Office of humanitarian
15 coordination -- along those lines.

16 Q. [10:49:53] Okay. Thank you. And do you recall how many, quote,
17 "humanitarian aid workers" were sources for this?

18 A. [10:50:01] No, I don't know specifically individual numbers on each quote, no.

19 Q. [10:50:06] Okay. Or which agencies they were from?

20 A. [10:50:09] No, no, no.

21 Q. [10:50:13] Okay. How about how many local journalists, plural?

22 A. [10:50:20] Well, not -- not specific on that specific statement.

23 Q. [10:50:23] Okay. Okay. And so then I guess you can't tell us whether the
24 information provided by each of those different individuals was first hand or second
25 hand or maybe even more remote, right?

1 A. [10:50:41] No, I -- I -- it's -- it's sort of very much done in the detail, and I
2 appreciate you're interested in the information, but I would have to go back and look
3 each -- it's -- it's been many years since I did those interviews, so really going back,
4 tracing each quote to separate interviews, that's a bit difficult for me at this point.

5 Q. [10:51:05] And did you -- to the extent that you can recall who these individuals
6 were, did you know them particularly well, or did you only know them slightly in
7 connection with your investigative work?

8 A. [10:51:22] Most of the -- of the interviews were people I met once or twice.

9 Q. [10:51:25] Okay.

10 A. [10:51:26] So professional relationship, trying to obtain the information of the
11 questions that I asked them. Generally I would not meet -- you see I meet quite a lot
12 of people in a three-week period, so most of the people I meet once, maximum twice.

13 Q. [10:51:43] Okay. And you can understand the point I'm trying to get to is these
14 are individuals that you had not known long enough or well enough to gauge
15 whether or not they might have had any possible bias or motive to exaggerate or
16 speculate in connection with this, right?

17 A. [10:52:04] That -- that is -- that's correct, and that's a fair point, but for me what
18 validates it is that -- that multiple sources then point to the same, and since they don't
19 know each other either, it's fair to assume that there's some level of validity in what
20 they claim since it's very -- or rarely that journalists, aid workers, security coordinator,
21 and UN security meeting all have conspired to give me the wrong information so
22 that -- looking at it from the other angle. But, yes, the individual person, I don't do a
23 check on them as such, my check is in the accuracy of the information.

24 Q. [10:52:50] Fair enough. Thank you. I want to ask you about the page number
25 2091-0216 near the middle of the page where you're talking about the Anti-Balaka

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1 clusters:

2 "Whereas leaders with explicit political ambitions have had limited success in
3 controlling Anti-Balaka groups, military commanders and FACA members are
4 emerging as stronger commanders of dispersed Anti-Balaka groups within the
5 ComZone structure."

6 And then you go on and say:

7 "Senior FACA commanders like Captain Joachim Kokaté, Lieutenant Maxime Mokom
8 and Corporal Alfred Yekatom from the" quote "Presidential Guard" close quote, "have
9 used their military experience to take control of some Anti-Balaka groups."

10 And your source is footnote 129 which we'll talk about in a minute.

11 I suggest to the witness that there will be evidence in this case that Mr Yekatom was
12 not a member of the presidential guard.

13 You personally don't have any information to disagree with that, right?

14 A. [10:54:30] Yeah, I -- I stand by what's in the report, but if you have other
15 information, yeah, that's -- that's -- this is the -- the information that I had at the point
16 in time. Since I did write the report, I did not receive follow-up on that specific point.
17 But that was my knowledge at that point.

18 Q. [10:54:53] All right.

19 A. [10:54:54] As it shows in the -- in the report, yeah.

20 Q. [10:54:57] Okay. And among the sources in footnote 129, you list, quote,
21 "Author['s] interviews with senior FACA officer, former Anti-Balaka member, local
22 journalist, Bangui, February 2015".

23 Do you recall which one of those sources might have suggested that Mr Yekatom was
24 in the presidential guard?

25 A. [10:55:34] I would believe that they -- my assumption is that they probably all

1 came with that information, but, again, I don't -- I can't trace individual -- sort of
2 specific to individual persons, to individual informants, yeah. Since three categories
3 are referenced, the general practice would be that they all talked along the subject of
4 what is in that line that they referenced. Specifically who said each thing, yeah, I
5 don't have that off head for sure.

6 Q. All right. Thank you.

7 MR HANNIS: [10:56:14] Your Honour, may I have a moment to consult with lead
8 counsel?

9 PRESIDING JUDGE SCHMITT: [10:56:24] Of course.

10 MR HANNIS: [10:56:25] Thank you.

11 (Counsel confers)

12 MR HANNIS: [10:58:57] Sorry, your Honour. It may take me ten minutes to finish.
13 I don't know if you want to carry on?

14 PRESIDING JUDGE SCHMITT: [10:59:08] I think you can finish.

15 MR HANNIS: [10:59:14]

16 Q. [10:59:14] First of all, a general question, Mr Agger, there are some items in your
17 notes that I don't find appearing anywhere in any of the reports that we have that you
18 worked on. Does that suggest that you may have concluded that information was
19 either not reliable and/or not valid to the issues you were talking about in the reports?

20 A. [10:59:43] Not -- not necessarily. You know, it's -- there's an editing process
21 and -- and some things you include, and some you don't. I mean, that's sort of an
22 analytical choice, depending on what you try to achieve with your report. So that's
23 necessarily not a reflection of -- of whether it's correct or not correct.

24 Q. [11:00:10] Okay. You often referred to FACA groups that were more organised.
25 And since you referred to the fact that there were strains within the FACA that were

1 certainly more organised, I think is how it's written, would you agree that this is your
2 general view, but there are also exceptions among the FACA group, maybe not all
3 were more organised; is that fair?

4 A. [11:00:45] Yeah, for sure. The point I'm trying to make is that when you
5 compare to the three overall clusters of Anti-Balaka, it appeared that the FACA were
6 the most organised among those three, but I think we can all agree that -- that FACA
7 is also in many ways, if you talk about FACA as an army, it's also disjointed and has,
8 you know, not always a clear command and control structure within it and there can
9 be subdivisions, and so as with everything else, it's very complex, yeah.

10 Q. [11:01:29] Okay. And in the report where it talks about certain former FACA
11 members being close to Bozizé, you would agree, wouldn't you, that there were
12 certain FACA members in the Anti-Balaka who were not close to Bozizé or supporters
13 of him after 2014 or 2013?

14 A. [11:01:53] Yes, I would agree with that.

15 Q. [11:01:55] Okay. And would you agree that some -- the FACA groups in
16 Anti-Balaka were also joined by many civilians spontaneously as time went along
17 during the conflict?

18 A. [11:02:11] Yes, I would agree with that.

19 Q. [11:02:13] Okay. And would you also agree that in some areas where you had
20 a ComZone who was a FACA member that occasionally some locals would call
21 themselves Anti-Balaka without the ComZone even being aware that they were
22 claiming to be part of his group?

23 A. [11:02:40] Yeah, that's -- that's likely.

24 (Counsel confers)

25 MR HANNIS: [11:03:38] Mr Agger, thank you very much for your time.

1 Your Honours, that completes my cross-examination. Thank you.

2 PRESIDING JUDGE SCHMITT: [11:03:44] Thank you, Mr Hannis.

3 And of course a special thank you to Mr Agger. Normally we wish witnesses who
4 are here in the courtroom a safe trip back home, but since you are in Kampala –
5 Mr Iverson wants to ask something. Yes.

6 MR IVERSON: [11:04:02] Yes, your Honour, I would ask for a brief opportunity for
7 re-examination. I only have very limited questions. It should take five minutes, I
8 would expect.

9 PRESIDING JUDGE SCHMITT: [11:04:11] Okay. Let's hear what you want to ask
10 and please start.

11 So it was premature, Mr Agger, that I already wished you well.

12 QUESTIONED BY MR IVERSON:

13 Q. [11:04:23] So really I just wanted to ask a few questions about your meeting with
14 Ngaïssona, his Defence counsel asked you several questions about that. And the
15 first question is, you know, you meet Ngaïssona, you have no appointment to meet
16 him, you try to contact him, to no avail. You drive into the neighbourhood and are
17 able to find where he lives and, you know, you show up without an appointment.
18 And he eventually, after 20 minutes, according to your statement, agrees to meet with
19 you, and you meet with him, you know, he's in informal attire on his terrace, for an
20 hour and a half.

21 So why did he agree to meet with you when you just show up unannounced?

22 A. [11:05:21] Yeah, well, I believe that he -- as I reference earlier, often people
23 actually do want to tell their story. So my impression was that he wanted to tell me
24 about his -- he's the coordinator of Anti-Balaka at that point, and he wants to tell me
25 his, as we talked about, his political agenda, what he's been doing, what he's up to,

1 what is he working on. So I think he saw me as an avenue to come out with his
2 agenda on these points.

3 Q. [11:06:00] Do you know if he wanted anything from you?

4 A. [11:06:07] Well, he -- he -- so I think we talked about it a little bit that he
5 was -- he kind of was trying to pitch to me some involvement in some development
6 projects and maybe I could be interested in that. But he didn't -- he didn't ask me for
7 anything as such in -- in exchange. I mean, we had a conversation and that was it.
8 It was cordial, it was fine, there was nothing like give me A, B, C, D or -- he didn't put
9 any demands as such. He was more just telling about what he was up to, and
10 foreign investors could be interested in this, but it was -- yeah, in that sense.

11 Q. [11:06:43] And then there were a lot of questions on Monday and then again
12 today referencing fake Anti-Balaka in various ways, so I just wanted to give you an
13 opportunity to clarify.

14 I just want to read from paragraph 32 from your statement which is in evidence. The
15 last three sentences you state:

16 "I was very sceptical of Ngaïssona's claims that he only led the real non-criminal
17 Anti-Balaka because the only armed [groups] with any degree of apparent
18 organisation were regarded as Anti-Balaka. All of the Anti-Balaka with whom I
19 spoke talked of their own protection from Seleka and Muslims. In my view there
20 was no actual distinction between fake and real Anti-Balaka."

21 I just want to ask you, do you stand by what you said in your statement or do you
22 have anything to clarify about that statement?

23 A. [11:07:52] My reference on -- on this point is that the way -- the reason why I
24 don't see that there is -- that there is a big -- a notable difference is that both what we
25 call the fake and the so-called real Anti-Balaka in my view commit violence, they're

1 armed, they commit atrocities, they loot, they pillaged. So in that sense to me, that's
2 the deciding factor for me that they were involved with violence. I saw them on the
3 streets of Bangui with machetes, with knives, checkpoints. People told me how they
4 fled from violence from Anti-Balaka. Whether we try in a report to distinguish as
5 real and fake, it's an analytical distinction, but in reality on the ground, I think that
6 they melted together.

7 PRESIDING JUDGE SCHMITT: [11:08:54] Mr Iverson, but I have now a question.
8 Again with reference to this paragraph 32 and the two phrases that have been read
9 out by Mr Iverson to you, you're not only talking about what -- what the difference or
10 not might be between Anti-Balaka and fake Anti-Balaka. You also make reference to
11 Mr Ngaïssona personally in that regard when you say "I was very sceptical of
12 Ngaïssona's claims that he only led" and so on and so forth. I don't have to repeat it.
13 So with your answer now you haven't talked about this, I think. It was very -- your
14 answer was also very general, so to speak.

15 THE WITNESS: [11:09:45] Yeah, well, I -- I think I will have to go back to the -- to the
16 issue that I -- I did not look specifically at Ngaïssona's command and control of
17 specific violent events. I look at the Anti-Balaka in a -- in a -- and that's why I talk in
18 more of a general term in the level of violence, their political agenda, general
19 responsibility for atrocities, but I think also we should appreciate, I don't go back and
20 try and establish whether Mr Ngaïssona or other leaders of Anti-Balaka, for that
21 matter, is direct involved with violence.

22 PRESIDING JUDGE SCHMITT: [11:10:35] Okay. That -- that's a clarification.
23 Mr Iverson, do you have further questions?

24 MR IVERSON: [11:10:38] Those are all the questions I have. Thank you,
25 your Honour.

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- 1 PRESIDING JUDGE SCHMITT: [11:10:42] Thank you.
- 2 I would not say finally, but that's also the end of the whole questioning of you,
- 3 Mr Agger. Again, thank you very much on behalf of the Chamber for having made
- 4 yourself available to help us to establish the truth. Have a nice day I would say in
- 5 that regard.
- 6 (The witness is excused)
- 7 PRESIDING JUDGE SCHMITT: [11:11:00] And then we conclude the hearing for
- 8 today and continue tomorrow at 9.30 with P-1577. Thank you.
- 9 THE COURT USHER: [11:11:10] All rise.
- 10 (The hearing ends in open session at 11.11 a.m.)