

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 Monday, 26 April 2021
10 (The hearing starts in open session at 9.33 a.m.)
11 THE COURT USHER: [9:33:36] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE SCHMITT: [9:34:06] Good morning, everyone.
15 Could the court officer please call the case.
16 THE COURT OFFICER: [9:34:12] Good morning, Mr President, your Honours.
17 Situation in the Central African Republic II, in the case of The Prosecutor versus
18 Alfred Yekatom and Patrice-Edouard Ngaïssona, case reference ICC-01/14-01/18.
19 And for the record, we are in open session.
20 PRESIDING JUDGE SCHMITT: [9:34:27] Thank you.
21 I ask for the appearances of the parties, we start with the Prosecution.
22 MR IVERSON: [9:34:31] Eric Iverson and Kweku Vanderpuye for the Prosecution.
23 PRESIDING JUDGE SCHMITT: [9:34:37] Thank you.
24 And the Legal Representatives of the Victims.
25 MR SUPRUN: [9:34:47] Good morning, Mr President. Good morning,

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1 your Honours. The former child soldiers are represented today by myself,
2 Dmytro Suprun, counsel at the Office of Public Counsel for Victims. Thank you.
3 PRESIDING JUDGE SCHMITT: [9:34:55] Thank you.
4 Ms Massidda.
5 MS MASSIDDA: [9:34:57] Good morning, your Honour. The victims of the other
6 crimes are represented today by my confrère, Maître Yaré Fall, and myself,
7 Paolina Massidda.
8 PRESIDING JUDGE SCHMITT: [9:35:09] Thank you very much.
9 And now we turn to the Defence. Perhaps we start with Ms Dimitri.
10 MS DIMITRI: [9:35:16] Good morning, Mr President. Good morning, your
11 Honours. Mr Yekatom, who is present in the courtroom this morning, is represented
12 by our co-counsel Mr Thomas Hannis; our legal consultant, Mr Florent Pages-Granier;
13 and myself, Mylène Dimitri. Thank you.
14 PRESIDING JUDGE SCHMITT: [9:35:30] And Mr Knoops.
15 MR KNOOPS: [9:35:31] Good morning, Mr President, your Honours.
16 Mr Ngaïssona is present in the courtroom. On my left side I am assisted today by
17 Ms Marie-Hélène Proulx, associate counsel, and Ms Phoebe Oyugi, she's legal
18 assistant of our team. Thank you.
19 PRESIDING JUDGE SCHMITT: [9:35:52] Thank you very much.
20 And we welcome our witness of today, this is Mr Kasper Agger.
21 Good morning, Mr Agger.
22 WITNESS: CAR-OTP-P-2012
23 (The witness speaks English)
24 (The witness gives evidence via video link)
25 THE WITNESS: [9:36:03] Good morning.

1 PRESIDING JUDGE SCHMITT: [9:36:04] From your reaction, I take it that you
2 understand me well.

3 THE WITNESS: [9:36:09] Yes, I understand you loud and clear. Thank you.

4 PRESIDING JUDGE SCHMITT: [9:36:12] Very good.

5 Mr Agger, there should be a card on the desk in front of you with a solemn
6 undertaking to tell the truth. Could you please read out loud the content of this card.
7 If not, I will read it to you and you will repeat it.

8 THE WITNESS: [9:36:25] Yes, I don't have a card here, so maybe you'll help me read
9 it.

10 PRESIDING JUDGE SCHMITT: [9:36:27] So then we take the second option. So I
11 will read out now the solemn undertaking to you, I ask you to repeat it slowly after
12 me.

13 I solemnly declare, please.

14 THE WITNESS: [9:36:40] I solemnly declare.

15 PRESIDING JUDGE SCHMITT: [9:36:43] That I will speak the truth.

16 THE WITNESS: [9:36:45] That I will speak the truth.

17 PRESIDING JUDGE SCHMITT: [9:36:46] The whole truth.

18 THE WITNESS: [9:36:47] The whole truth.

19 PRESIDING JUDGE SCHMITT: [09:36:48] And nothing but the truth.

20 THE WITNESS: [9:36:55] And nothing but the truth.

21 PRESIDING JUDGE SCHMITT: [9:36:57] Thank you very much, you are now under
22 oath. You have to speak the truth. It's an offence within the jurisdiction of this
23 Court to give false testimony. I have to tell you that. I know that you are aware of
24 this. Before we start with your testimony we have a few practical things to tell you.
25 You're also very much aware that everything we say here is written down and

1 interpreted in several languages. Because of that it's important to speak at
2 a relatively slow pace, but I sense already that this will not be a problem with you.
3 Please start only speaking when the person that asks you the question has finished
4 and perhaps wait two or three seconds til you answer.
5 Then we can start with your testimony.
6 Before I give the floor to Mr Iverson, I assume, the Chamber recalls that it has granted
7 on a preliminary basis the introduction of this witness's recorded testimony pursuant
8 to Rule 68(3) of the Rules. You would have to establish the conditions for this
9 provision.

10 I give you the floor, Mr Iverson.

11 MR IVERSON: [9:37:59] Thank you, your Honour.

12 And just a practical housekeeping matter. This is the first witness testifying via
13 video link. In other Chambers, counsel sometimes sits when they examine the
14 witness and in other Chambers I understand they stand. I don't know what your
15 preference is. If given the choice, I would sit for a video-link witness, but if you
16 would like me to stand, I'm happy to stand.

17 PRESIDING JUDGE SCHMITT: [9:38:27] I think -- I think nobody will -- is there any
18 preference by anybody here in the courtroom?

19 I don't assume, so I think you may be -- you may be seated, yes.

20 MR IVERSON: [9:38:34] And of course if I address the Chamber, I will -- I will rise.

21 PRESIDING JUDGE SCHMITT: [9:38:39] Yes, okay, if we keep it this way I think I'm
22 fine.

23 QUESTIONED BY MR IVERSON:

24 Q. [9:38:47] So, good morning, Mr Agger. You know me, we've met. My name is
25 Eric Iverson, I'm a trial lawyer with the Office of the Prosecutor. And, as you know,

1 I'll be asking you questions today.

2 Just, you know, because we'll both be speaking in English, it's important to remember
3 to speak slowly and just keep a five-second pause in-between question and response,
4 and that's because we're being interpreted into other languages. If we don't do that,
5 I'm sure the interpreters will -- will rap us both on the knuckles. But we'll try to do
6 our best, all right.

7 Could I have you please state your name for the record?

8 A. [9:39:44] My name is Kasper Agger.

9 Q. [9:39:50] And your date of birth, please?

10 A. [9:39:56] December 30, 1978.

11 Q. [9:40:02] And so just, just so you know and so that the Court knows, I'll first be
12 going through some formal legal requirements with regard to your statement and
13 associated exhibits. Then I'll be asking you some questions about the report that you
14 made about the Drivers of Violence in the Central African Republic. And then I'll be
15 asking questions about your meeting with Mr Ngaïssona and then we'll be finished
16 up. It should take about an hour, maybe a little bit longer.

17 So I understand, did you make a statement in this case?

18 A. [9:40:44] Yes, I made a statement.

19 Q. [9:40:48] And just for the Court's reference, that is CAR-OTP-2091-0127.
20 Have you read through and reviewed that statement in its entirety?

21 A. [9:41:04] Yes, I have read and reviewed the statement once again.

22 Q. [9:41:11] And does your statement fairly and accurately reflect what you told
23 the Office of the Prosecutor?

24 A. [9:41:19] Yes, I can confirm that.

25 Q. [9:41:26] Do you have any objection to the statement and its associated exhibits

1 being introduced into evidence?

2 A. [9:41:32] No, I don't have any reservations.

3 MR IVERSON: [9:41:37] So, your Honours, I believe the formal requirements of
4 Rule 68(3) appear to be satisfied with regard --

5 PRESIDING JUDGE SCHMITT: [9:41:44] Indeed, you may proceed with
6 the examination.

7 MR IVERSON: [9:41:52]

8 Q. [9:41:53] All right. So could you just briefly explain to the Court how you
9 ended up researching the Drivers of Violence in the Central African Republic.

10 A. [9:42:03] Yeah, so at that point I was working with a US-based research and
11 advocacy organisation called the Enough Project and I was initially hired by them as
12 a researcher on the conflict on the Lord's Resistance Army. So I did some research
13 on that conflict and gradually I started doing more and more work in the Central
14 African Republic and, on that, taking that up as a separate research area. And
15 particularly after the military coup in 2013 we took more and more interest in issues
16 in the country and, in that capacity as a field researcher with the Enough Project, I
17 undertook a number of research trips to write in-depth reports about different aspects
18 of the conflict.

19 Q. [9:43:06] Okay. In your report entitled "Behind the Headlines: Drivers of
20 Violence in the Central African Republic" - and that is CAR-OTP-2001-2564 - you
21 made a number of conclusions based on your research, the main one being the armed
22 groups in the CAR were financing their activities in part with significant revenues
23 from natural resources and looting.
24 Can you just walk the Chamber through your research that enabled you to conclude
25 this.

1 A. [9:43:50] Yeah, so, obviously that that's a longer process, that -- that takes me to
2 such a conclusion. So I would say in terms of the way that I -- that I conducted my
3 research, I would always try to have multiple sources that I would triangulate
4 between, so both public sources available. I would use, you know, other reports
5 from the UN panel of experts or from other research organisations. And then
6 obviously my own field-based research, which is based on trips and on-the-ground
7 research in Central African Republic. So talking to a multitude of different partners
8 and people, so it can be victims, it could be diamond traders, it could be journalists, it
9 could be other researchers, politicians, members of armed groups, really
10 a broad-based range of groups of people that I would talk to.

11 I would also go and visit, for example, when we talk about natural resources, I talked
12 to people and managers of national parks, for example, in Central African Republic.
13 I would walk -- I would go to Ministry of Mines, talk to civil servants there, visit
14 the local shops where you can buy diamonds and, yeah, so really a broad range
15 of -- of areas to collect my information from.

16 Q. [9:45:26] And in your report, and I'll just quote part of it here, and this is
17 the report CAR-OTP-2001-2564 at page 2566, you state the following. You say:
18 "Séléka rebels and foreign fighters have been plundering, looting, and smuggling
19 diamonds and ivory to pay for arms, fuel, food, and soldiers. Meanwhile,
20 Anti-Balaka militias have been looting and killing in Muslim communities and have
21 taken control of diamond-rich areas in the western part of CAR."

22 So, specifically, could you speak to your research into how Séléka was funding their
23 activities during the period of 2013 and 2014?

24 A. [9:46:23] Yeah, so specifically on the Séléka I think there are some main areas
25 that, that I was able to uncover in my -- in my research, which was there were

1 a number of incidents related to ivory poaching, so there were specific incidents in
2 the northern part of the country, in the Bamingui, Saint Floris national parks where
3 there were members, former members of the local, what you call the local guards,
4 guards that were taking care of the national parks that joined Séléka, and some of
5 those members later came back and also slaughtered some elephants.

6 There was another quite well-known case that has also been well documented in
7 international media that happened following the coup, where a group of Séléka went
8 down to the southwestern part of the country, there's a very well-known elephant by
9 where the elephant comes and lick mineral and -- and there's a well-known case there
10 where a group of Séléka came and killed elephants and took the tusks. So that's on
11 the ivory side of it.

12 Then on the diamond side of it we had multiple -- or I found multiple witnesses from
13 diamond traders. And also doing some of my research I went, for example, to
14 Kaga-Bandoro, I went to Bambari and met with people that had been trading
15 diamonds themselves or had been extracting diamonds from riverbeds, and they
16 provided me information that they would pay part of the -- of the money that they
17 got from the diamonds, they would pay part of that to the local strong militia member
18 or member of Séléka that were in control of those areas as a form of informal tax.

19 Q. [9:48:43] Okay. And now the same question with regard to the Anti-Balaka.
20 Specifically, how were the Anti-Balaka funding their activities in 2013 in 2014,
21 according to your research?

22 A. [9:48:55] Yeah, so for the Anti-Balaka, obviously they were more active in
23 the western part of the country, so there -- and which is much more connected to
24 Bangui. So there I was able to speak to diamond traders in Bangui that would take
25 diamonds from areas, for example, well-known places like Boda, which is a town in

1 the western part of the country, and they would tell me, again very much in a -- in
2 a similar way, that it was not members of the Anti-Balaka as such that was digging for
3 the diamonds, but they would be in control of the diamond area. So the area, for
4 example, along the river where you extract the diamonds and then the diggers would
5 now pay a fee to the members of Anti-Balaka that were protecting the area, basically.
6 And the same go for gold, so both gold and diamonds. Gold is sometimes easier to
7 extract, it's easier to trade, you don't need to cut it and it has more easily a market.
8 But again in the same way, they would take a levy on some of this trade.
9 And then another important revenue stream both for Anti-Balaka and Séléka was also
10 road taxation, so very informal roadblocks, you know, a couple of blocks across
11 the road, and whoever passes pays some small money to whoever is managing that
12 checkpoint.

13 Q. [9:50:44] Another question about the report. On page 2578 you state
14 the following:

15 "When Djotodia came to power we did not refuse him, there have been many coups
16 in CAR. It was good that he came to change something; Bozizé didn't do anything
17 for us. It's what happened later that made us angry. The Séléka didn't change
18 anything. They only looted, attacked, and killed" quoting an Anti-Balaka fighter in
19 Bangui.

20 As you spoke to people, including Anti-Balaka affiliated people during your visit, did
21 you find that this was a prevalent sentiment or was it particular to this one person
22 who you spoke to?

23 A. [9:51:39] Yeah, thank you. I think it was a general sentiment, particularly in
24 my first trip that I did relatively in -- in 2013 and 2014. I think, I think my
25 impression was that there was a certain amount of optimism immediately in

1 the period just following the coup made by Séléka. And it was my impression that
2 both members of the Anti-Balaka, or what became known as Anti-Balaka later, and
3 locals and civilians that obviously there was a great disappointment with the rule that
4 had been by Bozizé, and lack of jobs, lack of opportunities, general insecurity across
5 the country. And so people were hoping for a change and hoping for something
6 new. And I think that was the general optimism among the population. But then
7 obviously later, as -- as they saw less and less progress coming from the Séléka, I
8 think the -- the conception of Séléka and the attitudes towards Séléka turned sour.

9 Q. [9:53:03] Could you speak to the limitations on your research. In your view,
10 were there any places you weren't able to go to or people you weren't able to speak to
11 that you wanted to or just in general what -- what limitations were on your research?

12 A. [9:53:27] Well, I think in terms of, of access it was obviously an issue. I was
13 able to move around in Bangui fairly easily. I could visit both Muslim areas and
14 Anti-Balaka areas, Séléka areas of, of Bangui. I felt I had relatively good access to
15 the political leadership. But obviously doing research outside of Bangui was
16 difficult. For example, I did want to go to a place like Boda, but I was not able
17 because I couldn't travel along the road. But also, as you'll see in the report, what we
18 did is we tried to use, for example, satellite imagery to look at destruction of buildings.
19 So we tried to use other means. But, for sure, there were things we couldn't
20 directly -- there were access issues.

21 And also, for example, if you -- you know, for example, if you -- if you try to say who
22 is involved with diamond trade, for example, which is something obviously we tried
23 to figure out, I myself as a white researcher coming from outside, I can't -- it's very
24 difficult for me to go to a diamond mine and talk to the people in the diamond mines,
25 so I have to rely on secondhand witness. So I have to rely on a diamond trader, for

1 example, telling me that, "Yes, I bought this from Boda." It's an area controlled by
2 Anti-Balaka. So, again, I need to use multiple sources, so I would not just speak to
3 one trader, I would speak to multiple traders. I would speak to multiple people in
4 the area. But I would say access is -- is a major challenge, yeah.

5 Q. [9:55:33] And just to be clear, this is -- I'm asking about your -- your research
6 that you did in February 2014, is that what you were referencing?

7 A. [9:55:45] Yeah, I would say obviously as, as time went by, there were -- I would
8 have more access to more areas, but in general, access is an issue, yeah. And getting
9 straight to the source of who you want to speak with is the same when you -- if you're
10 trying to find out who was behind certain violent activities, for example, it can be
11 difficult to pinpoint exactly the right -- the people that were involved in X event, but
12 it's my -- I believe that the approach of -- of comparing statements between multiple
13 sources, open and firsthand sources, can help you overcome some of those barriers.

14 Q. [9:56:34] So in your report you write that you met Mr Ngaïssona, and that report
15 again the reference is CAR-OTP-2001-2564, and I'm just going to quote. You say:
16 "Ngaïssona is seeking to unite the Anti-Balaka under a four-part political platform.
17 The Anti-Balaka, he tells The Enough Project, seek[s] compensation for their losses,
18 official recognition as a partner in the transitional political process and seats in
19 the legislature, the removal of all foreign fighters from CAR, and a national
20 reconciliation process." Unquote.

21 Did Mr Ngaïssona tell you about these goals when you met with him in
22 February 2014?

23 A. [9:57:29] Yes, that's correct.

24 Q. [9:57:35] And I understand you only met with him that one time; is that right?

25 A. [9:57:39] Yes, that's correct as well.

1 Q. [9:57:44] All right. So could I just ask you, in general terms, could you describe
2 that meeting to the Chamber?

3 A. [9:58:00] Yeah, so I had long wanted obviously as part of understanding
4 the main actors in the conflict, Anti-Balaka being one of them, at this point in time
5 Mr Ngaïssona emerged in the media, both local and internationally, portraying and
6 talking on behalf -- as the coordinator of Anti-Balaka. So I wanted to meet
7 a representative of the -- of the group. Which in many ways is also a fragmented
8 group, but maybe we can get into that later.

9 But on that specific meeting I tried to contact him through both myself directly and
10 through who was working with me at that time as my translator and fixer, a person
11 I was working with. So we've been trying to contact Mr Ngaïssona on his phone, we
12 got the phone number through various contacts, but we were not able to reach him on
13 phone.

14 So we knew that he was at that point in a neighbourhood of Bangui that is called
15 Boy-Rabe, which is commonly known as one of the strongholds for certain
16 Anti-Balaka groups at that time. So we literally went in our vehicle driving around
17 in Boy-Rabe asking for directions where can we meet Ngaïssona. And I think it took
18 us maybe 30 to 40 minutes driving around Boy-Rabe and -- and going at various
19 roads and then we, we were led to a place that we were told this was his house or this
20 is where he is at the moment, at least. I don't know if it was exactly his, he owned
21 the house or not, that was not really -- but he was there at least.

22 And outside there were -- there were clear signs that this is an Anti-Balaka area.
23 There were a lot of young men sitting with long knives, machetes. They had these
24 very, very typical, which was called gris-gris, which is small magic amulets wrapped
25 around -- in chains around the necks. And so we announced ourself, "I'm

1 a researcher, I'm doing a report about the conflict in the Central African Republic, I'm
2 here to talk to the leaders, some of the influential people of Anti-Balaka. I've been
3 informed that Ngaïssona is here. Can we meet with him?"

4 And, and after some time, you know, we found out -- someone came out from
5 the gate, we waited I think outside for about 30, 40 minutes, and then we were invited
6 inside to the compound. We sat on a small terrace sort of on the porch of the house
7 and Ngaïssona came out, together with three, four other, yeah, Central Africans, and
8 we had the interview there.

9 Q. [10:01:18] And in my last question I just -- I highlighted what you had said in
10 your report about the four-part political platform that Mr Ngaïssona discussed.
11 Could you tell the Chamber how Mr Ngaïssona wanted to seek compensation for
12 their losses. And I assume by "their" it means Anti-Balaka, but I'll leave that to you.
13 Do you know -- can you give any of the particulars of how he wanted to seek
14 compensation for losses?

15 A. [10:01:54] Well, so -- so I saw the -- the process that Ngaïssona described to me
16 was that he was trying to organise and professionalise the Anti-Balaka. And he
17 wanted to get their names. For example, they were working on literally like
18 a membership list of who are the members of the Anti-Balaka. They were issuing ID
19 cards that had a logo, had the full name, a signature. So he wanted to
20 professionalise and, what can I say, formalise the group. And it -- from what I
21 understood from him, he now wanted to take that list of memberships and, and use
22 that to eventually be presented at national dialogues, be presented at national and
23 international level as potential people that would receive compensation. Whether
24 that would then come from the international community or from the Central African
25 government or from neighbouring countries, we didn't get into such specifics.

1 Q. [10:03:13] And then the, the second part of the political platform, how did he
2 expect to gain recognition as a partner in the transitional political process, did
3 you -- can you give us particulars on that?

4 A. [10:03:29] Well, so I think at -- at this point, you know, Ngaïssona, from -- from
5 my interactions with him at this point it seems to me that he -- you know, he was in
6 exile, he was a former minister, he then came back to Bangui at this point, tried to
7 play his role in the political process, became influential in the Anti-Balaka. You
8 know, he used that platform later to form a political party.

9 So I think he was going back to, to politics, which is what he does well, and he was
10 able to build a following around him in, in Boy-Rabe. I mean, there was a lot of
11 people sitting around out of his house, you know, looking to be part of his -- of his
12 following at that point, yeah.

13 Q. [10:04:27] And what about his expectation to -- or his attempts to try to gain
14 seats in the legislature, did you -- do you have particulars on that, one of the things he
15 listed as part of the political platform?

16 A. [10:04:51] Well, I mean, he -- when I -- when I had that meeting with him, he
17 clearly wanted to portray himself as a leader and as a speaker of certain members of
18 society in Central African Republic. And -- and *he was talking about how the
19 Séléka were driven by illusions, how the Séléka came, they looted, they attacked
20 the locals who were saying, "We don't have anything now, so I'm here now to
21 organise the groups, make sure that we get compensation, make sure that our voices
22 are heard in the political process, that we are not forgotten, the victims are not
23 forgotten."

24 So those -- those were the things that he -- that he talked about. We didn't talk about
25 specific positions or his political strategy as such. But he was clearly very capable

1 and able at that point of articulating a political vision, which is something that
2 the Anti-Balaka had struggled to articulate. And I think he managed that quite well
3 at that point and then obviously wanted to use that platform to gain influence and to
4 be part of the political process in the Central African Republic.

5 Q. [10:06:13] And the second to last part of the political platform was the removal
6 of all foreign fighters from CAR. What did he say about the removal of foreign
7 fighters from CAR and what did you understand him to mean?

8 A. [10:06:40] Yeah, I think this -- this definitely goes back to the referencing, you
9 know, the make-up of the Séléka. So parts of the Séléka were foreign fighters,
10 particularly from Sudan, and also some from Chad. And that was one of the main
11 grievances expressed by Anti-Balaka and by Mr Ngaïssona was that they don't want
12 to be ruled by foreigners. And there are -- there are several documented
13 high-ranking members of the Sudanese Armed Forces, for example, that were in
14 Bangui during the coup and that were part of the Séléka. And, from what I
15 understood what Ngaïssona meant is that he and the Anti-Balaka wanted the foreign
16 fighters to leave the countries, which would be members of -- former members or
17 members of Séléka, primarily from Sudan and a few of them from Chad.

18 Q. [10:07:45] And what about members of Séléka who were from the northern part
19 of the Central African Republic, did you discuss that at all?

20 A. [10:07:58] Yeah, we -- we discussed that. So from -- from what I recall is that,
21 you know, they -- what Ngaïssona expressed is that "We can still live with Muslims,
22 but we don't want to be ruled by rebels." So I think from what I understood him and
23 that part of the Anti-Balaka would be willing to accept coexistence with Muslims at
24 a local level, and they were not talking about breaking up the country or other things
25 that there were other political voices at that time that were talking about. Probably

1 the country was *de facto* partitioned at that point, but it's my impression that they
2 were willing to accept a coexistence with Muslims from the Central African Republic
3 but not with foreigners.

4 Q. [10:09:02] And you may have already answered this in part, but I just want to
5 check. Did you -- was it clear the distinction between what Mr Ngaïssona had
6 already done to achieve part of that political -- those political objectives and what he
7 had planned to do during that discussion? You had mentioned that, you know,
8 organisation of the Anti-Balaka, the professionalisation of Anti-Balaka, the ID cards,
9 for example, the member list, but did you discuss what he had already achieved, what
10 he had already done as the leader of the Anti-Balaka?

11 A. [10:09:39] Yeah, so -- I mean, at that point the registration and the membership
12 list was in full swing. And, I mean, I think from -- as I reference in the report, I think
13 the political, what can I say, manifest or the political goals and ambition, I think
14 they're quite well articulated. I know it's quite four points that they wanted to
15 achieve. So I think -- I think at this point the agenda was quite well formulated.
16 You know, just a couple of days after this interview I was able to get copies of the
17 Anti-Balaka badges, I met with members of the Anti-Balaka who handed me over
18 those files, they showed me their own badges, that had been issued exactly what
19 Ngaïssona talked about. I don't remember that we discussed how many numbers he
20 had on the list at that point, but to my impression was that it was quite advanced at
21 this point.

22 Q. [10:10:58] And did he discuss then how he intended to achieve the future goals,
23 things that hadn't been done yet?

24 A. [10:11:12] I mean, to be honest, we -- I don't recall much on -- on discussing
25 the strategy for how he was going to go about it. I mean, we discussed the goals,

1 professionalising the Anti-Balaka, presenting the -- the views at national, international
2 level, making sure that they would get compensation. And that was kind of -- of
3 where we left it.

4 Q. [10:11:58] So in your statement in paragraph 33, and that is
5 a CAR-OTP-2091-0127 at 0134, you state:

6 "It was clear to Ngaïssona that he regarded himself as the senior leader of the
7 Anti-Balaka." Unquote.

8 How did you form that impression and what did he tell you exactly?

9 A. [10:12:27] Yeah, so he -- he presented himself as the national coordinator of
10 Anti-Balaka and he would come with statements that "I'm organising the Anti-Balaka",
11 you know, "I'm putting a political platform together." He also talked about, you
12 know, we had to defend ourselves against, we talked about the foreigners,
13 the Muslims. So in that sense he portrayed himself as someone who was influential
14 in at least having control over some parts of Anti-Balaka.

15 I think it's important to mention that we use Anti-Balaka as a term, but it is -- and I
16 think also that would be recognised if you go into the literature and other studies of
17 the conflict at this point, that it is a very fragmented group. You can't say that
18 because Ngaïssona was in Bangui and presenting himself as the coordinator of
19 Anti-Balaka, he was necessarily having direct command and control about other
20 groups that also identified as Anti-Balaka. But certainly it was my impression that
21 he had, for sure, command or a lot of influence over certain groups that identified
22 themselves as Anti-Balaka, particularly around the Boy-Rabe and Bangui area.

23 Q. [10:14:10] So in your report, in your discussion about the Anti-Balaka
24 militias -- and again the report CAR-OTP- -- because you've done multiple reports, I
25 need to identify which report I'm talking about, CAR-OTP-2001-0566, at page 2578

1 you state:

2 "Their" -- meaning Anti-Balaka, "Their primary targets were Muslim communities
3 that they identified as allies or members of the Séléka because some Séléka fighters
4 are Muslim."

5 Did you -- or, first of all, let me ask you this: To your knowledge and based on your
6 research, how many Muslims had been forced out of the CAR by the time Ngaïssona
7 expressed his willingness to, as you state, coexist with Muslims, or words to that
8 effect?

9 A. [10:15:20] Yeah, I don't recall the specific number at that time, but I -- you know,
10 this was also around the time that, that the Chadians was about to leave the country.
11 You know, at this point Séléka had basically lost control of the capital obviously.
12 They were -- they were chased out. The few Muslims that were remaining in
13 the capital were confined to -- to few areas, Miskine, Kilo 5, a few other enclaves in
14 the city protected by, you know, it was MISCA soldiers at that time.
15 So I think there were -- there were generally few and it was a segregated capital and
16 a segregated country at that time, and to many instances still is. It's probably, as I
17 touched upon briefly, it's a *de facto* partitioning between the south-western part and
18 the north-eastern part where the north-eastern and the north is more dominated by
19 Muslim communities and the western and the southern part is more dominated by
20 Christian communities. But I don't recall the specific number.

21 Q. [10:16:41] And with that in mind, did you discuss with Mr Ngaïssona
22 the -- specifically the targeting of Muslim civilians by the Anti-Balaka group?

23 A. [10:16:58] Yeah, so what -- what Ngaïssona expressed to me was that -- and I
24 think that has also been well documented by -- by groups such as Human Rights
25 Watch and Amnesty International and others, that when Séléka took power of the

1 country, mainly a Muslim group, particularly on the command level, most of the
2 senior commanders were certainly Muslims either from northern CAR or from Sudan
3 or Chad, speaking Arabic, you know, being Muslims at that point. And they would
4 obviously be more friendly towards their local Muslims, they would speak
5 the language and all these things. And there was more looting and also
6 the resistance was mainly when Séléka took over, which was obviously from
7 the FACA, which was mainly dominated by the central and western part of the
8 country, so being non-Muslims, mainly was part of that army, the national army in
9 CAR. So there was more, would you say, quote-unquote Christians killed than
10 Muslims killed when Séléka took over.

11 Now, again, when the FACA started to organise the resistance against Séléka together
12 with Anti-Balaka, members of the presidential guard in particular that were close to
13 former President Bozizé, when they started to organise the resistance, they obviously
14 would take -- would now target Muslims as well and Muslim communities.

15 What Ngaïssona expressed to me was that it was a form of resistance, self-resistance
16 from the local populations expressing sort of if you are attacked, what would you do?
17 These are self-protection groups, self-protection militia protecting themselves against
18 the Muslims, "We cannot accept the attacks by the Muslims" and -- and that's why
19 they are organising in self-defence groups, yeah.

20 Q. [10:19:31] All right, well thank you very much. Those are all my questions for
21 you this morning. I appreciate you attending and listening to my questions and
22 giving answers.

23 PRESIDING JUDGE SCHMITT: [10:19:44] Thank you, Mr Iverson.

24 I would then turn to the Legal Representatives of the Victims. Ms Massidda, any
25 questions?

1 Then please, you have the floor.

2 MR FALL: [10:20:03] (Interpretation) Mr President, thank you.

3 QUESTIONED BY MR FALL: (Interpretation)

4 Q. [10:20:15] Good day, Mr Agger.

5 Mr Agger, I'm one of the members of the team to defend the interests of the victims of
6 other crimes in this case. Basically, I've worked in the refugee camps in Chad.

7 During my mission which I carried out there, questions of religion was fundamental
8 and came up repeatedly and was there time and time again in all our discussions, and
9 that's the reason why I have these two questions which I'm going to put to you now
10 and they relate to this aspect of religion.

11 Allow me, your Honour, because I find it difficult to read when I'm standing up.

12 PRESIDING JUDGE SCHMITT: [10:21:32] Obviously you have the same right to sit
13 like Mr Iverson, and it's simply your choice, but perhaps we can establish a sort of
14 a standard procedure in case we have a video link, that the examiners remain seated.
15 I think that's more comfortable. But when we have live witnesses in the courtroom,
16 we stay with the normal procedure.

17 You may continue.

18 MR FALL: [10:21:56](Interpretation) Thank you, your Honour.

19 Q. [10:22:02] Mr Agger, on page 5 of your statement, paragraph 19, I read that
20 paragraph in February 2014, there was religious segregation *de facto* in CAR. I really
21 would like to have a clearer idea of what that means. What is this idea of *de facto*
22 segregation, what does this mean specifically? Thank you.

23 A. [10:22:58] Thank you very much for your question, sir. And I think at this
24 point in the -- in the Central African Republic there was -- it was my impression there
25 was segregation at various levels. I talked about it previously, just before, describing

1 how certain neighbourhoods in Bangui, for example, you would have the Boy-Rabe
2 neighbourhood which was mainly a Christian neighbourhood under the control of
3 Anti-Balaka groups and then you would have Muslim neighbourhoods that
4 were -- such as Miskine or cinq -- Kilo 5, where you would have mainly -- you would
5 have mainly Muslim inhabitants, you know, traders, civilians and again related to
6 members of the Séléka. I went to both areas several times, met with youth groups
7 that were armed that were clearly identifying as either members of Anti-Balaka or
8 members of Séléka, identifying themselves as Christians, identifying themselves as
9 Muslims.

10 So I think that that microcosmos that we saw in Bangui was now also reflected at
11 a national scale where -- and I think there's a map in one of my reports that -- that can
12 refer to the specifics of my understanding, our understanding at that time. But you
13 clearly had sort of the northern and -- yeah, primarily the northern and the eastern
14 part of the country bordering Chad and Sudan, which was very much a refuge at this
15 point where the Séléka was held up. Main Muslim leaders and also some civilians
16 went to these areas for protection. And then you would have the western and
17 southern part of the country anchored around Bangui and sort of towards Cameroon,
18 DRC, that direction, which was much more dominated by Christians influenced by
19 Anti-Balaka.

20 So I think -- I think the segregation happened at various levels. I think also you see
21 that at the political level, you know, you had some political parties that would
22 identify more of a Christian identity, some more of a Muslim identity. I think there
23 were some amazing work done by, you know, some of the influential imams,
24 members of the Catholic community that also can speak to this -- this type of
25 segregation.

1 Thank you.

2 Q. [10:26:14] Thank you, Mr Agger.

3 I understand that there was a *de facto* segregation, as you've explained it, at a national
4 level. But did you notice the segregation, the *de facto* segregation in the capital,
5 Bangui?

6 A. [10:26:38] Well, so I -- as I talked about there were certain neighbourhoods
7 that -- that had, you know, more concentration of Muslims, some more concentration
8 of Christians. I would say on a -- on a personal level you obviously -- things are
9 never fully black and white, right? There's always some -- some Christians will have
10 Muslim friends or relatives or -- that break those boundaries. But it was at this point,
11 it was very much my understanding, because of all the violence that had taken place
12 during this -- during the coup after -- perpetrated by members of Séléka, then
13 perpetrated by members of -- of Anti-Balaka, it was difficult at times, for example, for
14 non-Muslims to enter parts of Kilo 5, for example.

15 Or let me put it the other way, it took very little to ignite the fire. I think there were
16 a number of cases, for example, where, you know, a dispute over a trade of -- of
17 purchase of something between a Muslim and a non-Muslim would escalate because
18 of this -- this religious divide.

19 I think it's important to step back a little bit and obviously understand that it was
20 something that emerged during the conflict and it became sort of a reinforcing thing
21 at this point. I think people who know the country a lot better than me and has
22 a longer history in the country will agree when I say that previously whether you
23 were a Christian or Muslim was not a big issue, but it became a big issue at this point
24 in time. Thank you.

25 Q. [10:28:53] Perhaps I might ask you a final question. Again a paragraph in your

1 testimony, at page 6, and it's paragraph 26, as regards the refugees in the Saint Joseph
2 camp in Bangui. You told me that you went to that camp and you assumed that
3 there were also Muslims, and you said, "I recognise them by their clothing." Could
4 you perhaps explain what that means exactly?

5 A. [10:29:39] Yes, so I went, as you correctly state, to that specific IDP camp.
6 I believe I also have some pictures from there. And -- and I think not -- not to fall in
7 the -- in the trap of being prejudice or discriminatory, but -- but I do believe that
8 we -- that we can agree that -- that by looking at people's -- sort of the way that people
9 speak Arabic, maybe the way that they're wearing a headscarf, taking shelter around
10 a, what can I say, a mosque, or talking to people, by that you can -- you can try to
11 identify people's relationships, their background just as well as you would identify
12 me as white and coming from a western country. Obviously, whether I'm
13 a practicing Muslim or not, you won't be able to know if I haven't told you. But I
14 still think that there are distinct ways that we can try and -- and sort of group people.
15 I would say -- I would say from that specific -- not just from people's appearances,
16 you know, I would also talk to people. They would say to me, yes, in this -- in this
17 refugee camp there are both Muslims and Christians. And I think particularly
18 both -- I think there were several occasions of both mosques and churches that hosted
19 mixed communities, because that's a place where both communities felt relatively safe
20 and protected. Yes, thank you.

21 Q. [10:31:44] Mr Agger, for your information and for the attention of all those who
22 are listening to us, I ask this question because, while at the camps in Chad, as I said,
23 we met people, the IDPs who said they had been -- that they were Christians but that
24 they had become victims because of their attire, because of the manner in which they
25 were dressed. And there's a significant number of people in this category. And

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1 that's the reason for my question.

2 In any event, I thank you for clarifying by way of your answer.

3 MR FALL: Thank you, Mr President.

4 PRESIDING JUDGE SCHMITT: [10:32:31] I understand that the last was more
5 a statement and not a question. So thank you very much.

6 Mr Suprun, any questions from your side?

7 MR SUPRUN: [10:32:41] I have no question to this witness, Mr President. Thank
8 you.

9 PRESIDING JUDGE SCHMITT: [10:32:43] Thank you.

10 It is now the turn of the Defence. We could have, if you want, a coffee break now or
11 if you want to start now, so it's -- I would simply leave it to you, so to speak.

12 MR KNOOPS: [10:33:12] Mr President, maybe it's convenient now to have a short
13 break because then Ms Proulx and I can review our questions because some of the
14 questions were already put to the witness by the Prosecution. It can actually --

15 PRESIDING JUDGE SCHMITT: [10:33:27] I thought so.

16 MR KNOOPS: -- save time.

17 PRESIDING JUDGE SCHMITT: [10:33:28] Yeah, but let's say, let's allow us a little bit
18 more, quarter past 11, is that fine? And then we start with examination by
19 Ms Proulx.

20 MR KNOOPS: [10:33:40] Thank you very much, Mr President.

21 THE COURT USHER: [10:33:42] All rise.

22 (Recess taken at 10.33 a.m.)

23 (Upon resuming in open session at 11.17 a.m.)

24 THE COURT USHER: [11:17:35] All rise.

25 Please be seated.

1 PRESIDING JUDGE SCHMITT: [11:18:00] Now it's the time of the Defence and I
2 think I give the floor to Ms Proulx.

3 Ah, yeah, okay.

4 MR IVERSON: [11:18:14] I would just like to, for appearances, individuals who were
5 present in the last session are once again present with the addition of Yassin Mostfa,
6 case manager.

7 PRESIDING JUDGE SCHMITT: [11:18:26] Thank you, Mr Iverson.

8 Mr Iverson, so I was a little bit premature then I give the floor.

9 But now I think I give the floor to Ms Proulx or to Mr Knoops, whoever is rising and
10 wants to speak.

11 MR KNOOPS: [11:18:36] No, Mr President, just to introduce the Chamber of our
12 examination plan on behalf of the Defence of Mr Ngaïssona. Ms Proulx will conduct
13 the examination on behalf of the Defence. After her examination, I will conclude
14 the examination with two discrete topics. And we strive to finish or examination
15 today. Thank you.

16 PRESIDING JUDGE SCHMITT: [11:18:58] And if we are so far, if -- if, you know,
17 this -- today rings something in the minds of everyone, I think. What about
18 the Defence of Mr Yekatom?

19 Mr Hannis?

20 MR HANNIS: [11:19:14] Thank you, your Honour. I think I'll be shorter than
21 originally estimated, but I assume we would be resuming on Wednesday if we don't
22 finish today and I would go I don't think more than two hours.

23 PRESIDING JUDGE SCHMITT: [11:19:31] Fine, fine. So then let's start with
24 Ms Proulx.

25 MS PROULX: [11:19:39] Thank you, your Honour.

1 QUESTIONED BY MS PROULX:

2 Q. [11:19:44] Mr Agger, good morning.

3 A. [11:19:48] Good morning.

4 Q. [11:19:49] My name is Marie-Hélène Proulx and I am one of the lawyers
5 representing Patrice-Edouard Ngaïssona. I hope to be keeping -- keeping our
6 conversation in public session today as much as possible and I've been very careful or
7 I will be very careful to not reveal your sources during, during my questions. But if
8 you feel that you need to refer to their identities at any point, please let me know and
9 I will ask to go into private session.

10 Finally, if my questions are unclear, also please let me know and I will try to
11 reformulate. Just a little warning, I'll be going back and forth a lot between different
12 documents, it might be a little bit inconvenient and so I apologise in advance if it is
13 indeed.

14 Mr Agger, I would like to start by discussing your research concerning the origins of
15 the conflict in the CAR. Your reports highlight the complexity of the conflict and
16 the fact that it was in large part triggered by interventions from foreign states. At
17 the first page of your 2014 report, which is number 1 in the OTP list of material, and
18 it's at page 2566, you wrote that -- and I will read it slowly for the transcript:

19 "Other countries have pursued political and economic interests that have exacerbated
20 violence in CAR and destabilised the country. Neighboring Chad and Sudan have
21 provided support to the Séléka with the goal of installing a cooperative government
22 that could help protect Chadian oil interests and prevent CAR from becoming a safe
23 haven for rebels that could potentially destabilise the two countries."

24 Could you explain to the Court how Sudan and Chad tried to destabilise the CAR and
25 oust President Bozizé?

1 A. [11:22:23] Yes, thank you very much and pleasure to meet you as well and
2 the rest of the team.

3 Yeah, so I mean the -- the involvement of Chad and Sudan in particular, I think it's
4 something I spoke to earlier as well. I mean, there were senior members and
5 commanders of Séléka that were particularly from Sudan. Some of them I -- I believe
6 one of them, for example, is called Assimeh, which quite a well-known former
7 member of the Janjaweed, a militia group in Darfur. He led some groups of Séléka
8 that were among some of the first that -- that started taking control of the northern
9 part of the country and subsequently obviously moved south towards Bangui and
10 capture the capital.

11 I can talk a little bit about the oil, that's something I looked into. So obviously there's
12 a shared oil deposit, oil basin between the southern part of Chad and CAR and -- and
13 the oil slants towards the CAR border and into CAR because of the way the geology is.
14 And that would basically mean that if CAR starts to exploit oil at a large scale on their
15 side of the border, it will at the same time deplete the same oil reserves that Chad is
16 dependent on. So obviously that was a direct interest from Chad to have
17 a favourable government in CAR. And so it's not something obviously I looked too
18 much at in my reports, but if you go back a little bit in history, you know, Bozizé
19 himself came to power with a military coup, the presidential guard of -- from Chad
20 were members of some of the elite forces of the Bozizé army. There were several
21 incidents where they helped him fight various resistance outside of the capital. So I
22 think for a long time there was generally a -- a positive -- a relationship between
23 senior politicians in Chad and Bozizé.

24 Then towards the -- the 00s and the 2010s, we have a period where, where, as I also
25 describe in some of my reports, where Bozizé, he orients his -- his attention and has

1 more relationships with, for example, South Africa and China. China's awarded
2 some oil licences, the same for South Africa. There's a company called Dig Oil.
3 And South Africa also sends, you know, I think it's 400 soldiers to help protect some
4 of their interests. So I think in that sense there was a general -- sort of speaking on
5 the broader political level, where Bozizé was finding new partners and allies to work
6 with and distancing himself more and more from Chad.

7 Q. [11:25:52] Thank you. So would that explain why in your notes one of your
8 sources told you that Chad was involved early in pushing the then splintered Séléka
9 groups to unite against Bozizé? Even though I believe another source tells you that
10 Chadian forces had been protecting Bozizé, but they withdrew in the fall of 2012 and
11 then they did not stop the Séléka's advance towards Bangui and they even helped
12 them; is that right?

13 A. [11:26:24] It's -- obviously when you -- when you talk -- when you try to
14 understand such a complex issue as a military coup and a takeover and you have
15 multiple countries from the region internationally involved, obviously you'll always
16 get, you know, multiple different statements. But one of the -- one of the things
17 that -- that I got from several witnesses, for example, was that -- several statement was,
18 for example, that Chadian forces were based in Damara when the Séléka approached.
19 They did not try to stop their advance. Whereas, you had, for example, South
20 African soldiers tried to protect the Séléka advance on -- on Bangui, and I believe it
21 was 14 soldiers were killed.

22 So I think that that's how you try to make up the differences. But obviously
23 you -- you will never have a Chadian directly going out and say, "Yes, we were a part
24 and we -- we supported Séléka." You hear it from talking to members of the group
25 and other observers and studies of the conflict in that way.

1 Q. [11:27:41] In your notes from February 2014, one of your sources also tells you
2 that Djotodia was closely linked to Sudan. Can you tell us more about that?

3 A. [11:27:58] Yes, so Djotodia was a period -- I can't recall exactly the specific time
4 period -- but he was during a period, liaison, what can you say, contact person,
5 representative of the Central African government in Nyala, which is in south Darfur,
6 not too far from the -- sort of in the tri-border region between Sudan, Darfur, South
7 Sudan. So -- so he was based there for a time and -- and obviously lived there
8 and -- and had connections to other people in that area, yeah.

9 Q. [11:28:48] In the same notes from 2014, it appears that two of your sources told
10 you that Qatar also potentially played in a role in supporting Djotodia, one of the two
11 even adding that some funds were sent by Saudi Arabia.
12 Can you elaborate on this?

13 A. [11:29:10] So I don't have further elaborations, that's what's in the, in the notes,
14 yeah. I was not able to obtain evidence of that and that's also why you don't
15 see -- there's made reference to it because as a researcher you want to, you also want
16 to present your -- to -- as much as you can, the information received and then also it
17 must be up to the readers and others to -- to also to do their own judgment and do
18 their own assessments. Thank you.

19 Q. [11:29:53] Thank you. But just to follow up a little bit on that, one of your
20 sources, again 2014 notes, and it's at page 0286, he mentions to you an alleged letter
21 about Qatar seeking to drive the CAR in Muslim direction.
22 How do you interpret that?

23 A. [11:30:20] Well, I think that -- that both the -- going back to some of
24 the -- the grievances that were raised by members of Séléka, members of Muslim
25 community, obviously some of these communities felt marginalised and felt that they

1 were not part of the -- or to a lesser degree part of the political agenda in CAR during
2 Bozizé. And you would hear things like, "The north has been underdeveloped,
3 the central government never developed us."
4 So it's my interpretation that some of the senior members of Séléka, members from
5 CAR, from Sudan, would likely have had contact with certain members of -- of Qatar
6 or other countries. But also it's not something I'm able to pinpoint, that letter, so also
7 it's not -- you'll not see it in the report. There's made reference to it as something that
8 we -- I picked up during the research, but -- but obviously I can't put any conclusive
9 evidence to it. I mean, along the same lines, there were -- there were several reports
10 of the French supporting, arming the Séléka or other groups. But again, you hear all
11 these things when you are in a conflict situation and that's why when -- when I don't
12 have specific incidents or -- or things that are referenced by something I can relate to
13 that actually took place, then -- then it's -- that's why you'll find it in the notes, yeah.

14 PRESIDING JUDGE SCHMITT: [11:31:58] Ms Proulx, please be so kind - in your last
15 question you referred to the notes of the witness from 2014 - to tell us the ERN
16 number.

17 MS PROULX: [11:32:10] Apologies, your Honours. The notes of 2014 are number 5
18 on the list of material from the OTP and the ERN number is CAR-OTP-2091-0264.

19 Q. [11:32:34] Mr Agger, you kind of anticipated my next question when you
20 mentioned France. Your sources - and also your reports - also highlight
21 the importance of France's influence over the CAR. So would you agree that France
22 also played an active role in destabilising the country?

23 A. [11:32:53] To a certain degree, yes.

24 Q. [11:32:56] Could you please elaborate.

25 A. [11:32:58] Well, you know, I think -- I think you can take an active role in

1 destabilising and you can -- you can take also an active role of not being involved and
2 looking at the sidelines. And I think that was very much the case again when
3 the Séléka started to form, started to advance. You know, the French obviously had
4 capable forces both in the country and in the region and at that point in time we did
5 not see France getting directly involved on the ground to try and de-escalate, that
6 came at a later point once Séléka had taken power and things were sort of getting out
7 of hand.

8 But I think it speaks to some of the things we also talked about earlier, there was both
9 at local level in CAR and internationally, a fatigue with the Bozizé government at that
10 time and regional partners and international partners were, were okay
11 with -- with -- with trying a new political rule in the country, and in that sense they
12 did not get involved when Séléka advanced.

13 Q. [11:34:30] I just want to again refer to your notes because there was an
14 interesting bit of information. So the same notes, same ERN, page 0270, and your
15 source there is telling you that France and Chad cut a deal to get Bozizé out as he was
16 no longer following their orders.

17 Have you gathered any more information on this?

18 A. [11:34:54] Well, I think that's probably a little bit put on the edge. If you ask
19 Bozizé, I'm sure he wouldn't say that he was following orders from anyone at any
20 point. But I -- I think it speaks to the same, that there was a general frustration with
21 Bozizé. I think also -- you know, there was at that point, there had been a long
22 period of national dialogues in CAR. There were reforms that didn't take place that
23 should have taken place, limited development in rural areas and things like that.
24 Whether they exactly met somewhere and said, "Yes, let -- let's oust Bozizé", might
25 not have been the case, but like, again I say, you know, a silent acceptance of the way

1 things moved on the ground.

2 Q. [11:35:48] When you testified before the United States Committee of Foreign

3 Affairs, and I'm going to refer to document number 2 on the list of OTP material, full

4 ERN is CAR-OTP-2081-0603, and I am referring to page 0658, you said:

5 "Natural resources have also attracted the Governments of Chad, Sudan, South Africa,

6 China, and France. Interventions by these governments have influenced security

7 dynamics in the country. The interest of Chad and Sudan especially has contributed

8 to the conflict. Mercenary fighters from each of these countries were part of the

9 Séléka movement and committed horrible atrocities and looted."

10 So is it your position that the coup which ousted President Bozizé from power was at

11 least in part orchestrated by foreign actors, including Chad, Sudan and France?

12 A. [11:37:17] I wouldn't go as far as saying that it was orchestrated, but I would say

13 that particular senior fighters of the Séléka were originals or nationalities of either

14 Chad and Sudan. And, you know, it has always been difficult for me to assess how

15 high did that -- went in the political level, because as we're also all aware, that

16 Khartoum might not be in control directly of some of the forces in Darfur, for example,

17 which were the main forces that were foreign fighters in -- in say, members of Séléka

18 and the same for Chad, right. The senior political leadership in Chad might

19 not - and I think there's a lot that speaks to that, particularly in these days - have full

20 control over various factions and rebel groups that exist within the territory.

21 So I think that that -- what I would say confidently is that, yeah, there were

22 nationalities of foreign countries that were definitely members of Séléka that were

23 very influential in the coup. Some of them, as mentioned previously, were members

24 of Sudan armed forces or Janjaweed, other relationships, but again, how high did that

25 go to the political level in the capitals, I think that's very difficult to -- to assess.

1 And for the sake of France, yes, I think my impression is that it was more a -- a way of
2 looking the other side than rather being directly involved. I mean, as you will see in
3 my notes, there are sources that claim that France, you know, trained Séléka, gave
4 them weapons and -- but it's not something that we've been able to find other than -- I
5 mean, we haven't found specific hard evidence for it, I would say.

6 Q. [11:39:28] Would you agree with me that foreign influence did not stop after
7 Bozizé was ousted from power, it continued in the Djotodia regime?

8 A. [11:39:37] Yes, yes, I would agree with that.

9 Q. [11:39:40] And then I'm going to go back to your notes and you tell me if they're
10 to be trusted or not, but they're quite interesting. One of your sources, again notes
11 from 2014 and it's at page 0266, the source tells you that after getting rid of Bozizé,
12 the French also wanted to replace Djotodia. They didn't like him. They wanted
13 someone they could control more easily.

14 Have you heard any other sources that would agree with that?

15 A. [11:40:18] Well, I can't mention exactly which sources, I mean it's been, you
16 know, a long time since I did those trips. But what I can -- what I can speak to is that
17 there was definitely a general disappointment again after Djotodia and the Séléka
18 taking power, you know, which was shared both at international community and by
19 local population and political leaders in -- nationally and in the region. That -- that
20 all the grievances that -- that mobilised the Central African in large ways to support
21 Séléka or parts of the community support Séléka was -- was -- was grievances of
22 limited, you know, economic opportunities, infrastructure development, widespread
23 atrocities, so I think that was what Séléka was mobilised on, right. And I think once
24 Bozizé and Séléka came to power, I think again the population in Central African
25 Republic and partners internationally were once again unfortunately disappointed

1 that these reforms and promises were not followed through and it sent more -- it
2 seemed more like -- like an opportunity for individuals within Séléka and others to
3 enrich themselves.

4 Q. [11:41:51] Again in your notes, and I believe it's the same source because it's
5 the same page, 0266, the source tells you that even in the transition, France has an
6 important influence. The transition president was chosen and controlled by
7 the French.

8 Can you comment on this?

9 A. [11:42:14] Yeah, well, I think that "controlled" is always such a strong word,
10 right. I mean, controlled is -- implies that you -- you can decide what someone else
11 does. But -- but for sure, they -- they were influential in the discussions of who to
12 elect as a transitional figure in CAR.

13 Q. [11:42:42] What about Operation Sangaris, would you agree that France also
14 exercised some level of influence through that operation?

15 A. [11:42:54] Yes, for sure, that was by far the most powerful intervention at that
16 point, had the most capability, most well-trained soldiers, you know, special forces,
17 access to satellites, high -- highly trained, good equipment, so by far the most efficient
18 force at that point on the ground.

19 Q. [11:43:25] And what about the MISCA, were they also under some level of
20 French influence?

21 A. [11:43:35] Well, so I think MISCA actually at that point from -- from what I was
22 able to gather was -- was in many ways quite fragmented because what -- in effect,
23 what you had is that you had all the neighbouring countries sending their soldiers, so
24 they were more looking for their own national interest, protecting their national
25 interest in the country. For example, you had the Chadian forces in there obviously

1 trying to protect some of their business interests or trying to protect the Chadian
2 minority communities in the country. The same you saw with the French, right.
3 They were deployed at the airport, they were deployed at the -- I mean at the
4 residency of the ambassador. The same with Chad, they were deployed there and I
5 mean the French were at Air France and -- and, you know, so you see -- you
6 saw the -- and particularly with MISCA, you, I mean, the Cameroonian were there.
7 They were -- so you -- you know, they had the zones that were close to their -- to their
8 countries. So -- so the Cameroonians obviously was interested in protecting
9 the supply line to Bangui, keeping supplies flowing, and so I saw it as quite
10 a fragmented force at that point actually.

11 Q. [11:44:57] But if you were to sum up on this whole foreign intervention or
12 foreign influence theme, would you -- would you agree, would it be fair to say that
13 from at least late 2012, through to the end of 2014, the CAR was under some level of
14 influence from varied -- a varied number of foreign actors?

15 A. [11:45:20] Yes, I would say that's -- that's correct and that continues until this
16 day.

17 Q. [11:45:32] Thank you. I'm going to move on briefly to an issue that was
18 touched upon by my colleague from the Legal Representatives of Victims this
19 morning. A lot of people have portrayed the conflict in the CAR as being a religious
20 conflict, being motivated by religion, but in fact -- and you -- again you touched upon
21 this, but in your notes from 2014, I'm referring to this document quite a lot, I hope
22 I don't have to give the ERN each time?

23 PRESIDING JUDGE SCHMITT: [11:46:10] No, also for future references when you
24 mention it the first time, perhaps the full one with the first page and then of course
25 with the concrete page you want to refer to. And from then on, I think we can follow

1 ourselves and you simply tell us the end -- the last -- the last figure. Thank you.

2 MS PROULX: [11:46:27] Thank you, your Honour.

3 Q. [11:46:29] So again in your notes, page 0289, it seems to be your own conclusion,
4 it's not coming from a source, and you write, it's not a religious war, it's rather a war
5 about political power and access to resources.

6 And then a little bit later you say that "The religious and sectarian aspects of the
7 violence are a consequence, not the cause. Some Muslims are in the Anti-Balaka and
8 some Christians are in the Séléka."

9 Do you still agree with that assessment?

10 A. [11:47:09] Yes, I do. You know, I think the whole report is called Behind
11 the Headlines and the whole agenda that -- that I set out with at that point was
12 exactly to dig deeper and to look what are some of the underlying drivers of this
13 conflict, as we talked about the economics, the region, internationally, grievances,
14 much broader than religious.

15 Q. [11:47:43] Thank you. I'll move on to another aspect, which you also talked
16 about a little bit this morning, and that's the presence of foreigners among the Séléka
17 forces.

18 Is it -- would it be accurate to say that the Séléka was composed largely, not
19 exclusively, but largely of Sudanese and Chadian mercenaries?

20 A. [11:48:14] I -- well, if largely, if you -- if you meant to say that they made up
21 the majority, yeah, I wouldn't say so. It's still my impression that the majority of
22 Séléka were Central Africans, both from the beginning until the end. What I think
23 more we saw, that there were some of the more trained members of Séléka were
24 part -- were trained or were mercenaries that had relationships to Chad and Sudan,
25 yeah, but if you look at ultimate numbers, I would still -- it's still my impression

1 that -- that the majority were Central Africans.

2 Q. [11:49:07] And you said, I believe, that there were also some Janjaweed members
3 in the Séléka; is that correct?

4 A. [11:49:18] Yes, that is correct. I believe I make reference to one commander in
5 particularly, Assimeh, who is -- who is a notorious known fighter that has been very
6 active in -- in the Darfur conflict. But again, I think Janjaweed, you know, we throw
7 it out as a name as a coherent group. It's not. You know, there's multiple
8 sub-factions and it changes and alliances are opportunistic. And I think it's also the
9 same with Séléka, right? They were -- made up roughly about four or five different
10 rebel groups from CAR that were -- that were active in the northern part of the
11 country for -- for probably a decade. They came together to form Séléka. Some of
12 their members and names are well known. Yeah, alliances change and -- and shift
13 quickly in these areas.

14 Q. [11:50:23] In your 2014 notes, and it's at page 0268, your source tells you that
15 Sudan encouraged the Janjaweed to go and loot in the CAR. Have you heard
16 anything else about this that would corroborate that?

17 A. [11:50:49] Well, I don't know exactly what -- what you mean reference to
18 any -- anything else. Do you think that's something particularly or ...?

19 Q. [11:50:53] Did you gather any other information that would tend to -- to prove
20 this point?

21 A. [11:51:00] Well, I mean, as I referenced before, there was a lot of looting
22 following the Séléka takeover, right, both in the provinces and in the capital. We
23 talked about some of these poaching incidents. And being mercenaries, my general
24 impression at that point was that there wasn't funds and money to directly pay
25 the mercenaries money, so the payment was that you get an opportunity to loot

1 and -- and take vehicles and other things and sell them on the black market, basically.

2 Q. [11:51:55] You wrote in the report, in the May 2014 report, which is number 1 on
3 the OTP list of material, I think I already gave the ERN earlier, but it's in two pages,
4 it's at 2566 and 2577, you wrote that the Séléka was well and heavily armed. Do you
5 know what kind of weapons they had?

6 A. [11:52:29] Yeah, well, so -- I mean I -- some of it I witnessed it firsthand.
7 AK-47s, obviously. A few of them had pistols, those were more the senior members.
8 I think also a few rocket-propelled grenades. And I think also there were a few
9 pictures of what is properly called a technical, which is where you have a pickup
10 Land Cruiser with a heavy gun behind -- automatic gun behind it. And then you
11 also had a few incidents of what is called a PKM, which is basically a machine gun on
12 a tripod with a -- with a chain gun out. So you had -- those were what I observed as
13 the -- as the typical weapons and which in CAR I would count as heavy weapons,
14 yeah.

15 Q. [11:53:37] Given the pressure exercised by Sudan and Chad which we also
16 discussed and the presence of foreign mercenaries among the Séléka, would you
17 agree that the local population or even the local organisations in the CAR generally
18 saw the arrival of the Séléka *as an invasion from the North?

19 A. [11:54:05] I think that depends a lot on who you ask in the CAR, because also, as
20 we talked about earlier, there was at that point sort of a -- kind of a division between
21 the northern -- and excuse me for talking in general terms -- but more generally
22 Muslim dominated area and the capital and the western part more Christian
23 dominated. So I think there would be differences where -- where if you talk to
24 people in the capital and the western part, they would say it's more foreign, whereas
25 if you look at the northern part of the country bordering Chad and Sudan, obviously,

1 you know, you have seasonal migrations of people and cattle herders coming in and
2 out and there's cross-border trade, so it's hard to do the distinction of who is exactly
3 on the Sudanese side of the border and who is on the CAR side of the border. But I
4 would though go back to say yes, there was a foreign element in Séléka, but there was
5 also a homegrown element in Séléka when you look at the senior leadership,
6 the history of the -- some of the armed groups that has been based in the northern
7 part of the country for -- for several years, yeah.

8 Q. [11:55:29] So when some CAR politicians or leaders from local organisations,
9 when in late 2012, early 2013, they, you know, made speeches or whatever and they
10 sometimes referred to foreigners attempting to take power in the CAR, they had
11 a factual basis to assert this, didn't they?

12 A. [11:55:57] Yeah, for sure. There were influence by neighbouring countries, as
13 we have discussed, and certain international partners that looked the other way that
14 were pursuing certain interests in the country, as we discussed previously.

15 Q. [11:56:26] So while keeping in mind, and you have mentioned this, that
16 President Bozizé was contested by many, would you say it was predictable on some
17 level that Central Africans would try and push back against what was perceived by
18 some, if not most, as a foreign invasion and, you know, a coup against an elected
19 president?

20 A. [11:56:54] Yeah, I think there was a -- obviously no one is very supportive if
21 someone comes and attacks your village, but I would say, though, that if you look at
22 the advance of Séléka and the -- the way that they gradually started to take over
23 villages in the northern part of the country, they moved south gradually over a couple
24 of months. You know, you saw the group swelling and attracting more and more
25 Central Africans that were part of the group, and I think also, as we talked about

1 earlier, that there was a certain level of support of the Séléka in the early days which
2 then turned sour when reforms did not follow through and when the widespread
3 targeting of Christian communities, which has been well documented by other
4 organisations, Amnesty International, Human Rights Watch and others have
5 documented some of the atrocities done by Séléka. So I think after the initial hopes
6 that it was going to bring change, I think at that point, yeah, sentiment soured
7 and -- and people became more disappointed and unfriendly towards Séléka. Thank
8 you.

9 Q. [11:58:32] Thank you. That's a natural transition into where I was going. I
10 wanted to talk about the Anti-Balaka. Your May 2014 report, Behind the Headlines,
11 discusses how they were created and you explain that local people started to
12 organise -- organise self-defence groups armed with simple weapons. Is it your
13 understanding that, in essence, the purpose of these groups when they were created
14 was to defend against abuses committed by the Séléka?

15 A. [11:59:12] Yeah, to a large extent, yes, I think there are -- maybe we can get into
16 that more, but I think there are -- again, you know, Anti-Balaka is not one group that's
17 homogeneous. I think I also try to describe in the report that there are different
18 levels and different compositions of Anti-Balaka, some more organised, some less
19 organised, some local Anti-Balaka that are just concerned with the security of their
20 little rural village. Others are more organised, had relationships to the FACA,
21 the national army, the presidential guard.

22 So I think -- I think there's a big difference, but, yes, some of the Anti-Balaka groups,
23 and there's a long history for that in Central African Republic of self-defence,
24 auto-defence groups, because of the inability of the central government to project
25 power much further outside than the regional towns and the capital. So it built on

1 those previous structures that also protected themselves against Bozizé or highway
2 robbers or criminality in general.

3 Q. [12:00:30] We will definitely talk a little bit more about the different groups.
4 I'm getting there. But before that, I just want to discuss the fact that there wasn't any
5 specific requirement to call yourself an Anti-Balaka; is that correct? In fact, one of
6 your sources in your notes of 2013, and it's at page 0284, he tells you local people just
7 take a machete and become Anti-Balaka. So this term was used quite loosely,
8 wouldn't you agree?

9 A. [12:01:06] Yeah, I would agree with that.

10 Q. [12:01:17] You said in your report they initially had primitive and traditional
11 weapons, but they got heavier weapons from fighting the Séléka; is that correct?

12 A. [12:01:29] Yes, that is correct. I think that generally, which has also been
13 documented through photographs and other things, you see, particularly at the outset,
14 Anti-Balaka was armed with machetes, knives, single-shot rifles that are used for
15 hunting primarily, some with bow and arrows. And then as the group formalised,
16 as they fought Séléka, as more and more soldiers from FACA got involved, got more
17 and more influence, obviously they brought some of their weapons with them,
18 AK-47s and others.

19 Q. [12:02:26] And what you just described is consistent with what Mr Ngaïssona
20 told you, right? He did say during your interview with him that they already had
21 some weapons at the beginning but that they got the majority of their weapons from
22 the Séléka, do you remember that?

23 A. [12:02:45] Yes, I remember that. So, yes, that's what he -- that's what he told me,
24 the majority from Séléka. And then I would also add that there was wings within
25 the Anti-Balaka that were more organised, that had access to weapons because they

1 were members of the national army, the presidential guard, so they had access to that.
2 But I think we should also remind ourselves that at that time there was wide
3 circulation of weapons in CAR. You could go to the market and buy an AK-47 for
4 less than a hundred dollars and buy ammunition, so that was also a way of getting
5 arms.

6 Q. [12:03:41] Thank you. In your statement, and it's at paragraph 32, you describe
7 the conversation that you had with Mr Ngaïssona when you met with him. And you
8 refer to his talking about so-called fake Anti-Balakas. And he described them as
9 criminals who were not respecting orders from Anti-Balaka leaders.

10 Now in your statement you state that in your view, there was no real distinction
11 between real and fake Anti-Balakas. But isn't it true that you interviewed other
12 people who -- other than Mr Ngaïssona, who also referred to this concept?

13 A. [12:04:39] Yes, that is -- that is correct, yeah. I think that that really comes back
14 to what does it mean to be a member of Anti-Balaka and how do we make that
15 distinction, right? Because all of -- all of the interpretations here are correct, I would
16 say, at the same time. Yes, there were the classic Anti-Balaka, the well-armed,
17 the -- with a clear command structure, which I think is also described there with
18 ComZones and clear relationships to the -- to the -- to the former army. You had
19 more loosely connected groups and you also had criminals that self-identified as
20 Balaka.

21 So who is to make the distinction and who has the authority to make the distinction if
22 someone identifies -- self-identify as Anti-Balaka? Are they then Anti-Balaka or not
23 Anti-Balaka? I'm not to make the distinction. So that's why I think that they all
24 exist at the same time, basically. It depends on where do we draw the line who is
25 a member of Anti-Balaka and who is not a member of Anti-Balaka. Criminals that

1 self-identify, are they, are they not? Yeah, you tell me.

2 Q. [12:06:09] Going back to the concept of fake Anti-Balakas, you use -- you use
3 that term yourself in two of your reports. In -- maybe we can show you
4 the May 2014 report, it's at page 2579 and in the second sentence -- second sentence of
5 third paragraph, you say:

6 "Criminal gangs and unemployed youth continue to unite and form new Anti-Balaka
7 groups that loot and kill civilians, known as Faux Anti-Balakas."

8 So by using this term yourself in your report, wouldn't you agree that you somehow
9 endorse the possibility that there were indeed such a thing as faux Anti-Balakas?

10 A. [12:07:20] No, I -- if it came across as I -- as I think they don't exist, then that was
11 wrong. I definitely agree that there was such a term called fake Anti-Balaka at that
12 time, and I think exactly -- you know, the term "Anti-Balaka" became a cover in many
13 ways as well for what would -- any time before Anti-Balaka was a name would have
14 been called criminals. So in that sense, yes. And they used it as a cover to try to
15 legitimise their actions, which were largely criminal at that point.

16 Q. [12:08:04] I would like now to show you another of your reports, it is number 1
17 on the Defence list of material. The ERN is CAR-OTP-2091-0202 and I want to
18 display page 0215, it's a public document.

19 And there you make a really interesting analysis. You -- you see the -- you separate
20 the Anti-Balakas into three clusters. The first one is self-defence groups, we've
21 already mentioned this, this spontaneous uprising. The second cluster are the pure
22 criminals, also called faux Anti-Balakas. And the third cluster are the FACA
23 members, the army -- former army members.

24 So the first cluster, I think I went a little bit ahead of myself, but would you agree
25 the first cluster are the groups of local men whose objective it was to protect

1 themselves against immediate threats and they were created spontaneously across
2 the CAR?

3 A. [12:09:38] I mean, with the caveat that, you know, you try always to do analytics
4 and you -- you group, and of course they're also crossing references and -- but when
5 you try to analyse a conflict, you have to put some boundaries somewhere and try to
6 explain. So, yes, over all, I would say those are the three clusters and correctly, yes,
7 one of them indeed is this let's call it spontaneous uprising self-defence, auto-defence
8 groups.

9 It's a very well-known phenomenon, we see it in eastern DRC, Congo, we've seen it
10 throughout history in Central African Republic, in South Sudan, other countries in
11 Central Africa where there is not a central -- where the state, the central power does
12 not have exclusive monopoly for the use of power, civilians will form self-defence
13 groups when facing an external threat.

14 Q. [12:10:42] And was it your understanding that because of, you know, the threats
15 they responded to were varied, these groups of the first cluster didn't necessarily
16 communicate or coordinate between themselves?

17 A. [12:10:57] Yeah, that's correct. I saw them very much as -- as being interested
18 in the Defence and security literally of their individual village and individual area.
19 You know, infrastructure is very underdeveloped in a country like CAR so you don't
20 necessarily have a lot of communication between towns, few people travel on
21 the road, relatively speaking, so you would have the local people of X village
22 organising, maybe putting a small checkpoint at the outside of the village, they would
23 patrol the village in the evening and just generally trying to organise some form of
24 self-defence. And -- and you're right, yes, there's no phone network, it's very -- less
25 penetration, they don't have access to radios or satellite communication. So they

1 were basically as an island, you could say, trying to protect their little village, yes,
2 that's correct.

3 Q. [12:11:58] And you're again anticipating where I was going. So, as such,
4 because of the nature of what they're doing and how they're being created, would you
5 agree that they didn't necessarily submit to any Bangui-based leaders or
6 Bangui-based leaders did not have any effective control over them?

7 A. [12:12:18] Yeah, I would say that's correct.

8 Q. [12:12:25] Moving on to the second cluster which you described as purely
9 criminal. You also say they are not moved by any political goals separate from
10 personal enrichment.

11 Would you agree that given their lack of political goals, they were unlikely to accept
12 leadership from Anti-Balaka political leaders in Bangui?

13 A. [12:12:55] Well, you know, I think -- so, my impression is that that -- that's what
14 we talked about earlier, that these are -- what can I say -- they use the term
15 "Anti-Balaka" as a cover-up for criminal activity. So they say, "Yeah, we're
16 Anti-Balaka, we're here to support you", but if you look a little bit under the surface,
17 their intention is to enrich themselves, right? So there were -- for example, in Bangui,
18 you would have roadside markets, like they would literally go and loot a bed and
19 a window and then sell it on the street, take that money. But if it could give the -- so
20 that's -- that's the nature of what they're seeking, right? Because there are no jobs,
21 there's no other way really to make a living here. So, they -- they try this way.
22 And -- but again, if they could get an advantage of subscribing to a political leader,
23 that would now maybe give them access to a few rounds of AK or a single shot or
24 something like that, they would be opportunistic in that sense as well to pursue
25 economic gains. So in that sense, they might -- some of them might be, some of them

1 might not.

2 Q. [12:14:12] Would you agree that the description of fake Anti-Balakas in your
3 reports actually closely matches the description made by Mr Ngaïssona when you
4 met him? You both refer to them as criminals targeting civilians, right?

5 A. [12:14:29] Yeah, they're criminals that are having -- that were looting for
6 a personal gain. Yes, I would agree with that, yeah. It was a general term used to
7 describe part of the conflict at that point, yes. I believe I even use Ngaïssona as
8 a source for that term in the report, so I -- I very much took his word for it, yes, and it
9 was reflected by others.

10 Q. [12:14:58] Thank you. I'll turn now briefly to the third cluster, which you say is
11 formed by groups led by FACA members and presidential guards that are relatively
12 well coordinated and remained close to Bozizé.

13 Now, they're military personnel, they're military trained. Would you say that they
14 most probably respond to a military hierarchy?

15 A. [12:15:29] Yes, I would say so.

16 Q. [12:15:34] And so would that be for you combatable with what Maxime Mokom
17 told you when you met him in February 2015 when he said that the Anti-Balaka are
18 split into ComZones who are former FACA and take orders directly from
19 General Bozizé?

20 A. [12:15:56] Yes, I think he -- he quite well explained what I would call
21 the military wing of Anti-Balaka. It might be a misconception to call it a wing
22 because it seems like, you know, they're all part of the group. It's very, very loosely
23 connected, yeah, but I would say yes, that that -- that one of the part of the group of
24 Anti-Balaka, as a general term, was definitely one that was built on the structures of
25 the former -- or the FACA, the army, for sure. You see the way that they are -- they

1 are divided into certain areas that they are in control of, the different prefectures of
2 the country. They know each other from before, right? Things like that. So I
3 would say, yeah, it's definitely more organised compared to the others. And who do
4 they actually take command from? I mean, Mokom gave his point of view. Others
5 of them -- maybe some of them responded to certain degrees of command from
6 Bozizé, others might not have done it. I think again it's difficult to say clear cut.
7 But, yeah, he was definitely influential, that was my impression at that time, yes.

8 MS PROULX: [12:17:21] Your Honours, for the record, the interview with
9 Maxime Mokom that I just referred to in my last question was taken from the 2015
10 notes of the witness and that is document number 4 on the list of material of the OTP
11 and the ERN is CAR-OTP-2091-0237 and it was at page 0258.

12 Q. [12:17:55] So based on your analysis, and I think you have basically said it, but
13 let's repeat it for the record, would you agree it is quite misleading to refer to
14 the Anti-Balaka as if it were one single entity, because it is in fact a myriad of different
15 groups, some of which don't have much in common except the name that they refer to
16 call themselves, would you agree?

17 A. [12:18:26] Yes, I will agree with that.

18 Q. [12:18:35] Thank you. I'll go back to the hierarchy within the Anti-Balakas.
19 You already said this morning, it was in the transcript at page 21, that you see
20 the Anti-Balaka as a very fragmented group. You remember that? Would it be
21 correct to say that most people you have interviewed on this topic told you that this
22 fragmentation of the Anti-Balaka had a consequence and the consequence -- there was
23 a weak and unclear leadership and no real chain of command?

24 A. [12:19:16] Yeah -- yes. But again as we just talked about, there are different
25 clusters of Anti-Balaka, some have more clear command and control and others are

1 more independent, yes, but, yeah, yeah, in general sense, yes.

2 Q. [12:19:48] In your report from May 2014, it's at page 2579, you state, it's the third
3 paragraph, first sentence. You say: "The Anti-Balaka remain decentralised, divided
4 into multiple groups with different and largely unarticulated political claims and
5 without a clear command structure, although there are some exceptions."

6 Now the exceptions would relate to the FACA group, right?

7 A. [12:20:33] Not -- not necessarily only the FACA group. I think my interview
8 with Ngaïssona, for example, he tried clearly to articulate a political vision for
9 the group. I think also I talked on another point with Wenezoui, who is another who
10 portrayed himself as -- as a spokesperson for members of Anti-Balaka who also tried
11 to express political goals. I think also there was -- there's a transition here, right. I
12 mean the -- what we talked about first, that the self-defence groups mainly in
13 the rural areas formed as -- as protection against immediate attacks against Séléka.
14 As the conflict goes on, the conflict matures, I think both parts of the equation, so to
15 speak, both Anti-Balaka and Séléka, some groups become more and more formalised
16 and, you know, political. Once the immediate self-protection, so to speak, is over,
17 more and more political aims and goals are expressed, yeah.

18 PRESIDING JUDGE SCHMITT: [12:21:49] May I shortly.

19 But isn't it a difference between expressing an aim and exercising any influence,
20 effectively?

21 THE WITNESS: [12:22:08] That's a question to me?

22 PRESIDING JUDGE SCHMITT: [12:22:09] Yes, excuse me, I intervene. You know,
23 this is -- this is - I will not say a strange court - but it's a hybrid court, so the judges
24 can also ask questions. So my question would be -- I think I follow what Ms Proulx
25 asked you, I think she -- she wanted to know from you if there were any command

1 structures or not. And in your answer you said that later on there were expression
2 by different people of -- of political aims. And I wanted to know if it isn't
3 a difference between an aim that is expressed by a person and effective influence that
4 this person might, might have.

5 THE WITNESS: [12:22:54] Yeah, no, no, for sure. There can be a difference between
6 expressing a political aim and whether or not you have the ability to actually
7 influence and bring those aims into reality for sure, yeah.

8 PRESIDING JUDGE SCHMITT: [12:23:11] And then a follow up from me - to not
9 stay too much into the -- in the abstract - with regard concretely to Mr Ngaïssona,
10 what would be your assessment?

11 THE WITNESS: [12:23:23] Well, so my -- my assessment with -- with Ngaïssona is
12 that he is a very well experienced, clever politician, he was obviously -- has a -- has
13 a political career that predates the Séléka coup, you know, he was a minister. So I
14 think, from what I saw when I met him, was that he was trying to professionalise and
15 organise part of the Anti-Balaka. So he was -- he was explaining the -- the political
16 grievances, the political motives. We talked about the badges that he was -- that he
17 was trying to, you know, enforce. He was trying to get a membership list together.
18 So I think he was -- he was trying to at that point organise some groups around him
19 in Bangui. I saw some of them myself when I went to meet him. They were sitting
20 outside of his compound. Yeah, that's what I -- so he had some influence over some
21 groups for sure.

22 PRESIDING JUDGE SCHMITT: [12:24:36] Thank you.
23 Ms Proulx.

24 MS PROULX: [12:24:58] Thank you, your Honour.

25 Q. [12:25:00] I think I'd like to follow that with a few, a few quotes from your

1 reports. You said in the September 2014 report, and I believe it might be the first
2 time that I'm referring to it, so -- yes, so it's number 2 on the Defence list of documents.
3 The reference is CAR-OTP-2091-0163 and I am referring to page 0173.

4 And there you -- you write that local armed groups in the southwest call themselves
5 Anti-Balaka are not formally associated and not necessarily following orders from
6 Bangui-based Anti-Balaka leaders.

7 Can you tell us a bit more about that?

8 A. [12:26:15] Well, I think it goes back to the same thing, limited means of
9 communication, fragmented groups. I think even we saw in rural areas as
10 the conflict dragged on, you know, local groups of Anti-Balaka started to get involved
11 in the diamond trade, taking a cut of that, taxing people on the road. And they were
12 not necessarily motivated much through any influence of political leaders in Bangui,
13 yeah.

14 Q. [12:26:52] To follow up on that, in May 2014 in your report, and it's at page 2567,
15 you say that "CAR's leaders are largely unable to exercise direct control of numerous
16 local armed groups."

17 And in the same report at page -- same page, 2567, you say that the leaders and
18 the elites in Bangui are not able to control the armed groups.

19 Would you say that there's a real break in the chain of command between the Bangui
20 leaders and the armed groups in other regions?

21 A. [12:27:43] Yeah, well I -- I think one of the -- the main source of violence
22 and -- and destabilisation in the country is exactly that, the inability of the central
23 state to project power much outside of the capital and regional trade hubs. So I -- I
24 would very much agree that that's the case, yeah.

25 But again going back to the -- there were strains within the FACA that were certainly

1 more organised. So armed groups is a -- is a very general term in a place like Central
2 African Republic.

3 Q. [12:28:31] Just one last aspect I would like to -- to discuss in relation to that. At
4 paragraph 62 of your statement you mention that one of your sources told you that
5 within the Anti-Balaka there are very few incentives to be the small guys -- the small
6 guy so many of the members wanted to be a leader of their own -- of their own
7 Anti-Balaka group. So this created a situation where they proliferate, basically
8 there's a lot of groups that are being created.

9 And your source's perception, as you describe in your statement, was that
10 the Anti-Balaka were operating without a consolidated command structure.
11 Do you agree with that?

12 A. [12:29:28] Well, again, speaking of -- of Anti-Balaka as a general term can be
13 misleading, as I think we have -- we have established before. But, yes, I would agree
14 that -- that some of the groups definitely have -- I think he also -- him or someone else
15 characterised them as land pirates, which I think actually is quite a good analogy
16 where you -- where you imagine this ship or group of criminals that -- that roam
17 within a limited area though and exercise their influence and they are not
18 necessarily particularly related to a central command that commands several groups.
19 But that is not to say that that was the only form of Anti-Balaka, there were other
20 groups and other influential people that had control of some groups. If we look
21 at -- at some of the things that were described by Mokom and others, the ComZone
22 structure, I think also that there were, you know, out of Boy-Rabe there were certain
23 groups that were more coordinated, yeah, so it's a mixed picture, I would say.

24 Q. [12:30:54] Thank you. I would like to touch very briefly on
25 the communications. You did mention a few times already that communications

1 were very difficult between the Anti-Balaka groups, they were struggling to
2 communicate between themselves, they had poor phone networks and no advanced
3 communication equipment. Do you agree with that?

4 A. [12:31:23] Generally speaking, yes, I would agree with that. The penetration of
5 phone network is -- in CAR is very limited. Often you can't get through, you can't
6 reach people and things like that. So what people do is if -- they might send
7 messages along the road or things like that to try to communicate, but obviously
8 that's insecure, takes time. And alternative communication equipment, which
9 would be satellite phones or even radio network is -- is not relatively readily available.
10 But the only thing I would say though, I think I also reference in the report at some
11 point, for example, there's -- obviously there is news on the radio, so where -- where
12 the fighting is happening. And I think, as we talked about, some of this mobilisation
13 was also spontaneous. So I reference this -- this group of young guys who walk
14 from Bangui, I believe, to where the front line was and joined Anti-Balaka at that
15 point, and that's very much what happened with Séléka as well. Some organised,
16 some more spontaneous, yeah, I can't give a clear cut, it's a mix, yeah.

17 Q. [12:32:37] But do you agree that this -- these circumstances, the difficulties in
18 the communication, that would have contributed to weakening even further the chain
19 of command?

20 A. [12:32:49] Yeah, within certain parts of the Anti-Balaka, yes, I would say. It's
21 a fragmented group, you don't have very clear command and control structures. It's
22 already divided into multiple sections like we talked about, the different categories,
23 and, yeah, so I would agree with that.

24 Q. [12:33:13] We've talked earlier and you've discussed this morning the badges,
25 the Anti-Balaka badges that were issued in early 2014 as an attempt to coordinate and

1 professionalise the badge. You said in your -- in your statement that your view is
2 that these badges had a political purpose. Do you still agree with that?

3 A. [12:33:44] Yes, I agree with that, yeah.

4 Q. [12:33:50] And when Mr Ngaïssona mentions these badges he says their purpose
5 is to identify the real Anti-Balakas and those who can seek compensation. Is it your
6 understanding that when he refers to compensation he's actually referring to
7 the disarmament process?

8 A. [12:34:14] I think he -- he -- well, I wouldn't know exactly if it's the disarmament
9 process, but for sure it's compensations for losses during the war, yeah, and some of
10 that might come in the form of DDR process, some of it might come in, you know,
11 victim support or other forms of compensation for losses, yes. That's the way he
12 presented that, that he was collecting the names, issuing the badges, organising
13 the Anti-Balaka.

14 Q. [12:34:48] But you were able to obtain a copy of the badges, correct?

15 A. [12:34:54] Yes, that is correct.

16 Q. [12:34:58] In fact in your statement you described obtaining the badges by
17 simply asking two men you met in Boy-Rabe neighbourhood. Can I safely assume
18 that you didn't see or hear these men seek permission from any leaders before they
19 gave you the badge?

20 A. [12:35:22] I don't -- well, so, it's not like I just walked up to someone in Boy-Rabe
21 and ask do you have your -- can I get a copy of your ID? Obviously I was doing
22 the research so I was following the meeting, I had heard that there were these badges,
23 so obviously as a researcher I'm interested in seeing a copy of the badges. So just as
24 we tried to set up a meeting with Ngaïssona, I tried talking to people, doing research,
25 triangulating, trying to see if I could obtain a copy of the badges. And after some

1 time I was able to believe -- meet with some people that were in possession of an
2 electronic copy and were in the process of issuing these badges, yes.

3 Q. [12:36:13] So obviously there was some effort on your part to obtain the badges,
4 but it wasn't terribly difficult either. So based on that, how secure or reliable do you
5 think the badge system was if you, a white man from Denmark, could convince
6 someone to give you one, and the electronic version too?

7 A. [12:36:42] Well, I -- I don't want to -- to say whether it is easy or not. I think
8 that's up for others to try and go the research -- do the research in an active war zone.
9 I don't know if it's very easy, but you can decide for yourself if it's easy or not.

10 I don't think it's particularly easy, but for others it might be easy, I don't know.

11 I don't think it's particularly easy necessarily to go and do that type of work with
12 the risks involved, yeah. But it's not that you could just get it on every corner. That
13 was not my impression. It took several days to -- to get to that level. The same
14 with setting up a meeting with Ngaïssona, it's not something that you just do. It
15 takes time and it's a work, yeah.

16 Q. [12:37:38] But would you agree that there's at least a possibility that badges were
17 accessible to people who did not belong to the Anti-Balaka, or at least you can't
18 discount that possibility?

19 PRESIDING JUDGE SCHMITT: [12:37:52] Mr Iverson.

20 MR IVERSON: [12:37:54] Just as an objection here, just -- I mean, every witness only
21 knows what they know, no one is omniscient, and I think at a certain point shouldn't
22 be asking the witness things that are beyond their knowledge, especially after he has
23 given the answer that he has. So I would just, you know, suggest the Defence
24 counsel not invite the witness to speculate.

25 PRESIDING JUDGE SCHMITT: [12:38:24] I would think Mr Iverson is right here.

1 But of course, like with many objections with regard to questions, a simple
2 formulation would do. For example, perhaps I can do it.

3 Mr Witness, so do you have any information, any sources that you would tell us that
4 told you that they received these badges and they weren't even members of the
5 Anti-Balaka?

6 THE WITNESS: [12:38:56] So what I can say is I didn't dive very deep into the issue
7 of the badges, but it was my impression that it was a fairly centralised process. That
8 was my impression.

9 PRESIDING JUDGE SCHMITT: [12:39:08] Thank you.

10 MS PROULX: [12:39:16] Thank you.

11 Q. [12:39:16] I will move on to another topic. I want to discuss the actual
12 Anti-Balaka leaders in Bangui. In your notes from February 2014 there's a variety of
13 point of view. You find people who mention Mr Ngaïssona as a political leader of
14 the Anti-Balaka, while others tell you that there is no leader that they can speak to.
15 And just for example - and I won't give the identity of the sources, unless
16 the Chamber wants to know and then we can go in private session, but - so at
17 page 0276 a source is telling you there is no clear leader that we can speak to, "Some
18 have real legitimacy, some don't have any." And there's no name given as to who
19 has legitimacy.

20 Further in these same notes, at page 0286, someone tells you many people are trying
21 to use the Anti-Balaka as a platform to gain influence, but the Anti-Balaka never
22 elected any leader. Would you agree that these two sources at least are not identifying
23 any clear Anti-Balaka leader in Bangui?

24 A. [12:41:03] Yeah, well, yeah they don't speak to it so they -- they don't mention
25 anyone, so, yeah, yeah. I think they describe the general consensus at that time,

1 again, that yeah, it was difficult to see who the leaders were, but there were some
2 individuals that were trying to put themselves as the leaders, yeah.

3 Q. [12:41:27] Yeah, well, to be fair, I'm going to give you the other side of the medal.
4 Also in your notes 2014, page 0272, someone tells you that Mr Ngaïssona is
5 the self-proclaimed leader of the Anti-Balaka. And then in your report, 2014 report,
6 the May 2014 report I should say, at page 2579, you write that Mr Ngaïssona is
7 "known by many as the coordinator of the Anti-Balaka." But can I assume that when
8 you say "by many", it means not by all?

9 A. [12:42:16] Yeah, sure, not by all. But, I mean, Ngaïssona referred to himself as
10 the coordinator of the Anti-Balaka in a general term again. We discussed
11 the fragmentation, so we all know about that. But, yeah, some say, yeah, he's
12 the coordinator, he was referenced in multiple international media as the coordinator,
13 he spoke in that role himself when I met him, he spoke several times on the record in
14 that role. His extent of his influence, yeah, that's another -- that -- that may be for
15 more topic of discussion, yeah, but he definitely portrayed himself in that role, yeah.
16 Some subscribe to it, some did not.

17 Q. [12:43:04] So can we agree that at that point in February 2014 there was no
18 consensus on who the Anti-Balaka leader was?

19 A. [12:43:16] Yeah, I think there were different personalities that tried to portray
20 themselves as leaders of certain groups of Anti-Balaka.

21 Q. [12:43:33] And is it correct to say that your multiple sources in 2014 and in 2015
22 by large indicated that the Anti-Balaka leadership remain disputed throughout these
23 years?

24 A. [12:43:51] Yes, I would agree with that. Probably the reality is that there were
25 multiple leaderships of multiple groups, very fragmented, opportunistic alliances.

1 Again, that's probably the closest we get to -- to describing the nature of the group.

2 Q. [12:44:15] In your 2015 report, and it's at page 0216, you wrote that

3 Mr Ngaïssona emerged in 2013 as the national coordinator of Anti-Balaka. Then you
4 explain that the international community saw him as an interlocutor but that during
5 2014 people realised that he could not represent, lead or control the Anti-Balaka
6 groups, so the Anti-Balaka groups have been distancing themselves from him.

7 There's no footnote to that assertion in your report and I want to put it in contrast
8 with what you said in your statement at paragraph 34 when you said that you had no
9 idea what Mr Ngaïssona's role was before coming back to Bangui in 2014.

10 Would it be fair to say that it would be difficult for you to gauge what was his level of
11 influence before his return to Bangui in January 2014?

12 A. [12:45:51] Yeah, I didn't look at -- at his -- at his role when he was in exile,
13 I didn't look at that. I don't think that's referenced somewhere. No, I met him
14 when I met him in Bangui and that's kind of where my report covers. You know,
15 yeah, it doesn't -- it doesn't cover much of the lead-up on the Anti-Balaka side. I
16 think mainly the Anti-Balaka, you know, it formed following the coup as a resistance,
17 yeah.

18 PRESIDING JUDGE SCHMITT: [12:46:23] Ms Proulx, my question would be, we
19 have now one and a half hour, if we make perhaps the break perhaps only until
20 2 o'clock or so and then you continue. Is that fine with you?

21 MS PROULX: [12:46:34] That's perfect.

22 PRESIDING JUDGE SCHMITT: [12:46:37] Okay, then we have a lunch break until
23 2 o'clock, not 2.30.

24 THE COURT USHER: [12:46:42] All rise.

25 (Recess taken at 12.47 p.m.)

1 (Upon resuming in open session at 2.02 p.m.)

2 THE COURT USHER: [14:02:16] All rise.

3 Please be seated.

4 PRESIDING JUDGE SCHMITT: [14:02:37] Good afternoon. We continue with the
5 examination by Ms Proulx.

6 Perhaps, Ms Proulx, a little bit slower. I have been informed of, you know, because
7 there is a double interpretation to different languages, so perhaps a little bit slower.
8 Please continue.

9 MS PROULX: [14:02:59] Thank you, your Honour. I have been informed of the
10 same, and I apologise to the Sango interpreters.

11 Q. [14:03:07] Mr Agger, before the break you told the Court that you didn't look at
12 Mr Ngaïssona's role before he returned to Bangui in January 2014. And in giving
13 that answer, I understood that you agreed with me that you couldn't really gauge
14 Mr Ngaïssona's level of influence before that point; is that correct?

15 A. [14:03:41] Yeah, I didn't -- that was not part of my research. I think I mention,
16 either in the report or in the notes, that he was in -- was in exile in various countries,
17 as he stated, and I didn't looker further into that.

18 Q. [14:03:58] Is it correct that when you met him, I believe it was February 25, 2014,
19 at least according to your notes, at that point it had only been about six weeks since
20 his return to Bangui, because he -- I think he told you --

21 A. [14:04:19] Yeah, from what he told me, yes. Sorry. Yeah, let me just repeat.
22 Yes, from what he told me, that that would have been the case, yes, and I took that as
23 correct.

24 Q. [14:04:34] So that's not a very long time?

25 A. [14:04:38] Yeah, six weeks is long or short, I don't -- six weeks.

1 Q. [14:04:55] But already then by February 2014, as we discussed before the break,
2 you had already heard divergent views on whether he was considered or accepted as
3 the Anti-Balaka coordinator or if there was a leader at all, am I right?

4 A. [14:05:18] Yeah, there were competing views on that, different views on that,
5 correct.

6 Q. [14:05:29] That brings me back to your May 2014 report. At page 2579 you
7 stated that Mr Ngaïssona returned from exile in January 2014 and "rapidly managed
8 to amass a large following." Now, I would like to -- there's a footnote, I would like to
9 maybe display the footnote. It's footnote 88, or end of document note, I would say,
10 rather, and it appears at page 2588.

11 I'm waiting for the footnote to appear. Thank you, Madam court officer.

12 Now, can you see that footnote?

13 A. [14:06:49] I can't see it. I can just see you.

14 Q. [14:06:51] Okay.

15 A. [14:06:53] I haven't been -- I haven't been able to see anything other than the
16 transmission from the Court.

17 Q. [14:06:57] Oh, apologies. I did not know that. Then I will be very careful,
18 because I --

19 A. [14:07:02] I see it now, actually (Overlapping speakers)

20 Q. [14:07:04] You see it. Okay. Perfect.

21 A. [14:07:06] A bit blurry, but, yeah.

22 Q. [14:07:08] You can read footnote 88?

23 A. [14:07:11] Yeah, yeah, yeah. Yes.

24 Q. [14:07:14] Okay. So this quote I just read from your report, Mr Ngaïssona
25 returned from exile in January 2014 and rapidly managed to amass a large following.

1 Now this is based, according to the footnote, on your interview with Mr Ngaïssona
2 and then local people in a specific neighbourhood, which I'm not going to say just in
3 case it would be a risk to them, and people somewhere else.

4 You can read it.

5 A. [14:07:57] Yes.

6 Q. [14:08:00] First of all, when you say local people in the neighbourhood, so the
7 second source, would that be referring to the Anti-Balaka fighter you met or no?

8 A. [14:08:15] I don't know exactly if it would refer to them or -- I would imagine if
9 I -- if I -- if it had been them I would probably have mentioned them specifically, but I
10 can't make that out, yeah.

11 Q. [14:08:25] Okay. Because your notes -- well, if we don't know who the second
12 source is let's not speculate on it. But on the third one at least, in your notes on this,
13 the 2014 notes, on page 0284, they don't mention Mr Ngaïssona at all. So it's -- I'm
14 not seeing exactly how the interviews of these people in that specific location could
15 have been used as a reference that Mr Ngaïssona amassed a large following.

16 A. [14:09:15] Well, if I -- it's a bit difficult for me to follow exactly the notes,
17 but -- but I would say my impression at -- at that time was that, you know, Ngaïssona
18 was presenting himself as the coordinator, he was looked to as an interlocutor at that
19 time, as I think I also write in the report. He was a well-known name in Bangui, he
20 was a well -- he was -- you know, I was able to find his place by asking for Ngaïssona,
21 the coordinator of Balaka, and so that that's the general sentiment that I had on -- on
22 why he was able to create a following. I'm not going to put a number on it, I
23 don't -- but, yeah, he definitely had, to my knowledge and my interpretation at that
24 time, a following, and -- and, yeah, some sort of influence, yeah.

25 Q. [14:10:15] Now, you stated that Mr Ngaïssona presented himself as a leader or a

1 spokesperson for the Anti-Balaka. But he's not the only person who did that; am I
2 right?

3 A. [14:10:32] Well, as the national coordinator he is the one I -- that -- that I met as
4 the national coordinator. I'm not aware of someone else that took upon that specific
5 title.

6 Q. [14:10:51] But would you agree that another person you met,
7 Sébastien Wenezoui, also presented himself as a leader of the movement?

8 A. [14:11:01] Well, so he was presenting himself as a spokesperson. My initial
9 understanding was that the two had sort of a -- a coordination between them, at least
10 in the initial stages, yeah.

11 Q. [14:11:31] Going back to Mr Ngaïssona, you -- you yourself said a few times
12 Mr Ngaïssona was a politician.

13 So can we -- is it fair to say that he did what politicians do in the sense that, you know,
14 he portrayed himself as very confident? He maybe was trying to impress. But can
15 we say that in light of what followed, and in light of the contradictory information
16 you already had at that point, do you feel like he may have exaggerated his own
17 importance?

18 A. [14:12:18] I don't -- I'm not going to speculate whether he exaggerated or not.
19 He came across as convincing and likeable in the interview, and I generally
20 transmitted what he said. So whether or not it was exaggerated or not, I don't know
21 with which scale to judge that at on, yeah. I don't know.

22 Q. [14:12:45] That's a fair answer. Thank you.

23 But, for example, the Anti-Balaka element, the man you met in Boy-Rabe, he didn't
24 mention Mr Ngaïssona as his leader, right? Or at least if he did, it's not in your
25 notes.

1 A. [14:13:05] Yeah, I don't -- I don't recall discussing specifically with him who his
2 leader was.

3 Q. [14:13:20] And according to your notes, I don't think that you met any other
4 Anti-Balaka member or representatives in February 2014 who named Mr Ngaïssona
5 as their leader; am I right?

6 A. [14:13:38] I don't remember specifically, yeah, ascertaining that fact by asking
7 members of Anti-Balaka who -- who their leader was as such, no, that is -- I didn't
8 have that type of conversations, yeah.

9 Q. [14:14:05] I would like to go back to Mr Wenezoui for a moment. You just said
10 he was portraying himself or presenting himself as wanting to be a spokesperson for
11 the Anti-Balaka. Can we agree that you gave that some consideration, since in
12 September 2014 your report presents him as a leader of the movement? In fact you
13 say at that point that there are two major groups, one led by Mr Ngaïssona and the
14 other one led by Mr Wenezoui?

15 A. [14:14:52] Can you reference from the report, just -- just to help me ...

16 Q. [14:14:57] Yes. So it's the September 2014 report and it is -- for the record, it's at
17 page 0173, and you say that the:

18 "Anti-Balaka groups have since then splintered into a myriad of different factions
19 without a central command. Two major Anti-Balaka groups in Bangui, led by
20 national coordinator Edouard Ngaïssona and vice national coordinator Sébastien
21 Wenezoui, briefly united for a few months..."

22 And I'm going to jump a little bit. A couple of lines later, you say:

23 "The groups, however, split again in August, and Wenezoui established his own
24 group ..."

25 Do you remember that?

1 A. [14:16:25] Well, I mean, I will -- I will - what can I say - rely on the report at this
2 point, that that was my assessment at the -- at that time. And, you know, they also
3 both went on to form separate groups and later on political parties, right? So there
4 was obviously a split at that point. Yeah, I don't -- I don't have furthermore details
5 than what -- what is described there, yeah.

6 Q. [14:17:03] So just to put it into context, that September report, at least according
7 to your statement at paragraph 51, the information you gathered to prepare that
8 report was during a trip to the CAR that took place in late June -- mid to late June,
9 July 2014; is that correct?

10 A. [14:17:36] I believe I had another trip later again. But I mean, to be honest, I
11 don't have those dates on -- on top of my head like exactly. You know, there are
12 quite a number of trips.

13 Q. [14:17:59] Well, just to make sure, let me read back paragraph 51 of your
14 statement. You say, "From 19 June to 4 July 2014, I travelled to Bangui for another
15 research trip."

16 A. [14:18:21] Yes.

17 Q. [14:18:22] "The objective of this was to look at the political peace process and to
18 do background research for the next major research report."

19 PRESIDING JUDGE SCHMITT: [14:18:36] That is on 0137.

20 MS PROULX: [14:18:40] My apologies, your Honour. You're right.

21 PRESIDING JUDGE SCHMITT: [14:18:43] No problem.

22 MS PROULX: [14:18:46]

23 Q. [14:18:46] I'll just skip a sentence, and then it says, "Rather I used the
24 handwritten notes to draft a policy paper entitled 'Seize the Peace'".

25 So it does seem that your September report was based on a June to early July trip; am

1 I correct?

2 A. [14:19:17] September of the same -- you're talking about the one that's Behind
3 the Headlines or the other one, the -- the resource -- one about the resources?

4 Q. [14:19:29] It's the Seize the Peace report?

5 A. [14:19:34] Yeah, yeah, that's correct, yes, yes. That was based on that -- on that
6 trip, yeah, yeah, yeah. So that trip both did Seize the Peace. And then it was a
7 preparation for the report that followed later that was looking at the financing, right,
8 if I -- if I remember correct. I believe.

9 Q. [14:20:08] So from February 2014, where you already had indications that Mr
10 Ngaïssona's leadership was contested, to June of 2014, when you gathered the
11 information according to which Mr Wenezoui is basically a political rival, that's just
12 about four months later, right?

13 A. [14:20:42] Yeah, that sounds about right.

14 Q. [14:20:48] So does it seem to you that Mr Ngaïssona's level of influence in -- in
15 February 2014 declined rather rapidly?

16 A. [14:21:05] I think it's very difficult for me to say whether he -- he -- his influence
17 was more or less. I wouldn't necessarily say that a split of Wenezoui would
18 necessarily be more or less strengthen or non-strengthen of his -- I mean influence. I
19 think, you know, yeah, that's difficult for me to say to be -- yeah.

20 Q. [14:21:35] In this case let's move forward to your February 2015 trip. You met
21 with Maxime Mokom during that trip. Is it correct that he told you at that point that
22 the political leaders of the Anti-Balakas were President Bozizé and Joachim Kokaté?
23 Do you remember that?

24 A. [14:22:06] Yeah, I remember that. So that that's now from what we are talking
25 about, the military wing of the Anti-Balaka, going back to our three overall groupings

1 of Anti-Balaka, yes. And you know, him being part of the army and everything, that
2 that's what he subscribed to, yeah, yeah, yeah. So he still reported through the
3 hierarchy of the army and that's what he presented. Yes, that's correct.

4 Q. [14:22:39] And, according to Mokom, Mr Ngaïssona was sidelined, did not have
5 much power, and was confined to Boy-Rabe area with no control *over the rest of
6 Bangui; is that right?

7 A. [14:22:59] Yeah, that's what he told me, that's correct.

8 Q. [14:23:12] In the notes you took during that 2015 mission to the CAR, one of
9 your sources went even a little further. This person told you, and it's at page
10 024 -- 0241 of the notes from 2015. So this person told you that Mr Ngaïssona and
11 the political level in the coordination committee were Bangui based with limited
12 control of Anti-Balaka in the field. He added, Mr Ngaïssona wants Anti-Balaka
13 fighters to support his party, but he was unable to negotiate the release of kidnapped
14 officials. He wasn't part of Nairobi talks, he was not taking part in FACA ComZone
15 meetings, and he also added that combatants are against Mr Ngaïssona.
16 Now, that doesn't make him sound like much of a leader, does it?

17 A. [14:24:39] Well, I think at this point, I mean, we are one year further down the
18 line, right? Things change quickly, so -- but I would agree with this, yeah,
19 he -- he's -- at this point, for sure, this very much represents what was my sense at this
20 point that he had lost influence at this point. And his support base was where I met
21 him in Boy-Rabe, Bangui, we talked about the isolated nature of the country before
22 limited, you know, able to communicate, and these things. So, yeah, at this
23 point -- and I think the things that I mentioned here how he did not take place in
24 these various meetings is a consequence of that. But again, yeah, it's one year later,
25 right? Things do change quickly. But, yeah, at this point, this was the case as far as

1 I understand.

2 PRESIDING JUDGE SCHMITT: [14:25:41] May I shortly.

3 I have a more general question, because we are the whole day talking about your
4 sources and your notes that you took when you -- after you had talked to them and
5 then you make a report. So what is sort of the relationship between the notes and
6 the reports? What I mean by that is did you make some sort of assessment or
7 holistic evaluation, so to speak, of your sources, or how is the working method from
8 looking -- after you have taken these notes, looking into the notes and then producing
9 such a report?

10 THE WITNESS: [14:26:22] Yeah, so -- yeah, so, first of all, taking -- of course, it's a
11 long process, so after doing the research, the field, you collect all the information, you
12 do the interviews, then you -- you literally begin to draft up the report. You don't
13 just take one note, so that's also one source, that's why you'll see at most of the things
14 that I reference in the report as -- as being accurate will have several references, right?
15 So they'll either have several sources that I've interviewed with, several direct sources,
16 or they will have direct sources combined with public available information. So
17 that's the -- that's the process we go through. So it's not just a direct translation of
18 the notes, it's a combination of sources I've collected on the ground, public available
19 sources, and then obviously scrutiny by colleagues and other people that research the
20 conflict.

21 PRESIDING JUDGE SCHMITT: [14:27:30] Thank you.

22 MS PROULX: [14:27:39]

23 Q. [14:27:40] Just one last question to wrap it up on what we were discussing,
24 Mr Ngaïssona's so-called leadership of the Anti-Balaka. Would you agree that,
25 based on what we've just discussed, from your first meeting in February 2014 to your

1 last trip and your last report in 2015, do you agree that his leadership was disputed
2 pretty much since you met him or maybe even before and throughout 2014 and 2015?

3 A. [14:28:22] Well, not to talk in too general terms, but I think all leadership -- I
4 think the history of Central African Republic shows that all leadership is disputed
5 and you can't say that whoever -- I think, you know, the whole history of the country,
6 coup upon coup, multiple rebel groups, opposition violent, peaceful opposition, any
7 leadership in that country is disputed, and his leadership was as well, at various
8 levels, yes, that is very correct. Some followed him, some did not, some probably
9 violently disputed it and others disputed it in a political arena.

10 Q. [14:29:16] In your statement, and it's at paragraph 33, you discuss your meeting
11 with Mr Ngaïssona, and you recall that Mr Ngaïssona told you that things would be a
12 lot worse if he wasn't Anti-Balaka leader. In your statement you say that this
13 implied that he was in a position to control how much violence was committed. But
14 then in your May 2014 report, and it's at page 2567, you write that leaders and elites
15 in Bangui were not able to control the myriad of armed groups. And I take this to
16 say if they couldn't control the armed groups, then they weren't able to control the
17 amount of violence they were committing; am I right?

18 A. [14:30:31] Well, I think, again, there's -- I think again, there's -- depends on
19 which level we see it at, right? So some groups they -- they probably had some
20 control over and others they -- they did not have control over. But I think we have
21 established that in general it was a fragmented conflict with a lot of uncoordinated
22 groups, but even uncoordinated groups have leaders, right, at various levels. So
23 that -- but definitely, it's not like a spider in the web that controls all these different
24 armed groups, but they probably have a web with a lot of spiders and they control
25 various parts of it, yeah. I don't know how to describe it better. It's very complex

1 areas, yeah, so just saying he had control, he did not have control, it didn't -- yeah, it
2 does not really give that much of a clue.

3 Q. [14:31:45] But you didn't witness him controlling armed groups or armed group
4 members, right? He didn't -- is that right? Is it fair to say you were never in a
5 position to actually witness his control over the Anti-Balaka?

6 A. [14:32:04] Well, so I would go back to I mean what he told me, as I said before.
7 He was trying to professionalise the group, trying to get the names, the badges, these
8 things, and articulate the political agenda, right? That's what he told me and I took
9 that at face value. But you're right, I never looked into specific human rights abuses,
10 and if you see any reports, it's not the intention of the reports. They don't look at
11 specific cases of violence, because that's not what we set out to do. I mean, there are
12 other groups that do that research which is Human Rights Watch, Amnesty
13 International, you know, they look at specific cases of violence, try to establish -- our
14 reports, type of reports, was more trying to paint the political picture for
15 policymakers primarily in the US and other areas to engage them in the conflict. So,
16 no, that was never my intention either to establish direct cases of violence. It was
17 never something that I looked at.

18 Q. [14:33:29] Briefly going back to the three clusters of Anti-Balaka we described
19 and we discussed earlier, would you agree that none of those three clusters had any
20 obvious link to Mr Ngaïssona?

21 And maybe just to take them one by one. The spontaneous local groups which, you
22 know, are created to respond to specific threats around the country and who have
23 little means to communicate. Then the second, the criminal fake Anti-Balakas with
24 no political goals who take an opportunist view and try to enrich themselves. And
25 the third cluster, the FACA members which are bound by a military hierarchy. And

1 keeping in mind of course that at this point that Mr Ngaïssona was an unelected
2 politician, so there is no chain of command.

3 So would you agree there's no obvious link to any of these clusters?

4 A. [14:34:44] Yeah, you could say that. I'm not -- I don't have like a -- see a direct
5 link as such. What I refer back to again is taking what he told me, being the
6 coordinator and the people that I witnessed as outside of his house, the ground and
7 all these things. But yeah, I mean, I don't have a -- a direct link as such, and that was
8 not what I intended to provide. I mean, those clusters are sort of an overall
9 representation of -- of how the group is more or less made up, right? But I'm not
10 looking at command and control here. I'm providing -- trying to provide an
11 overview for -- for people from the outside to understand the conflict better, whether
12 the typologies and main clusters within the Anti-Balaka, yeah, I'm not looking at
13 command and control as such.

14 Q. [14:36:01] During your meeting with him, and I think that is in your notes from
15 2014, but let me check to make sure. Yeah, that's right. Your notes from 2014 at
16 page 0286, Mr Ngaïssona told you that the Anti-Balaka would be a lot stronger if they
17 obtained the support of Bozizé. This basically means he was telling you he was not
18 receiving any support from Bozizé; is that how you understood it?

19 A. [14:36:49] Yeah, that's what he said several times, that he did not receive any
20 support from Bozizé.

21 Q. [14:37:01] But in 2015, Maxime Mokom told you that Bozizé was sending money
22 to ComZones, so to the FACA cluster; am I correct?

23 A. [14:37:15] Yeah, correct. That's what he told me.

24 Q. [14:37:29] Now, that's not information that Mr Ngaïssona seemed to have at
25 that -- at that time, right?

1 A. [14:37:38] No, this was obviously at a later point, and I asked Mr Ngaïssona if he
2 was supported by Bozizé, because that's -- was the general going in Bangui, that
3 Bozizé was sending money to Anti-Balaka, not necessarily to who, but to Anti-Balaka.
4 So I asked him, and asked Mr Ngaïssona, and he said that he did not. And yeah,
5 that's -- that's where it stopped. I didn't go much further into that to try to establish
6 those links. I would ask people about it, and some would say yes, some would say
7 no, but those are very, very difficult to verify. Yeah, so I -- I relied on what he said,
8 yeah.

9 Q. [14:38:35] Do you agree that it's possible Mr Ngaïssona did not know that, that
10 Bozizé was sending money?

11 PRESIDING JUDGE SCHMITT: [14:38:42] Ms Proulx, I think I anticipate that Mr
12 Iverson will jump. I think you can simply reformulate it. Does he have any
13 information or something like that.

14 MS PROULX: [14:38:56]

15 Q. [14:38:58] Mr Agger, Mr Ngaïssona was a civilian, correct?

16 A. [14:39:06] Well, I don't -- frankly, I don't know if he was ever in the military or
17 not. I'm not aware of that. So -- but at that point, yeah, he was presented as a
18 political leader, yeah, so I know he has a political background. Whether he was
19 not -- whether or not he was part of the army at some point, I'm not aware.

20 Q. [14:39:30] Okay. I think I'll just leave that topic there, thank you.

21 A. [14:39:35] No problem.

22 Q. [14:39:45] I would like to quickly discuss a discrete issue that is at paragraph 64
23 of your statement. So at paragraph 64, you recall that a local journalist told you that
24 Bozizé was sending money to Mr Ngaïssona through a person named Alfred Ngaya.
25 Now you don't go into too much details, but you say basically this is all you

1 remember about this event.

2 Can I take for granted you don't remember exactly who this journalist was?

3 A. [14:41:10] Yeah. I mean, I think also that's why that information doesn't show
4 up in the report, right, because you have a lot of information that you get and -- when
5 you do such a research and that's why I was not able to -- I mean, that's one lead, right?
6 So that's how it worked with the research, you get a lead, I probably asked others
7 about the same, probably didn't show up again, and that's why we left it there. Yeah,
8 but it's -- it's part of our notes, you know, you try to write down everything, and then
9 you try and angulate afterwards and you take the things that you believe are most
10 credible, yeah. So that's why I didn't went further into it. But it's -- it's -- it's a point
11 that was made to me by a certain source, yes, during the research.

12 Q. [14:42:19] The journalist, I'm assuming, did not tell you exactly the dates when
13 these events would have taken place and probably did not show you any evidence of
14 money transfers, did he?

15 A. [14:42:31] No, he did not. I had other similar statements of money coming
16 from the French to Séléka or from, you know, whatever. But I was not -- I always
17 asked for, "Can I see the transactions, do you have some?" Some people said, "Yeah,
18 I have papers", but if I was able, you would have seen them in the report, you would
19 have seen them, for sure. They would have been there, yeah.

20 Q. [14:43:02] So is it fair to say this was unsubstantiated?

21 A. [14:43:08] Yeah, sure. It's -- it's there as a -- as one source, as a -- I don't say
22 whether it's right or wrong, but yeah, I didn't see the papers for it.

23 PRESIDING JUDGE SCHMITT: [14:43:27] I would say, though, that is the second
24 report, I think, from 2015, that's CAR-OTP-2091-0216, that you group together all the
25 Anti-Balaka groups' finance means, and there is looting of cattle and pillaging, and

1 then it appears as a second point, alleged funds from outside sent by Bozizé. So the
2 information we have discussed before somehow, I don't know how, exactly, pops up
3 here in this context.

4 THE WITNESS: [14:44:06] Yeah, I think it pops up at that point as it says "alleged".
5 I think that's an important word here.

6 PRESIDING JUDGE SCHMITT: [14:44:15] That was because I was asking -- that was
7 also my understanding, yeah.

8 THE WITNESS: [14:44:19] Yes, yeah. Just to expand on it, I think that, you know,
9 as you do the research, that came more and more alleged on this part. So that's why
10 it's there, yeah, as a potential source of financing.

11 PRESIDING JUDGE SCHMITT: [14:44:34] Excuse me, Ms Proulx.

12 And just to be clear, the other points here, extortion, demands for protection, taxation
13 of gold and diamond collections, direct trade with gold and diamonds, this was
14 something that in your view at the time you had enough to say that is some sort of
15 verified for you?

16 THE WITNESS: [14:44:55] Yeah, I would -- I would say so. There I have what I
17 would say multiple sources. So if we take the diamonds and the gold, multiple
18 sources of diamond traders that firsthand witnesses traded with diamonds,
19 personally paid for protection to members of Anti-Balaka, people traveling on the
20 road, reporting the same things, extortion, multiple witnesses reporting the same. So
21 for those I'm more confident, yes.

22 PRESIDING JUDGE SCHMITT: [14:45:31] Actually, this is -- even apart from the
23 concrete question -- answer to this concrete question, also interesting, I think for the
24 Chamber, your working method, how you put your findings together and why
25 you -- and how you formulate them, so to speak. Thank you.

1 THE WITNESS: [14:45:50] Welcome, and welcome to -- I'm happy to try and explain
2 more if there are more questions on that.

3 MS PROULX: [14:46:02]

4 Q. [14:46:03] Just to quickly follow up on Mr President's question, when you said
5 alleged funds from outside sent by Bozizé, could that have referred to what Maxime
6 Mokom told you, that Bozizé was sending money to ComZones?

7 A. [14:46:20] Yes, that was one of the sources that corroborated that, what can I say,
8 alleged transfer, yes. But again, I was not able to establish factual -- factual transfers.
9 And I would also say differences that I did not have firsthand witness, right? I think
10 that's a big difference. Whereas with the diamonds, the gold, extortion, I had
11 firsthand witnesses of people who were involved with this. For the other one, I
12 didn't have someone who said, "Yes, I went to Cameroon, I collected the money, this
13 is how much money there was, this is which day, this is how I travelled." You see,
14 once you get the details, then you can -- then it becomes more credible. But I just
15 had yes, he sent, he sent to someone. Even Mokom said he's not the one who got the
16 money, right? So I think that's where the difference is. But if I have multiple
17 firsthand witnesses reporting something, then I take it as credible.

18 Q. [14:47:38] There's one last area that I would like to explore with you, and it's the
19 continued violence, even after the establishment of the transitional government and
20 beyond.

21 And I would like to read a paragraph of your May 2014 report, and it's at page 2567.

22 It's the beginning of the second paragraph. You write:

23 "Bringing an end to the violence in CAR is no easy task and requires efforts on many
24 fronts by many actors. The National Transitional Council and Interim President
25 Catherine Samba-Panza, who has been in office since January, struggle to drive the

1 political process toward elections, planned for 2015, while armed Anti-Balaka and
2 Séléka groups continue to fight each other and kill civilians. Most of these groups
3 operate without significant central command and have taken control of villages and
4 rural areas across the country. This complicates any national peace process because
5 CAR's leaders are largely unable to exercise direct control of numerous local armed
6 groups."

7 Now, would you agree, based on this, that by 2014, even early 2014, the crisis was
8 such that not a single actor at the time transitional government, National Transitional
9 Council, the Anti-Balaka leaders, foreign forces, were able to stop the violence?

10 A. [14:50:12] Yeah, for sure. I mean, I think the numbers speaks for themselves.
11 The violence continued.

12 Q. [14:50:31] Do you agree with me that international forces also failed to stop the
13 violence throughout 2014?

14 A. [14:50:41] Yes, I agree, even until this day.

15 Q. [14:50:51] In your notes from February 2014, and it's at page 0267, one of your
16 sources tells you that it looks like the MISCA and the French just drive around and
17 don't intervene to stop the violence. He adds they are doing only limited
18 disarmament.

19 Would you say that this was the general sentiment in the local population that the
20 *French forces were not doing much to stop the violence?

21 A. [14:51:37] I think people always -- when there's ongoing violence, civilians
22 always want the violence to stop and want more to be done. So I think in general,
23 yes, there was a frustration that French forces, MISCA, later UN, were deployed, and
24 still you have ongoing violence. I think there's a lot of frustration to the civilian
25 population.

1 Q. [14:52:24] In your 2015 notes, it's at page 0246 and 0247, your source tells you
2 that "The objective of Sangaris is not clear. Sometimes they fight one group and help
3 the other group. Then after some time they shift around and can do the complete
4 opposite ... [It] seems they don't want a stable situation."

5 Now, this seems to suggest that Sangaris was maybe - voluntarily or not - obstructing
6 a return to stability.

7 Am I understanding this correctly? Do you think this is what your source meant?

8 A. [14:53:19] I mean, we must take it at face value what he's saying, right. So if
9 that is what he thinks, that is his -- or opinion on that issue and then that that -- his
10 view on the role played by Sangaris at this point, yeah.

11 Q. [14:53:48] Now allow me to go back to February 2014. Another source tells you,
12 and it's at page 0288, "how did France allow the situation to get this far? If only
13 France, Chad and Sudan could agree about what they want in CAR."

14 This again seems to suggest that, if those states could find an agreement, the crisis in
15 the CAR could potentially be resolved; am I right?

16 A. [14:54:24] I -- I wouldn't say that we would solve the conflict of the
17 Central African Republic by Chad, Sudan and France to agree. I think that's one
18 piece of the puzzle. I think there's a lot of other things that -- that needs to be put in
19 place. And let's not forget the Central Africans. They have, if anybody, the largest
20 role to play here.

21 So it's one piece of the puzzle to -- to solve -- at that point to solve the conflict, yeah.

22 Q. [14:55:02] That's a fair distinction. So could we say that even if these states
23 reaching an agreement would not have been sufficient on its own, it was -- it was
24 nonetheless important for the crisis to reach -- to reach an end?

25 A. [14:55:22] Yes, it was certainly important for sure. Not the only, but an

1 important part of the puzzle, yes, exactly, of all the things that needs to be put into
2 sync.

3 Q. [14:55:49] So is it fair to say that the solution could not have been just Central
4 African? Central African on their own could not have solved this crisis, could they?

5 A. [14:56:08] It's difficult to speculate on, of course, but from -- from my
6 understanding of the conflict at the moment, what I tried to describe in the various
7 reports is that external actors had an influence on the ground, responsible for some of
8 the destabilisation, some of the violence. It was not the only factor, but, yes, it was
9 part of it. So since it was part of the region, I believe that it's -- it's a holistic
10 approach that will -- that would eventually have solved that conflict, and probably
11 until this day.

12 Q. [14:56:52] So based on this, do you think we can say that Mr Ngaïssona, as a
13 disputed leader and being just one piece of that very complex big puzzle - and even if
14 we were to accept that he had a key role in the Anti-Balaka leadership, which actually
15 is debatable - do you agree that the context was such that he could not have been or
16 have found himself a solution to this crisis?

17 A. [14:57:41] You mean him alone?

18 Q. [14:57:46] Him alone, him as national coordinator?

19 A. [14:57:53] I'm not sure if I quite understand, but I mean, he -- he could play his
20 role on the level as anybody else, yeah. I -- I don't try to assume that he was any
21 more or less influential than any others. He played his little part in the conflict
22 as -- as others did as well. Yeah.

23 Q. [14:58:30] You said he could have played his role as anybody else, but do you
24 agree with me that everybody else also failed to stop the violence?

25 A. [14:58:45] Yeah, we all failed.

1 Q. [14:58:50] Mr Witness, that is all the questions I had for you today.

2 MS PROULX: [14:58:56] With leave of the Chamber, I will yield the floor to lead
3 counsel, Mr Knoops.

4 PRESIDING JUDGE SCHMITT: [14:58:59] Of course.

5 MS PROULX: [14:59:00] Thank you. Thank you.

6 PRESIDING JUDGE SCHMITT: [14:59:01] And take your time, Mr Knoops.

7 QUESTIONED BY MR KNOOPS:

8 Q. [14:59:37] Good afternoon, Mr Agger.

9 A. [14:59:42] Good afternoon.

10 Q. [14:59:43] My name is Alexander Knoops, I am counsel for Mr Ngaïssona. I
11 have two discrete topics for you this afternoon, sir, which one of them has been raised
12 by the Prosecution this morning, that's the part which deals with the four parts
13 political platform which was introduced by Mr Ngaïssona during the interview with
14 you in February 2014.

15 This morning you went into those four parts. It's -- for the Court, the real-time
16 transcripts, English transcripts, lines -- pages 13, 14 and 15.

17 My first question is, if Mr Ngaïssona spoke about the four parts political platform,
18 and he spoke with you about uniting the Anti-Balaka, what was his overarching goal
19 which he expressed to you with this unification of Anti-Balaka?

20 A. [15:01:11] Yeah, thank you. So we talked about obviously his overall political
21 agenda, so -- so he presented to me those points that we -- that we went over. And I
22 think what we talked about was that he wanted to, you know, get compensation from
23 the losses that had happened, reparations. I also remember discussions around
24 development projects in Central African Republic to make sure that the voices of the
25 Anti-Balaka was heard during the upcoming national dialogues and -- and, in general,

1 having a seat and a stake at the political level and -- and he presented that he was the
2 guy to deliver that.

3 Q. [15:02:12] Yes. When he spoke with you about those four parts of the political
4 platform - compensation, recognition, removal of foreign fighters and the national
5 reconciliation process - did you in your research based on other sources got
6 confirmation that this was indeed his political platform, political plan?

7 So other than the interview with Mr Ngaïssona, did you encounter any other sources
8 which confirmed that this was indeed his plan, political plan?

9 A. [15:02:51] Well, the other sources that I -- that I had on that was what was
10 available on -- on public records where he came with similar statements that were
11 references, I believe, in international media, and such where he gave those -- those
12 statements, so I took it as -- as face value.

13 Q. [15:03:17] Right. Did he during that interview with you, Mr Agger, speak
14 about achieving this political goal, unification, unity of the Anti-Balaka? Did he
15 speak with you about achieving this goal other than through those four parts, namely
16 compensation, recognition, removal of the foreign fighters and reconciliation?

17 A. [15:03:56] You mean if he talked about other subjects or you mean --

18 Q. [15:03:59] Yeah.

19 A. [15:04:00] -- you talk about -- no, no, those were the main topics that he --

20 Q. [15:04:00] Yeah.

21 A. [15:04:00] -- that he raised to me.

22 Q. [15:04:04] Right. So in speaking with you, he didn't mention to achieve those
23 goals and specifically the goal to unify Anti-Balaka through military means?

24 A. [15:04:22] No, he didn't talk about -- he talked about formalising the group, like
25 we talk about the badges, getting a membership list, these things, but yeah, he didn't

1 come out with -- with the military part of it.

2 Q. [15:04:43] Right. And did you in your research encounter any sources who
3 told you that Mr Ngaïssona wanted to achieve this unification of Anti-Balaka through
4 military power, military actions, military operations?

5 A. [15:05:08] In terms of the specific unification, I did not go in -- further into how
6 that process might happen or not.

7 Q. [15:05:16] Right. Do you recall that in that interview you took for Mr
8 Ngaïssona he also mentioned at a certain point during that discussion to restart
9 farming in Central African Republic?

10 A. [15:05:37] Yes, I remember. That was one of his visions for the country
11 and -- and as a development project, and I believe that at some point, he, yeah, he
12 almost tried to pitch it to me as a -- as a potential partner in his -- in his farming
13 venture. Yeah, no, that -- that was one of the things that he talked about to -- to
14 develop and rebuild the country, for sure.

15 Q. [15:06:03] Yeah. You also mentioned this morning in the examination by the
16 Prosecution, that it was his view that the victims should not be forgotten?

17 A. [15:06:14] Yes --

18 Q. [15:06:15] Can you --

19 A. [15:06:15] -- yes, he -- he talked strongly about that, that again, they're to -- to
20 talk their case, and -- and the people that suffered should be part of the solution as
21 well. He talked about that, yes.

22 Q. [15:06:33] Did he refer in this context to a specific group of victims or was he
23 speaking about the victims of the conflict in general? So all the people of CAR who
24 were victims of the conflict?

25 A. [15:06:52] I don't remember him making a distinction between who would

1 qualify as a victim or not.

2 Q. [15:07:02] But you cannot recall that he specifically said, "I want victims not to
3 be forgotten in relation to their -- to a certain ethnicity or to a certain group"? He
4 spoke in terms of victims in general.

5 A. [15:07:20] Victims in general, but -- but, I mean, you know, he also talked about
6 how, you know, reparations from the -- from the atrocities made by Séléka.
7 And -- and so that -- that was my -- that was the way I took it, that it was for the
8 abuses and -- done primarily from the Séléka.

9 Q. [15:07:53] The four parts of the political platform which was presented to you by
10 Mr Ngaïssona during this February 2014 interview, did those four parts in any way
11 reflect your views as the author of the report Behind the Headlines?
12 In other words, his view how he wanted to achieve this unification, reconciliation, did
13 it at that time - and maybe also today, I'm not sure - reflect in any way the underlying
14 notion of the report Behind the Headlines?

15 A. [15:08:48] I'm not quite sure what you mean. I mean, I -- I reported what he
16 said and I -- I am -- I, as such, doesn't have an opinion on his political process. I
17 mean, I think I state recommendations in the report what I believe should happen to
18 solve the conflict. I also talk about victims' reparations and -- and other things. So
19 yeah, some of it I would agree with, but I won't -- I won't go into sort of -- sort of -- I
20 present my recommendations and he has his recommendations and some of them
21 might align, some of them might not.

22 Q. [15:09:32] Okay, let me make this very concrete to you, Mr Agger.
23 If we maybe show the witness from the report Behind the Headlines, and this is the
24 Prosecution binder tab 1. The OTP CAR number is also mentioned, but specifically
25 page 2567, 2567.

1 I'm not sure, Mr Witness, if you have it before you, this page?

2 A. [15:10:11] I don't have it in front of me, no.

3 Q. [15:10:14] Okay. If you look at the -- otherwise I'll read it. It's -- maybe you
4 can recall it. It's in the summary, the last, one of the last recommendations of the
5 report is under the heading:

6 "United Nations should deploy experienced mediators to work with US Special
7 Representative [Mr] Symington ..." it was at that time --

8 A. [15:10:41] Yes.

9 Q. [15:10:41] -- the US representative in CAR, "... and a diverse group of CAR
10 leaders to spur a bottom-up peace process for CAR."

11 And then you, as author, you write in this report that the decentralised nature of the
12 conflict in the CAR and the lack of a central command requires a bottom-up peace
13 approach that tackles each individual group through local negotiations.

14 And you say top-down negotiations between elites in Bangui fall short of breaking
15 the political deadlock, et cetera.

16 Can you recall this portion, Mr Witness?

17 A. [15:11:39] Yeah, yeah. I -- I still very much subscribe to that, the bible roadmap
18 for trying to solve at least part of the conflict.

19 Q. [15:11:50] So you would agree that in terms of achieving a form of peace or a
20 contribution to the peace process, the involvement of the individual armed groups
21 would be necessary. Would you agree to this?

22 A. [15:12:11] Yeah, I don't think you can -- you cannot create peace without
23 involving armed groups.

24 Q. [15:12:18] Right, yeah.

25 A. [15:12:19] They are key -- key actors, so you need to involve them whether you

1 like it or not. There's no way out.

2 Q. [15:12:25] Okay, that's the first step. Right.

3 A. [15:12:26] Sure, of course.

4 Q. [15:12:27] Then you can recall that you spoke in your February 2014 mission
5 with somebody from the Refugee Council -- a Refugee Council. I will not go into
6 specific names.

7 A. [15:12:43] Mm.

8 Q. [15:12:44] And can you recall that this individual told you how to approach this
9 reconciliation process?

10 A. [15:13:02] I think you'll have to -- to --

11 Q. [15:13:05] Okay.

12 A. [15:13:05] -- to help my -- my memory. I did a lot of interviews over the years,
13 so ...

14 Q. [15:13:11] Okay. In your -- that's page 0276 of the 2014 interview notes of
15 Mr Agger and this is in our -- that's Prosecution binder tab number 5, where you find
16 also the OTP CAR number.

17 But if you -- if the court officer would be so kind to show page 0276, which is part of
18 the interview you took on 13 February 2014 with an officer of the -- of the Refugee
19 Council and --

20 A. [15:14:02] Yeah, yeah, I recall now.

21 Q. [15:14:03] Yeah.

22 A. [15:14:04] Yes, yes.

23 Q. [15:14:04] If you would be so kind to look at the third paragraph of page 0276,
24 under the heading "Reconciliation"

25 You see:

1 "district by district approach. Talk to leaders in each district. Problems in each
2 district are different from the others. Local leaders should talk to the population to
3 welcome the displaced back home. Establishing Community Leaders Committees".
4 And you see three lines below: "Activities: football, broadcasting ... peace messages
5 on the radio" et cetera.

6 Can you recall, Mr Agger - and that's the point I'm heading for - so we just saw your
7 recommendation about this bottom-up approach involve individual armed groups in
8 this process. We see in this recommendation by the Refugee Council to approach the
9 reconciliation process district by district, involve leaders in each district, and establish
10 committees. Does this reflect, as you can recall, also the proposals of Mr Ngaïssona
11 when you spoke to him in February 2014?

12 A. [15:15:44] Well, I believe we talked about some of the same issues as -- as part of
13 his political agenda, right, to involve the victims in the solution.

14 Q. [15:15:58] Right.

15 Can we show, please, court officer, to the witness then, page -- the same interview
16 notes of 2014, page 0286, 0286, from the same interview notes of 2014.

17 Now, I'll ask you, Mr Agger, to keep in your mind what we -- what you just read in
18 the proposal of the Refugee Council and your own proposal in the 2014 report.

19 You see here - just a little bit up, court officer, please - under the heading, "Looking
20 ahead", you see, is part of the interview with Mr Ngaïssona on 25 February 2014:
21 "Looking ahead: Anti-Balaka, Séléka, MISCA, NTC, international community, all
22 needs to sit at the same table to form committees" - the committees where the Refugee
23 Council refers to - "to go to local communities to talk about the need for peace."

24 And then you see about:

25 "Disarmament: he talked to the French embassy. We cannot let the Anti-Balaka go

1 back to the countryside with their arms. We want the French to collect the arms, but
2 then we need projects to start rebuilding. Need the projects before they can go back
3 home."

4 So you see any resemblance between his political view and the sources you
5 interviewed - I just mentioned the one on the Refugee Council - and the bottom-up
6 approach you mentioned in the 2014 report.

7 A. [15:18:21] Yeah, I (Overlapping speakers)

8 Q. [15:18:22] You see my point?

9 A. [15:18:23] Yeah, yeah, no, no, it's -- I mean on this specific point, yeah, of course,
10 we -- we articulate the same need for a locally-driven peace process with involvement
11 of multiple actors. I don't think there's much surprise in that, yeah. On -- on that
12 specific point I will certainly agree.

13 Q. [15:18:43] Are you familiar that Mr Ngaïssona at a certain point in time invited
14 leaders from the various districts to come to Bangui to speak about how to achieve
15 this process?

16 A. [15:18:59] I'm not aware about that specific meeting.

17 Q. [15:19:07] But when I say to you that he invited those individuals to go to
18 Bangui in the context of this so-called district-to-district approach, would that fit into
19 your -- your own idea as you ventilated in your 2014 report, this so-called bottom-up
20 approach?

21 A. [15:19:27] Yeah, I think that having those local dialogues would be very
22 beneficial, for sure, yes.

23 Q. [15:19:37] When Mr Ngaïssona told you in February 2014 that he talked to the
24 French embassy because he -- his view was we cannot let the Anti-Balaka go -- go
25 back to their own countryside with weapons, with arms, were you able to verify this?

1 Did you speak to any sources who did confirm that he went to the French embassy
2 for support in (Overlapping speakers)

3 A. [15:20:12] No, I --

4 Q. [15:20:12] -- this regard?

5 A. [15:20:13] I did not follow further up on whether he indeed had that meeting or
6 not.

7 Q. [15:20:19] But you had no reason to doubt this message he conveyed to you, this
8 specific message that he went to the French embassy for that reason?

9 A. [15:20:37] I -- I can't speculate whether he did it or not, but generally, when I
10 met with Ngaïssona, he -- he seemed a credible person. The things he said -- other
11 things he said checked out, but I did not verify this specific thing.

12 MS DIMITRI: [15:21:00] Mr President, if I can make a plea for the interpreters.
13 Could you remind the witness to take a slight -- a short break before answering.
14 There's an overlap on the French channel.

15 PRESIDING JUDGE SCHMITT: [15:21:11] Thank you very much.
16 I think you have heard it, Mr Agger. So, again, please pause a little bit more.
17 And Mr Knoops, for today, how long will it take?

18 MR KNOOPS: [15:21:26] I'll finish in 10 minutes maximum.

19 PRESIDING JUDGE SCHMITT: [15:21:28] That's fine.

20 MR KNOOPS: [15:21:29] Yeah.

21 PRESIDING JUDGE SCHMITT: [15:21:29] Okay. Please continue.

22 MR KNOOPS: [15:21:33]

23 Q. [15:21:33] Mr Agger, would you agree with me that Mr Ngaïssona in -- in trying
24 to achieve this four-part political platform, was trying to get the international
25 community engaged in this plan? Such as evidenced by the fact that he apparently

1 also went to the French embassy for support.

2 Did you encounter any information or sources to this end?

3 A. [15:22:11] So I -- I did not look at his follow up whether or not he was able to
4 come -- I mean, to mobilise support for this political programme. My -- my intention
5 at that point was to -- was to try and understand who are the major actors, what are
6 they trying to achieve, what is their -- their agenda. I did not look into whether he
7 succeeded or not.

8 Q. [15:22:43] Yeah, yeah. But the process, it's fair to say, didn't succeed as such,
9 the process in its totality, the DDR process?

10 A. [15:22:53] Yeah, for sure. I mean, there were sporadic DDR processes here and
11 there, but I think unfortunately we are still all waiting for a proper DDR process in
12 the Central African Republic.

13 Q. [15:23:14] Yeah, yeah. Do you have an explanation why -- well, you just -- you
14 just answered already on the questions of my colleague why you think the process
15 didn't succeed. But when you concentrate on Mr Ngaïssona, why would you say he
16 didn't succeed, despite his efforts? And you said he was to me a credible person.
17 Why -- what is your analysis why he didn't succeed in making this four-part political
18 platform achievable or even a success?

19 A. [15:23:53] Well, you know, it goes back to the fact that there are so many actors
20 that needs to be brought on the same page before something like this can happen,
21 right. I think we talked a lot about how complex the conflict is. So you can't leave
22 to it one actor or one person. It's a lot of things that needs to get in sync at the same
23 time, and it -- it's work in process, right. I think some would say that that process
24 may be still ongoing.

25 Q. [15:24:30] Is it fair to say that Mr Ngaïssona didn't receive the support he should

1 have deserved with his plan, especially from international perspective, and that
2 therefore he was not strengthened in his plan to achieve this?

3 A. [15:24:47] I think it's difficult for me to say which level of support that
4 Mr Ngaïssona received or not, since it's not something that I looked specifically at his
5 political agenda and ability to implement it. So I think that's a bit -- I can talk to it
6 more in general terms but not in specific terms to his political plan.

7 Q. [15:25:11] In your report Warlord Business in the same context - it's Defence
8 binder tab 1, report of June 15, on page 0216 - you and your colleagues come to the
9 conclusion that the international community looked at Ngaïssona as a "rare
10 interlocutor with the disorderly Anti-Balaka groups." And then it said:

11 "A measure of international recognition strengthened his position for a short while,
12 but during 2014, many realised that Ngaïssona is far from able to represent - much
13 less lead and control - the myriad Anti-Balaka groups."

14 Does this not reflect that at a certain point in time Mr Ngaïssona was, from his
15 perspective, left alone in this whole process in order to achieve this four-part political
16 platform?

17 A. [15:26:30] Well, I don't pretend to know what he -- if he felt alone or not. I can
18 talk about what -- like the way I saw it. So I mean, what I try to describe in the
19 report and my assessment is that -- that when -- when Ngaïssona came, he -- he
20 managed to at least create a following, create a buzz around him, he was a lot in the
21 media, a lot of people talked to him, but then I think the international community
22 realised that, oh, this conflict is a lot more complex than we thought, than we hoped
23 for. And there's a lot of groups around the country that Ngaïssona does not
24 necessarily speak for, but he probably speaks for some of them. Whether or not he
25 felt alone or not, I don't know.

1 Q. [15:27:22] I meant -- I meant it of course symbolically, yeah, left alone, of course,
2 Mr Agger.

3 Now, is it fair to say, to conclude this topic, that the failure of this four-part political
4 platform which Mr Ngaïssona had a plan -- had in mind, already is an indication that
5 for him it was not possible to control all these different groups? You mentioned in
6 the report Warlord Business on page 0215 that the estimation by your NGO at that
7 time was that there were around hundred -- between hundred and 150 groups
8 connected loosely to each other, others operating completely independently.

9 So hundred, 150 groups were identified in the Warlord Business report. If you
10 transposed that number, that huge number of different groups on to the plan
11 Ngaïssona had and you looked now at the outcome, you agree that this already
12 indicates that he was not in any way in control of all those groups, because he didn't
13 succeed?

14 If he was the absolute leader, then of course he would have been able to bring
15 together all those hundred, 150 groups, but he didn't. So what does that say to you
16 as a researcher?

17 A. [15:29:26] Yeah, well -- so what I -- what I -- what it says to me, and -- and my
18 impression at that time and at this time still, is that our rough estimation was that
19 there were these hundred to 150 groups and -- and they were spread across a large
20 area, and some of them were operating on their own, others were more connected to a
21 central command structure. But again, as I said before, I was not really that looking
22 at command and control directly, right. I was trying to establish who are some of
23 the influential people that are -- that are trying to come with -- present some of the
24 political grievances of members of the Anti-Balaka. But yeah, for sure, I -- I mean, no
25 one controlled all these groups, right, on either side of the conflict.

1 Q. [15:30:26] My last question, Mr Agger, in the same context when we speak about
2 absence of control, I refer to not only military but also political control of all those
3 groups. And this is where, of course, this four-part political platform comes in,
4 political plan.

5 Now, if you would look from this perspective, would you say that also from a
6 financial perspective those hundred, 150 groups could not have been politically or
7 militarily controlled by a central entity in terms of funding?

8 A. [15:31:14] Yeah, I don't -- I don't think that there was -- we should not -- we
9 should not fool ourselves that it's -- that it is like a whip where you can influence all
10 these groups. They are very decentralised. Again, some of them have
11 cross-references and -- and things like that, both finance, ideological, political and
12 military. But, yeah, it's a fragmented picture.

13 Q. [15:31:43] Last reference in this regard, Mr Agger, is the interesting observation
14 you made, and your colleagues, in the report Warlord Business. Again, that's in the
15 Defence binder number 1. On page 0216 -- 0216 of that report - and maybe it's
16 possible just to show it to the witness - we find under the paragraph which was also
17 referred to by the President of the Chamber, the ways the various groups, Anti-Balaka
18 groups financed and equipped themselves through different means.

19 I did find an interesting paragraph, which is directly under the six bullets, and the
20 report says:

21 "Most Anti-Balaka groups, particularly the criminal and self-defence groups, remain
22 locally based, use their own weapons, rarely drive cars, and run low-cost operations.
23 These Anti-Balaka groups did not need large amounts of funding or outside resources
24 to sustain their activities. Most are able to obtain what they need through simple
25 theft and roadside extortion."

1 So is it fair to say that most of these groups, Mr Agger, were financially
2 self-supporting, therefore they didn't need an external financing entity in order to
3 sustain that group? Would you agree with the words they were, in this regard,
4 self-supporting financially?

5 A. [15:33:49] Well, I think when we look at the elements of Anti-Balaka that were
6 most landing towards the criminal side of things, I would say, yes, they were
7 more -- and when I say "criminal", I mean economically-motivated criminal, they
8 were more or less self-sustained. I would say though that it's my impression that if
9 you look more on the more formalised military aspect of the group, they would have
10 higher costs and would need to obtain weapons, ammunition, things like that.

11 So I think -- I think there's a distinction there, as we talked out through the day, of
12 trying to cluster Anti-Balaka in different groups. But if you look at those that are
13 more directly economic, motivated, yes, those ones, and -- and they were also the
14 ones that were more independent.

15 Q. [15:34:53] But in your research you didn't come across any centralised financial
16 entity to structurally finance this -- this last example you gave?

17 A. [15:35:08] So as I said, I had -- I was not able to establish direct links and direct
18 proof of financing coming from aboard or being dispersed from a central area. I
19 think I describe in the report how these were things that were coming back to alleged
20 and I was not able to pinpoint to exactly establish that link directly. It's part of the
21 overall picture of -- of the way the conflict was described to me, yeah. Thank you.

22 Q. [15:35:44] Just one final question for the record, that we are clear on this and
23 there's no misunderstanding. In your statement, paragraph 65 - it's already
24 mentioned several times, this statement - you mention your own interpreter, who
25 accompanied you during the mission in February 2014, telling you that Mr Ngaïssona

1 lost influence because he was, according to your source, interpreter, pursuing his own
2 career. Do you recall hearing this?

3 A. [15:36:23] Yes, I recall.

4 Q. [15:36:24] Was the interpreter at that time referring to the time frame of
5 February 2014, so at the time, or was it another moment when the interpreter told you
6 this, your own interpreter?

7 A. [15:36:44] When -- I would say go back to when it was referenced, which trip
8 was it referenced for. If it was referenced at that trip when we did the interview,
9 then I would say it's at that point, yes.

10 MR KNOOPS: [15:36:58] Thank you, Mr President, your Honours, these were the
11 questions of our Defence team for today.

12 PRESIDING JUDGE SCHMITT: [15:37:03] Thank you, Mr Knoops.

13 This concludes the hearing for today. A special thank you to our witness, Mr Agger.
14 But your examination is not finished yet, you have to come back on Wednesday. But
15 you're not alone then. Everybody else will also be here, I hope so, or nearly
16 everybody else.

17 So we resume at 9.30 on Wednesday with the examination, I understand it, by
18 Mr Hannis.

19 THE COURT USHER: [15:37:29] All rise.

20 (The hearing ends in open session at 3.37 p.m.)

21 CORRECTIONS REPORT

22 The following corrections, marked with an asterisk and included in the audio-visual
23 recording of the hearing, are brought into the transcript.

24 Page 14 lines 18-20

25 "he was talking about how, you know, the Séléka came, they looted, they attacked the

- 1 locals, "We don't have anything now..." Is corrected to "he was talking about how the
- 2 Seleka were driven by illusions, how the Séléka came, they looted, they attacked the
- 3 locals who were saying , "We don't have anything now..."
- 4 Page 38 line 18
- 5 "as a foreign invasion" Is corrected to "as an invasion from the North"
- 6 Page 65 line 5
- 7 "outside" Is corrected to "over the rest"
- 8 Page 74 line 20
- 9 "international forces" Is corrected to "French forces"