

Trial Hearing

(Open Session)

ICC-01/14-01/21

1 International Criminal Court  
2 Trial Chamber VI  
3 Situation: Central African Republic II  
4 In the case of The Prosecutor v. Mahamat Said Abdel Kani - ICC-01/14-01/21  
5 Presiding Judge Miatta Maria Samba, Judge Maria del Socorro Flores Liera and Judge  
6 Sergio Gerardo Ugalde Godinez  
7 Trial Hearing - Courtroom 2  
8 Tuesday, 6 February 2024  
9 (The hearing starts in open session at 9.33 a.m.)  
10 THE COURT USHER: [9:33:07] All rise.  
11 The International Criminal Court is now in session.  
12 Please be seated.  
13 PRESIDING JUDGE SAMBA: [9:33:32] Good morning, everybody. Madam Court  
14 Officer, can you kindly mention the case. Thank you.  
15 THE COURT OFFICER: [9:33:39] Good morning, Madam President, your Honours.  
16 This is the situation in the Central African Republic II in the case of the Prosecutor v.  
17 Mahamat Said Abdel Kani, case reference ICC-01/14-01/21.  
18 And we are in open session.  
19 PRESIDING JUDGE SAMBA: [9:33:54] Thank you very much.  
20 Can I ask the parties to introduce themselves, starting with the Prosecution, please.  
21 MS MAKWAIA: [9:34:04] May it please the Court, for the Prosecution this morning,  
22 myself, Holo Makwaia; Kamran Choudhry, Thomas Bifwoli, trial lawyers; Le Bailly,  
23 Brunhild, associate trial lawyer; and Sanyu Ndagire, legal assistant. Thank you.  
24 PRESIDING JUDGE SAMBA: [9:34:22] Thank you very much.  
25 Ms Pellet for the victims, please.

1 MS PELLET: [9:34:29](Interpretation) Thank you, Madam President.

2 \* The victims are represented this morning by Tars van Litsenborgh, Caroline Walter  
3 and myself, Sarah Pellet, Counsel within the Office of Public Counsel for Victims.

4 PRESIDING JUDGE SAMBA: [9:34:45] Thank you very much.

5 Ms Naouri for the Defence, please.

6 MS NAOURI: [9:34:48](Interpretation) Thank you, Madam President, good  
7 morning.

8 By my side we have *Maître* Jacobs; by his side Capucine Banet; behind me we have  
9 Fiana Gantheret; and I am Jennifer Naouri, lead counsel for Mr Said.

10 PRESIDING JUDGE SAMBA: [9:35:03] Thank you very much, Ms Naouri.

11 And for the record I note that Mr Said is in Court.

12 A very good morning to you, Mr Said. I hope you have rested well.

13 MR SAID: [9:35:19](Interpretation) Yes. Good morning, Madam President.

14 PRESIDING JUDGE SAMBA: [9:35:26] Today the Prosecution is calling P-2519 as its  
15 20th witness. The Chamber previously rejected the Prosecution's application to  
16 introduce P-2519's prior recorded testimony pursuant to Rule 68(2)(b) of the rules, but  
17 we gave authorisation for him to appear pursuant to Rule 68(3) and that is decision  
18 numbered 555.

19 It is the Chamber's understanding that this witness will be testifying in Sango via  
20 video link, so I remind everyone of the importance of the need to speak slowly and to  
21 observe the five-second rule between questions and answers.

22 The Chamber will render a short oral decision on the Prosecution's request to  
23 introduce the annex of P-2519's preparation log under Rule 68(3) of the Rules of  
24 Procedure and Evidence.

25 In addition, the Prosecution also requests to add P-2519's victim participation

1 application form to its list of evidence. For the record, the request is filing number  
2 682 and the Defence submitted a written response to the Prosecution's request and  
3 that can be found in filing numbered 687.

4 The annex to P-2519's preparation log contains a number of corrections and  
5 clarifications to his prior recorded testimony, whose introduction via Rule 68(3) the  
6 Chamber already granted. The annex also contains additional information in that  
7 the witness was asked to comment on a number of photographs and documents  
8 shown to him during the witness preparation session. The Prosecution submits that  
9 the annex bears sufficient indicia of reliability, it is relevant and probative and that its  
10 introduction will expedite the proceedings.

11 In its response to the Prosecution's request, the Defence objects to the introduction of  
12 the annex pursuant to Rule 68(3) of the Rules of Procedure and Evidence. The  
13 Defence submits that the existence of corrections and additions casts doubt on the  
14 reliability of the prior recorded testimony and submits that the only way of  
15 proceeding is to discuss these with the witness in the hearing. In this regard, the  
16 Defence notes that there is no control over the manner in which the annex is prepared  
17 and there is no verbatim transcript, so there is no way one would know what  
18 questions were asked and the manner in which such questions were asked.

19 Furthermore, the Defence notes that the use of Rule 68(3) reduces the level of judicial  
20 control over the process and that it is for the Prosecution to clarify contradictions  
21 between a previous statement and the preparation log so that the Defence can  
22 respond in full knowledge of the facts presented. In this regard, the Defence notes  
23 that the Chamber has been -- has given supplementary directions on the conduct of  
24 witness preparation and that the calling party should not explore new topics with the  
25 witness or present new evidence and, rather, this should be done in the courtroom.

1 The Defence notes that it does not object to the submission of P-2519's prior recorded  
2 testimony but considers that it should be tested in Court.

3 Last, the Defence avers that the fact that the witness will be available for  
4 cross-examination cannot be used to justify the introduction of the annex because it  
5 will transform Rule 68(3) into the automatic introduction of all witness preparation  
6 logs, which is not the intention of the drafters of the Rule 68(3).

7 At the outset, the Chamber notes that the on 29 January 2024 it gave a direction in  
8 respect of witness preparation whereby it encouraged the calling party, if it wished to  
9 show a witness new exhibits to a witness, then it should do so in the courtroom. The  
10 Chamber observes from the annex to the preparation log that P-2519 appears to have  
11 completed witness preparation on 25 January 2024, which was before the suggestion  
12 in the directions -- in the directions.

13 In respect of the log itself, the Chamber notes that the corrections and clarifications  
14 are limited, and not so significant that the Prosecution should examine the witness on  
15 these matters in court. Furthermore, the Chamber notes that the Defence will be  
16 afforded reasonable time to raise relevant issues during the questioning of witness  
17 P-2519. The Chamber authorises the introduction of the annex to P-2519's witness  
18 preparation log under Rule 68(3) of the Rules.

19 Turning to the Prosecution's request to add certain pages of CAR-OTP-00025568 to its  
20 list of evidence. The Chamber notes that CAR-OTP-00025568 is P-2519's victim  
21 participation application form and appears to have come into the Prosecution's  
22 possession in December 2023 and was disclosed to the Defence on 26 January 2024.  
23 The Chamber notes that the Defence does not object to the addition of the requested  
24 pages. Accordingly, the Chamber grants the Prosecution's request and, in line with  
25 previous directions, orders the entirety of CAR-OTP-00025568 to be added to the list

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1 of evidence. The Prosecution is ordered to file an updated list of evidence in line  
2 with the present decision as soon as possible.

3 Now, this concludes the Chamber's oral decision.

4 The Chamber also notes that the Common Legal Representatives of Victims made  
5 a request to examine this witness for 30 minutes in relation to the following topics:

6 The conditions of detention at the OCRB, and the mistreatment and/or torture of  
7 detainees; the harm he allegedly suffered as a result of the events falling within the  
8 scope of the witness's expected testimony; and reparations. The parties did not  
9 object to the common legal representatives request. The Chamber agrees that the  
10 last two topics relate to P-2519's interests and, accordingly, authorises the common  
11 legal representatives to question the witness for no more than 30 minutes.

12 Now, before commencing, the Chamber notes briefly that protective measures are  
13 confirmed for this witness by virtue of decision numbered 605 and that the VWU  
14 recommends no special measures.

15 I will ask the Court Officer to kindly connect the witness to us.

16 (The witness enters the video-link room)

17 THE COURT OFFICER: [9:44:23] Madam President, I'm informed that the witness  
18 can now hear us.

19 PRESIDING JUDGE SAMBA: [9:44:31] Good morning, Mr Witness.

20 WITNESS: CAR-OTP-P-2519

21 (The witness speaks Sango)

22 (The witness gives evidence via video link)

23 THE WITNESS: [9:44:40](Interpretation) Good morning.

24 PRESIDING JUDGE SAMBA: [9:44:43] Can you see me?

25 THE WITNESS: [9:44:51](Interpretation) Yes, I can see you.

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1 PRESIDING JUDGE SAMBA: [9:44:55] You're going to testify before the  
2 International Criminal Court, so on behalf of the Chamber, I welcome you into the  
3 courtroom.  
4 THE WITNESS: [9:45:15](Interpretation) Thank you.  
5 PRESIDING JUDGE SAMBA: [9:45:17] Now, Mr Witness, you should have in front  
6 of you the solemn undertaking to tell the truth that every witness who testifies before  
7 this Court is expected to agree to. I'm going to read it out to you now and I want  
8 you to listen:  
9 I solemnly declare that I will speak the truth, the whole truth and nothing but the  
10 truth.  
11 Mr Witness, do you understand and agree to what I have just read out to you?  
12 THE WITNESS: [9:46:11](Interpretation) Yes, I do understand.  
13 PRESIDING JUDGE SAMBA: [9:46:17] And do you agree to tell the truth?  
14 THE WITNESS: [9:46:23](Interpretation) Yes, I am in agreement.  
15 PRESIDING JUDGE SAMBA: [9:46:32] Thank you very much, Mr Witness.  
16 So we will continue. Let me now explain to you the protective measures that we  
17 have in place for you for the duration of your testimony.  
18 We have voice and face distortion in place for you for the duration of your testimony.  
19 This means that no one outside the courtroom can see your face or hear your real  
20 voice during your testimony.  
21 There will also be the use of pseudonym and, in accordance with that, we shall all  
22 refer to you only as "Mr Witness" to make sure that the public does not understand or  
23 know your name. When you answer questions that will not give away who you are,  
24 we will do so in open court or during open session, which means that the public can  
25 hear what is being said in the courtroom.

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1 When you are asked questions to describe anything that relates specifically to you or  
2 you are asked to mention facts that might reveal your identity, we will do so in  
3 private session.

4 I have a few practical matters you should have in mind when giving your testimony,  
5 Mr Witness.

6 Everything we say here is written down and interpreted. It is, therefore, important  
7 to speak slowly and clearly. Please speak into the microphone and only start  
8 speaking when the person asking you the question has finished. To allow for the  
9 interpretation, everyone has to wait a few seconds before starting to speak.

10 Now, if you have any question yourself or if you need, for example, a break, if you  
11 want to say anything to us, raise your hand so that we will know that you wish to say  
12 something.

13 Furthermore, we hope that there are no issues with the video link. However, if there  
14 are any issues with the technology, we shall try our best to make -- to ensure that it is  
15 sorted out as quickly as possible.

16 Now, have you understood me well, Mr Witness?

17 THE WITNESS: [9:50:17](Interpretation) Yes, I have understood.

18 PRESIDING JUDGE SAMBA: [9:50:22] Thank you very much.

19 We will now start with your testimony. The Prosecution will put questions to you  
20 and you will answer.

21 Madam Prosecutor, your witness, please.

22 MR CHOUDHRY: [9:50:44] Madam President, your Honours, thank you.

23 PRESIDING JUDGE SAMBA: [9:50:47] Well, I expected lead counsel, that's why I  
24 said "Madam Prosecutor".

25 MR CHOUDHRY: [9:50:53] Your Honours, just for the purpose of the bench and for

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1 the purpose of the witness, my named is Kamran Choudhry, and I will be questioning  
2 this witness on behalf of the Office of the Prosecutor.

3 PRESIDING JUDGE SAMBA: [9:51:05] Thank you very much.

4 Carry on, please.

5 QUESTIONED BY MR CHOUDHRY:

6 Q. [9:51:09] Good morning, Mr Witness.

7 A. [9:51:17] Good morning.

8 Q. [9:51:20] I will be asking you questions on two areas this morning. The first  
9 area is in relation to your identity and we will be doing it in private session, which, as  
10 Her Honour pointed out, will be done in a manner where nobody outside the  
11 courtroom can hear what is being said.

12 PRESIDING JUDGE SAMBA: [9:51:57] Madam Court Officer, can we go into private  
13 session, please. Thank you.

14 (Private session at 9.52 a.m.)

15 THE COURT OFFICER: [9:52:06] We are in private session, Madam President.

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)



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1 (Redacted)

2 (Redacted)

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23 (Redacted)

24 (Open session at 9.56 a.m.)

25 THE COURT OFFICER: [9:56:47] We are back to open session, your Honours.

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1 PRESIDING JUDGE SAMBA: [9:56:53] Thank you.

2 Mr Choudhry, can you continue your examination-in-chief, please.

3 MR CHOUDHRY: [9:57:00] Thank you.

4 Q. [9:57:00] Now, Mr Witness, we are now back in public session and that means  
5 that what you say can be heard by members of the public; so I would ask you to  
6 please be mindful of not saying anything that can identify yourself. Okay?

7 A. [9:57:21] Very well.

8 Q. [9:57:23] Now my second area of questioning for you relates to your witness  
9 statement.

10 Do you recall being interviewed by investigators of the Office of the Prosecutor?

11 A. [9:57:50] Yes, I do remember.

12 Q. [9:57:57] And after that interview, did the investigators take a statement from  
13 you?

14 A. [9:58:04] The police took my statement. It was at the tribunal or the court that I  
15 came to know the reason for my arrest, but I was not in agreement with the motive  
16 behind or the reason behind my arrest.

17 Q. [9:58:35] Mr Witness, I'd like you to just focus on your interaction with the  
18 Office of the Prosecutor for the International Criminal Court, okay?

19 Now my question for you is, did you provide a statement to the Office of the  
20 Prosecutor at the ICC?

21 A. [9:59:02] Yes, I did provide a statement to the investigators of the Office of the  
22 Prosecutor.

23 Q. [9:59:22] Do you recall if you signed that statement?

24 A. [9:59:39] Yes, I did sign it.

25 Q. [9:59:45] Before signing that statement, did you have the opportunity to either

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1 have that statement read back to you in a language that you understand or to read  
2 that statement yourself?

3 A. [10:00:03] This statement was read back to me and then I signed it.

4 MR CHOUDHRY: [10:00:20] And with that, if I could just ask the court officer,  
5 please, to please display for the witness tab 1 on the Prosecution's list of material,  
6 that's CAR-OTP-2127-9471.

7 And, your Honours, this document is classified as confidential, so I would ask that it  
8 be shown to the witness and the Court but not to members of the public.

9 Q. [10:01:00] Mr Witness, you should have a document now in front of you on your  
10 screen. Can you please let me know if you see that document?

11 A. [10:01:12] Yes, I can see it.

12 MR CHOUDHRY: [10:01:21] And if I could please ask the court officer to turn to the  
13 second page of this document, that is CAR-OTP-2127-9472 and just zoom in  
14 to -- thank you very much.

15 Q. [10:01:40] Mr Witness, there are some names and signatures at the top which  
16 you should be able to see. My question for you is, do you recognise any of the  
17 names and/or signatures, please?

18 A. [10:02:04] Yes. That's what I see here, I can see my signature and I see my  
19 name.

20 MR CHOUDHRY: [10:02:14] Could I ask the court officer to please display page 17  
21 of that document, and that's at CAR-OTP-2127-9487. And if we could again zoom  
22 into the bottom.

23 Q. [10:02:40] Similarly, Mr Witness, there is a signature on this page. Do you  
24 recognise that signature, please?

25 A. [10:02:52] Yes, I do recognise it. It's at the top. It's my signature.

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1 Q. [10:03:01] Thank you.

2 And if I could ask the court officer to remove that document.

3 Mr Witness, before coming to court to testify today, did you have an opportunity to  
4 reread your witness statement in a preparatory session with the Office of the  
5 Prosecutor?

6 A. [10:03:39] From the side of -- from the Prosecutor's side? I haven't understood  
7 your question.

8 Q. [10:03:51] Have you had an opportunity to recently have your statement read  
9 back to you?

10 A. [10:04:08] Yes, that's right. I'm listening.

11 Q. [10:04:15] On that occasion, did you also have the opportunity to make  
12 clarifications and/or corrections to your witness statement?

13 A. [10:04:36] That's right.

14 Q. [10:04:40] Do you recall if you signed a document containing any clarifications  
15 and/or corrections that you made?

16 A. [10:05:03] Yes. I did sign such a document.

17 MR CHOUDHRY: [10:05:08] And if I could kindly ask the court officer to please  
18 display for the witness tab 17 on the Prosecution's list of material.

19 This again, your Honours, is a document that's classified as confidential and so  
20 should be shown to the witness and the Court only.

21 The ERN for that document is CAR-OTP-00025636. And if I could ask the court  
22 officer to specifically display page 4 of that document, it's the final page, and zoom in  
23 on the signature.

24 Q. [10:05:43] Mr Witness, there is, again, a signature on this page. Do you  
25 recognise that signature, please?

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1 A. [10:06:03] Yes, I do recognise it, it's my signature.

2 Q. [10:06:08] Thank you.

3 Mr Witness, in this case, do you agree that the judges can use your witness statement  
4 and annexes to decide this case?

5 A. [10:06:38] Yes, I agree.

6 MR CHOUDHRY: [10:06:46] Madam President, your Honours, with that, the  
7 Prosecution submits that the witness has now completed -- for the purpose of  
8 Rule 68(3), satisfied the criteria. And with that, the Prosecution requests that his  
9 witness statement together with the annex be submitted in accordance with  
10 your Honours' prior ruling on the matter.

11 PRESIDING JUDGE SAMBA: [10:07:09] Thank you very much. And the witness  
12 being present in court and him not having objected to the submission of his statement,  
13 the parties and the Chamber, having an opportunity to put questions to him, it is  
14 our ruling that you have complied with the Rule 68(3) decision -- I mean 68(3)  
15 provisions of the Rules of Procedure and Evidence.

16 So carry on if you have further questions for this witness.

17 MR CHOUDHRY: [10:07:39] Thank you, your Honour.

18 Mr Witness, that completes my questioning, I have no further questions but the Court  
19 and other parties may. Thank you very much. Thank you, your Honour.

20 PRESIDING JUDGE SAMBA: [10:07:48] Thank you very much, Mr Choudhry.  
21 Ms Pellet, you asked for 30 minutes, the witness is yours.

22 MS PELLET: [10:08:03](Interpretation) If I could just have a moment to set up.  
23 Thank you, your Honour.

24 \* I therefore maintain my request of 25 January, but in order to comply with your  
25 decision on the conduct of proceedings and since my colleague has just satisfied the

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1 requirements of rule 68(3), and in accordance with your decision of this morning, I  
2 will limit myself to questions relating to the harm suffered by the witness during the  
3 events of 2013 and to the impact of the events described by the witness on his life and  
4 that of his family.

5 QUESTIONED BY MS PELLET: (Interpretation)

6 Q. [10:09:11] Good morning, Mr Witness. We know one another, \* but I would  
7 like to make it quite clear for the record that I am your legal representative as \*you  
8 were authorized to take part in the proceedings as a victim on November 8, 2023 on  
9 the basis of a form that we filled out together on March 23.

10 MR JACOBS: [10:09:39](Interpretation) Your Honour, we object to the question. If  
11 the LRV wants to put questions, yes, that's very well, but this is not really the  
12 appropriate place to give the dates on which -- that she met with the witness and all  
13 of that. But, really, it's not -- this is not the setting to make such statements.

14 PRESIDING JUDGE SAMBA: [10:10:09] Ms Pellet, please, any response?

15 MS PELLET: [10:10:14](Interpretation) Your Honour, I will respond in the same way  
16 as the last three times. I am merely setting out the relationship between me and my  
17 client, this witness. The information is public. \* The information is public as it can  
18 be found in public filing ICC-01/14-01/21-518-Red, and I have nothing more to add  
19 than the last three times.

20 PRESIDING JUDGE SAMBA: [10:11:00] So, Mr Jacobs, in her questioning -- well, she  
21 hasn't even put a question, I think she was only trying to make an introduction  
22 between herself and the witness. I have read the transcript. I have not seen her  
23 reference to any dates -- at least, the English transcript. She just started introducing,  
24 and that's been the procedure since we started this trial.

25 MR JACOBS: [10:11:33](Interpretation) The LR said that this was on the basis of

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1 a form that "we filled out together on 23 March." I don't know whether that quite  
2 came out in the English version of the transcript, but if the LRV wishes to ask the  
3 witness if he remembers when they met, that's all -- that's just fine, but -- but to state  
4 that in a -- a meeting occurred on a particular date, in actual fact she is testifying on  
5 his behalf, which is not suiting -- suitable.

6 PRESIDING JUDGE SAMBA: [10:12:18] There is no date in the English version of  
7 the transcript. I haven't seen any date.

8 So I'm going to ask Ms Pellet to continue putting questions to this witness and be  
9 mindful of not leading the witness, please. Thank you.

10 \* MS PELLET: [10:12:37](Interpretation) The date, which has not been transcribed, is  
11 also public.

12 Q. [10:12:51] Now, good morning, Mr Witness.

13 A. [10:12:53] Good morning.

14 Q. [10:12:57] I would like to put a number of questions to you about the various  
15 events that led to your victimization. Do you think back to these events, Mr Witness,  
16 the events of 2013?

17 A. [10:13:18] Of course I think back to that.

18 Q. [10:13:30] And what do you feel when you think back to those events,  
19 Mr Witness?

20 A. [10:13:37] Because of everything I was subjected to, I can't forget anything. I  
21 can't forget any of that.

22 Q. [10:13:57] Did you receive any psychological assistance ever since your release  
23 from the OCRB?

24 A. [10:14:12] I felt pain.

25 Q. [10:14:24] Thank you, Mr Witness.

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1 I'll be returning to the medical repercussions of what happened to you, but my  
2 question was this: Were you able to speak to a psychologist about what had  
3 happened when you were detained at the OCRB -- after you were released from that  
4 place?

5 A. [10:14:56] I just went to the hospital. It wasn't a good time for medical  
6 consultations and then after that, I did get some care at home.

7 Q. [10:15:14] Thank you, Mr Witness. That was my next question. I wanted to  
8 know, subsequent to the torture that you described in your witness statement to the  
9 OTP, did you receive any care, and I've understood from your previous response that  
10 you did not receive any care at the hospital but, rather, you got some care at home; is  
11 that correct?

12 A. [10:15:42] Well, first, I went to the hospital. I did receive some care then and  
13 then after that, I went back home and I continued with traditional treatment.

14 Q. [10:16:04] Thank you for that additional information, Mr Witness.  
15 Do you still suffer today from the consequences of the torture you were subjected to  
16 and the conditions of detention when you were held at the OCRB?

17 A. [10:16:22] My suffering could have led me to death. \* My family members  
18 thought I was going to die and it was only thanks to the grace of God that I am still  
19 alive today.

20 Q. [10:16:41] Thank you, Mr Witness. And today, are you still suffering?

21 A. [10:16:53] Of course. I still suffer from the trauma that I experienced. I  
22 haven't been able to go back to my usual work.

23 MS PELLET: [10:17:13](Interpretation) Your Honour, for my next question, I was  
24 wondering if we could go into private session.

25 PRESIDING JUDGE SAMBA: [10:17:21] Madam Court Officer, can we briefly go



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1 into private session, please.

2 (Private session at 10.17 a.m.)

3 THE COURT OFFICER: [10:17:35] We are in private session, Madam President.

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
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- 18 (Open session at 10.22 a.m.)
- 19 THE COURT OFFICER: [10:22:02] We are back to open session, your Honours.
- 20 PRESIDING JUDGE SAMBA: [10:22:06] Thank you very much.
- 21 Ms Pellet, continue, please.
- 22 MS PELLET: [10:22:12](Interpretation) Thank you, your Honour.
- 23 Q. [10:22:15] Mr Witness - and this will be my last question - what do you expect
- 24 from this trial, this trial against Mr Said?
- 25 A. [10:22:27] I haven't understood your question.

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(Open Session)

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1 Q. [10:22:33] I'll repeat it, Mr Witness. What do you expect from the proceedings  
2 that are under way before the Court in connection with Mr Said?

3 \* A. [10:22:50] I see that justice has helped me greatly. For the moment, I'm at the  
4 disposal of the justice system. In fact, that's why I decided to make myself available to  
5 answer the court's questions. And I would like to see justice continue its work.

6 MS PELLET: [10:23:26](Interpretation) Your Honour, this concludes my examination  
7 of the witness. Thank you.

8 PRESIDING JUDGE SAMBA: [10:23:29] Thank you very much, Ms Pellet.

9 Now, Mr Witness, questions are going to be put to you by counsel for Mr Said. We  
10 expect answers from you, and please cooperate much the same way that you have  
11 cooperated with the Prosecution and your legal representative.

12 Thank you very much.

13 Ms Naouri, your witness, please.

14 MS NAOURI: [10:24:01](Interpretation) Cross-examination will be conducted by  
15 Mr Jacobs.

16 PRESIDING JUDGE SAMBA: [10:24:07] Thank you very much. Mr Jacobs, your  
17 witness, then, please.

18 QUESTIONED BY MR JACOBS: (Interpretation)

19 Q. [10:24:35] Good morning, Mr Witness.

20 A. [10:24:40] Good morning.

21 Q. [10:24:43] My name is Dov Jacobs, and today I will be asking you some  
22 questions on behalf of Mr Said's Defence team.

23 As the Presiding Judge has explained, we are being interpreted into several languages  
24 and everything that we say is being transcribed as well, so I will try to pause  
25 after -- before putting a question to you and if you could pause before giving an

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1 answer, that way we will understand one another. Agreed?

2 A. [10:25:19] I understand.

3 Q. [10:25:22] Now, your witness statement is on the record of the case, so I would  
4 like to clear up a few points and ask you for some clarification. So the idea is that  
5 you will give me some very specific answers so that we can make progress ahead.

6 All right?

7 A. [10:25:44] All right.

8 Q. [10:25:47] Great.

9 MR JACOBS: [10:25:51](Interpretation) Your Honour, for my first questions, I think  
10 we should go into private session.

11 PRESIDING JUDGE SAMBA: [10:25:58] Thank you.

12 Madam Court Officer, can you get us into private session, please.

13 (Private session at 10.26 a.m.)

14 THE COURT OFFICER: [10:26:08] We are in private session, Madam President.

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- 23 (Recess taken at 11.01 a.m.)
- 24 (Upon resuming in open session at 11.46 a.m.)
- 25 THE COURT USHER: [11:46:55] All rise.

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(Private Session)

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- 1 Please be seated.
- 2 PRESIDING JUDGE SAMBA: [11:47:27] Good morning again, everybody.
- 3 Just for us to know we are in open session, Mr Jacobs. You can continue with your
- 4 cross-examination.
- 5 MR JACOBS: [11:47:44](Interpretation) Thank you, your Honour.
- 6 Q. [11:47:49] Good morning once again, Mr Witness.
- 7 A. [11:48:07] Good morning.
- 8 MR JACOBS: [11:48:10](Interpretation) Your Honour, I think we'll have to go back
- 9 into private session for the next few questions.
- 10 PRESIDING JUDGE SAMBA: [11:48:19] Yes. We go back into private session.
- 11 And I just thought about your promise, Mr Jacobs, as to timing.
- 12 So, Madam Court Officer, can you get us back into private session.
- 13 MR JACOBS: [11:48:43](Interpretation) Thank you, Madam President.
- 14 (Private session at 11.48 a.m.)
- 15 THE COURT OFFICER: [11:48:56] And we are in private session, Madam President.
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- 14 (Open session at 12.08 p.m.)
- 15 THE COURT OFFICER: [12:08:44] We're in open session, your Honours.
- 16 PRESIDING JUDGE SAMBA: [12:08:48] Thank you very much.
- 17 Mr Jacobs, you may continue, please.
- 18 MR JACOBS: [12:08:54](Interpretation) Thank you.
- 19 Q. [12:09:00] Mr Witness, do you remember the first time that the OTP
- 20 investigators contacted you?
- 21 A. [12:09:19] I beg your pardon?
- 22 Q. [12:09:24] I'll put the question again, Mr Witness.
- 23 Now, the OTP investigators from the ICC, the ones who asked you some questions
- 24 this morning, when did they contact you for the first time; do you remember?
- 25 A. [12:09:56] I was in the field even then. I don't remember all the dates. Those

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1 events are very secret and they have to do with my security, so I didn't really -- I  
2 haven't really kept the -- the dates in my mind. I don't really remember.

3 Q. [12:10:19] Very well. If I put it to you in May of 2019, does that ring a bell?

4 A. [12:10:39] Well, I don't remember the specific date.

5 Q. [12:10:54] Very well. Do you remember that this initial contact was over  
6 the telephone?

7 A. [12:11:11] Yes. I did receive a call and the schedule of meetings was set, weekly  
8 meetings. But the specific dates on which we met to have these discussions, I don't  
9 remember those specific dates.

10 Q. [12:11:43] Very well. Duly noted, this matter of weekly schedules. I'm asking  
11 about the first time, the very first time you received a phone call. Now, did the OTP  
12 investigators tell you what they wanted you to talk to them about?

13 A. [12:12:14] When they contacted me over the phone, they introduced themselves.  
14 They said they were lawyers and they explained that they wanted to understand  
15 the events that I was familiar with to see how they could help me, and so I -- I  
16 answered the questions.

17 Q. [12:12:52] Very well. And during this first phone call, this first conversation  
18 over the phone, did the investigators tell you how they managed to get your  
19 telephone number?

20 A. [12:13:14] It was through my brother-in-law, the one who had worked hard to  
21 bring about my release. He was the one who gave -- he had my number, and he  
22 explained everything that had happened to them. He explained to them everything  
23 that had happened.

24 Q. [12:13:41] Thank you, Mr Witness.

25 After this phone call, do you remember meeting OTP investigators in June of 2019;

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1 does that refresh your memory?

2 A. [12:14:10] Yes. I knew that after the first meeting they would call and they  
3 would ask me how I was, how my health was, et cetera. And they told me that  
4 when I got a phone call from ICC staff members, I shouldn't be afraid and I should  
5 answer the calls. That is how we worked together, up until now.

6 Q. [12:14:58] Very well. Now, you said that the OTP called you often to ask you  
7 about your health. Has the OTP covered any costs you might have had related to  
8 your health?

9 A. [12:15:35] During the proceedings, given that they wanted to help me in terms  
10 of my health, I didn't -- I didn't call them and ask for anything.

11 Q. [12:16:08] I'm going to wait for the transcript to see that I -- make sure that I  
12 understood correctly.

13 So you said, well, "they wanted to help me in terms of my health". What do you  
14 mean by that, Mr Witness?

15 A. [12:16:36] When they called me, I got closer to them. Well, in view of what I  
16 had suffered and endured, they offered me that -- the opportunity that if there was  
17 anything that happened, if my health was a cause for concern, they provided me with  
18 a number and there would then be a clinic that I could go to. And that's how they  
19 helped me, yes.

20 Q. [12:17:22] Very well, Mr Witness.

21 Now, between the time when you first met with the Office of the Prosecutor in  
22 June 2019 - yes, that's right, in June 2019 - and your statement in June 2021, there is  
23 a duration of two years, or a time of two years. I wanted to know whether you met  
24 with any of the OTP during that period of time?

25 A. [12:18:02] Well, I can't really remember the months very well, but they did give

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1 me a number to call for my safety. But I can't remember everything, you know.

2 I didn't keep hold of the documents. And as to the days that we met or

3 the telephone -- the days when we talked over the telephone about my health, well ...

4 Q. [12:18:30] And with regard to your telephone exchanges with the Office of the  
5 Prosecutor, did they give you a telephone to enable you to get in contact with them?

6 A. [12:18:48] No, they didn't give me a telephone. I used my own telephone, and  
7 the number that they gave me -- well, they would call me to ask me how I was  
8 health-wise, but I was not the one who called them.

9 Q. [12:19:36] Thank you, Mr Witness.

10 At the time when you made or provided your statement to the OTP in 2021, did they  
11 explain to you what you needed to do in order to become a victim and participate in  
12 the proceedings?

13 A. [12:20:04] Yes, they did explain to me how I should go about making sure that  
14 I was safe, that I should not say anything about my statement, but they did not take  
15 care of my health. I -- well, we did have telephone discussions and I didn't talk to  
16 anybody about what we discussed.

17 Q. [12:20:49] Very well, that's very clear. But my question is more with regard to  
18 your participation today as a witness, but also as a victim.

19 So we have a document at tab 23 on our list of evidence, and it's CAR-OTP-0002-5625.

20 We do not need to bring it up for the witness because it's in the English language, but  
21 according to this document it is indicated that on 24 February 2022 an investigator  
22 contacted you in order to keep you up to speed on the OPCV -- your OPCV status.

23 And you said that you were fine that your contact details be -- for the OPCV, Office of  
24 Public Counsel for Victims, that you were fine with your details being shared with  
25 them?

1 A. [12:21:59] That's what I was saying to you, it was my brother-in-law who gave  
2 that number and he would call me on that number. But I didn't give my number, it  
3 was my brother-in-law who gave me the number in the conditions that I described  
4 and we were able to talk to each other.

5 MR JACOBS: [12:22:38](Interpretation) So, Madam President, there is a follow-up  
6 question, I believe it would be more prudent to move into private session, please.

7 PRESIDING JUDGE SAMBA: [12:22:45] Madam Court Officer, can we go into  
8 private session, please.

9 (Private session at 12.22 p.m.)

10 THE COURT OFFICER: [12:23:00] We're in private session, Madam President.

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23 (Open session at 12.41 p.m.)

24 THE COURT OFFICER: [12:41:21] We are back to open session, Madam President,

25 your Honours.

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- 1 PRESIDING JUDGE SAMBA: [12:41:24] Thank you very much.
- 2 I will take the opportunity again to thank the witness and wish you well in your
- 3 future endeavours on behalf of the Chamber.
- 4 (The witness is excused)
- 5 PRESIDING JUDGE SAMBA: [12:41:31] It's our understanding that on Thursday we
- 6 expect the 21st witness for the Prosecution.
- 7 MS MAKWAIA: [12:41:43] Madam President, it will be Thursday or Friday. I'm
- 8 still waiting for confirmation on this. I shall advise the Chamber and the parties
- 9 accordingly, hopefully by the end of today. Thank you.
- 10 PRESIDING JUDGE SAMBA: [12:41:59] Okay. Then we'll still remain hopeful so
- 11 that, you know, we can go on with this matter, whatever the issues are or whatever
- 12 the reasons are that you are not too sure whether or not you will come on Thursday.
- 13 I will ask that you -- you know, the Prosecution cooperates with the Defence, or you
- 14 liaise with the Defence, as well as the supporting units, VWU, so that we are able to,
- 15 you know, hear this matter as quickly as we possibly can.
- 16 MS MAKWAIA: [12:42:28] I shall do so, Madam President.
- 17 PRESIDING JUDGE SAMBA: [12:42:30] Thank you very much.
- 18 So I'm going to adjourn this matter and ask that -- we hope we come back on
- 19 Thursday, as the Prosecutor may advise.
- 20 Thank you very much.
- 21 THE COURT USHER: [12:42:43] All rise.
- 22 (The hearing ends in open session at 12.42 p.m.)