

Trial Hearing  
WITNESS: CAR-OTP-P-2843

(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 Ngaiissona - 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 Friday, 5 November 2021  
10 (The hearing starts in open session at 9.36 a.m.)  
11 THE COURT USHER: [9:36:09] All rise.  
12 The International Criminal Court is now in session.  
13 Please be seated.  
14 PRESIDING JUDGE SCHMITT: [9:36:34] Good morning, everyone.  
15 Could the court officer please call the case.  
16 THE COURT OFFICER: [9:36:39] Good morning, Mr President, your Honours.  
17 The situation in the Central African Republic II, in the case The Prosecutor versus  
18 Patrice-Edouard Ngaiissona and Yekatom, case reference ICC-01/14-01/18.  
19 And we are in open session.  
20 PRESIDING JUDGE SCHMITT: [9:36:54] Thank you.  
21 The appearance of the parties.  
22 Mr Vanderpuye.  
23 MR VANDERPUYE: [9:36:59] Good morning, Mr President, your Honours. Good  
24 morning, everyone. Today the Prosecution is represented by Manochitra Prathaban,  
25 Yassin Mostfa and myself Kweku Vanderpuye.

1 PRESIDING JUDGE SCHMITT: [9:37:10] Yes.

2 Mr Suprun.

3 MR SUPRUN: [9:37:11] Good morning, Mr President, your Honours. The former  
4 child soldiers are represented by myself, Dmytro Suprun, counsel at the Office of  
5 Public Counsel for Victims. Thank you.

6 PRESIDING JUDGE SCHMITT: [9:37:21] Thank you.

7 MR DANGABO MOUSSA: [9:37:22](Interpretation) Good morning, Mr President.  
8 Good morning, everyone. I'm representing the LRV team and I am accompanied  
9 with -- by Asso Mouhia, Anne Grabowski and myself Abdou Dangabo Moussa.

10 PRESIDING JUDGE SCHMITT: [9:37:40] Thank you.

11 For the Defence, Ms Dimitri.

12 MS DIMITRI: [09:37:44] Good morning, Mr President. Good morning, your  
13 Honours. Good morning, everyone. Mr Yekatom, who is present in the courtroom  
14 this morning, is represented by our new legal interim Victor-Louis Lapointe  
15 Saint-Pierre, Dr Lena Casiez and myself, Mylène Dimitri.

16 And for the record, Mr President, Mr Jean-Michel Kola might join us after the break.

17 PRESIDING JUDGE SCHMITT: [9:38:04] Okay. Thank you. Mr Knoops.

18 MR KNOOPS: [9:38:06] Good morning, Mr President, your Honours. Good  
19 morning, everyone in the courtroom. The Defence team of Mr Ngaïssona comprises  
20 today, except for myself, Ms Sara Pedroso, Despoina Eleftheriou and Eva Kalb.  
21 Thank you.

22 PRESIDING JUDGE SCHMITT: [9:38:19] Thank you.

23 We will have, first, to issue an oral ruling. The Chamber will address the pending  
24 of -- the pending Prosecution's requests, notably its request to add four items to its list  
25 of materials for its questioning of P-2843 and its request to add these four items to its

1 list of evidence. So these are two different things.

2 It has further taken note of the objections to the requests submitted by the participants  
3 in writing. I don't have to specify that in detail. And these were objections by  
4 the Ngaïssona defence and Yekatom defence.

5 The Chamber has deliberated on the matter. The Chamber is very concerned about  
6 the fact that this is not the first time that the Prosecution seeks an addition to the list  
7 of materials for a witness examination concerning items not on the Prosecution's list  
8 of evidence.

9 In this regard, the Chamber reiterates its previous instruction to the Prosecution to, I  
10 quote, "thoroughly review its list of evidence for completeness and to request such  
11 additions only on an exceptional basis". This was an email decision by the Chamber  
12 on 29 September 2021.

13 The Chamber will not tolerate that the Prosecution ignores this procedural step,  
14 which is essential to safeguard the procedural rights of the Defence.

15 The Chamber expects the Prosecution to do better in this regard in the future.

16 Turning now to the request to add the items to its list of evidence, the Chamber at the  
17 outset recalls the applicable law as set out in its decision 989, paras 5 to 6.

18 The Chamber notes the nature and amount of relevant material concerned and  
19 considers that the items seem to bear prospective significance to the proceedings.

20 Further, while the Chamber notes the Defence's objections to the request, it notes that  
21 items CAR-OTP-210 -- excuse me, 2130-3372, 2130-5493 and 2133-7314 were disclosed  
22 to the Defence at least three months ago.

23 In light of the above and considering that their addition to the Prosecution's list of  
24 evidence is in the interest of the Chamber's determination of the truth and that  
25 the Defence will not be unduly prejudiced by this addition, the Chamber grants

1 the Prosecution's request to add items. I'll repeat it because it's really in the detail  
2 here that you know what -- what you have to abide to, so to speak,  
3 CAR-OTP-2130-3372, 2130-5493 and 2133-7314 to the list of evidence.  
4 With regard to CAR-OTP-2130-1031, the Chamber notes that this item was disclosed  
5 to the Defence only on 4 November 2021. That is yesterday. Thus, and noting  
6 the limited prospective significance that this item seems to bear to the proceedings,  
7 the Chamber rejects the Prosecution's request to add this item to its list of evidence.  
8 Therefore, the Chamber will not address the Prosecution's request to add this item to  
9 the list of materials for its examination of P-2843.  
10 Turning now to the request of addition of these items, the remaining items, I have to  
11 say, to the Prosecution's list of materials for its examination of Witness P-2843,  
12 the Chamber notes the Defence's objections to the request.  
13 With regard to item CAR-OTP-2130-4 -- excuse me, 5493, the Chamber has balanced  
14 its prospective significance, specifically with regard to its use during P-2843's  
15 examination against the potential prejudice that could be caused to the Defence and  
16 considers that such prejudice outweighs any potential significance. Accordingly,  
17 the addition of these items to the Prosecution's list of materials for P-2843 examination  
18 is rejected.  
19 However, with respect to items CAR-OTP-2130-3372 and CAR-OTP-2133-7314,  
20 the Chamber considers that the prospective significance, specifically with regard to  
21 their use during P-2843's examination, outweighs any potential prejudice that could  
22 be caused to the Defence and thus authorises their addition to the Prosecution's list of  
23 materials for its examination of P-2843.  
24 This concludes the Chamber's ruling, which was quite technical, and I hope  
25 everybody got the numbers here.

1 We will now start with the testimony of the next witness.

2 Could -- court officer, could you kindly bring the witness into the courtroom.

3 (The witness enters the courtroom)

4 PRESIDING JUDGE SCHMITT: [9:44:34] Mr Witness, good morning. Can you  
5 hear and understand me well?

6 WITNESS: CAR-OTP-P-2843

7 (The witness speaks French)

8 THE WITNESS: [9:44:44](Interpretation) I can hear you five on five.

9 PRESIDING JUDGE SCHMITT: [9:44:47] Okay. That's promising.

10 On behalf of the Chamber, I would like to welcome you to the courtroom. You are  
11 called to testify this Chamber in the case of Mr Yekatom and Mr Ngaïssona. I also  
12 note the presence of Mr Hédi Aouini who has been appointed as legal adviser to you,  
13 pursuant to Rule 74 of the Rules of Procedure and Evidence. For the record, this is  
14 filing number 1157.

15 Mr Witness, whenever you think there is a need to confer with your legal adviser,  
16 please let us know.

17 You can raise your hand then. There might be questions put to you that might tend  
18 to incriminate you. In these cases you can answer the questions or you can refuse to  
19 answer them. And, of course, on a case-by-case basis the Chamber will have to  
20 determine if assurances have to be given or not. You can consult in these cases with  
21 your legal adviser for that purpose.

22 Do you understand that?

23 THE WITNESS: [9:46:02](Interpretation) Yes, I understand.

24 PRESIDING JUDGE SCHMITT: [9:46:06] You know that there are protective  
25 measures put in place for you. This has been explained to you. I just repeat it also

1 for the record here. We have face distortion, voice distortion and we use  
2 a pseudonym. Because of that, I'm addressing you as "Mr Witness" and not with  
3 your real name. That is to protect your identity.  
4 And also we might go into private session and, if need be, so all these measures shall  
5 ensure that your identity is not revealed to the public.

6 Mr Witness, there should be a card on the desk in front of you with the solemn  
7 undertaking to tell the truth. Could you please read out loud the content of this  
8 card?

9 THE WITNESS: [9:47:05](Interpretation) I solemnly declare that I shall speak  
10 the truth, the whole truth and nothing but the truth.

11 PRESIDING JUDGE SCHMITT: [9:47:13] Thank you.

12 As you have just sworn, you have to speak the truth. It is an offence within  
13 the jurisdiction of this Court to give false testimony. Before we start with  
14 the questioning, I would like to note a few practical matters.

15 Mr Witness, everything we say here in the courtroom is written down and interpreted.  
16 And to allow for the interpretation, for the interpreters to follow what you say or  
17 what any other person in this room says, we have to speak at a relatively slow pace  
18 and we -- please only - now concerning you - only speak when the person that has  
19 asked you a question has finished. Thank you very much.

20 I give the floor now to the Prosecution.

21 MR VANDERPUYE: [9:48:03] Thank you, Mr President.

22 QUESTIONED BY MR VANDERPUYE:

23 Q. [9:48:06] And good morning to you and your Honours, once again. Good  
24 morning, everyone.

25 And good morning to you, Mr Witness.

1 We met a few days ago. My name is Kweku Vanderpuye. I'm going to be asking  
2 you some questions on behalf of the Office of the Prosecutor.

3 As the Presiding Judge has said, you are testifying with protective measures so your  
4 identify is not going to be made public. But as we go we will cover certain areas of  
5 your testimony which might tend to identify you. I will do my best to avoid  
6 covering those areas in public and I hope you will be able to do the same.

7 But I do want to reassure you, because sometimes there is the error that occurs in the  
8 courtroom and information is led in a public way, but there is mechanism by which  
9 that can be expunged from the public record so that there is no trace of it ultimately.

10 If there's a question that I ask you which might tend to identify you, even if I'm not  
11 particularly aware of that, just let us know. Let me know and I can ask  
12 the Presiding Judge whether we might be able to proceed in private session so that  
13 your identity is not revealed.

14 And I have tried to organise and think about ways to lead your evidence in a way that  
15 can best protect against revealing your identity. It is a bit difficult because of the  
16 subject matter of what I expect to put to you, but I'll do my best to do that.

17 If there's anything that I ask you that's not clear also, please just let me know and I'll  
18 do my best to try to rephrase it or explain it in a way that you can better understand it  
19 and respond.

20 There may be questions also that not just me but the Chamber might ask you or  
21 the Defence counsel may ask you that might tend to incriminate you, as  
22 the Presiding Judge has just said. And obviously you have Mr Aouini here to assist  
23 you if that should happen and to advise you on whether to answer the question or  
24 whether to answer the question with particular assurances that the Chamber can  
25 provide in that respect.

1 And, of course, the Presiding Judge has just said - I'm probably the greatest  
2 offender - but we try to speak and respond -- I'll try to ask questions and your  
3 response in a way that does not overlap so that the interpreters can follow everything  
4 that we say and everything can be accurately recorded in the record of the  
5 proceedings.

6 Now, that was a really long list and I apologise for that, but did you understand what  
7 I have said so far?

8 A. [9:51:15] Yes, I hear you loud and clear.

9 MR VANDERPUYE: [9:51:19] Mr President, I'd like to go into private session please  
10 for some biographical information.

11 PRESIDING JUDGE SCHMITT: [9:51:27] Yes, private session.

12 (Private session at 9.51 a.m.)

13 THE COURT OFFICER: [9:51:36] We're in private session, Mr President.

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10 (Open session at 10.23 a.m.)

11 THE COURT OFFICER: [10:23:26] We are in open session, Mr President.

12 MR VANDERPUYE: [10:23:32]

13 Q. [10:23:32] Mr Witness, the Chamber has heard evidence of Mr Ngaïssona's

14 position in the Central African Football Federation, and I wonder if you could

15 describe for the Chamber what Mr Ngaïssona's appeal was in that position, for

16 example, to the youth, whether he was influential, whether he was, you know, well

17 known. Can you tell the Chamber how he was perceived in the position as

18 the president of the Central African Football Federation?

19 A. [10:24:23] Mr Ngaïssona, outside his professional activities, or business affairs,

20 he is involved in the football world. He started by being a player in the region, in

21 the clubs, and led the football team in Bangui and then the federation of CAF. So

22 he's someone who belongs in that environment.

23 Q. [10:24:58] And was he well regarded in that role, somebody that was respected?

24 A. [10:25:15] Yes, of course he was respected. He was very popular in this world.

25 Q. [10:25:23] He was popular among the youth because football is a very popular

1 sport in the Central African Republic, isn't it?

2 A. [10:25:39] Yes, he is popular in the -- amongst the youth in CAR. He's very  
3 popular in general. Very popular.

4 Q. [10:25:51] And do you know whether that popularity translated into political  
5 influence in the country?

6 A. [10:26:09] Firstly, he -- he was popular before he became involved in politics.  
7 Before that, he was very popular. Even his candidacy for the federation of the  
8 Central African federation was supported by the clubs and the players. So even  
9 before his political activities he was very popular.

10 Q. [10:26:43] Okay. Would you consider yourself someone who was close to  
11 Mr Ngaïssona?

12 A. [10:27:04] (Redacted).

13 MR VANDERPUYE: [10:27:12] All right.

14 Mr President, I'd like to go back into private session, if I could.

15 PRESIDING JUDGE SCHMITT: [10:27:27] Yeah. Private session.

16 (Private session at 10.27 a.m.)

17 THE COURT OFFICER: [10:27:37] We're in private session, your Honours.

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- 19 (Recess taken at 10.59 a.m.)
- 20 (Upon resuming in open session at 11.30 a.m.)
- 21 THE COURT USHER: [11:30:50] All rise.
- 22 Please be seated.
- 23 PRESIDING JUDGE SCHMITT: [11:31:18] Mr Vanderpuye, please continue with
- 24 your examination.
- 25 MR VANDERPUYE: [11:31:22] Thank you, Mr President.



- 1 We were -- we are in open session or we are in private session, still?
- 2 PRESIDING JUDGE SCHMITT: [11:31:30] I think we are in open session. Normally
- 3 we would be in open session, so I -- (Overlapping speakers)
- 4 MR VANDERPUYE: [11:31:37] (Overlapping speakers) It's okay.
- 5 PRESIDING JUDGE SCHMITT: [11:31:37] It's fine? Okay.
- 6 MR VANDERPUYE: [11:31:38] I think so.
- 7 PRESIDING JUDGE SCHMITT: Okay, good.
- 8 MR VANDERPUYE: I think so. Thank you, Mr President.
- 9 Q. [11:31:45] Good morning, Mr Witness.
- 10 I'm going to ask you some questions concerning contact you may have had with
- 11 Mr Ngaïssona, but to the extent that it may identify you, if you feel that might be
- 12 the case, just let me know and then we can try to go into private session.
- 13 But in respect of the email we just looked at from June 2013, did you at that time or
- 14 around that time have an opportunity to visit with Mr Ngaïssona while he was in
- 15 Cameroon?
- 16 A. [11:32:26] No, we didn't see each other.
- 17 Q. [11:32:35] Did you visit with him from between June and, say, September of
- 18 2013 in Cameroon?
- 19 A. [11:32:48] I never paid him a visit.
- 20 Q. [11:33:00] All right. And did you go to Cameroon yourself at all in that period,
- 21 between the time of the coup up until September 2013? Whether you visited
- 22 Mr Ngaïssona or not, did you actually go to Cameroon at all?
- 23 A. [11:33:19] During that period, I didn't go to Cameroon.
- 24 Q. [11:33:28] All right. I'd like to ask you about a certain number of individuals to
- 25 see if you know them. And if you do, just indicate that, but not how, not

1 the circumstances.

2 The first person I would like to ask you about is someone by the name of Rod Larry  
3 Martial Gallaut. Do you know him?

4 A. [11:33:57] Yes.

5 Q. [11:34:00] Do you know of whether he had any relationship to Bozizé or his  
6 circle of -- you know, people that were within his circle?

7 A. [11:34:21] He was a member of the party of President Bozizé.

8 Q. [11:34:30] The president -- I'm sorry, the party of President Bozizé was the KNK,  
9 *Kwa Na Kwa* party?

10 A. [11:34:41] Yes.

11 Q. [11:34:46] Do you know if Mr Ngaïssona was a member of that party?

12 A. [11:34:58] Officially, no. But Mr Ngaïssona had his own party. He created his  
13 own party.

14 Q. [11:35:06] Okay. Were you a member of the KNK?

15 A. [11:35:16] Yes, I was a member of the KNK.

16 Q. [11:35:20] Were you in contact with Mr Gallaut in 2013 and 2014?

17 A. [11:35:36] During that period, I don't remember. But Mr Gallaut is a friend.  
18 We live in the same neighbourhood. We were in contact. We were in the same  
19 neighbourhood.

20 Q. All right.

21 MR VANDERPUYE: [11:35:49] Mr President, can we go to private session, please.

22 PRESIDING JUDGE SCHMITT: [11:35:51] Yes, private session.

23 (Private session at 11.36 a.m.)

24 THE COURT OFFICER: [11:36:02] We are in private session, Mr President.

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(Recess taken at 11.58 a.m.)

- 1 (Upon resuming in open session at 12.13 p.m.)
- 2 THE COURT USHER: [12:13:17] All rise.
- 3 Please be seated.
- 4 PRESIDING JUDGE SCHMITT: [12:13:39] Are we in private session?
- 5 THE COURT OFFICER: [12:13:43] We have resumed in open session, your Honour.
- 6 PRESIDING JUDGE SCHMITT: [12:13:45] Then we go to private session.
- 7 (Private session at 12.13 p.m.)
- 8 THE COURT OFFICER: [12:13:57] We are back to private session, your Honours.
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- 12 (Open session at 12.50 p.m.)
- 13 THE COURT OFFICER: [12:50:56] We are back to open session, Mr President.
- 14 MR VANDERPUYE:
- 15 Q. [12:51:02] Mr Witness, I was asking you some questions concerning some
- 16 contacts you had with some other individuals, but I would like to know whether in
- 17 October 2013 you were in contact with Mr Ngaïssona.
- 18 A. [12:51:27] I can't remember, really, the date. But I do know that I was in
- 19 contact with Mr Ngaïssona when he was in exile.
- 20 Q. [12:51:40] (Redacted)
- 21 (Redacted).
- 22 PRESIDING JUDGE SCHMITT: [12:51:57] Private session.
- 23 MR VANDERPUYE: [12:52:02] Very well, Mr President.
- 24 (Private session at 12.52 p.m.)
- 25 THE COURT OFFICER: [12:52:11] We are in private session, Mr President,

1 your Honours.

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- 7 (Recess taken at 12.59 p.m.)
- 8 (Upon resuming in open session at 2.03 p.m.)
- 9 THE COURT USHER: [14:03:21] All rise.
- 10 Please be seated.
- 11 PRESIDING JUDGE SCHMITT: [14:03:47] Mr Vanderpuye, you still have the floor.
- 12 MR VANDERPUYE: [14:03:52] Thank you, Mr President. I think we're probably
- 13 still -- we're probably in open session, so I would ask to go into private session. And,
- 14 if possible, to have tab 14 -- yeah, I think it's tab 14. In any case, CAR-OTP-2130-3379
- 15 back on the screen. Oh, it is there already. Thank you very much. And if we
- 16 could maybe blow it up and go to the bottom of the page once again. Thank you.
- 17 (Private session at 2.04 p.m.)
- 18 THE COURT OFFICER: [14:04:29] We are in private session, your Honours.
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Trial Hearing  
WITNESS: CAR-OTP-P-2843

(Private Session)

ICC-01/14-01/18

1 (The hearing ends in private session at 3.37 p.m.)