

**The Public Prosecution versus Hisséne HABRE****SUMMARY OF THE TWENTY-SECOND HEARING HELD ON 7 OCTOBER 2015****I/ SYNOPSIS**

Six forensic expert witnesses were present at court today. They are part of a team comprising forensic anthropologists, a forensic archaeologist, forensic doctors and ballistic experts. They all visited Chad to carry out the mission they were assigned by the Extraordinary African Chambers. However, only three have so far appeared before the court.

**II/ HEARING OF EXPERT WITNESSES****A° - Testimony of the first two experts**

**Name:** Ginarte

**First Name:** Anahi

**Age:** 48 years

**Residence:** Argentina

**Occupation:** Forensic anthropologist

**Under oath:** Yes

The expert was assisted by a conference interpreter named Amadou Ndiaye who was also sworn in prior to the start of the testimony.

➤ ***Work of the team of experts***

Before commencing his testimony on the work he conducted, the expert indicated that, at the invitation of the pre-trial chamber of the Extraordinary African Chambers, they met with judges and the prosecution in Dakar in February 2013. During these meetings, they described their methodology and planned their visit to Chad. They went to Chad in December 2013 and visited several locations identified as assassination sites. These included, to the South, the Déli farm and its surroundings, Koumra, Mandaguere, Maiguide, Ngalo and Ouangteiyen. To the North-East, they visited locations in Tchelme Guadjira in the Mongo, Madja, Ambazira, Ndjamen and its surroundings, Dougoul Allay Ambing and Hamralgoz.

The trip was conducted in collaboration with the judges, Chadian judicial authorities, Chadian security forces and the team of experts. Upon arrival, witness were questioned by the judicial authorities and based on the various information gathered, the judges decided on the sites that experts were to investigate. The latter thus used GPS to determine the geographic locations of the sites indicated. The expert witness explained that their work then consisted primarily of the exhumation of bodies, analysis of human remains, and analysis of lesions relating to cause of death. In late May/early June 2014, the 13 members of the

Argentine team accompanied by the EAC judges, Chadian judicial authorities and security forces divided themselves into two groups: one travelled to the North-East and the other to the South (Déli and its surroundings). This expert witness presented the findings of the first group which visited the following locations: Mabrouka, Am Sayala, Gadgira, Madja in the Guera and Koumra in the Mandjoul.

➤ *Visits conducted by the North-East team*

**Visit of the team to Mabrouka**

According to the witness, Mabrouka is located 2 kilometres from the entrance of the town of Abéché. It is a semi-desert area divided into plots of land with new housing under construction. Prior to the exhumations, witnesses had talked of 18 bodies buried including a child.

The expert explained that the identified area was cordoned off and they began digging with the assistance of local workers from 28 to 30 May 2014. However, sediments were sterile. Analyses were conducted all the way down to the bedrock but it was impossible to find skeletal remains.

**Visit of the team to Am Sayala**

On 29 May of the same year, the team travelled to Am Sayala in the region of Daouddai, located 20 kilometres West of Abéché and 10 kilometres North-East of the Ndjamenia access road. The soil in this area is sandy and there are intermittent and seasonal streams. According to a witness from this area, decomposing bodies were discovered there in 1990. The witness was a child at the time and his own father apparently participated in burying the bodies. The forensic anthropologist indicated that based on the research they conducted on this site and its surroundings, they could find no trace of skeletal remains or clothes. Items found were garbage-related and they could not confirm that these had any connections with the alleged facts.

**Visit of the team to Gadgira in the Mongo**

Gadgira is located opposite the Mongo airport, 2 kilometres from the entrance of the town of Mongo, on the northern side of the road leading to Ndjamenia. The soil is a compact rock formation. Decomposing bodies which animals had been feeding on were allegedly buried there. At the request of the village leader, these human remains were buried at the foot of a rock formation. According to a witness who helped bury the bodies, there were 12 in total, all men between the ages of 20 and 30 years as well as a young man about 16 years of age. The experts dug that area from 31 May to 3 June. They dug 50 cm deep before finding skeletal remains with clothes; they labelled this discovery as Cluster 1. Conservation was very poor, not a single bone was found intact except for the dental crowns. The expert however underlined that they could not differentiate between each individual based on the skeletal remains or lift the clothes without opening them. The skeletal remains were classified as follows:

GDIJ1/1: individual lying on the back with thorax, upper limbs, pelvis and lower limbs and trousers; the rest of the skull is separated, arms in adduction, right elbow bent.

GDIJ1/2: they could not find skeletal remains in the clothes.

GDIJ1/3: prone position, stretched, absence of arms, lower limbs extended. They could not obtain a skeleton with the clothes.

GDIJ1/4: prone position left side, boubou with large sleeves of a dark colour, trousers of the same fabric, rope at the waist.

GDIJ1/5: body laid on a rock near the inside wall of the grave, lower limbs in extension, right arm missing, clothes with rolled-up long sleeves.

GDIJ1/6: dorsal position, body extended, right arm folded, left arm extended, two lower limbs in extension, boubou and trousers of the same colour and fabric.

GDIJ1/7: prone position, body extended, skeletal remains intermingled with individual 14, trousers and light beige shirt, long sleeves with pockets in front.

GDIJ1/8: prone position on the left, body half-extended, arms half-folded as well as lower limbs, skull under shirt, same colour gabardine boubou and trousers.

GDIJ1/9: dorsal position, body stretched out, long-sleeved shirt with blue, yellow and green colours and purple trousers.

GDIJ1/10: interesting skeleton because the skull is more visible than the others, broken thorax, prone position with hands towards the back, lower limbs in lateral position.

GDIJ1/11: prone position to the left, lower limbs folded, boubou and trousers of the same fabric and same grey colour.

GDIJ1/12: pile of clothes, t-shirt and trousers, firearm projectile associated with the t-shirt, no skeletal remains.

GDIJ1/13: prone position, hands tied at the back, legs folded, boubou and light-coloured t-shirt, firearm projectile.

GDIJ1/14: with the flooding observed, they could not find the right location of the individual intermingled with individual 7; the lab technical differentiated them.

GDIJ1/15, 16: position changed, skeletal remains removed together, blue trousers, long-sleeved shirt, light coloured t-shirt, under-garments.

Based on the above, the witness concluded that this was a ‘synchronic primary’ mass grave (bodies buried at the same time). No modifications were made by a third party. Climate conditions affected the skeletal remains and almost destroyed all except the clothes. The expert hence recapitulated that they found 13 individuals in the mass grave and two piles of bones. Other details will be provided by the laboratory tests.

### **Visit of the team to the village of Madja**



Situated in the Guerra, the village of Madja is located 2 kilometres from the town of Mongo. According to a witness, there were two mass graves. But according to the experts, nothing was found following their search on 3 June 2014.

### **Visit of the team to Koumra**

Situated in the region of Mandjoul, this area was searched on 7 and 8 June. According to witnesses, there were 5 individual graves with the names of each engraved on plaques; this was confirmed by the experts. However, analyses were carried out only on four of these graves because the presence of a relative was mandatory in order to compare genetic profiles and this proved impossible for grave number 1.

The expert indicated that grave numbers 4 and 5 were a mound of earth which was empty.

#### **➤ *Visits of the team to the South***

These findings were presented by the following witness:

**Name: BISSO**

**First Name: Claudia**

**Age: 53 years**

**Occupation: Forensic archaeologist**

**Nationality: Argentine**

The team that visited the South also carried out exhumations from 27 May to 13 June 2014 at the Déli farm and its surroundings, divided into several sectors (A, B, C, D, E, F, G, H, J, K and L).

**Sector A:** Located within the farm, the expert declared that 3 male bodies, all wearing clothes, were uncovered. Projectiles were found on the first two, who were adults (related evidence provided). The third was a child. The witness further stated that the depth of the grave (1.97m) was unusual because it was a latrine.

**Sector B:** The witness averred that the ground was difficult to dig and they had to call on a specialist. They were then able to dig this site, but the expert witness represented that the sediments were sterile (no discovery) and that there were new constructions on the other site they were shown.

**Sector C:** A mass grave with 9 bodies was discovered at this site:

Individual 1, a male with a projectile.

Individual 2 with 3 projectiles.

Individual 3, adult male.

Individual 4 with 3 projectiles.



Individual 5 with unused bullets and a ring in the hand.

Individual 6 with a 1982 10-franc coin and a cotton handkerchief. According to the expert, this was proof that the grave could not have been dug before 1982.

Individual 7 with 3 ballistic elements and an unused bullet.

Individual 8 with 3 ballistic elements and hands tied.

Individual 9 with hands tied and projectiles in the leg. The witness specified that the numbering sequence was based on the sequence of burial.

**Sectors D and E**, according to the witness, were crop fields within the farm where only sterile sediments were found after investigation.

In **sector F**, nothing was discovered after a first search. A second search was conducted (a few metres from the place indicated for the first search) with a tipper truck and 2 individuals were uncovered with their clothes and personal effects. However, body preservation was poor and skeletal remains intermingled.

**Sector G** was located outside of the farm. A body covered by clothes with holes and unused bullets were discovered at this site.

A grave with two bodies was discovered in **Sector H** which was within the farm. The first body had multi-coloured clothes and a necklace around the neck. The second had under-garments and pieces of fabric around the arms, which the expert concluded could have been used to drag the body.

**Sector K** had 3 bodies in individual graves. The first was stretched, the second covered with a white cloth, and the third was a male.

**Sector L** in Kelo had a grave in a corn field with a presumably adult body.

The expert then established that, based on the exhumations, 21 bodies were discovered in Déli and its surroundings (in sectors A, C, F, G, H, L and K) as follows:

In sector A: 3 individuals, 2 in a latrine and 1 in an individual grave;

Sector C: 9 individuals in a mass grave;

Sector F: 2 individuals in a mass grave;

Sector G: 1 male individual;

Sector H: 2 individuals in a mass grave;

Sector L: 1 adult, sex undetermined;

Sector K: 3 individuals in separate graves each.

### **B° - HEARING OF TH THIRD WITNESS.**

**Name:** PUERTO

**First Name:** Mercedes Salado.

**Age:** 47 years

**Occupation:** Forensic anthropologist

**Residence:** Argentina

➤ *Work methodology of the expert*

The expert commenced with a presentation on forensic science which includes many disciplines including forensic anthropology. According to her, the forensic pathologist works on soft matter (flesh), whereas the forensic anthropologist focuses on bones. Mrs. Puerto indicated that the forensic anthropologist had two objectives: first, to identify the bones and then determine the cause and circumstances of death. To this effect, two questions are asked: Are these human remains? Is this case of interest to forensic science? The expert stated that anthropology was more complex than the mere analysis of a fresh cadaver. She considers that science has evolved but still has its limits. The forensic expert identifies the person, in other words, establishes the biological profile. This consists of determining the sex, age, lineage, height, previous illnesses or pathologies, and conducting an odontology analysis. This shall be compared with samples taken from relatives so as to identify the body. The expert claimed that all bones could not help to determine the sex of a person. If the bones are badly deteriorated, they will not be able to tell whether it is a man or a woman. But, science has evolved and further analyses may be conducted for possible confirmation. Regarding the cause and circumstances of death, clothes can provide significant clues. They can even provide information on events that occurred after death. For identification purposes also, the anthropologist compares samples taken from relatives with those from the skeletal remains found in order to establish certain linkages. According to Mrs. Puerto, identification is comparison. She specified that there were international standards that forensic anthropologists had to comply with, and she had done so.

➤ *Conclusions of the expert*

The witness stated that work was done on skeletal remains found in the Déli, Am Sayala, Koumra and Gadjira sites. After exhumation, they were taken to N'Djamena for analysis. The laboratory and the remains were prepared according to standard protocols for analysis.

At the **Déli farm**, they discovered 21 bodies with varying degrees of preservation including 17 men, 2 others who were possibly male (extremely poor preservation), 1 child (whose gender could not be determined) and 2 whose gender could initially not be determined; it was later found out, after genetic analysis, that they were male and female. In total, there were 20 men and 1 woman. In terms of age, 16 of them were young adults, 3 were children between 15 and 20 years and one between 6 and 11 years. Only the age of individual FDDK1-1 could

not be determined. Regarding their individual characteristics, they discovered 11 cases of illness unrelated to the circumstances of death including 7 trauma cases, 3 genetic modification cases and 1 case of age-related modification. With regard to odontology analysis, 8 cases were identifiable because they had data on their relatives.

In Koumra, they found 2 male corpses in a satisfactory state of conservation. The person in grave 2 was between 26 and 42 years old and in grave 3 there was an adult aged between 45 and 55 years.

In Gadjira, the remains were in a very poor state and partially intermingled. They estimated a minimum of 14 cadavers at this site. However, 16 individuals was a more plausible number after examination of the sets of clothes. The gender, age and previous pathologies could not be determined, nor could they have bone samples for further analysis.

At Am Sayala, they were able to prove that the bones were animal remains, and therefore did not pursue the analyses.

In relation to genetic analyses, 25 samples were taken from 23 people in Déli and Koumra and 19 samples from relatives of victims. They determined the DNA profiles for 24 skeletal remains. The genetic profile of individual KMR3-1 could not be determined. The relation between FDDF1 and FDDF2 was confirmed with P1 and P2 (P for parent). 5 human remains were identified:

FDDA2: Bondai Emile

FDDK1-1: Kadre David

FDDK2-1: Esaie Mbayambula

FDDK3-1: Mbaissangyoi Mathiew

KMR2-1: Alifa Taigui Baye

FDDL1 was thought to be a young man but experts later confirmed that this was a woman between the ages of 16 and 20 years.

At Gadjira, samples taken from relatives were not tested because bone samples could not be taken.

**NB:**

The defence complained that the experts should have complied with the procedures for taking the oath before the pre-trial chamber. This is provided for in Article 251 of the Code of Criminal Procedure governing evidence given by expert witnesses. This article stipulates that experts are to take the oath before the investigating judge. The presiding judge reminded the defence that the experts had indicated not to have taken the oath before the pre-trial chamber. He further stated that the defence should not confuse oath of office with a witness under oath



and that it was the latter that applied before this court. Nonetheless, the presiding judge asked the defence to submit its complaint and the court will deliver a ruling.

### **III/ TIME MANAGEMENT**

The hearing commenced at 9:30 am and ended at 5:42 pm. The morning session ended at 12:37 pm with a 21-minute break midway. The afternoon session commenced at 2:12 pm with a recess from 3:36 pm to 4:03 pm.

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