

Trial Hearing
WITNESS: CIV-OTP-P-0520

(Open Session)

ICC-02/11-01/15

1 International Criminal Court
2 Trial Chamber I - Courtroom 3
3 Situation: Republic of Côte d'Ivoire
4 In the case of The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé
5 ICC-02/11-01/15
6 Presiding Judge Cuno Tarfusser, Judge Olga Herrera Carbuccion and
7 Judge Geoffrey Henderson
8 Trial Hearing
9 Thursday, 16 June 2016
10 (The hearing starts in open session at 11.09 a.m.)
11 THE COURT USHER: All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE TARFUSSER: [11:09:11] Good morning. Let me say
15 that I'm very happy that we are here in this courtroom because there is light
16 of the day. I immediately give the floor to –
17 (Interpretation) Good morning, sir, Mr Witness. (Speaks English) Can
18 you hear me, Mr Witness?
19 WITNESS: CIV-OTP-P-0520 (On former oath)
20 (The witness speaks French)
21 (The witness testifies via video link)
22 THE WITNESS: (Interpretation) [11:09:43] Yes, Mr President, I can.
23 PRESIDING JUDGE TARFUSSER: [11:09:44] Okay. Good morning to you.
24 I hope you --
25 THE WITNESS: (Interpretation) [11:09:49] Good morning, Mr President.
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1 PRESIDING JUDGE TARFUSSER: I hope you had a good rest and you feel
2 better today.

3 THE WITNESS: (Interpretation) [11:09:59] Not any better than yesterday,
4 but I'm okay.

5 PRESIDING JUDGE TARFUSSER: [11:10:00] Okay. So thank you.

6 I now give the floor -- well, no, I don't give the floor to the Defence because
7 the Prosecutor has to say something.

8 MR DEMIRDJIAN: [11:10:10] And I apologise, your Honours, for
9 interrupting you mid-sentence. But, your Honours, yesterday we were
10 pressed for time, and in hurrying to complete my questioning I didn't manage
11 to put a few questions which need to be put to the witness before the
12 questioning of the Defence so that they get the full scope of the questioning.

13 I don't want to reserve these questions to the end. I was wondering if I could
14 seek leave to have 5 minutes to deal with a matter that, again, I don't want to
15 have to deal with at the end of the witness -- of the Defence's questioning.

16 PRESIDING JUDGE TARFUSSER: [11:10:43] Of course you can.

17 MR DEMIRDJIAN: [11:10:45] Thank you very much.

18 MR ALTIT: [11:10:47] (Interpretation) I do not have any objection, Mr
19 President.

20 MR KNOOPS: [11:10:49] We have no objections. Thank you.

21 PRESIDING JUDGE TARFUSSER: [11:10:54] Thank you very much to the
22 Defence. So please --

23 MR DEMIRDJIAN: [11:10:56] Very quickly.

24 PRESIDING JUDGE TARFUSSER: [11:10:56] -- put your questions.

25 QUESTIONED BY MR DEMIRDJIAN: [11:11:03] (Continuing)

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1 Q. [11:11:04] Good morning Mr Witness.

2 A. [11:11:08] Good morning, Mr Prosecutor.

3 Q. [11:11:10] Mr Witness, I have a few questions to put to you this
4 morning, and I'm going to go to the crux of the matter immediately. With
5 regard to the document that I showed to you yesterday, do you remember the
6 document?

7 A. [11:11:15] Yes.

8 MR DEMIRDJIAN: [11:11:16] (Interpretation) I believe that we need to go
9 into private session, Mr President.

10 PRESIDING JUDGE TARFUSSER: [11:11:29] Yes. Let's go into private
11 session.

12 (Private session at 11.11 a.m.)

13 (Redacted)

14 (Redacted)

15 (Redacted)

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5 (Open session at 11.18 a.m.)

6 THE COURT OFFICER: [11:19:00] (Interpretation) We are in open session,
7 Mr President.

8 PRESIDING JUDGE TARFUSSER: [11:19:04] Thank you very much. Maître
9 Altit.

10 MR ALTIT: [11:19:10] (Interpretation) Thank you, Mr President.

11 QUESTIONED BY MR ALTIT: (Interpretation)

12 Q. [11:19:12] Good morning, Mr Witness.

13 A. [11:19:15] Good morning, counsel.

14 Q. [11:19:18] My name is Emmanuel Altit and I am counsel for President
15 Gbagbo.

16 A. [11:19:26] Thank you, counsel.

17 MR ALTIT: [11:19:29] (Interpretation) Mr President, ladies and gentlemen,
18 with your leave, I would like to speak before we start. Before really going
19 into the examination, I would like to talk about an email that we received and
20 you received last night from the OTP.

21 PRESIDING JUDGE TARFUSSER: [11:19:48] May I interrupt you. It's
22 rejected. You can proceed.

23 MR ALTIT: [11:20:03] (Interpretation) I have nothing further to say in this
24 regard, Mr President. So I shall move on with my examination of the
25 witness. And I will start by putting a number of questions in private session

1 with your leave.

2 PRESIDING JUDGE TARFUSSER: [11:20:24] Yes, yes, of course. So we
3 have to go, I'm sorry also for the public, we have to go into private session.
4 We have to go back and forth. Now there are some questions to put in
5 private session. But as soon as possible we go public again. Maître Altit
6 will advise us accordingly.

7 Please call the private session.

8 (Private session at 11.20 a.m.)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

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16 (Redacted)

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16 (Redacted)

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23 (Open session at 12.07 p.m.)

24 THE COURT OFFICER: [12:07:56] (Interpretation) We are in open session,

25 Mr President.

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1 MR ALTIT: [12:08:08] (Interpretation)

2 Q. [12:08:10] So, Mr Witness, please remember what I've just said to you,
3 and if you have anything to say that requires that we move into private
4 session, please say so. And then I'll say all right in private session. Are we
5 in agreement?

6 A. [12:08:32] Very well, counsel.

7 Q. [12:08:33] So in your statement, the one that we were just talking about
8 a moment ago, you said -- and to go rapidly, and because we are in open
9 session, I do not think it is indispensable for me to provide the references, but
10 if the OTP insists, I will.

11 MR DEMIRDJIAN: [12:09:03] (Interpretation) If you have them before you,
12 it would be of great use.

13 MR ALTIT: [12:09:09] (Interpretation) Very well. It's OTP-0060-1460 -- no,
14 77-1419 at page 1459.

15 THE INTERPRETER: [12:09:23] The interpreter didn't keep up with the
16 numbers.

17 MR ALTIT: [12:09:26] (Interpretation)

18 Q. [12:09:27] I'm going to repeat the references to you. The document is
19 CIV-OTP-0077-1419, and it is the statement, pages 1451 -- or from page 1451,
20 lines 1194 to 1202. Very well.

21 Now, you were saying herein in this statement that the army did not have a
22 great deal of means, so it was moving backwards. And even those in the
23 west, all those who had left from the west, from the north who returned here,
24 the army, the population was fleeing in front of them. They were more
25 armed than the army. And it was they in the -- from the interior who came

1 to boost the ranks of those in Abidjan in order to conquer thingamabob with
2 the shellings and all of that. End of quote.

3 And we understand that what you were saying with reference to 2002,
4 namely, the fact that the army was not very strong in number, very badly
5 armed, and it wasn't really up to facing the situation in 2002.

6 Now if I understand here we're in 2010, are we not?

7 A. [12:11:36] Yes, counsel.

8 Q. [12:11:38] Very well. So firstly you said that the army did not have
9 many means or resources. Don't tell us how you are privy to this
10 information. The army did not have much in the way of resources. So your
11 comments from earlier on with regard to 2002, are they applicable to 2010 or
12 did this disequilibrium in favour of the rebels and, you know, in disfavour of
13 the government or the army, was this more pronounced in 2010?

14 A. [12:12:25] In the view of what was going on, it was just as pronounced
15 in the year 2010 because the country was under an embargo, and I believe
16 that the army did not have sufficient resources, the resources that would have
17 been required to my knowledge. But as I am not privy to the information as
18 to how much or how well armed the army actually was, what we do know is
19 that the country was under an embargo and the national army didn't really
20 have the resources that it required.

21 We know that the aeroplanes had been acquired with a great deal of effort
22 and that they had been destroyed, and Côte d'Ivoire did not even officially
23 have anything to face up to what was going on in an efficient manner. That
24 is in the public domain.

25 I don't know whether I have answered your question, counsel.

1 Q. [12:13:41] You have answered.

2 Could we summarise saying that you are of the opinion that the rebels were
3 more powerful than the governmental army?

4 A. [12:13:55] Oh, yes, I believe so.

5 Q. [12:13:57] Very well. You mentioned a moment ago the destruction of
6 the aeroplanes of the Ivorian air force. And who were they destroyed by?

7 A. [12:14:17] By the French army, by the French army. Subsequent to the
8 mistaken shelling of a French military camp in Bouaké, in reaction, France
9 decided to destroy the Ivorian air force openly. There we are.

10 Q. [12:14:51] With regard to the events of November 2004, is there
11 anything else that you can tell us or is that all that you can tell us? Don't
12 forget that you are in open session.

13 A. [12:15:05] No, I do not see anything else. Maybe if you had a very
14 specific question with regard to a specific event, maybe I might be in a
15 position to answer or not.

16 Q. [12:15:16] I shall come back to my statement from -- to my quotation
17 from your statement. You say or you said, and quote: "Even to the west" --
18 it's still the same excerpt -- "And even to the west, all those who left from the
19 west, from the north, who came back here, the army, the population were
20 fleeing in front of them."

21 When you say "all of those who left from the west, from the north," whom
22 are you referring to? Would you like me to repeat your sentence to you?

23 A. [12:16:00] Well, if I've understood, we're talking about the army.

24 Q. [12:16:08] With your leave, I'm going to repeat your sentence to you,
25 because it's not as clear as that. That's true. So I shall repeat it in its

1 entirety. It will be clearer then.

2 "The army did not have many resources, and as a result it was retreating.

3 And even to the west all of those who had left from the west, from the north,
4 who had returned here, the army, the population was fleeing in front of
5 them." End of quote.

6 I'm going to put the question to you in another way: The army and the
7 population were fleeing from whom?

8 A. [12:16:42] They were fleeing from the advancing rebels, if we can call
9 them that, from the advancing rebels.

10 Q. [12:16:52] Yes, yes, the army of rebels. And the population that was
11 fleeing, was -- that was fleeing the rebels, according to you, were they
12 numerous?

13 A. [12:17:05] Yes. I can't tell you how many but, you know, the
14 entire -- virtually the entire west of the country was rid of its population.
15 They all came to seek refuge in Abidjan. I think they haven't yet left.

16 Q. [12:17:26] So from what you are saying, if I understand you correctly,
17 and stop me if I have misunderstood you, is that from all of the country, the
18 population fled the advancing rebels, and in particular in the west of the
19 country, where you say that the majority of the population was fleeing the
20 advancing rebels because -- and leaving the entire of this western part of the
21 country empty. Is that what you're saying?

22 A. [12:17:57] I wouldn't say that the entire population left, but many
23 members of the population did.

24 Q. [12:18:04] Very well. So, and still in your statement and still in the
25 same excerpt but just beforehand, I'm saying this for the interpreters, this is at

1 line 1195, you said, Mr Witness, and I quote you:

2 "When people started attacking the army, police, and gendarmerie patrols,
3 well, we didn't know who they were. There were many, many deaths and
4 they were called the Invisible Commando." End of quote.

5 So I'm going to repeat this brief excerpt:

6 "When people started to attack the army, police, and gendarmerie patrols, we
7 didn't know who it was."

8 But you can tell us who those people who were attacking were. Can you tell
9 us here?

10 A. [12:19:26] Yes, counsel. Those who were attacking the forces of law
11 and order, the patrols, were known by the name of the Invisible Commando.
12 And it was at a later stage that many identified themselves after their victory,
13 saying that such and such an individual was in charge of the Invisible
14 Commando.

15 Q. [12:20:00] Very well. So for things to be clear to us I repeat, when
16 people started to attack, we understood who those people were, the Invisible
17 Commando notably, but first question is: When did they start attacking?
18 And secondly, where did these attacks unfold? So that things are clear for
19 us.

20 A. [12:20:28] I do not remember the precise date when the Invisible
21 Commando started out, but I know that they started in Abobo in PK, they
22 started attacking the patrols, and many people died, those joint patrols.

23 Q. [12:20:57] Mr Witness, just a brief word. You said the "joint patrols"?

24 A. [12:21:04] Yes. Police, gendarmerie, and army patrols.

25 Q. [12:21:09] Very well. And those first attacks occurred before or after

1 the second round of the 2010 presidential elections?

2 A. [12:21:19] I believe it was afterwards.

3 Q. [12:21:22] Very well.

4 A. [12:21:23] I think I might -- I may be wrong, but I believe it was
5 afterwards because before the second round, when the two sets of results
6 were announced, there were no attacks, if my memory serves me correctly.
7 It was afterwards. So it was after the second round.

8 Q. [12:21:47] Very well. And how were those who were attacking the
9 army, police, and gendarmerie patrols armed? How were those individuals
10 armed?

11 A. [12:22:05] According to what was reported to us willy-nilly, they were
12 armed with Kalashnikovs, with RPGs, with grenade launchers -- well, let's
13 just say that they were armed and they were firing, attacking and then
14 disappearing.

15 Q. [12:22:25] So from what you say to us, if I understand you correctly, is
16 that forces equipped with weapons as bulky as RPGs or cumbersome as RPGs
17 were able to prepare these attacks in the middle of Abidjan, my question to
18 you is how is it possible? Did you not have -- now, I'm going to put this
19 question somewhat differently by virtue of the fact that we are in open
20 session.

21 To your mind, how did those groups go about attacking or launching attacks
22 at a specific moment in time? Was there any preparation? And be careful
23 how -- be careful not to tell us how you are privy to this information.

24 A. [12:23:38] Um, I believe that this is in the public domain. But Abidjan
25 was infiltrated and had been for a long time. Weapons were coming in and

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1 had come in, and people were mixing with the members of the population or
2 blending in. And that is how we were not in a position to identify them,
3 because they were blending in with the population and many of them had
4 come into Abidjan. There was many an example of weapons that had been
5 distributed. We heard speak of this. And it turned out to be true that
6 Abidjan was indeed infiltrated, that they were indeed already present.

7 Q. [12:24:43] And to your mind --

8 A. [12:24:48] Well, I finished my answer.

9 Q. [12:24:50] Well, if you have anything else that you would like to add,
10 don't hesitate.

11 A. [12:24:53] No, I am waiting for your specific question.

12 Q. [12:24:59] Now, in your opinion, these attacks that you're talking
13 about, were they set off according to a global strategy? Do you grasp what I
14 am asking you?

15 A. [12:25:15] No.

16 Q. [12:25:16] So were these sparse attacks that were launched for specific
17 reasons, reasons known to those who were launching them, or were they part
18 of a more global strategy that was determined by other individuals?

19 MR DEMIRDJIAN: [12:25:44] Your Honours.

20 PRESIDING JUDGE TARFUSSER: [12:25:45] Mr Prosecutor.

21 MR DEMIRDJIAN: [12:25:49] Yes. I apologise for interrupting my learned
22 friend. It may be that we will need to go into private session to know the
23 sources of information of this witness, because we're entering an area of
24 expertise that I'm not sure the witness is capable of answering.

25 MR ALTIT: [12:26:10] (Interpretation) This is without any doubt a field of

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1 competence that is that of the witness. But I do not have any problem with
2 going into private session.

3 PRESIDING JUDGE TARFUSSER: [12:26:29] So let's go into private session
4 to be more cautious.

5 (Private session at 12.26 p.m.)

6 (Redacted)

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5 (Redacted)

6 (Redacted)

7 (Open session at 13.07)

8 THE COURT OFFICER: [13:07:50] (Interpretation) We are now in open
9 session, your Honour.

10 PRESIDING JUDGE TARFUSSER: [13:08:07] Thank you.

11 Maître Altit.

12 MR ALTIT: [13:08:10] (Interpretation) Yes, thank you, your Honour.

13 Q. [13:08:12] Witness, we are now in open session. Now, before, before
14 the break, before we resumed, you're making a distinction between the
15 Invisible Commando, and you said that they were operating independently.
16 Well, you said you believed they were acting independently, and then there
17 were the other groups, who -- apparently other rebel groups who apparently
18 were also based in Abobo; is that what you said?

19 A. [13:08:52] I think I said that the Invisible Commando was based in
20 Abobo and that the others, the rest of the troops on the other side, were acting
21 upon the orders of their headquarters. But in Abobo, there were no other
22 groups. I believe there was the Invisible Commando based in Abobo
23 because their attacks -- their attacks came from Abobo.

24 Q. [13:09:36] Very well. Now, the other rebel groups operating upon the
25 orders of their headquarters or their chief of staff, who was that person? A.

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1 [13:09:49] General Soumaila Bakayoko was the head of staff.

2 Q. [13:10:01] And from whom did he receive his orders?

3 A. [13:10:04] From their president, I think. I really don't know what the
4 structure of their organisation was, but I would imagine in the normal course
5 of matters he would have been taking orders from President Soro.

6 Q. [13:10:24] Do you know what? I think we will go into private session,
7 agreed?

8 A. [13:10:36] Yes.

9 Q. Very well.

10 MR ALTIT: [13:10:37] (Interpretation) Your Honour, if we could?

11 PRESIDING JUDGE TARFUSSER: [1:10:36] Yes, please.

12 (Private session at 1.10 p.m.)

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14 (Redacted)

15 (Redacted)

16 (Redacted)

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19 (Redacted)

20 (Open session at 4.26 p.m.)

21 THE WITNESS: [16:26:46] (Interpretation) Yes, Mr President.

22 THE COURT OFFICER: [16:26:51] (Interpretation) We are in open session,
23 your Honour.

24 PRESIDING JUDGE TARFUSSER: [16:27:02] Mr Witness, I just wanted to
25 tell you that the parties, all the parties have finished their questioning, that

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1 the Chamber has no questions to put to you, and that therefore you are
2 released. So you can go home. You will be accompanied by the people of
3 the ICC. And I wish you -- thank you for having been with us and having
4 answered the questions which were posed to you by all the parties. I wish
5 you all the best and goodbye.

6 THE WITNESS: [16:27:42] (Interpretation) Thank you, Mr President, for
7 your understanding. I thank you very much. And I also thank all the
8 parties who put questions to me to shed light on the truth. And with your
9 leave, I would also like to greet President Gbagbo and Minister Blé Goudé.
10 Thank you very much. Thank you to everyone. God bless you.

11 PRESIDING JUDGE TARFUSSER: [16:28:11] Thank you. Goodbye.
12 So we can now switch off the video link.

13 (The witness is excused)

14 PRESIDING JUDGE TARFUSSER: [16:28:25] Before adjourning the hearing
15 to Monday 27, I don't know which one is the witness, is it here or there, just
16 without saying anything else. It's just because if we -- the problem is only if
17 we adjourn to 9.30 or to 11.

18 MR DEMIRDJIAN: [16:28:44] 9.30.

19 PRESIDING JUDGE TARFUSSER: [16:28:45] Okay. 9.30. Thank you very
20 much. Now before doing so, I have a ruling on the publicity of the
21 proceedings.

22 During the course of these proceedings so far the Chamber has, at the
23 request of the Prosecutor and on the advice of Victims and Witnesses Unit,
24 applied protective measures with respect to eight witnesses. The measures
25 applied involved the use of pseudonyms, of image and voice distortion, and

1 the use of private sessions for discrete parts of the testimony.

2 Their purpose was to keep confidential the identity of the witnesses in order
3 to ensure their safety while at the same time hearing the substance of the
4 testimony in public as much as possible.

5 However, and most regrettably, the Chamber has been informed in several
6 cases of the attempts to publicly identify the witnesses concerned, in
7 particular through the social media.

8 Although these are only speculations, they have disrupted the proceedings
9 significantly.

10 The Chamber, after having heard repeatedly all parties and participants on
11 this issue, has already expressed its concerns with respect to these
12 developments, and they did so on May 10 and at 8 June 2016, envisaging the
13 adoption of stricter measures.

14 Considering that the problem persists, the Chamber takes the view that in
15 order to protect witnesses and in order to prevent regular disruption of
16 proceedings, it has now to take said stricter measures in the sense that
17 hereby it forever regulates the public access to the proceedings.

18 In taking this decision, the Chamber has considered two paramount
19 principles that must be balanced: On the one hand, the accused entitlement
20 to a public hearing, pursuant to Article 67(1) of the Statute; on the other
21 hand, the Court's duty to take appropriate measures to protect witnesses
22 pursuant to Article 68(1) of the Statute.

23 In fact, Article 68(2) of the Statute explicitly provides that the publicity of
24 trial proceedings is not absolute and allows for exceptions in order to protect
25 witnesses. Rule 87 of the Rules of Procedure and Evidence specifically

1 regulates such exceptions and the procedure for their application.

2 Accordingly, the Chamber decides that in all future cases when protective
3 measures are ordered to keep the identity of a witness confidential, meaning
4 the use of pseudonym and image and voice distortion, the following specific
5 measures shall apply:

6 One, the public broadcast of the proceedings and the publication of the
7 transcripts shall be delayed until the completion of the testimony of the
8 witness and until the entire testimony has been reviewed and redacted as
9 necessary. Then the redacted video recordings and transcripts will be made
10 available to the public. The parties are directed to submit their proposals
11 for redactions through the Registry in the same way that this is currently
12 done during court sessions.

13 Two, the Registry is ordered to collect for each visitor in the public gallery
14 the full name and nationality. Any person refusing to provide this
15 information shall not be admitted to the public gallery. In this way any
16 breach in confidentiality shall be contained and followed up. The list that is
17 hereby ordered shall be kept confidentially by the Registrar and shall be
18 transmitted to the Chamber when so ordered.

19 The Chamber perfectly understands that these measures restrict the
20 possibility for the public to follow these proceedings live. These measures
21 respond to the action of certain few individuals who surely do not represent
22 the people of Côte d'Ivoire, but who have created a serious risk to the
23 integrity of these proceedings and to the safety of the witnesses who come to
24 testify before the Court simply performing their duty to tell us what they
25 know.

1 This has nothing to do with freedom of opinion or freedom of expression and
2 this is not legitimate public discussion accompanying the trial. Instead, it is
3 a deplorable and possibly unlawful conduct.
4 The Chamber would have very much preferred not to have to resort to such
5 measures, but the environment has become such that this is now the only
6 way to ensure the integrity of the proceedings while preserving their
7 publicity.
8 So this is in place since now. So for the next witness on Monday, 27 June at
9 9.30, when the hearing is adjourned.
10 So thank you very much.
11 THE COURT USHER: [16:35:12] All rise.
12 (The hearing ends in open session at 4.35 p.m.)