

Trial Hearing
WITNESS: CIV-OTP-P-0238

(Open Session)

ICC-02/11-01/15

1 International Criminal Court
2 Trial Chamber I
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-Carbuccia and
7 Judge Geoffrey Henderson
8 Trial Hearing - Courtroom 1
9 Tuesday, 27 September 2016
10 (The hearing starts in open session at 9.38 a.m.)
11 THE COURT USHER: [9:38:40] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE TARFUSSER: [9:38:59] Good morning to everyone. I'm
15 already -- let me say good morning, first. Good morning to all of you, but good
16 morning, Mr Witness.
17 I don't know what the legal representative wants, but I give her immediately the floor,
18 so she will tell us.
19 MS MASSIDDA: [9:39:38] Thank you, your Honour.
20 Mr President, good morning. Good morning, your Honours. We are requesting
21 leave to question Witness P-0238. That's the reason why I was standing up, as
22 instructed by the Chamber, before the witness takes the stand. I'm requesting leave
23 to question the witness only on the limited areas related to the crimes committed
24 against the civilian population and to the extent that this matter is not adequately
25 covered by the Office of the Prosecutor. I wish to recall that the Chamber has

1 already ruled that the interest of victims are generally affected by the debate at trial
2 and its outcome. As a consequence, each witness appearing and each piece of
3 evidence affect the personal interest of participating victims because they have an
4 impact on the outcome of a trial.

5 In the specific case of Witness P-0238, the interest of the victims is even more evident.
6 The witness, in his statement, provides information on the targeting of specific
7 categories of civilians, which is one of the main issue on which participating victims
8 have a major interest in knowing the truth.

9 The witness examination sheet provided by the Office of the Prosecutor does not
10 indicate the specific line of questioning and --

11 MR N'DRY: [9:41:20] (Interpretation) Your Honour.

12 PRESIDING JUDGE TARFUSSER: [9:41:22] I don't understand why this interruption.
13 Can it be afterwards, when the legal representative has finished. Thank you.
14 Please.

15 MR N'DRY: [9:41:35] (Interpretation) Your Honour, what I wish to say, if I were to
16 let the legal adviser to continue her remarks my remarks would make no sense. I
17 really think she shouldn't be making her remarks in the absence of the witness.

18 PRESIDING JUDGE TARFUSSER: [9:41:56] I think that you should just ask to
19 question the witness, for the reason, and that's it, without going too much into details.

20 MS MASSIDDA: [9:42:06] Your Honour, I'm sorry to make this observation, but last
21 time that I requested to question a witness it was indicated to me that the interest of
22 participating victims were not adequately understood, let's put it that way. So this is
23 the reason why I am now trying to make a more adequate reasoning, in order to make
24 everybody understand in this courtroom why the interest of the victims are affected
25 by the questioning and by the specific evidence of this witness.

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1 I have no problem if the Defence wishes the witness not to be present. I'm simply
2 providing a general observation of his testimony, nothing more.

3 PRESIDING JUDGE TARFUSSER: [9:42:58] Yes. Can the witness, first of all, take
4 off the headphones, please.

5 So now I think it is sufficiently, sufficiently clear that you can speak, but still, we -- as
6 I said yesterday, we do understand, we don't need too much, but we do understand
7 also something, because --

8 MS MASSIDDA: [9:43:23] Thank you, your Honour.

9 PRESIDING JUDGE TARFUSSER: [9:43:26] Because you said before that we have to
10 fully understand.

11 MS MASSIDDA: [9:43:29] Thank you, your Honour. I take your point. It was
12 not our understanding in relation to the last ruling of the Chamber in the matter.

13 As I was saying, the specific line of questioning relating to the targeting of specific
14 categories of civilians is not included in the witness examination sheet provided by
15 the Office of the Prosecutor, and I'm referring to paragraphs 20, 22. Therefore, since
16 the targeting of civilian perceived to be supporters of Mr Ouattara is one of the main
17 concerns of victims, we argue that this specific line of questioning could help
18 the Chamber in asserting the truth, the extent of victimisation and the tragedy
19 suffered by the victims.

20 The second issue on which we would like to be authorised to question and on which
21 the personal interest of the victims are concerned, is the issue of the knowledge by the
22 witness of the modus operandi by the youth and militia in relation to the targeting to
23 a civilian population. This is also a second issue which is not included in the line of
24 questioning of the Office of the Prosecutor, as far as we understand the witness
25 examination sheet.

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1 Thank you, your Honour.

2 PRESIDING JUDGE TARFUSSER: [9:44:52] Thank you. The Chamber will come
3 back to this. And now --

4 MR ALTIT: [9:45:03] (Interpretation) Your Honour.

5 PRESIDING JUDGE TARFUSSER: Yes, please.

6 MR ALTIT: (Interpretation) Thank you, your Honour. These remarks by the
7 Legal Representative of Victims calls for a response. And I realise that you would
8 like to make progress as quickly as possible. I would suggest perhaps after the break
9 a reply could be provided. We are certainly not trying to give you instructions, but we
10 were taken by surprise and I would suggest that, with your leave, your Honour, that
11 we respond after the break, orally, so we'll have a bit of time to think about this issue.
12 Or in writing, which would allow your Chamber sufficient time as well.

13 But just to be very clear. Just to be clear. Perhaps the next time we should be
14 warned in advance and all of us would have some time to respond.

15 And also, regarding the actual request, we do not see -- I'm speaking -- well, perhaps
16 there will be a more elaborate response later, but I really do not see how this witness
17 could be questioned by the Legal Representative of Victims. He is in no way
18 a victim, he is a soldier and we oppose this request. And I would like to ask
19 the Chamber for an opportunity to respond more fully at a later point in time.

20 PRESIDING JUDGE TARFUSSER: [9:46:37] You will have this opportunity, of
21 course. And I -- we thought, in any case, that the afternoon session, or part of it, half
22 of it, the second half of it would be dedicated to these issues like the video link for the
23 whole, the whole, say, second half of the second session. So we add also this issue.
24 And then we have to -- we can decide properly by the latest tomorrow sometimes and
25 in any case before the questioning by the Office of the Prosecutor is finished.

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1 Now I am looking around but nobody raises. Good.
2 So I say again good morning to you, Mr Witness. And in order for your complete
3 identification I will now go in private session so that only in here your identity will be
4 disclosed. So please can we go in private session.

5 (Private session at 9.47 a.m.)

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7 (Open session at 9.50 a.m.)

8 THE COURT OFFICER: [9:50:19] We are in open session your Honour.

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

10 I will not, and nobody else will use your name anymore, but I will call you

11 "Mr Witness," just generally speaking "Mr Witness."

12 So now I have to give you some information to put you at ease.

13 The Chamber has granted you protective measures and these protective measures

14 apply during the whole testimony.

15 First of all, all information relating to your identity was done, as I said before, in

16 private session so only us here know who you are. You have been given

17 a pseudonym, a number, and as I said before, I will, and everybody else will call you

18 with the number, but preferably just address you with "Mr Witness".

19 Neither the public sitting in the gallery of this courtroom, nor anyone else outside,

20 will be able to see you or to recognise you and your face because your face will be

21 distorted during the whole testimony and also your voice will be distorted, so you are

22 not recognisable.

23 But of course these protective measures can only be effective if you give your

24 contribution and, therefore, I ask you to refrain from anything, to mention anything

25 which could lead to your identification. This means that if you think -- if we are in

1 open session and you think you have to say something which could identify you, ask
2 me and we go in closed session. So your collaboration is obviously very much
3 needed.

4 This, as far as your identity is concerned and protective measures is concerned.

5 The second thing is the way, how we interact, how you interact with the

6 Office of the Prosecutor and the counsel putting questions to you. You speak French
7 and you will be questioned preferably in French or mostly in French. This means, as

8 you see, that I speak English and colleagues speak English, other people here speak

9 English, everything has to be translated and written down in English also. Therefore

10 I would ask you, like I'm doing, to speak slowly and some time to pause in order to

11 facilitate the transcribing and the interpretation by the people in the booths.

12 So these are the preliminary information. Now we come to your testimony.

13 You are certainly aware that this Chamber is established to try the case

14 of The Prosecutor against Mr Gbagbo and Mr Blé Goudé. You as a witness are called

15 here to help us to find the truth. You will be asked questions by the

16 Office of the Prosecutor, and by the other parties and participants and probably also

17 or maybe also by the judges. If at any point in time you have something to ask me,

18 to ask the Chamber, just tell us if you are not at ease.

19 As a witness, you have to tell the truth, to give the knowledge of facts you know to

20 the party who is questioning. You are not here to serve one or the other party,

21 you are here to serve the truth. To this effect the law asks you to make a solemn

22 undertaking, and I think you have in front of you the formula I would ask you to read,

23 which is the solemn undertaking.

24 Please do.

25 THE WITNESS: [9:55:55] (Interpretation) I solemnly declare that I shall tell the truth,

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1 the whole truth and nothing but the truth.

2 PRESIDING JUDGE TARFUSSER: [9:56:05] Thank you.

3 Now you are bound by this formula to tell the truth and I have also to tell you, but
4 probably you know, that not telling the truth is an offence against the court and
5 therefore punishable by law.

6 I think now we can start the questioning by, first, the Office of the Prosecutor and I
7 give the floor to Mr MacDonald for his questioning.

8 MR MACDONALD: [9:56:48] Thank you, Mr President, your Honours.

9 QUESTIONED BY MR MACDONALD: (Interpretation)

10 Q. [9:56:56] Good morning.

11 A. [9:56:58] Good morning.

12 Q. [9:57:01] I think you'll notice that at times I speak to the Chamber and when I do
13 so I speak in English, because that is our common language, as you may have noticed.
14 But I will be putting all my questions to you in French.

15 It's not a sign of a lack of respect, but I will be referring to you as "Mr Witness"
16 because you have been granted protective measures.

17 Now we both speak French so we must avoid overlapping or interrupting one
18 another. It is possible from time to time I may raise my hand. And this is a signal
19 to you. Now, sir, I will be putting some questions to you and if you do not
20 understand a question please do not hesitate to let me know and I will rephrase my
21 question. Very well.

22 Now my first line of question, the first line of questioning is more personal in nature
23 really, so if we could go into private session, your Honour, to cover these matters and
24 then we can go back into open session.

25 PRESIDING JUDGE TARFUSSER: [9:58:21] Yes.

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1 Let's go in private session. Thank you.

2 (Private session at 9.58 a.m.)

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3 (Open session at 10.19 a.m.)

4 THE COURT OFFICER: [10:19:06] We're in open session, your Honour.

5 PRESIDING JUDGE TARFUSSER: [10:19:17] Thank you.

6 Mr MacDonald.

7 MR MACDONALD: [10:19:27] (Interpretation)

8 Q. [10:19:28] Now we are back in open session. Could you please explain to us,
9 generally speaking, what the mission of the BASS was, that is to say the
10 ground-to-ground artillery battalion? What is the objective of the BASS within the
11 ground forces?

12 A. [10:19:56] The BASS, well, how could I put it? I don't really know how to
13 explain this.

14 Q. [10:20:09] It might seem very simple to you, but just put it in simple terms.

15 A. [10:20:15] It is a support mechanism.

16 Q. [10:20:23] A support mechanism to which force?

17 A. [10:20:27] To the infantry.

18 Q. So on the ground?

19 A. [10:20:32] Yes, on the ground.

20 Q. [10:20:33] And in which context is the weaponry of the BASS used?

21 A. [10:20:41] In order to facilitate the penetration of our men, and also to flush out
22 if a position is taken, the artillery can drive out the enemy by bombing them or
23 shelling them.

24 Q. [10:21:11] And generally speaking, the weapons or armament used by the BASS,
25 in which area is this kind of weaponry used?

1 A. [10:21:28] In the countryside.

2 Q. [10:21:31] Now could you also provide us now with a definition or description
3 of the BASA, now. What is the mission of the BASA?

4 A. [10:21:53] Well the BASA is, as the name indicates, it is anti-air, that is to protect
5 our positions against the enemy from the air, the enemy.

6 Q. [10:22:18] So that is to say, quite clearly, any object that moves around in the air,
7 helicopters, aeroplanes, et cetera?

8 A. [10:22:30] Yes.

9 Q. [10:22:31] I would briefly like for us to discuss the structure within the ground
10 forces. Because I understand that the BASS and the BASA are units, part of the
11 ground forces or land forces. Could you please provide us with an organisational
12 chart of the ground forces. What other units does it comprise, apart from the BASS
13 and the BASA?

14 A. [10:23:06] Well, there is the engineering corps, there is the armoured corps, the
15 first armoured corps, there is the first infantry battalion, there is the second infantry
16 battalion, there is the third infantry battalion, and then there's the fourth infantry
17 battalion.

18 Q. [10:23:33] And in the year 2010, let us concentrate ourselves on the period of
19 2010, was there also a fourth infantry battalion? So there were three infantry
20 battalions?

21 A. [10:23:51] Well there was the CTK battalion.

22 THE INTERPRETER: [10:23:57] Inaudible.

23 MR MACDONALD: [10:23:59] (Interpretation)

24 Q. Could you please repeat slowly?

25 A. [10:24:03] In the past there was the CTK, that is to say the territorial company

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1 of --

2 THE INTERPRETER: [10:24:13] Inaudible.

3 A. [10:24:15] And when they came back that gave rise to the fourth battalion.

4 Otherwise it was the CTK in the past, or the CTK.

5 MR MACDONALD: (Interpretation)

6 Q. [10:24:26] Please go on.

7 A. So first, second, third battalion, there is the engineering corps, there is the BB,
8 the --

9 THE INTERPRETER: [10:24:39] Inaudible.

10 MR MACDONALD: [10:24:42] (Interpretation)

11 Q. And the unit of command and support, the UCS?

12 A. [10:24:47] Yes, the UCS.

13 Q. [10:24:49] We need to make sure that we do not overlap. I'm going to quite
14 simply repeat what you are saying.

15 A. Please continue.

16 Q. [10:24:59] Apart from the UCS, were there any other battalions or any other
17 groupement or any other units apart from the BASS and the BASA.

18 A. [10:25:11] Those were all of the units.

19 Q. [10:25:21] Very well. I would now like to move on to this structure within the
20 BASA itself and the individuals who headed up those units, all right?

21 I would like for us to go very briefly into private session, please, to give an instruction
22 to the witness.

23 PRESIDING JUDGE TARFUSSER: [10:25:44] Let's go, please, in private session.

24 (Private session at 10.25 a.m.)

25 (Redacted).

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- 15 (Open session at 10.27 a.m.)
- 16 THE COURT OFFICER: [10:27:27] We're in open session, your Honour.
- 17 PRESIDING JUDGE TARFUSSER: [10:27:28] Thank you.
- 18 Mr MacDonald.
- 19 MR MACDONALD: [10:27:32] (Interpretation)
- 20 Q. [10:27:33] Now, once again, let's go real slow, and also for the record we need to
- 21 pronounce the names well.
- 22 So the structure within the BASA, in 2010 at the time of the presidential elections, all
- 23 right? I understand that there was a commanding officer, who was that individual?
- 24 A. [10:28:06] Lieutenant Colonel Dadi Tohouri Rigobert.
- 25 Q. [10:28:18] I shall repeat the name for us to understand each other correctly,

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1 Mr Dadi Tohouri Rigobert.

2 Who were -- or, what were the main responsibilities of the commanding officer, could
3 you please describe them to us?

4 A. [10:28:38] He was the one who gave the orders. He was the one who made the
5 camp work. He was the boss.

6 Q. [10:28:51] I understand that there was a second in command, could you please
7 give us the name of that individual, please?

8 A. [10:29:01] Yes.

9 THE INTERPRETER: [10:29:09] Inaudible. Could the witness be requested to
10 repeat?

11 PRESIDING JUDGE TARFUSSER: [10:29:20] Could the witness be requested to
12 repeat. I was inaudible.

13 THE WITNESS: [10:29:24] (Interpretation) Goué Blépou Jean-Franck Hilaire.

14 MR MACDONALD: (Interpretation)

15 Q. [10:29:32] And what were the responsibilities of the second in command?

16 A. [10:29:37] He was to follow the orders of the commanding officer and fill in on
17 an acting basis when the commanding officer was not present, and to make sure that
18 everything in the camp ran smoothly.

19 Q. [10:30:04] Was there a deputy officer?

20 A. [10:30:09] Indeed.

21 Q. [10:30:16] And what was the name of that person, as best you can recall?

22 A. [10:30:36] There were two -- during that time it was Kamenan -- Kamenan.

23 Q. [10:30:48] Kamenan? Kamenan Gomez.

24 THE INTERPRETER: Says the Prosecutor.

25 MR MACDONALD: And what were the responsibilities of the deputy officer?

1 A. [10:31:06] Paperwork, reports. He brought visitors in. If there were
2 meetings ...

3 Q. [10:31:20] And if there were meetings what did he do?

4 A. [10:31:23] He would, for example, remind the commanding officer about
5 meetings, give messages, have the messages brought to the office.

6 Q. [10:31:37] Very well. I also understand and I would indeed put it to you that
7 there was an office for employment organisation?

8 A. [10:31:56] Affirmative.

9 Q. [10:31:58] What was the name of the person respon --

10 THE INTERPRETER: [10:32:02] Overlapping speakers.

11 MR MACDONALD: [10:32:08]

12 Q. [10:32:09] Could you repeat slowly?

13 A. [10:32:12] Kouassi Jean Bruno.

14 Q. [10:32:22] Kouassi Jean Bruno. Very well. And what were the responsibilities
15 of the head of the office, the employment organisation and training office?

16 A. [10:32:29] Well, employment, of course, just look at the name. He was the
17 person who decided who would go where, to which battery. And then if there were
18 courses or internships, people, he would decide who would be offering these
19 internships or training apprenticeships, you could put it that way. Then everything
20 that had to do with the organisation of a meeting.

21 Q. [10:33:08] Sort of like a human resources department?

22 A. [10:33:14] Yes.

23 Q. [10:33:14] If you could please describe to us the various batteries, the various
24 commands, if I could put it that way, within the BASA. Below the operations office
25 and the commanding officer, if we could move one level down in the org chart, what

- 1 was going on at the ground level?
- 2 A. [10:33:45] The BCS, there was the BCS.
- 3 Q. [10:33:52] Could you remind us what the BCS was?
- 4 A. [10:34:06] It was the company, the command and support company.
- 5 Q. [10:34:17] Who headed up that company at the time of the election?
- 6 A. [10:34:23] Kabran Mian Albert. Kabran Mian Albert.
- 7 Q. [10:34:46] What were the responsibilities of the BCS?
- 8 A. [10:34:50] Well, they would keep an eye on people, follow up. Attendance
- 9 basically, were people present, were they ill. Operations, the garage, all the office
- 10 stuff.
- 11 Q. [10:35:13] Very well. And then could you continue to describe the various
- 12 commands?
- 13 A. [10:35:18] The first battery Assi. The first battery Epokou, Epokou. The
- 14 second battery Assi Nizard. I really can't remember.
- 15 Q. [10:35:46] Just a moment.
- 16 A. [10:35:50] Tago Nado.
- 17 Q. [10:35:56] Tago Nado. And the second battery, who was the leader?
- 18 A. [10:36:06] Assi.
- 19 Q. [10:36:08] So Assi was the person's name.
- 20 A. Nizard.
- 21 Q. Assi Nizard. The third battery?
- 22 A. [10:36:37] Mé (phon) Kouakou.
- 23 Q. [10:36:37] And the other commands or units within the BASA after the various
- 24 batteries?
- 25 A. [10:36:47] There was the technical unit or services, the --

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1 Q. [10:36:52] Technical services, who were they, what did they do?

2 A. [10:36:58] They handled the vehicles.

3 Q. [10:37:01] And who was the leader of the technical services?

4 A. [10:37:07] Tago Nado.

5 Q. [10:37:10] I'm just trying to make sure I've understood. You mentioned

6 Tago Nado and we will return to this person. And this person was the commander

7 of the first battery and also technical services?

8 A. [10:37:26] He did both. First -- he did both duties at various times, first battery

9 and technical services.

10 Q. [10:37:40] And what was the relationship between him and the commanding

11 officer Dadi?

12 A. [10:37:49] He was his brother or his nephew.

13 Q. [10:37:54] You said his brother, his nephew, you mean a family member?

14 A. [10:38:00] Family member.

15 PRESIDING JUDGE TARFUSSER: Just a reminder.

16 MR MACDONALD: [10:38:25] (Interpretation)

17 Q. We will get there with time. We will have to really endeavour to speak slowly

18 because we speak too fast, both of us. And if you could please enunciate the names

19 very clearly for us, slowly and clearly.

20 So there were the technical services and there were other services and then I

21 interrupted you. Could you tell us about these other services or units?

22 THE INTERPRETER: [10:39:27] Message from the interpreter: The witness was

23 mumbling to himself. The interpreter does not believe he gave an answer.

24 MR MACDONALD: [10:39:39] (Interpretation)

25 Q. Now the sports officer, could you tell us more about that duty.

1 A. [10:39:44] Sports meeting unit.

2 Q. [10:39:49] And was there someone in charge of transmissions, to the best of your
3 knowledge?

4 A. [10:39:56] No.

5 Q. [10:39:59] Let us discuss the chain of command within the BASA during normal
6 periods. What was the chain of command within the BASA, how were orders or
7 instructions transmitted?

8 A. [10:40:29] From the top to the bottom.

9 Q. [10:40:33] So the top you mean the commanding officer and the bottom you
10 mean the --

11 MR GBOUGNON: [10:40:40] (Interpretation) Your Honour, once again I need to rise
12 and intervene because my learned friend has been quite suggestive. We have been
13 quite understanding, but I think the witness is here to give answers and I believe that
14 my learned friend should truly allow the witness to answer the question rather than
15 putting the answer to him.

16 MR MACDONALD: [10:41:09] (Interpretation) Duly noted, your Honour.

17 PRESIDING JUDGE TARFUSSER: [10:41:13] Yes, I don't have noted so much that he
18 is doing this, but repeating the answer because of the record. But yes, please,
19 questions and answers.

20 MR MACDONALD: [10:41:27] (Interpretation)

21 Q. [10:41:28] Could you explain to us. Now you mentioned one particular point.
22 What do you mean by top to the bottom?

23 A. [10:41:40] The orders would come from the top, from the colonel, and then they
24 would be sent by the second in command to the commander of the battery and then
25 (Redacted) would relay the orders.

1 Q. [10:42:00] To the soldiers?

2 A. [10:42:03] Mm-hmm.

3 Q. [10:42:07] Let us be clear, so the commanding officer, the second in command,
4 the battery commander and then down to the soldiers within the units; is that correct?

5 A. [10:42:22] Yes.

6 PRESIDING JUDGE TARFUSSER: [10:42:27] It was clear in any case. I mean we
7 know how these things work, so it was very clear. No, just this, it has to be clear.
8 Well, because sometimes, sometimes you clear -- well, all of you clear things up
9 which are very clear already.

10 MR MACDONALD: [10:42:45] The issue that I have right now, your Honour, and
11 I'll be very frank, I have the impression that the witness talks very fast and that his
12 pronunciation may not be caught by the interpreters or the transcribers, obviously,
13 and therefore that's why I'm making sure that the record is maybe clearer than with
14 other witnesses.

15 PRESIDING JUDGE TARFUSSER: [10:43:13] I am also very vigilant on that. Please
16 go ahead.

17 MR MACDONALD: [10:43:24] (Interpretation)

18 Q. [10:43:25] If we could now touch upon the position of the commanding officer.
19 I'd like to ask you some questions about the person who was the commanding officer,
20 who played that role. You mentioned a few moments ago that the -- well, you gave
21 the name of the commanding officer, Commander Dadi, Lieutenant Colonel Dadi.
22 Can you confirm that that was indeed his rank at the time?

23 A. [10:44:02] Yes.

24 Q. [10:44:05] Could you describe to us, to the best of your knowledge, what career
25 path he had within the FDS and the land forces?

1 A. [10:44:22] He was part of the first group. He came from the first group of
2 ENSOA, the national school for non-commissioned artillery officers. So he came out
3 of that school, then he came to the BASA. He stayed there for a good period of time
4 and then he went to headquarters for one year and then he came back to the BASA
5 until the end.

6 Q. [10:45:17] And to your knowledge, his career, right from the beginning he was
7 part of the first group and then -- well how many years did that represent?

8 A. [10:45:29] His career. I beg your pardon. After ENSOA, well, you see ENSOA
9 is a school, you graduate from that and then you're assigned to a unit. After the
10 ENSOA school he was sent to the BASA. It wasn't called the BASA at the time.
11 I think it was -- there was another name, it had another name. I really can't
12 remember the exact name of the unit in the 1980s, but he started there until the name
13 of the unit changed, it became the BASA.

14 Q. [10:46:08] So his career began in the 1980s?

15 A. [10:46:13] Yes, I think so.

16 Q. [10:46:15] And until when, up until what date?

17 A. [10:46:23] 2011. Up until the year 2011.

18 Q. [10:46:32] When in 2011, which month? Or in relation to the events that
19 occurred.

20 A. [10:46:39] After the events, just after the events.

21 Q. [10:46:46] We know that Mr Gbagbo was arrested on 11 April 2011. To your
22 knowledge, did Commander Dadi continue, was he still holding that position before
23 the arrest of President Gbagbo?

24 A. [10:47:11] Just after.

25 Q. [10:47:13] To your knowledge, what has become of him, what does he do now?

1 A. [10:47:21] Last news I had of him he went to Ghana, I believe.

2 Q. [10:47:29] So he decided to go into exile?

3 MR GBOUGNON: [10:47:38] (Interpretation) Once again --

4 PRESIDING JUDGE TARFUSSER: [10:47:42] He went to Ghana. He went to
5 Ghana.

6 MR MACDONALD: [10:47:44] Yes. (Interpretation)

7 Q. [10:48:03] How did he treat his men? How would you describe him to us so
8 that we can understand the man?

9 A. [10:48:15] He was a strong man, sure of himself, forceful. He -- he liked work,
10 he wanted work to be done well. And, yep, other than that I don't know how
11 I would describe him. A very forceful man, a very strong man. Intelligent.

12 Q. [10:49:00] Could you describe to us or give some examples of what this
13 forcefulness was, this --

14 A. [10:49:14] He knew how to talk to people. He was tough quite often but he
15 would reassure people as well, because he was a person that others listened to very
16 much. And intelligent, because he, he definitely understood written materials,
17 writing. What I mean by that is military knowledge, correspondence, everything
18 that had to do with the military, he knew his stuff.

19 Q. [10:50:05] You just mentioned that people very much listened to him?

20 A. [10:50:10] Yes.

21 Q. [10:50:12] And what would happen if people didn't listen to him?

22 A. [10:50:19] Well, it was not possible not to listen to him.

23 Q. [10:50:31] So you say it wasn't possible not to listen to him. Were there
24 consequences if a person didn't listen to him?

25 A. [10:50:42] Of course. Like in any hierarchy, he was the boss; he gave orders

1 you carried them out, you had to carry out orders. So there you have it.

2 Q. [10:50:56] Did you see or hear about any examples of soldiers within the BASA
3 who perhaps did not listen to Commander Dadi?

4 A. [10:51:11] Several times.

5 Q. [10:51:23] And what would happen?

6 A. [10:51:26] He might humiliate you, insult you, say horrid things to you in front
7 of everyone. That happened all the time. He would put you down and even -- he
8 would even punish you.

9 Q. [10:51:48] And generally speaking what would these punishments be, that you
10 saw?

11 A. [10:51:57] In the army a punishment is in writing. If you were punished for
12 something that you did that was wrong you could be punished, get a reprimand or
13 delay --

14 Q. [10:52:15] Did you say "delayed"?

15 A. [10:52:17] Yes, your career progression would be delayed up to three years.

16 Q. [10:52:31] During the crisis, during the post-election crisis, how did he act with
17 people who disagreed with him?

18 MR ALTIT: [10:52:51] (Interpretation) Your Honour.

19 PRESIDING JUDGE TARFUSSER: [10:52:56] Mr Altit.

20 MR ALTIT: [10:52:58] (Interpretation) I apologise for interrupting. I am not so sure
21 whether the question makes a lot of sense. I think it should be more specific. What
22 was he like when people did not agree with him? We really don't understand.
23 I think the question needs to be more specific.

24 MR MACDONALD: [10:53:21] (Interpretation) Your Honour, if the witness doesn't
25 understand, he can say so, and I can be more specific in a follow-up question. But

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1 I believe we are continuing along the same line of questioning. We are trying to
2 situate the events during -- in time, in space, these events which are of interest
3 to the Chamber.

4 PRESIDING JUDGE TARFUSSER: [10:53:48] Yes, please go ahead. I think that if
5 the question is not specific enough it is up to the witness to say that he didn't
6 understand, so I think we can continue.

7 MR MACDONALD: [10:54:05] (Interpretation)

8 Q. [10:54:06] In light of the interruption I'll put the question: Did you
9 understand?

10 A. Please repeat.

11 Q. [10:54:14] During the post-election crisis, let us say soldiers within BASA
12 disagreed with Commander Dadi. How would he treat such soldiers?

13 A. [10:54:35] Well, a person could not be in disagreement with him. That wasn't
14 possible. People might disagree with him but they wouldn't show it, because you
15 couldn't be in disagreement with him.

16 Q. [10:54:56] Why couldn't a person show that they were in disagreement with
17 him?

18 A. [10:55:00] Because he was Dadi.

19 Q. [10:55:03] He was Dadi?

20 A. [10:55:04] He was the boss.

21 PRESIDING JUDGE TARFUSSER: [10:55:09] Yes. Military environment.

22 MR MACDONALD: [10:55:22] I will limit my comments, your Honours, because I'll
23 pursue my questioning. And you will see, hopefully. (Interpretation)

24 Q. [10:55:46] Now during the election, during that period of time, did anyone try to
25 influence you to vote for one of the candidates?

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- 1 MR O'SHEA: That's a leading question.
- 2 MR MACDONALD: [10:56:02] I don't think it is a leading question, your Honour,
3 because the answer can be yes or no.
- 4 PRESIDING JUDGE TARFUSSER: [10:56:06] It is not, it is not a leading question, it
5 is absolutely not a leading question.
- 6 MR MACDONALD: [10:56:11] But I want to also make something clear here, it is
7 not because a question can be respond -- you can respond to a question by yes or no
8 that it is leading. If the witness says yes, then we go and develop and then he
9 provides his answer.
- 10 PRESIDING JUDGE TARFUSSER: [10:56:30] And if he says no, the same. But
11 please.
- 12 MR MACDONALD: [10:56:33] Then we move on.
- 13 MR O'SHEA: [10:56:34] Well, with respect, that's exactly what a leading question is.
14 If it's a matter in dispute and the answer is yes or no, then you are putting the words
15 into the witness's mouth. That's a classic definition of a leading question.
- 16 PRESIDING JUDGE TARFUSSER: [10:56:50] No, but it's -- it's not a matter of
17 putting the response in the mouth of the witness, that's a leading question.
- 18 MR O'SHEA: Yes.
- 19 PRESIDING JUDGE TARFUSSER: But here he can say both.
- 20 MR O'SHEA: Well --
- 21 PRESIDING JUDGE TARFUSSER: No, he can say both. I mean --
- 22 THE INTERPRETER: [10:56:57] Please do not overlap.
- 23 MR O'SHEA: But to say to a witness, your Honour, were you influenced as to the
24 way you vote is putting the response in his mouth. I can't see it any other way, but
25 as your Honour pleases.

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1 MR MACDONALD: [10:57:13] Maybe it's a translation issue, but anyway.

2 PRESIDING JUDGE TARFUSSER: [10:57:21] By the way, this is not the first time this
3 question was asked by some of you and the first time that this issue was raised. It is
4 not the first time that this question was asked to witnesses.

5 MR MACDONALD: [10:57:43] (Interpretation)

6 Q. [10:57:44] Could you answer my question?

7 A. [10:57:46] Of course.

8 Q. Now during the first and second rounds of voting did you have a free choice,
9 could you vote for the person you wanted to vote for?

10 A. [10:58:01] No, we had no choice. It was imposed upon us. We were told that
11 we had to vote at the Place d'armes, or the battalion, or in the major Place d'armes.

12 MR MACDONALD: [10:58:21] I would propose a break here, your Honour, and I
13 will come back on this, but I can continue.

14 PRESIDING JUDGE TARFUSSER: [10:58:28] No, we have to break here because
15 I think you have demanded quite a lot, both of you, from the interpreters, and the
16 court reporters. So I would break here and we come back at 11.30. Thank you.
17 The hearing is adjourned.

18 THE COURT USHER: [10:58:47] All rise.

19 (Recess taken at 10.58 a.m.)

20 (Upon resuming in open session at 11.33 a.m.)

21 THE COURT USHER: [11:33:15] All rise. Please be seated.

22 PRESIDING JUDGE TARFUSSER: [11:33:32] Good morning again. The floor is
23 yours, Mr Prosecutor.

24 MR MACDONALD: [11:33:39] (Interpretation)

25 Q. [11:33:49] Good morning again.

1 So I shall come back to the question we were discussing, that is notably the election or
2 vote, and that we were told who we had to vote for at the Place d'armes. I'll come
3 back to that.

4 I would like to come back to the encounter that took place at the former camp,
5 Akouédo camp, and you made mention of the fact in your answer of the COMTER,
6 C-O-M-T-E-R, so we are going to touch on two subjects here. What was that former
7 Akouédo camp and who was there in 2010? Who were the ground forces who were
8 to be found at the former camp?

9 A. [11:35:04] It was the first battalion, the first parachutist commando battalion.

10 Q. [11:35:14] So that was the first BCP?

11 A. [11:35:16] And the UCS.

12 Q. The UCS. Go on.

13 A. [11:35:23] Those were the units that were based or that are based at the former
14 camp in Akouédo.

15 Q. [11:35:32] And who was the commander of the ground forces at that moment in
16 time in 2010?

17 A. [11:35:42] General Detoh Létho.

18 Q. [11:35:47] General Detoh Létho?

19 A. [11:35:52] General Detoh Létho.

20 Q. [11:35:58] And so the headquarters of the commander of the ground forces was
21 also at the former Akouédo camp?

22 A. [11:36:06] That's correct.

23 Q. [11:36:06] So let us come back to the Place d'armes of the former Akouédo camp
24 with regard to the influence upon the vote. What happened? Describe to us who
25 was addressing whom? And what was said?

1 A. [11:36:32] Well, we were called by General Mangou who was the CEMA at the
2 time, and all the ground forces were due to gather at the Place d'armes in Akouédo.
3 So we left and the general came and he spoke to us and he told us that we had to
4 make the correct choice. We had lost the war and at that moment in time we had to,
5 via the ballot box, show our allegiance to the president. Anyway, for all of those
6 who had fallen, we had to render justice. We had to have the president triumph by
7 voting en masse.

8 Q. [11:37:41] So General Mangou, and do you remember whether that was the
9 before the first or the second round of elections?

10 A. [11:37:50] It was after the second -- it was before the second round.

11 Q. [11:38:01] And was that in the presence of all the ground forces or after?

12 A. When the general arrives all the COMTER and all those he commands are there.
13 The COMTER and all the commanding officers who come with their units.

14 Q. [11:38:30] And Commander Dadi, he himself?

15 A. [11:38:34] Of course he was there.

16 Q. [11:38:36] And subsequently, Commander Dadi, because you mentioned the
17 former camp and you mentioned another location?

18 A. [11:38:47] The Place d'armes at the BASA, because when the commander gives
19 instructions you -- this needs to be enforced in front of the men, so whenever the
20 colonel gives instructions it is goes down the hierarchy until everybody says or
21 repeats what the chief has said. So when the general has finished speaking then we
22 had to repeat or say what the general had requested. So when we came back to our
23 respective units the colonel, once again, spoke to us about this and this then trickled
24 down to the last element.

25 Q. [11:39:49] So you come back to the camp, to the new camp. And what was said

1 at that moment in time by the commanding officer of the BASA?

2 A. [11:40:10] Well, he quite simply said that we needed to vote for the president.

3 Q. [11:40:17] Did he give any details?

4 A. [11:40:20] He repeated what the general had said, but that it would not be
5 a good thing to accept what the general had said and we needed -- that it would
6 be -- not to accept what the general had said and that we had to vote.

7 THE INTERPRETER: [11:40:44] Inaudible.

8 A. [11:40:47] And that we would no longer be a soldier. So in order to keep hold
9 of our posts we had to vote for the president.

10 MR MACDONALD: (Interpretation)

11 Q. [11:41:03] And this message from Dadi to vote for President Gbagbo?

12 MR GBOUGNON: [11:41:10] (Interpretation) Mr President.

13 PRESIDING JUDGE TARFUSSER: [11:41:14] Mr Gbougnon.

14 MR GBOUGNON: [11:41:16] (Interpretation) We need to repeat what the witness
15 said. He said a number of times "the president." He never mentioned
16 President Gbagbo as such. That's not what he said.

17 MR MACDONALD: [11:41:32] The --

18 PRESIDING JUDGE TARFUSSER: [11:41:33] It's not what he said, but.

19 Who we are talking about, which president are we talking about?

20 MR MACDONALD: [11:41:44] (Interpretation) Well, we apologise, sometimes you
21 have to be crystal clear.

22 A. [11:41:51] Well, I said "the president" because the president in post was
23 President Gbagbo. It wasn't President Alassane at the time. For me that was
24 obvious.

25 PRESIDING JUDGE TARFUSSER: [11:42:03] It was also clear to the Chamber I

1 would say. And I have a question.

2 Where did you as soldiers vote, which were your -- did you vote -- what were the
3 location were you voted?

4 THE WITNESS: [11:42:20] (Interpretation) I voted in the former camp. At the
5 school, there were schools in the former camp and I voted in one of the classrooms.
6 That's where we all voted, because the colonel gave us vehicles and we had,
7 everybody had to go off together and all the people of the various batteries had to go
8 and vote in the former camp.

9 PRESIDING JUDGE TARFUSSER: [11:42:53] So were there other people voting there
10 or only you, military?

11 THE WITNESS: [11:43:00] There were also civilians. There were also civilians.
12 But that is where we were put on the register.

13 PRESIDING JUDGE TARFUSSER: [11:43:10] So you, how many of military were
14 voting in that place where you are saying, where you are referring to? How many,
15 about?

16 THE WITNESS: [11:43:28] We were numerous. It was the whole of the Akouédo
17 camp. It was not only the BASA. There was the first battalion, there was the first
18 BB. There were many of us going there.

19 PRESIDING JUDGE TARFUSSER: [11:43:41] Okay. Thank you. Mr Prosecutor.

20 MR MACDONALD: (Interpretation)

21 Q. And to continue on in the same vein as the line of the questioning from the
22 Presiding Judge, when you say a former camp you are referring to the COMTER,
23 C-O-M-T-E-R. And when you talk about the civilians, who are those civilians voting
24 at the COMTER in the schools? Could you briefly explain. Of course I know the
25 answer, but for the record.

1 A. [11:44:16] Well, at the COMTER, the civilians are the relatives of the soldiers
2 living in the camp, because this is a big camp where there are the families of the
3 soldiers living there.

4 Q. [11:44:27] Very well. But at the BASA, just to wrap off this family question,
5 who lives in the camp, in the BASA camp during the post-election crisis? Were there
6 any civilians living in the camp?

7 A. [11:44:46] No.

8 Q. [11:44:46] And to come back to the subject of the elections, still following on
9 from the question. You made mention of the fact that there were vehicles. Can you
10 please describe to us how the day of the vote unfolded, how did the soldiers vote?

11 A. [11:45:08] Vehicles were placed at our disposal in order to go and vote in
12 Akouédo. And those who were in the various positions had to be picked up, so
13 those who went to vote would come back and then change places with those who
14 were in the various positions, because everybody -- and would then go and
15 vote -- because everybody needed to be able to vote.

16 Q. [11:45:48] Now let's come back to Commander Dadi, when he made this speech,
17 namely that people needed to vote for president, President Gbagbo. On how many
18 occasions did he speak in such a manner before the second round?

19 A. [11:46:06] All the time. Whenever he had the possibility of speaking to us or
20 whenever there was some form of movement and he spoke at the parade ground, at
21 the Place d'armes, he asked us to do so.

22 Q. [11:46:25] And was any evidence of your vote requested?

23 A. [11:46:28] We needed to show the registration number. The index finger, we
24 needed to show our index finger.

25 Q. [11:46:41] Why was that?

- 1 A. [11:46:41] To prove that we had voted.
- 2 Q. [11:46:43] Explain the index finger to the Chamber.
- 3 A. [11:46:47] Everybody, the colonel wanted everybody to go and vote and that
- 4 was why there was -- people were relieved in their various positions and when you
- 5 had finished voting you were taken back to those positions where people who hadn't
- 6 been able to vote had yet to vote, so that everybody voted.
- 7 Q. [11:47:09] And what evidence is provided on your index finger?
- 8 A. [11:47:15] Indelible ink.
- 9 Q. [11:47:20] Let us move on to another subject.
- 10 During the crisis, the post-election crisis, after the second round of the elections, how
- 11 were the elements with names from the north perceived?
- 12 MR GBOUGNON: [11:47:47] (Interpretation) Mr President.
- 13 MR MACDONALD: [11:47:51] I shall rephrase and that will avoid any issues.
- 14 PRESIDING JUDGE TARFUSSER: [11:47:55] Please do rephrase, yes.
- 15 MR MACDONALD: [11:47:58] (Interpretation)
- 16 Q. [11:48:01] Let's go from specifics to general. (Redacted)
- 17 (Redacted)
- 18 (Redacted).
- 19 MR GBOUGNON: [11:48:16] (Interpretation) Mr President.
- 20 PRESIDING JUDGE TARFUSSER: [11:48:18] Yes, but perceiving, perceiving is not
- 21 a fact, it's a perception. It's the word itself, it says.
- 22 MR MACDONALD: [11:48:30] I will rephrase.
- 23 PRESIDING JUDGE TARFUSSER: [11:48:31] Please.
- 24 MR MACDONALD: [11:48:32] (Interpretation)
- 25 Q. [11:48:34] How were you treated within the BASA?

1 A. [11:48:40] With suspicion. All of those who had names or the majority of those
2 who had names that were from the north were treated as suspicious.

3 Q. [11:49:02] And why was that?

4 A. [11:49:06] Because there were soldiers who were defecting to the other side and,
5 as a result, this was quite frightening.

6 Q. [11:49:24] And that frightened whom?

7 A. [11:49:28] My boss.

8 Q. [11:49:38] And the commanding officer, how did he react at that moment in time?
9 How did he treat the elements?

10 A. [11:49:53] Well, you know that in any unit all chiefs had spies, people who are
11 there to listen and watch, to see who is doing what, and who come and spill the beans
12 to the chief. And Commander Dadi had many such spies, so you needed to know
13 how to hold your tongue, what to say.

14 PRESIDING JUDGE TARFUSSER: [11:50:28] (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 THE WITNESS: [11:51:00] (Interpretation) Mr President, could we go into --

20 MR MACDONALD: [11:51:12] (Interpretation) Into closed session or private session,
21 Mr President.

22 PRESIDING JUDGE TARFUSSER: [11:51:15] Yes. Please, let's go into private
23 session.

24 (Private session at 11.51 a.m.)

25 (Redacted).

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Trial Hearing
WITNESS: CIV-OTP-P-0238

(Private Session)

ICC-02/11-01/15

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- 10 (Open session at 12.03 p.m.)
- 11 THE COURT OFFICER: [12:03:52] We're in open session, your Honour.
- 12 PRESIDING JUDGE TARFUSSER: [12:03:57] Mr MacDonald.
- 13 MR MACDONALD: [12:04:05] Thank you, your Honour.
- 14 Q. [12:04:08] (Interpretation) Did you take part in debriefing sessions?
- 15 A. [12:04:11] After missions?
- 16 Q. [12:04:13] Yes?
- 17 A. [12:04:14] Yes.
- 18 Q. [12:04:15] And before going out on missions?
- 19 A. [12:04:20] That would depend on the importance of the mission.
- 20 Q. [12:04:27] Were you informed of all the missions during the debriefings?
- 21 A. [12:04:33] No.
- 22 Q. [12:04:35] Why?
- 23 A. [12:04:38] I cannot give you an answer to that.
- 24 Q. [12:04:56] We will come back to some specific examples. And now we are in
- 25 open session I will move on to something else. Let us come back to

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1 Commander Dadi. Can you describe to us his relations with the other commanding
2 officers of the various corps of the ground forces and also the other FDS forces or
3 units?

4 A. [12:05:35] They didn't understand any -- each other and the relationship was not
5 good with the other commanders.

6 Q. [12:05:51] With Commander Létho Detoh?

7 PRESIDING JUDGE TARFUSSER: Maître Altit.

8 MR ALTIT: [12:06:04] (Interpretation) Thank you. I am sorry to interrupt. How is
9 it possible for the witness to have known that? Relations with the officers we are
10 speaking about.

11 MR MACDONALD: [12:06:21] (Interpretation) Obviously, Mr President, I am going
12 to establish the provenance of the information, you have -- you can be reassured of
13 that. So when I am saying "to your knowledge," and then we are going to go to the
14 details of that knowledge.

15 PRESIDING JUDGE TARFUSSER: [12:06:39] Yes, but you have started now with
16 naming one of the commanders, right?

17 MR MACDONALD: [12:06:48] (Interpretation) Yes. General Létho Detoh, who
18 was his overall boss, because he was the commander of the ground forces and BASA
19 was part of the ground forces, so he was the commander of Commander Dadi, who
20 was under his direct authority.

21 MR ALTIT: [12:07:12] (Interpretation) To clarify the question and given that we are
22 in open session, this is asking a question to the witness. I think in order to deal with
23 this we have to go back to private session because it is risky.

24 PRESIDING JUDGE TARFUSSER: [12:07:33] I think that's --

25 MR MACDONALD: [12:07:36] Wise.

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- 1 PRESIDING JUDGE TARFUSSER: [12:07:38] Wise. Good.
- 2 So we go into private session.
- 3 (Private session at 12.07 p.m.)
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5 (Open session at 12.16 p.m.)

6 THE COURT OFFICER: [12:16:28] We are in open session, your Honour.

7 PRESIDING JUDGE TARFUSSER: [12:16:41] Thank you. The floor is yours.

8 MR MACDONALD: [12:16:47] (Interpretation) Very well.

9 Q. [12:16:51] Let me come back to the relations between the BASA commanding
10 officer and the commander of the ground forces. You said that that relationship was
11 not good.

12 A. [12:17:15] Yes.

13 Q. [12:17:16] How did you know that?

14 A. [12:17:19] Because the boss said it all the time.

15 Q. [12:17:23] The commanding officer?

16 A. [12:17:25] Yes, all the time.

17 Q. [12:17:27] And what did he say?

18 A. [12:17:30] That he was somebody who was worthless, who did not know
19 anything. And before they were from the same batch at ENSOA, so they were part
20 of the first batch of ENSOA, so they knew themselves very well from there.
21 Afterwards they went on mission together and the general was the commander of the
22 groupement, he was based in Ananda, and Colonel Dadi was at that time in
23 M'Bahiakro. They didn't get along, they clashed. So for a long time they didn't get
24 along well. I remember when he was promoted to the rank of general, the
25 commanding officer was really not happy at all.

1 Q. [12:18:50] And how did he express the fact that he was not happy?

2 A. But he said it all the time, he was saying how could somebody like Deto be
3 promoted to general who was not a good officer? In his opinion the general was not
4 a good officer.

5 Q. [12:19:16] Commander Dadi, did he respect some of the general's senior officers
6 of the FDS in general?

7 A. [12:19:38] I would not say that he respected them, no. We know that there is
8 a hierarchy in the army, you have your boss, you respect him and you give him the
9 honour that is due. But that was not case with him.

10 Q. [12:20:02] And beyond the ground forces did he have any relations with other
11 generals or commanders?

12 A. [12:20:17] Yes.

13 Q. [12:20:17] Which ones?

14 A. [12:20:19] General Blé.

15 Q. [12:20:23] I think we overlapped, but what is the full name?

16 A. [12:20:27] Dogbo Blé. And also General Guiai Bi Poin, the commander of
17 CECOS.

18 Q. [12:20:52] And beyond the military aspect, did he have any links with members
19 or former members of the government?

20 A. [12:21:11] Yes.

21 Q. [12:21:13] Who?

22 A. [12:21:15] The late minister Bohoun Brouabré.

23 Q. [12:21:25] Can you repeat the name slowly?

24 A. [12:21:28] Minister Bohoun Brouabré.

25 Q. [12:21:45] To your knowledge, what was the portfolio of this minister, he was

1 the minister of what?

2 A. [12:21:55] I believe minister of the economy.

3 Q. [12:22:17] This minister, was he the only civilian in the government with whom
4 Mr Dadi had links?

5 A. [12:22:28] The chef de cabinet who visited the camp very frequently.

6 Q. [12:22:40] Apart from members of government, did he have any links or
7 relations with any other important civilian authorities?

8 A. [12:22:53] I don't know whether he is a personality, but there was Dibopieu,
9 who came twice, I don't know whether you would refer to him as a authority.

10 Q. [12:23:12] Dibopieu?

11 A. Jean-Yves Dibopieu.

12 Q. Jean-Yves Dibopieu, who was he?

13 A. [12:23:18] He was part of the Galaxie Patriotique, he was a patriot.

14 Q. [12:23:29] And this patriot, where did you see him? I didn't understand your
15 answer.

16 A. [12:23:36] At the BASA.

17 Q. [12:23:38] At the BASA. Is this the only member of the Galaxie Patriotique that
18 you saw at the BASA?

19 A. [12:23:55] Yes, he came with other people who were not as well known as
20 himself.

21 Q. [12:24:01] And during which period did you see him at the BASA, was it before
22 the elections or after?

23 A. [12:24:10] Before.

24 Q. [12:24:12] Was it in 2010 or before that?

25 A. [12:24:16] In 2010.

1 Q. [12:24:25] To your knowledge what was he doing in the camp?

2 A. [12:24:28] He came to see the commanding officer. He came to see the
3 commanding officer.

4 Q. [12:24:33] And how do you know that he came to see the commanding officer?

5 A. [12:24:39] Because the first time we received him it was at the reception, the bar.
6 There is this reception area and there is the bar in the officers' mess, so he was waiting
7 there for the commander to call him up to his office.

8 Q. [12:25:03] Do you know what they talked about?

9 A. [12:25:06] I do not know.

10 Q. [12:25:21] Let us go back to General Dogbo Blé. To begin with, I asked you
11 whether he had any links and you said, yes, General Dogbo Blé. How did you get to
12 know that?

13 A. [12:25:41] Because we were always involved in the missions for the president, so
14 they called themselves frequently and he let it be known.

15 Q. [12:25:55] So they called themselves frequently, that is Commander Dadi and
16 General Dogbo Blé, and you say he let it be known. Who was it?

17 A. [12:26:09] The colonel.

18 Q. [12:26:10] So the colonel, Colonel Dadi, let it be known. How did he make it
19 known?

20 PRESIDING JUDGE TARFUSSER: Slowly.

21 THE WITNESS: [12:26:21] He said he would -- he had had a meeting with the
22 general and we had to secure this location or do this or that.

23 MR MACDONALD: [12:26:35] (Interpretation)

24 Q. You have mentioned the BASA, that they carried out joint missions with the
25 Republican Guard?

- 1 A. [12:26:53] Yes.
- 2 Q. [12:26:54] Is that normal?
- 3 A. [12:26:59] Well, under those circumstances, because the number of
- 4 soldiers -- well, and also for more security because we had many more weapons.
- 5 Q. [12:27:16] Who had many more weapons?
- 6 A. [12:27:20] The BASA.
- 7 Q. [12:27:24] We will talk about weapons later. But describe to us this relationship
- 8 between the BASA and the Republican Guard?
- 9 A. [12:27:38] For presidential missions we were involved. When the president
- 10 was visiting certain towns we had to provide security for him, so we were called
- 11 upon to assist.
- 12 Q. [12:27:59] And which type of weapons did you travel with when you provided
- 13 security for the president, that is you at the BASA?
- 14 A. [12:28:12] 20 millimetre and 12.7 millimetre canons.
- 15 Q. [12:28:22] When you say 20 canons you mean 20 millimetres?
- 16 A. [12:28:28] Yes.
- 17 Q. [12:28:29] And when you say 12.7 you mean 12.7 millimetre canons?
- 18 A. [12:28:35] Yes.
- 19 Q. [12:28:37] Very well. And with 20 millimetre canons, what do fire from them?
- 20 A. [12:28:46] 20 millimetre shells.
- 21 Q. [12:28:48] And what is the range of 20 millimetre shells?
- 22 A. [12:28:55] I do not have the precise answer.
- 23 Q. [12:29:00] Approximately?
- 24 A. [12:29:03] Three to five, three to five kilometres.
- 25 Q. [12:29:14] And those joint patrols, when did they take place? That is

1 during -- in relation to the second round of the elections, was it before or after?

2 A. [12:29:35] It was after. I am sorry, are you talking about the missions or
3 patrols?

4 Q. [12:29:49] Providing security for the president?

5 A. [12:29:52] Before.

6 Q. [12:29:54] So that was before the second round of the elections.

7 A. [12:30:01] Mm-hmm.

8 Q. [12:30:03] Was that always the case ever since you were at the BASA?

9 A. [12:30:09] Yes.

10 Q. [12:30:22] To your knowledge, Commander Dadi, was he in contact with the
11 presidency?

12 A. [12:30:32] With General Dogbo, yes.

13 Q. [12:30:38] So describe to us how he explained that. Explain to us -- let me be
14 more specific with my question, I apologise. These communications with Dogbo Blé,
15 how were they carried out, you said over the telephone?

16 A. [12:31:03] Telephone.

17 Q. [12:31:04] Were there any other means?

18 A. [12:31:06] Otherwise they would go there. They would go to the presidency, to
19 the palace, to the GR.

20 Q. [12:31:17] So to the, to the Republican Guard? So the Presidential Palace?

21 A. [12:31:23] Yes.

22 Q. [12:31:26] And what happened when they came back?

23 A. [12:31:31] Well it would depend on the orders that he had received. If there
24 was a mission, if the president had to go, for example, to Yamoussoukro, to Aboisso,
25 he would put us on the alert, saying that we had to provide such-and-such an item for

1 such-and-such a mission.

2 PRESIDING JUDGE TARFUSSER: [12:31:55] I see Maître Altit on the feet.

3 MR MACDONALD: [12:32:00] (Interpretation) Should the witness leave?

4 MR ALTIT: [12:32:03] (Interpretation) I do not believe so, I think it's a question of
5 clarification. I don't think so. Thank you, Mr President. You were putting
6 a question to him with regard to the communication, that is at the end of page 62,
7 beginning of page 63, French transcript.

8 PRESIDING JUDGE TARFUSSER: [12:32:29] I think we are on the same page,
9 because I thought the same.

10 MR ALTIT: [12:32:35] (Interpretation) Most probably, Mr President. And the
11 witness answers:

12 "They often went there to the presidency, to the palace."

13 And that's clear. And then he went on to say "to the GR," the Republican Guard.

14 So I understand from the answer of the witness that they went to the GR, that is to be
15 found at the palace, that was his destination.

16 Then you put the question to him, putting this GR business to one side your question
17 is: "So to the Presidential Palace?" End of quote. As if he had gone to the premises
18 of those politically in charge, whereas he seems to have said that he was going to the
19 GR, to the Republican Guard, in his answer. I think you need to put the question to
20 him. I am not saying that this is --

21 MR MACDONALD: [12:33:28] (Interpretation) Mr President, he will have all his
22 time in his final arguments and his final --

23 PRESIDING JUDGE TARFUSSER: [12:33:36] Please. I think that we have to be
24 a little bit more precise. Because just a few, a few lines up, now I have lost -- no. It
25 is said -- the question was: "To your knowledge, Commander Dadi, was he in contact

1 with the presidency?"

2 The answer was: "With General Dogbo, yes."

3 So that's not an answer to the question.

4 MR MACDONALD: [12:34:07] But it's his answer.

5 PRESIDING JUDGE TARFUSSER: Yes, yes.

6 MR MACDONALD: Then he says later on -- later on he says.

7 PRESIDING JUDGE TARFUSSER: [12:34:11] No, because you -- so describe to us
8 how he explained that. Well, it's difficult to read. May I say it's difficult to read.

9 MR MACDONALD: [12:34:20] I will clarify, your Honour, with the witness. It will
10 be much easier.

11 PRESIDING JUDGE TARFUSSER: [12:34:24] And then it comes also to what
12 Mr Altit raised, because one is the palace, one is the guard, one is, you know, it's
13 a little bit confusing. And I think always in the perspective of reading this in some
14 weeks, so.

15 MR MACDONALD: [12:34:43] If the Chamber finds it confusing of course we will
16 clarify immediately, your Honour.

17 PRESIDING JUDGE TARFUSSER: [12:34:48] Yes, yes.

18 MR MACDONALD: [12:34:49] Thank you.

19 Q. [12:34:52] (Interpretation) Mr Witness, so you clarified, I put a question to
20 you -- (Speaks English) I'm trying to use the right words. (Interpretation) They
21 travelled to the Presidential Palace -- that he travelled to the Presidential Palace. I
22 said that they went to the GR because the general was there. The general was
23 where?

24 A. [12:35:36] He was at the palace.

25 Q. [12:35:38] At the Presidential Palace?

1 A. [12:35:39] Yes.

2 Q. [12:35:40] Very well. And, and maybe to assist us, physically, the offices of
3 General Dogbo Blé, were they within the building or the compound of the
4 Presidential Palace or were they next door?

5 A. [12:36:14] They were next door, it wasn't within the palace itself.

6 Q. [12:36:20] I would like to come back to the moment in time, the time of the
7 post-election crisis. To your knowledge, did Commander Dadi go to the
8 Presidential Palace compound?

9 A. [12:36:52] Yes.

10 Q. [12:36:54] Are you in a position to tell us how many times he went there, to your
11 knowledge, the frequency of his visits?

12 A. [12:37:05] When you are talking about the Presidential Palace you know that the
13 GR or the Republican Guard is next door, so when we say the president is going to
14 the -- or, the colonel is going to the presidency, we're soldiers, he's going to the
15 general. And that is when he would -- where he would get his orders from. Some
16 orders, not orders, but some orders. There they are, that will be clearer.
17 So at the presidency I didn't say that he went to see the president, I said he went to
18 the presidency. When he says "I'm coming back from the presidency," for us that
19 means that he went to the Republican Guard because there, in our understanding,
20 there is a soldier.

21 Q. [12:38:10] And during the post-election crisis still you mentioned, and I'm going
22 to answer you -- ask you how you know this, you say that he went to get some of his
23 orders there.

24 A. [12:38:31] Well when he went to get some orders he then needs to give them to
25 the men. The men are the ones who conduct the missions, not him, so he would say

1 you need to do this, that and the other. And often he would say so and he would
2 say the general asked me -- asked to do this, you need to do this properly because it
3 comes from the general, et cetera, et cetera.

4 Q. [12:38:57] And still to your knowledge, the COMTER, General Detoh Létho, was
5 he informed of these orders given by General Dogbo Blé to the commander of the
6 BASA?

7 A. [12:39:19] I wouldn't be able to say. But I think that if Dogbo said -- well, to my
8 mind, if Dogbo says you need to do such-and-such a mission, then the general will
9 comply. I do not know whether it went via Detoh or not, but I do not believe so.

10 MR KNOOPS: [12:39:49] Mr President, these questions call for speculation on the
11 part of the witness.

12 PRESIDING JUDGE TARFUSSER: [12:39:52] The witness has already responded, so.

13 MR MACDONALD: [12:39:55] But again --

14 PRESIDING JUDGE TARFUSSER: [12:39:56] Go ahead.

15 MR MACDONALD: [12:39:57] Thank you. I understand it's rejected.

16 PRESIDING JUDGE TARFUSSER: He has responded.

17 MR MACDONALD: Because we need clarity, your Honour, because they're
18 objecting.

19 PRESIDING JUDGE TARFUSSER: Yes.

20 MR MACDONALD: We need clarity as to objections; granted, not granted,
21 sustained, not sustained. Because then we --

22 PRESIDING JUDGE TARFUSSER: [12:40:12] Go ahead with your questioning,
23 please.

24 MR MACDONALD: [12:40:18] Thank you.

25 Q. [12:40:19] (Interpretation) Why do you not think that was the case?

- 1 MR GBOUGNON: [12:40:26] Mr President --
- 2 PRESIDING JUDGE TARFUSSER: [12:40:29] This is now his speculation, yes, his
3 thought.
- 4 MR MACDONALD: [12:40:36]
- 5 Q. [12:40:39] (Interpretation) Are there any concrete examples that illustrate that
6 General Detoh Létho was not informed of these orders?
- 7 MR O'SHEA: [12:40:59] Your Honours, the evidence of the witness has been that he
8 cannot say whether the orders were transmitted to the COMTER, Detoh Létho, and in
9 those circumstances this question is improper.
- 10 MR KNOOPS: [12:41:20] Mr President, in addition to that, if the previous question
11 calls for speculation, also the examples are derivative of such speculation. Thank
12 you.
- 13 MR MACDONALD: [12:41:31] I don't agree, your Honour, and if you allow me to --
- 14 PRESIDING JUDGE TARFUSSER: [12:41:35] Please.
- 15 MR MACDONALD: [12:41:36] Unless you are to reject the objection.
- 16 PRESIDING JUDGE TARFUSSER: No, no, please.
- 17 MR MACDONALD: The witness did provide an answer, which I'm trying to further
18 explore as to if he is aware of any concrete examples about orders being given from
19 one to the other without the knowledge of the commander, the COMTER. So I'm
20 asking for concrete examples which will demonstrate his level of knowledge or not.
21 It's not speculating, we are going on concrete examples.
- 22 PRESIDING JUDGE TARFUSSER: [12:42:19] Yes, but the witness answered: "I do
23 not know whether it went via Detoh or not, but I do not believe so." And that's it.
- 24 MR MACDONALD: [12:42:28] I am exploring the "I do not believe so" to go further
25 to know if the witness has concrete examples. Because he may think something --

1 PRESIDING JUDGE TARFUSSER: [12:42:41] You can't have a concrete example and
2 a negative example.

3 MR MACDONALD: [12:42:46] The witness --

4 PRESIDING JUDGE TARFUSSER: [12:42:47] But it is not possible to have .

5 MR MACDONALD: [12:42:50] Now you are trusting the witness in his answer.

6 PRESIDING JUDGE TARFUSSER: [12:42:53] No, he can't have, he can't have
7 negative examples. If he says "I don't think so" it means I don't think so.

8 MR MACDONALD: [12:43:00] I am exploring the "I don't think so." The "I don't
9 think so" is not a no, it is not a yes.

10 PRESIDING JUDGE TARFUSSER: [12:43:06] Why don't you think so? So
11 that's -- why don't you think so? You said, you said that, to my mind: "I do not
12 know whether it -- these orders went via Detoh or not, but I do not believe so." So is
13 there something concrete you can say why you don't believe or not?

14 THE WITNESS: [12:43:36] Well to my mind, in view of the relations that existed
15 between Commander Dadi and the general, that they weren't good relations and that
16 the order came from Dogbo who was at the presidency, then he would just fulfil that
17 order. And when the general was given an order he would comply. And it was
18 General Dogbo, he would report back directly to General Dogbo, so.

19 MR MACDONALD: [12:44:12] (Interpretation)

20 Q. Very well. So apart from himself going in person to meet the
21 General Dogbo Blé or talking to him over the telephone, were there any other means
22 of communication between the two, to your knowledge?

23 A. [12:44:36] No.

24 Q. [12:44:42] And still to your knowledge, still to your knowledge, within the other
25 units beyond the BASA but still within the ground forces, did Commander Dadi have

1 any close relations with other officers?

2 A. [12:45:27] No. With the exception of one officer from the BCP, Captain Zadi.

3 Q. [12:45:39] So Captain Zadi from the first BCP. And to your knowledge could
4 you describe this relation to us, the relationship between the two and how you come
5 to know of this?

6 A. [12:46:02] Well, because Captain Zadi very often came to the camp, he came to
7 see the colonel.

8 Q. [12:46:16] Do you know what they talked about? And was this information
9 that you were privy to subsequently?

10 A. [12:46:25] Well, they were in front of the office and very often we would take
11 fun of -- make fun of him, because whenever Zadi arrived it was to say that there was
12 going to be an attack that evening. So there was always some piece of information
13 that arrived when he arrived, so whenever -- that would mean that we would be on
14 full alert that evening as a result.

15 Q. [12:46:57] I would like to talk about background, this Zadi individual's
16 background. To your knowledge, what was his specialty or what was his
17 professional background, let's start with that?

18 A. [12:47:21] He is a captain at the first BCP, that's what I know.

19 Q. [12:47:28] So that is the first parachutist commando battalion?

20 A. [12:47:34] Yes.

21 Q. [12:47:34] And to your knowledge what type of training, military training did he
22 undergo throughout his career?

23 A. [12:47:41] Infantry, commando. He started in the infantry, then he went on to
24 the commando training.

25 Q. [12:47:52] And did he also specialise subsequent to that?

- 1 A. [12:47:57] Yes, he did -- also undertook some artillery training.
- 2 Q. [12:48:07] He undertook some artillery training?
- 3 A. [12:48:12] Yes.
- 4 Q. [12:48:13] In order to use double-barrelled guns, mortars, et cetera, where?
- 5 A. [12:48:19] I don't --
- 6 Q. [12:48:27] Do you know where he completed this training, Commander Zadi?
- 7 A. [12:48:32] If I remember correctly it was in Morocco.
- 8 Q. [12:48:37] So a member of the parachutist commando was sent to undergo
- 9 training in Morocco in artillery?
- 10 A. [12:48:51] Yes.
- 11 Q. [12:48:54] And was that the type of weapon that was used by the BCP, mortars?
- 12 A. [12:49:02] No.
- 13 Q. [12:49:05] But he -- you had to handle them?
- 14 A. [12:49:16] Like all good officers.
- 15 Q. [12:49:28] And to your knowledge, Zadi, Commander Zadi and Commanding
- 16 Officer Zadi --
- 17 A. [12:49:41] Captain.
- 18 Q. [12:49:45] Captain Zadi, indeed. And the commanding officer Dadi, of which
- 19 ethnic origin were they?
- 20 A. [12:49:59] Zadi was a Bété and Dadi is Dida. Well, he is closer to Gagnoa, but
- 21 let's say he's a Dida.
- 22 Q. [12:50:23] And when you say he is closer to Gagnoa, what is Gagnoa?
- 23 A. [12:50:29] Well I clarified that because, you know, there are a number of ethnic
- 24 groups and Dida is the major group. But there is a language that is close to Dida that
- 25 he speaks, that is Dida in fact.

1 Q. [12:50:48] Which language did they speak amongst themselves, you know, Dadi
2 and Zadi?

3 A. [12:50:58] Bété.

4 Q. [12:50:59] And were you a witness to that that they spoke Bété?

5 A. [12:51:02] Yes.

6 PRESIDING JUDGE TARFUSSER: [12:51:04] And do you understand Bété?

7 THE WITNESS: [12:51:08] (Interpretation) A few words, yes. You know, if
8 somebody speaks Bété you know that it's Bété.

9 PRESIDING JUDGE TARFUSSER: [12:51:14] Yes, but one is do you know that it's
10 Bété. The other thing is to understand or to speak it, I think.

11 MR MACDONALD: [12:51:20] It's like all of us, we don't speak Italian, but I am sure
12 we recognise it by now.

13 THE WITNESS: [12:51:33] (Interpretation) Well, back home it's easier because, you
14 know, if somebody speaks Bété you know that it's Bété, if it's Dioula you know it's
15 Dioula, if it's Attié, you know it's Attié. It is easier.

16 PRESIDING JUDGE TARFUSSER: That's okay.

17 MR MACDONALD: [12:51:51] I am sorry, I didn't want to personal the debate either,
18 your Honour. I was not being disrespectful at all, just trying to lighten up the --

19 PRESIDING JUDGE TARFUSSER: [12:52:01] Well I didn't fall in your trap.

20 MR MACDONALD: [12:52:17] (Interpretation)

21 Q. [12:52:17] And to your knowledge -- I shall rephrase. I would like to come
22 back to now, to the relationship between Mr Dadi and the Minister Brouabré. What
23 do you know about that relationship, what are you able to tell us on the subject?

24 A. [12:52:49] Well just to say that they were perhaps friends, because the
25 chef de cabinet would come very often and we had a few elements who often

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1 guarded or mounted the guard in front of his home. I can't say -- well, for me they
2 were friends. They could be friends.

3 Q. [12:53:19] So elements of the BASA would provide security or would protect the
4 residence of the minister. And those were normal responsibilities for the BASA,
5 namely providing security of a ministerial residence or a former ministerial
6 residence?

7 A. [12:54:00] No.

8 Q. [12:54:00] And beside the fact that his chef de cabinet would go to the camp, and
9 we'll come back to that, to your knowledge how did he communicate with
10 the minister?

11 A. [12:54:12] By telephone.

12 Q. [12:54:19] Do you know -- well, do you know the context in which they
13 communicated with each other?

14 A. [12:54:31] No, no.

15 Q. [12:54:38] And the chef de cabinet who came to visit, who did he come to see?

16 A. [12:54:43] The colonel.

17 Q. [12:54:48] Colonel Dadi?

18 A. [12:54:49] Yes.

19 Q. [12:54:50] And do you remember the name of that chef de cabinet?

20 A. [12:54:55] No. I don't know.

21 MR MACDONALD: [12:55:08] (Interpretation) Now, Mr President, I'm going to
22 broach other subjects. I might be able to continue now for a further five minutes or I
23 would suggest that we took the break at this time.

24 PRESIDING JUDGE TARFUSSER: [12:55:22] Let me, before we break, put a question
25 to the witness.

1 What was your personal relationship with Colonel Dadi, with your superior?
2 Because you said many things here and I would just like to know how you know, in
3 which relation you were with Colonel Dadi?

4 THE WITNESS: [12:55:52] (Interpretation) Well, I was a subordinate.

5 PRESIDING JUDGE TARFUSSER: [12:55:59] Well, that was clear to me, that you
6 were a subordinate. But let me put it different. Were other colleagues of yours, in
7 your same ranking position, would they have the same knowledge as you have, or
8 have you something more because of your relation?

9 THE WITNESS: [12:56:19] (Interpretation) So we were all privy to the same
10 information.

11 PRESIDING JUDGE TARFUSSER: [12:56:34] Okay. Thank you.

12 MR MACDONALD: [12:56:35] Well just to follow up on your question then,
13 your Honour, just before the break.

14 Q. [12:56:41] (Interpretation) I think the Chamber would like to know what the
15 source of your knowledge is, that's it. And you have already furnished some
16 answers, but can you develop on this, how do you know? That's what the Chamber
17 wants to know.

18 A. [12:57:00] Well they spoke a lot. When he talked to the minister he would say,
19 "Well, I talked to the minister, that's what he said." He liked to -- they
20 liked -- whenever he had a, a telephone call he would -- I don't know, well, maybe
21 you could.

22 Q. [12:57:23] Could we go into private session, you mean?

23 A. [12:57:33] Yes.

24 Q. [12:57:35] Well I would suggest that --

25 PRESIDING JUDGE TARFUSSER: [12:57:37] Can we go in private session.

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- 1 (Private session at 12.57 p.m.)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
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- 13 (Redacted)
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- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Open session at 12.59 p.m.)

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- 1 THE COURT OFFICER: [12:59:39] We are in open session.
- 2 PRESIDING JUDGE TARFUSSER: [12:59:46] Yes, before breaking for the lunch for
3 one hour and a half, we continue at 2.30, I just would like to say that in the afternoon
4 we will use only half of the time with the witness, about 45 minutes, and then discuss
5 all the other issues related to the video link, to the questioning by the Legal
6 Representative of Victims, to the hearing on 3 October and what, all the things we
7 have to discuss about and to decide by latest tomorrow. Thank you very much.
8 The hearing is adjourned.
- 9 THE COURT USHER: [13:00:27] All rise.
- 10 (Recess taken at 1.00 p.m.)
- 11 (Upon resuming in open session at 2.33 p.m.)
- 12 THE COURT USHER: [14:33:41] All rise.
- 13 Please be seated.
- 14 PRESIDING JUDGE TARFUSSER: [14:33:43] Good afternoon.
- 15 Good afternoon, Mr Witness.
- 16 I immediately give the floor for about 40, 45 minutes to the Office of the Prosecutor
17 for his questioning, and then for today you are freed and we continue with you
18 tomorrow morning at 9.30.
- 19 Mr MacDonald, yours the floor.
- 20 MR MACDONALD: [14:34:06] Thank you, your Honour.
- 21 Q. [14:34:13] (Interpretation) Good afternoon, Mr Witness.
- 22 Let me now -- well, "coming back" is not the right word, but let me just move on to
23 something else. And you have already provided a partial answer this morning.
- 24 (Speaks English) Your Honour, I think your microphone is on.
- 25 (Interpretation) I would like to talk about the issue of weapons in the BASA, the

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1 types, numbers and also the logistical equipment in the technical service, technical
2 section. This morning you stated that the BASA had a lot of weapons. Do you
3 remember that?

4 A. [14:35:40] Yes.

5 Q. [14:35:42] Now, to begin with, that is compared to the other units in the ground
6 forces, how would you describe the number of weapons that BASA had in relation to
7 the other units of the ground forces?

8 A. [14:36:05] We had many.

9 Q. [14:36:10] And compared to the other divisions or battalions in the FDS, and I
10 include all the other forces other than the ground forces --

11 PRESIDING JUDGE TARFUSSER: [14:36:36] Mr O'Shea.

12 MR O'SHEA: [14:36:37] I would submit that it's important when one is asking a
13 question like how many weapons does the BASA have compared to other units, that
14 we put this within a time frame, because obviously that's a very variable factor.

15 PRESIDING JUDGE TARFUSSER: [14:36:51] Agreed.

16 MR MACDONALD: [14:36:53] (Interpretation)

17 Q. [14:36:56] We are still talking about the post-election crisis period, that is after
18 the second round of the elections. So my question remains the same. Is your
19 answer still the same?

20 A. [14:37:18] Yes.

21 Q. [14:37:18] Now, my question was, that is compared to the other forces,
22 gendarmerie, police, CECOS, Republican Guard, air force, the navy, how would you
23 compare your unit?

24 A. [14:37:45] Obviously we were better armed. We had more weapons because it
25 is the artillery.

1 Q. [14:37:56] Why is it obvious?

2 A. [14:37:59] The artillery has more heavy weapons than the others. The infantry
3 would have a few AKs, rocket launchers and so on, but we had more better weapons
4 because the artillery weapons are heavier.

5 Q. [14:38:21] Let us talk about the types of weapons with the artillery in BASA.

6 A. [14:38:42] Apart from personal weapons, they had, in fact, those were the
7 AK-47s, each person had a personal weapon, that is an AK-47. Then you had the
8 weapons of the unit, 20 millimetre cannons, 12.7 millimetre cannons mounted on
9 four-by-four vehicles. We also had a 23 millimetre double-barrelled cannons, 18.23
10 millimetres. We had LRMs, multiple rocket launchers. We had 120 millimetre
11 mortars.

12 Q. [14:39:42] Just to come back to the multiple rocket launchers, the LRMs, how
13 were these weapons mounted?

14 A. [14:39:55] These are 40 -- well, these are weapons mounted 40 millimetre -- or
15 rather 40 barrels mounted on a vehicle.

16 Q. [14:40:20] Mounted on a vehicle?

17 A. [14:40:22] Yes.

18 Q. [14:40:23] What type of vehicle?

19 A. [14:40:28] The LRM vehicles are vehicles that are already adapted for that
20 purpose.

21 Q. [14:40:37] And you had 120 millimetre mortars?

22 A. [14:40:48] Yes.

23 Q. [14:40:51] What about the vehicles, what type of vehicles were there and in what
24 numbers?

25 A. [14:41:07] We had four-by-four vehicles on which were mounted the 12.7

1 millimetre cannons.

2 Q. [14:41:23] But apart from vehicles to transport the 12.7 millimetre cannons and
3 the LRMs, et cetera, when you just think about the number of vehicles compared to
4 the others in the ground forces.

5 A. [14:41:45] We were well equipped. We had in our possession quite a good
6 number of vehicles.

7 Q. [14:41:53] And what type of vehicles did you have?

8 A. [14:41:57] As I've already said, four-by-four vehicles.

9 Q. [14:42:02] Which make?

10 A. [14:42:04] We had four-by-four Toyota vehicles. And after the second round of
11 the elections we received about 21 vehicles, Great Wall type vehicles.

12 Q. [14:42:34] And which type of vehicles were those, the 21 vehicles?

13 A. [14:42:39] Four-by-four vehicles.

14 Q. [14:42:43] And the make is Great Wall?

15 A. [14:42:47] Great Wall.

16 Q. [14:42:49] To your knowledge, who supplied those vehicles?

17 A. [14:43:03] I remember that the commanding officer, the colonel said that it was
18 the second wife of the president who had provided those vehicles.

19 Q. [14:43:12] Without being leading but to be specific, when you refer to the
20 president, who are you referring to?

21 A. [14:43:26] President Gbagbo.

22 Q. [14:43:27] And those vehicles which according to the commanding officer had
23 been supplied by the second wife, what were they used for?

24 A. [14:43:47] Those were company vehicles. You had the labels that were
25 removed from those vehicles.

- 1 Q. [14:44:06] Let us go slowly. You said vehicles that served for what?
- 2 A. [14:44:15] The presidential campaign.
- 3 Q. [14:44:17] And when -- what did you have on the vehicles?
- 4 A. [14:44:21] The posters. When you remove the posters you have marks of the
- 5 glue that remained there. But we were told that these were campaign vehicles.
- 6 Q. [14:44:38] And what was on the posters?
- 7 A. [14:44:44] There were no longer any posters when the vehicles arrived.
- 8 Q. [14:44:51] You received the vehicles and there were no longer any posters?
- 9 A. [14:45:07] Yes, sir.
- 10 Q. [14:45:07] But the marks were still there?
- 11 A. [14:45:09] Yes.
- 12 Q. [14:45:09] Who went to fetch the vehicles?
- 13 A. [14:45:17] The MDLs, two MDLs and one DHF.
- 14 Q. [14:45:35] Are you in a position to provide their names in open session? You
- 15 can proceed.
- 16 A. [14:45:49] Ekue Aka (phon).
- 17 Q. [14:45:52] Can you spell?
- 18 A. [14:45:53] E-K-U-E, E-K-U-E.
- 19 Q. [14:46:00] And Aka?
- 20 A. [14:46:03] Yes.
- 21 Q. [14:46:06] That is someone's name?
- 22 A. [14:46:11] His nickname, there was one his nickname was Ching Chung (phon).
- 23 (Redacted), a member of the (Redacted), but with Lieutenant Tago.
- 24 Those were the people who went to get or fetch the vehicles.
- 25 Q. [14:46:40] Unfortunately I did not understand you.

1 A. [14:46:43] They went together with Lieutenant Tago, the head of the technical
2 service.

3 Q. [14:46:49] The same one who was a relative of the commanding officer?

4 A. [14:46:54] Yes.

5 Q. [14:46:54] And the second wife of Mr Gbagbo, did she supply anything other
6 than vehicles?

7 A. [14:47:17] Food.

8 Q. [14:47:35] She also provided food. Can you give us details?

9 A. [14:47:39] I think it was a feast day, I believe the 1st or the 21st. I no longer
10 remember the date. And then food was brought from her house to the camp to feed
11 us.

12 Q. [14:48:07] Was this the only occasion when she sent food to you in the camp?

13 A. [14:48:15] To the camp, yes. But our soldiers who were in the field who were
14 stationed just before the Golf, they told us that they were served food there.

15 Q. [14:48:34] In the course of your testimony we are going to come back to the
16 various fixed and mobile positions of the BASA. But which position was that when
17 you say Golf Hotel?

18 A. [14:49:02] It was before the academy, the MIMOSIFCOM academy at the
19 intersection.

20 Q. [14:49:15] Does that intersection have a name, that roundabout?

21 A. [14:49:18] I do not think so.

22 Q. [14:49:20] And what was the reason for that position being set up at that
23 location.

24 A. [14:49:30] To prevent anyone entering or exiting from the Golf.

25 Q. [14:49:43] And who told you that Mr Gbagbo's second wife sent food to the

1 soldiers at that roundabout?

2 A. [14:49:52] The soldiers who were there. There is a team leader for every corps,
3 so they would tell us we received food.

4 Q. [14:50:12] And to your knowledge, was there a relation or a link between the
5 commanding officer and the second wife?

6 A. [14:50:35] I do not know.

7 Q. [14:50:43] Can you remember the name of the second wife of Mr Gbagbo?

8 A. [14:50:57] No.

9 Q. [14:51:01] If I put a name to you?

10 A. [14:51:06] Please go ahead.

11 Q. [14:51:11] Nady Bamba?

12 A. [14:51:13] I think it means something to me.

13 Q. [14:51:20] Do you confirm that this is indeed the name of Mr Gbagbo's second
14 wife?

15 A. [14:51:25] Yes.

16 Q. [14:51:29] Very well. I would like to move on to something else which I believe
17 we will be dealing with right up until the end of this session, and I'm talking about
18 documentation within the BASA. Let us talk about the reports relating to the events.
19 What was the normal chain, from whom to whom? Let us start from the person who
20 prepared the report. How did it happen, to whom did it go?

21 A. [14:52:27] The report, well, it will depend on the type of report. There are
22 several reports. I do not know specifically what you are referring to. Is it a report
23 of an event or an incident?

24 PRESIDING JUDGE TARFUSSER: [14:52:51] Yes, I think the witness is right,
25 because you asked to the reports relating to the events. I think one can be more

1 precise to identify what events we're talking about.

2 MR MACDONALD: [14:53:07] Yes, your Honour.

3 Q. [14:53:16] (Interpretation) You were in a position to prepare various types of
4 reports. If you can begin by describing them to us and then we will deal with each
5 one of them. Now, reports relating to the events, that is BASA missions that you
6 carried out, the type of reports that were written after such meetings, and this is still
7 during the period of the post-election crisis?

8 A. [14:54:01] When you went to the field, if there was something that happened,
9 the team leader would first of all produce a report that he would submit to the
10 company commander or battery commander, which is then transmitted to the
11 commanding officer, that is the colonel.

12 Q. [14:54:29] And what would the commanding officer do after that? Would he
13 transmit the report to other authorities within the FDS or the ground forces?

14 A. [14:54:48] Normally that is what would be done. It would depend. There are
15 reports that would end at his level and some that he would transmit when he wanted.

16 Q. [14:55:03] Now, let us talk about a report where there was an incident. It goes
17 to the commanding officer. Who would he send that report to?

18 A. [14:55:15] To the COMTER, and that is his immediate superior.

19 Q. [14:55:24] And after that would the reports stay at the level of the COMTER, that
20 is if there were incidents or events, or would that person have other superiors?

21 A. [14:55:40] I do not know. It would depend on the type of incident. When we
22 complete our reports we send them to our commander. It will depend on him. If
23 he believes that he has to report to his superior, he does that. If he decides to keep it
24 to himself, that's what he does.

25 Q. [14:56:01] And to your knowledge regarding reports between the commanding

1 officers and the COMTER, how did the commanding officers send in their reports?

2 A. [14:56:22] Each morning if there are reports, there are always a vehicle that
3 would take messages to COMTER, and they would also bring messages back to the
4 COMTER, but normally it would be by fax. But we did not have a fax. We did not
5 have a transmissions officers.

6 Q. [14:56:51] When you say "trans officer," you mean transmissions officer?

7 A. [14:57:04] Yes. So the message would be transported by vehicle to the
8 COMTER, and if there were messages from the COMTER intended for the various
9 units, we would go and fetch them.

10 Q. [14:57:23] Now, regarding the substance of the reports on the events, if there
11 were cases of misconduct by the elements of the BASA, how would that information
12 be treated?

13 A. [14:58:14] It would depend on the boss, the colonel, but quite often he covered
14 for us.

15 Q. [14:58:24] He covered for you?

16 A. [14:58:25] Yes.

17 Q. [14:58:28] What do you mean by that? How would he cover for you?

18 A. [14:58:34] He would find the right words. He would not give an account the
19 way that things happened. He would find the right words to avoid us having
20 problems.

21 Q. [14:58:50] Are you in a position to give us any examples of this type of the right
22 words that the commanding officer would use?

23 A. [14:59:10] Yes. Once we were going on mission, then there was a problem, a
24 mistake by the driver going down to the new camp. He crashed into another vehicle,
25 and it was our fault. But the commanding officer said in the report, well, since this

1 was an old vehicle, we would say that the brakes failed, those types of things.

2 Q. [14:59:47] And during the post-election crisis, still to your knowledge, was there
3 any use of what you have referred to as the right words in relation to the actions of
4 BASA elements?

5 A. [15:00:10] No. To my knowledge there was no such report, no.

6 Q. [15:00:24] Is it because there was no event along those lines or no report?

7 A. [15:00:29] There were no longer any reports. There still were events. There
8 always were events.

9 Q. [15:00:38] And why is it that there were no longer any reports? You said that
10 there still were events going on, but no longer any reports. I'm trying to understand
11 why is it that reports were no longer prepared.

12 A. [15:01:01] Well now reports to whom? Who would we report to? I don't
13 understand.

14 Q. [15:01:05] During the post-election crisis.

15 A. [15:01:16] Mm-mm.

16 Q. [15:01:19] A colleague is coming in. Don't be alarmed. Would you rather that
17 we go into private session?

18 A. [15:01:33] No, no. Go ahead.

19 Q. [15:01:36] During the post-election crisis, were any reports prepared about
20 events, about these screw-ups that might happen, screw-ups that the soldiers did?

21 A. [15:01:51] Yes. But as I said, if a soldier made a mistake, the battery
22 commander would prepare a report, and he would prepare this report and send it to
23 the commanding officer.

24 Q. [15:02:14] I'm listening.

25 A. [15:02:16] I'm answering. So I can't say that thereafter that -- okay? I don't

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1 know. I don't know.

2 Q. [15:02:31] So before the post-election crisis, you gave an example, an example.

3 That was an example from before the post-election crisis?

4 A. [15:02:48] Yes.

5 Q. [15:02:50] And was this an exception or a normal practice or was it --

6 A. [15:02:58] Oh, many times, many times when people -- when there were
7 situations, they would cover up for us, the boss would cover up for us.

8 Q. [15:03:11] So this practice occurred before the post-election crisis?

9 A. [15:03:17] Yes.

10 Q. [15:03:18] And you don't know whether during the crisis whether it continued
11 or not?

12 A. [15:03:27] Well, well, there would have to be a screw-up. It would depend on
13 your viewpoint, where you were, if there had been a screw-up or not.

14 Q. [15:03:41] Now, to your knowledge, Mr Witness, were there any screw-ups?
15 You're testifying under oath.

16 A. [15:03:51] I don't know.

17 Q. [15:04:04] Would you rather we go into private session?

18 PRESIDING JUDGE TARFUSSER: [15:04:06] No, but the problem, excuse me, is I
19 know you are driving somewhere, of course. But are you refreshing the memory or
20 you confront him with something he said before. I don't know why -- I don't
21 know -- otherwise posing always the same question receiving always the same
22 answer, I mean, is quite useless.

23 MR MACDONALD: [15:04:26] I think we were slowly getting there, your Honour.

24 But I'll come back to that because now the moment, I must say, unfortunately is lost.

25 Q. [15:04:46] (Interpretation) Mr Witness, we'll return to that issue tomorrow.

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1 A. [15:04:56] Okay.

2 Q. [15:05:00] Did the United Nations ever do any check or verification of the
3 weapons before the post-election crisis?

4 A. [15:05:12] Yes, several times.

5 Q. [15:05:16] And how would these verifications unfold? What would happen?

6 A. [15:05:31] When they were supposed to come, quite often we would be warned.
7 But sometimes they would just show up unannounced or unexpected. So sometimes
8 we would try to delay them outside the camp and find some reason for not letting
9 them in immediately, and then we would try to hide the ammunition. We weren't
10 supposed to show them everything, because the boss told us not to show them all the
11 ammunition.

12 Q. [15:06:09] When you say "the boss," are you talking about the commanding
13 officer?

14 A. [15:06:14] Yes, the commanding officer, Dadi.

15 MR GBOUGNON: [15:06:18] (Interpretation) Your Honour.

16 PRESIDING JUDGE TARFUSSER: [15:06:20] Maître Gbougnon.

17 MR GBOUGNON: [15:06:23] (Interpretation) Your Honour, I've noticed ever since
18 this morning with this method we may be able to move quickly, but I do think we
19 should allow the witness to specify what he means. Several times now the
20 Prosecution has done the specifying for him. I think that if there is a question and
21 the witness has not understood, it would be better to put the question again so that
22 we can get the words of the witness on the record rather than the words of the
23 Prosecution.

24 PRESIDING JUDGE TARFUSSER: [15:07:01] Or when the Prosecution asked the
25 question again, you stand up and say "Now he is questioning again the same, making,

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1 putting the same question." But okay, we've got it.

2 MR GBOUGNON: [15:07:14] (Interpretation) I'm deliberately saying that I did not
3 rise earlier, but, you see, earlier the witness was talking about --

4 MR MACDONALD: [15:07:27] (Interpretation) Given the time, could we have the
5 witness escorted out of the courtroom and we will continue tomorrow? We can
6 discuss the objection without the witness being present. I think this is the right time
7 to have a bit of a break. In any event we will return tomorrow and we'll have two
8 sessions tomorrow.

9 PRESIDING JUDGE TARFUSSER: [15:07:52] Well, I think it's in any case time for the
10 witness to go because we have to discuss other matters. But I don't get your
11 opposition, Maître Gbougnon. I simply don't understand it.

12 But I would ask the court usher to bring the witness out.

13 So we have other things to deal with.

14 We'll see each other tomorrow morning at 9.30 and then the Prosecutor will continue
15 his questioning. Thank you very much for today.

16 THE WITNESS: [15:08:34] (Interpretation) Thank you.

17 (The witness stands down)

18 PRESIDING JUDGE TARFUSSER: [15:08:56] So now I think it's time to discuss some
19 issues. I would say we tie them all together so that we don't make the tour all the
20 time, so we talk about the video link, about the legal representative requesting, and I
21 think this is the first thing to do because then the order changes, so then -- well, that's
22 it, those two issues.

23 So I would first ask --

24 MS MASSIDDA: [15:09:44] I think your Honour mentioned this morning also the
25 issue of 3 October.

1 PRESIDING JUDGE TARFUSSER: [15:09:48] Yes, but this was already discussed, so
2 it's not something we have to discuss here. We decide on that also on this. So we
3 have to discuss these two issues, the VWU requesting the questioning of this witness
4 and the video link of the following witnesses which are Rule 68 witnesses.

5 So I would start -- yes, Mr Knoops.

6 MR KNOOPS: [15:10:14] Mr President, I think you forgot list of materials. Friday
7 you announced that you would like a submission of the parties on the length of the
8 list of materials. Your problem was that this --

9 PRESIDING JUDGE TARFUSSER: [15:10:31] No, no, no, no. That was not --

10 MR KNOOPS: [15:10:34] Thank you.

11 PRESIDING JUDGE TARFUSSER: [15:10:35] -- on this issue I just decided --

12 MR KNOOPS: Okay.

13 PRESIDING JUDGE TARFUSSER: -- that the list of materials have to be according to
14 the directives shorter --

15 MR KNOOPS: [15:10:44] Okay.

16 PRESIDING JUDGE TARFUSSER: [15:10:45] -- because also in this case --

17 MR KNOOPS: [15:10:47] I understand.

18 PRESIDING JUDGE TARFUSSER: [15:10:48] -- I think you submitted something like
19 80 documents --

20 MR KNOOPS: [15:10:51] Yes.

21 PRESIDING JUDGE TARFUSSER: [15:10:52] -- which I think you will use 10 per
22 cent maybe of them. So it's a lot of work for us.

23 MR KNOOPS: [15:10:57] Yes.

24 PRESIDING JUDGE TARFUSSER: [15:10:57] And I think we should really stick to
25 the directives and have realistic, I don't say exactly, but realistic list of documents.

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1 MR KNOOPS: [15:11:10] I understand. So you don't want submissions on that?

2 PRESIDING JUDGE TARFUSSER: [15:11:13] No, no, no.

3 MR KNOOPS: Okay. Thank you.

4 PRESIDING JUDGE TARFUSSER: No, I don't want submissions on that.

5 MR KNOOPS: [15:11:15] All right.

6 PRESIDING JUDGE TARFUSSER: [15:11:16] Now the floor is to the legal
7 representative. So now the witness is not here, you can explain why you want to
8 question this witness.

9 MS MASSIDDA: [15:11:29] Thank you, your Honour. Actually my request was
10 already in the record this morning, so I will briefly summarise the arguments in
11 support of a request for questioning P-0238.

12 We are seeking leave to question the witness on a very limited area of knowledge of
13 this witness, and specifically on the areas related to the crimes committed against the
14 civilian population to the extent that this matter will not be covered, of course, by the
15 Office of the Prosecution.

16 I made this morning a preliminary remark in relation to how the interest of the
17 victims are affected, because I thought it was important to remember that the
18 Chamber has already ruled several times that the interest of the victims in this
19 proceeding are per se affected by all the debate at trial and by the outcome of the trial
20 itself.

21 As a consequence, in our submissions any witness and any piece of evidence bear
22 some interest for victims and affects their personal interest because everything
23 discussed in this trial goes to the outcome of the trial itself.

24 In relation to the specific witness, P-0238, victims have mainly an interest in exploring
25 two areas: The first one is the knowledge of the witness in relation to how and why

1 certain categories of civilians were targeted and, second, the modus operandi of the
2 youth and militia in targeting specific group of the civilian population.

3 These two areas questioning are not indicated in the examination sheet for witness
4 provided by the Prosecution, so at this point in time we don't know if the Prosecution
5 will explore these two issues.

6 Why the interest of the victims are concerned by these two issues. As the Chamber
7 will probably recall, the matter of the targeting of civilians perceived to be supporters
8 of Mr Ouattara was extensively dealt with during our opening remarks, and this issue
9 is constantly recalled, it's a recurrent issue in the accounts of the victims that we
10 represent.

11 As such the personal interests of the victims are affected by the testimony of this
12 witness, who has some knowledge of these issues. The questioning will probably
13 cover not more than 10, 15 minutes, I would say, and it's our submission that this
14 questioning will contribute on behalf of the victims to make the Chamber understand
15 the extent of their victimisation as well as the prejudice that they have suffered from.

16 Thank you, your Honour.

17 PRESIDING JUDGE TARFUSSER: [15:15:25] Are you in a position to take the floor
18 also for the video link so we make one turn?

19 MS MASSIDDA: [15:15:32] Yes, your Honour.

20 PRESIDING JUDGE TARFUSSER: [15:15:33] Yes, please.

21 MS MASSIDDA: [15:15:34] Concerning the issue of the video link, two brief
22 observations. We do not oppose the course of event. We have one specific remark
23 in relation to one witness, P-0555, P-0555. It's very easy to remember.

24 This person is a dual status. The person has been in touch with us. He has no
25 objection to eventually having his testimony done by video link in a location which

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1 will be chosen by the Chamber eventually.

2 The only remark in relation to this witness is that being a dual status, all the
3 conditions applicable for dual-status witnesses here at the seat of the Court should
4 also be, of course, applicable in the location where eventually the video link will take
5 place, including, of course, the possibility for the witness to have access to his or her
6 lawyer or person delegated by his or her lawyer in the place of the testimony. Thank
7 you.

8 PRESIDING JUDGE TARFUSSER: [15:16:50] Thank you.

9 Now I turn to the Office of the Prosecutor for the both issues.

10 MR MACDONALD: [15:16:58] Thank you, your Honour. I'll address the question
11 of should the legal representatives be permitted to question and my colleague will
12 address the other part on the video link.

13 I just want to point out that the quality of the witness, be it an insider witness, a crime
14 base or even an expert for that matter does not impact on the right or not of the legal
15 representatives to ask questions.

16 Now, if the topic in and of itself, as in this case it seems to be, relates to indeed the
17 interests of the victims, then they should be permitted to ask questions like they've
18 been permitted to ask questions in all the cases before this institution.

19 Of course, sometimes the Prosecution may address these issues, so this question may
20 become moot, but if it isn't, then they should have the right to ask questions. And
21 the Defence will have the last word in any event.

22 Thank you, your Honour.

23 PRESIDING JUDGE TARFUSSER: [15:18:05] Mr MacDonald.

24 Madam Pack.

25 MS PACK: [15:18:09] Good afternoon, your Honours. I was just going to address

1 you on the video link issue. I would ask actually if we could go into private session,
2 because I will probably address you on some details related to the specific witnesses.
3 It's health issues related to the witnesses.

4 PRESIDING JUDGE TARFUSSER: [15:18:34] Health issues? But, I mean, we are
5 not talking about the witness. We are not identifying any witness. So I think we
6 can go on speaking generally. I mean, I would not go into private session for this.

7 MS PACK: [15:18:51] Okay.

8 PRESIDING JUDGE TARFUSSER: [15:18:52] If there is some piece in private session,
9 we can do it. But not generally speaking on all, on the issue itself --

10 MS PACK: [15:18:58] Okay.

11 PRESIDING JUDGE TARFUSSER: [15:18:59] -- because the issue itself probably is
12 not something to be dealt with in private session.

13 MS PACK: [15:19:05] I'm concerned about the pseudonyms, but if they're also
14 publicly available then --

15 PRESIDING JUDGE TARFUSSER: [15:19:10] They have pseudonyms.

16 MS PACK: [15:19:11] Okay.

17 PRESIDING JUDGE TARFUSSER: [15:19:12] That's why. So please.

18 MS PACK: [15:19:14] So in relation to the request, it was for nine witnesses. Now, I
19 just wanted to make sure that we're clear that it's not the case that an application has
20 been granted under Rule 68(3) in relation to all nine as of course your Honours are
21 aware. So there is outstanding in relation to three of those witnesses, 106, 107 and
22 117, an application. There we are.

23 Now, our submission is that we would request video link in relation to seven out of
24 the nine that have been identified. So far as those seven are concerned, we exclude
25 witnesses 230 and 106.

1 You've heard submissions from Ms Massidda in relation to the dual-status witness
2 555. We share the view and the submission that there are no objections in relation to
3 that witness for that witness to testify via video link.
4 Now, another witness, P-169, we would ask to go to the bottom of the list of witnesses
5 for reasons which I will explain, the list of witnesses in this particular block.
6 Now, we make two broad observations on points of --
7 PRESIDING JUDGE TARFUSSER: [15:20:49] Please.
8 MR ALTIT: [15:20:54] (Interpretation) Thank you. I'm terribly sorry to interrupt.
9 I really do not intend to interrupt, but I just don't understand the process. We are
10 responding to the request made by the Legal Representative of Victims and we're also
11 dealing with the issue of video links. And now I have the impression you are
12 making a new request; is that the case?
13 MS PACK: [15:21:23] No. Let me just deal with it. Can I just deal with it, make
14 my submissions and then my friend can respond?
15 PRESIDING JUDGE TARFUSSER: [15:21:29] Yes. I didn't hear it as any request.
16 Please go ahead.
17 MS PACK: [15:21:33] Thank you. Now, we have two broad observations, and these
18 are, they're procedural and principled. So I'll deal with the first one. And if I can
19 after that, I'll go into more detailed submissions related to witnesses.
20 But just on the point of principle, first of all, it is our submission that we, the
21 Prosecution, are responsible for the presentation of our case and obviously under the
22 Trial Chamber's direction.
23 We ask that a degree of deference is given to us and to the other parties in the
24 determination of which witnesses we will call or indeed the other parties will call to
25 testify via video link, subject obviously to the Chamber's statutory obligation to

1 ensure a fair and expeditious trial.

2 We request that applications for video link are made by us, the parties, that it be the
3 party's prerogative to make applications for video link in respect of the witnesses
4 whom we will call in the presentation of our case. That's the first point.

5 The second point is this, it's our position that applications for video link should be
6 individualized. The trend in the jurisprudence of this Court as I'm sure your
7 Honours and everyone is aware has been to treat video link as an exception to the
8 general rule, the general rule being live testimony in court.

9 Now, of course, we're all also aware that there is -- this hasn't been the practise
10 adopted recently in a recent line of jurisprudence in decisions of the Single Judge in
11 the Bemba Article 70 case, which I'm sure you're familiar with, and the Presiding
12 Judge in the Ongwen proceedings. Just I would note, I'm not going to go into those
13 decisions, but for your information the Bemba et al. decision is numbered
14 01/05-01/13-1697. And the relevant directions on conduct in fact in the Ongwen case
15 are numbered ICC-02/04-01/15-497. It's at para 17.

16 Now, that being said, and I'm not going to go into the law in any detail, the Statute
17 and Rules give your Honours a broad discretion, of course, subject to the provisions
18 of Rule 67 and the Statute and the Rules and obviously the requirement that video
19 link is not prejudicial to or inconsistent with the rights of the accused.

20 Now, our position is that whether or not your Honours consider video link to be an
21 exception, so whether it is exceptional or not, applications for video link, like I say,
22 should be individualized, meaning that they should not be made in respect of a class
23 of witnesses.

24 Applications should be considered in our submission on a case-by-case basis and
25 justified in the case of each witness.

1 Now, this is not to say that generic considerations like the ones described by VWU
2 and identified by the Presiding Judge last week I think it was in court, it's not to say
3 that those considerations won't apply in the case of individual witnesses, but it cannot
4 always be said, for example, that long haul travel from Abidjan to The Hague will
5 negatively affect a witness's well-being or their testimony, because people are
6 different.

7 Equally we accept, of course, that judicial economy or the efficient use of the Court's
8 resources might be one of a range of factors that the Trial Chamber might consider in
9 determining an application for video link.

10 And to be clear, there is no reason why applications for video link, excuse me, need
11 only be based on, for example, the personal circumstances of witnesses, whether it be
12 health or whether it be inability to travel or, let's say, logistical difficulties which
13 would seriously impact upon the expeditiousness of the proceedings.

14 Different considerations may apply in our submission so long as these considerations
15 clearly are in accordance with the Statute and Rules.

16 For example, nature of the evidence, that is something in our submission that your
17 Honours might consider. So the witness's evidence, even if related to facts which are
18 central to the case and materially in dispute might be of lesser relative importance in
19 the system of evidence that the Prosecution intends to present.

20 So we say that the fact that the Trial Chamber has granted an application under Rule
21 68(3) in respect of a witness strongly favours granting a request for video link.

22 Another instance might be in the example of victims of gender based, sexual and
23 gender based crimes. Our principal position would generally be that such witnesses
24 should not testify via video link but live, unless there are reasons in the case of an
25 individual witness to decide otherwise.

1 There are other reasons your Honours might consider on an application, family
2 circumstances which make it fairer for the witness not to travel; the Prosecution may
3 plan to use a number of exhibits with a witness, and this may militate against the use
4 of video link depending upon the witness, of course. Is the witness likely to be upset
5 by technical hitches in the use of video link? This might be a factor against its use.
6 The point is, and I won't reel out all the factors that your Honours might consider, the
7 point is, of course, to avoid generic assumptions that may or may not apply in
8 relation to any given witness. Whilst, relatedly, whilst it's right to say that the video
9 link used in this case for previous witnesses has been of a very good quality, very
10 close to live testimony, immaculate in the Presiding Judge's words, it is not one and
11 the same thing, it just isn't.
12 So we don't think clearly that the right to have witnesses examined is violated by the
13 use of audiovisual links or that hearing evidence via video link per se prejudices the
14 rights of the accused. And as the questioning of two insider witnesses in this case
15 has shown via video link, the Defence questioning, there has been no negative impact
16 on the ability of the Defence teams to effectively question witnesses via video link.
17 But the fact that video link isn't the same as live testimony still in our submission
18 militates against non-individualised assumptions in relation to video link testimony.
19 So as I said, we favour video link testimony for seven out of the nine witnesses
20 identified. And as I said, only in respect to five of these has there been a request
21 granted under 68(3).
22 What we would ask is that we can make a written request with reasons, to which the
23 Defence may respond, in relation to these seven witnesses. Alternatively, I'm ready
24 and able to give an edited version of those substantive submissions and specific
25 submissions related to these seven witnesses now briefly, but in private session with

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- 1 your leave.
- 2 PRESIDING JUDGE TARFUSSER: [15:30:04] No. Can you identify the seven
- 3 witnesses where you don't oppose the video link and the two witnesses where you
- 4 oppose the video link, and I think that is enough for us to --
- 5 MS PACK: [15:30:15] Yes. It's P-169, P-5 --
- 6 PRESIDING JUDGE TARFUSSER: [15:30:21] Well, yes or no.
- 7 MS PACK: [15:30:23] So as I said four, so yes, we don't oppose.
- 8 PRESIDING JUDGE TARFUSSER: [15:30:27] Two.
- 9 MS PACK: [15:30:28] 169, 555, 587, 588, 589, those are the ones you've got an
- 10 application for. And then another three, 107 and 117. So that leaves us --
- 11 PRESIDING JUDGE TARFUSSER: [15:30:58] That's two.
- 12 MS PACK: [15:30:59] As I said at the outset, it leaves 230 and 167 in court.
- 13 PRESIDING JUDGE TARFUSSER: [15:31:04] And 531 I think there is -- is that
- 14 possible?
- 15 MS PACK: [15:31:08] I don't think there is 531 on the list. No.
- 16 PRESIDING JUDGE TARFUSSER: [15:31:11] No, 513, not 531.
- 17 MS PACK: [15:31:15] There isn't 513 on their list, the list that you --
- 18 PRESIDING JUDGE TARFUSSER: [15:31:18] It could be that, it could be that
- 19 that's -- okay.
- 20 MS PACK: [15:31:19] So the list that was read out in court, I've addressed all of those.
- 21 There is a separate point I would like to make, but perhaps now isn't the time in
- 22 relation to 169, if your Honours would prefer not to go into private session. I can
- 23 elaborate on reasons that relate both to health in the case of some witnesses and in
- 24 relation to the general principle in relation to others. I can do that now, of course.
- 25 But I see that your Honours would prefer me not to.

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1 PRESIDING JUDGE TARFUSSER: [15:31:48] No. But I think now we know what
2 the position of the Prosecution is. So I think it's --

3 MS PACK: [15:31:53] Yes.

4 PRESIDING JUDGE TARFUSSER: [15:31:53] You have sufficiently elaborated on.

5 MS PACK: [15:31:56] We would like to file a written submission. But then, your
6 Honours, we leave that to your decision, whether you would prefer us to file, but to
7 elaborate the reasons for the Defence to respond to or not.

8 PRESIDING JUDGE TARFUSSER: [15:32:05] No. But they are taking their position
9 today, and I would like to come out with a decision by tomorrow.

10 MS PACK: [15:32:15] Your Honours, thank you.

11 PRESIDING JUDGE TARFUSSER: [15:32:17] Thank you.

12 Now the Defence. Maître Altit.

13 MR ALTIT: [15:32:22] (Interpretation) Thank you, Mr President. Mr President, I
14 would like to respond to the request of the Legal Representative of Victims to
15 question, their request to question Witness P-238. I would like to say that as far as
16 we are concerned, that we should be notified maybe on the eve so that we should be
17 well organised. That is not a criticism, but it is simply a matter of courtesy, because
18 we were a bit surprised this morning at the beginning of the questioning of 238. I
19 understand that everyone is really very busy, but it would be really courteous and
20 helpful to us.

21 That said, the Defence is opposed to that request for several reasons. To begin with,
22 the definition that the legal representative gives of the interest of victims cannot be
23 accepted by the Chamber because it is too broad, it is too general.

24 The fact of the matter, and I refer to the transcript of this morning, according to the
25 legal representative, and I quote, and with your leave, I would use that acronym LRV,

1 I quote, "The interests of the victims is generally affected by the trial, by its outcome,
2 and I'm thinking of the consequence for each witness who appears and all the
3 evidence that has an impact on the interest of the victims as well as the impact on the
4 continuation of the trial or the end of the trial," end of quote.

5 So, Mr President, if you follow the reasoning of the legal representative, the interest of
6 the victim would be parallel or similar to the conduct of a judicial proceedings which
7 would not be consistent with Article 108(3) of the Statute because there is criterion for
8 the participation of victims, and that criterion is interest. And, in fact, it is Article
9 68(3) of the Statute.

10 THE INTERPRETER: [15:36:12] Corrects the interpreter: Article 68(3).

11 MR ALTIT: [15:36:22] (Interpretation) Mr President, if the drafters of the Statute
12 had thought like the legal representative that the interest of the victims was
13 necessarily impacted by the trial, what interest would there be in including this
14 particular criterion in Article 68(3)?

15 And I'm being told that there is a small translation issue. It appears that not
16 everything has been translated.

17 Mr President, your Honours, we have to be clear, if you follow the reasoning of the
18 representative, she has an automatic right to participation to her benefit.

19 It appears I will have to pause to see what is happening with the interpreters.

20 THE INTERPRETER: [15:38:21] Counsel can continue, your Honour.

21 PRESIDING JUDGE TARFUSSER: [15:38:31] I'm listening to you in French and I'm
22 reading in English, and I don't see big issues, big differences.

23 THE INTERPRETER: [15:38:40] Mr President, the interpreter was simply lagging a
24 little behind.

25 MR ALTIT: (Interpretation) Mr President, I will continue under your guidance.

1 And if there is anything lacking in the transcript, we will continue, we will send it by
2 writing, but I will ask the interpreter --

3 PRESIDING JUDGE TARFUSSER: [15:39:09] Yes, but in this case it is easier, because
4 in any case we do understand the meaning of what you say.

5 MR ALTIT: Naturellement.

6 PRESIDING JUDGE TARFUSSER: It is much more complex if this happens when a
7 witness is talking. So please continue.

8 MR ALTIT: Merci, Monsieur Président.

9 THE INTERPRETER: [15:39:20] Mr President, the interpreter was lagging behind,
10 but not -- there were no gaps.

11 MR ALTIT: [15:39:27] (Interpretation) This right of, automatic right of
12 participation that you would grant to the legal representative does not reflect neither
13 the Statute nor the spirit of your decision on the conduct of the proceedings of 4 May
14 2016.

15 The idea was simple from our point of view, personal interest is something that can
16 be concretely evaluated. It is the interest of victims that have been identified,
17 interests that can be established or determined.

18 From our point of view it cannot be an abstract interest, and I believe this was the
19 intention of the drafters of the Statute to establish the real interest of each of the
20 victims. But the legal representative did not tell us anything on the real interest
21 here.

22 Secondly, the representative seems to present herself as the representative of all the
23 victims of the post-election crisis that were in un camp ou à un bord. It is not her
24 role or her mandate in this trial. She represents only the victims that were
25 authorised to take part in the proceedings.

1 The Defence submits that the testimony of P-238, if we rely on his statement, does not
2 directly -- and I'm not going to say any more, Mr President, because we are in open
3 session -- does not deal directly with any of the events that are the basis of the
4 Prosecutor's charges, the march of the RTI which he followed in the media; the march
5 of the women, he does not know anything about that; and the possible or alleged
6 events of 17 March 2011, he says he knows nothing about that.

7 And under those circumstances, Mr President, your Honours, it is highly unlikely
8 that the interest of participating victims should be specifically or directly concerned
9 by the present testimony.

10 Thirdly, the Defence, the Defence notes that the representative made statements on
11 the content of the statement of the witness that are not substantiated. She talks of,
12 and I quote, "Targeting of a precise category of civilians," end of quote.

13 And yet the witness has never talked about any targeting of civilians.

14 Fourthly, the Defence notes that the representative seems to have a specific or in any
15 case restrictive interpretation of the preparatory document that was provided for the
16 Prosecutor for the testimony. She indicates that the knowledge of the witness of the
17 modus operandi would not be, would not be amongst the points covered by the
18 questioning of the Prosecutor. And yet, according to this same document, the
19 Prosecutor intends to deal and he has just told us relating to the use of weapons
20 during the crisis that he would talk about the modus operandi of the use of weapons.

21 Under these circumstances, Mr President, your Honours, it would be appropriate to
22 dismiss the request of the representative. And I would like to add that from our
23 point of view, it would be useful for your Chamber to recall to the representative her
24 legal obligation to explain the specific interests of the identified victims that she
25 represents who would be touched or affected by the testimony of a specific witness or

1 person. In other words, general statements would not be enough.

2 I will stop here with regard to the request of the representative, and with your leave I
3 will move on to the second aspect of the discussions.

4 I will limit myself to the response that we had planned and that you expected
5 regarding the request of the UVT. And I hope -- the VWU, I hope, I hope the -- I'm
6 saying that the Defence is opposed to the request by the VWU for the next testimonies
7 by video link. Why? First of all, testimony, Mr President, your Honours, in our
8 opinion is a dynamic process, physical interaction between the protagonists and not a
9 disembodied process.

10 Because of those dynamics and that interaction between all the protagonists, the truth
11 emerges and it is that palpable truth that is captured by both the parties and the
12 judges.

13 That is the nature of a testimony, that is to provide a physical and perceptible or
14 palpable truth that can be captured. From the moment that the witness is taken out
15 of the courtroom, that process is no longer in existence. It is misrepresented. And
16 in one way the further the witness is from the parties and the judges, then the further
17 the truth shall be. That is the reality.

18 And yet here, and that is my second point, in this case in particular, we have seen and
19 we have experienced altogether the indispensable presence of witnesses, because we
20 do remember, and I am not going into details here because we are in open session,
21 how many important witnesses came here and gave a different version to what they
22 gave to the investigators of the OTP.

23 MR MACDONALD: [15:48:46] Objection. Now if you want to intervene when we
24 argue, I'm intervening when he's arguing. I'm objecting to that.

25 PRESIDING JUDGE TARFUSSER: That's what is going on now?

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1 MR MACDONALD: It has nothing to -- this has nothing to do and should not be
2 raised in comments. He's commenting the evidence of the Prosecution. I object.

3 PRESIDING JUDGE TARFUSSER: [15:48:58] Oh, come on. A little bit. I think we
4 have to be calm, okay. This is not the way to address and to behave in court, okay.
5 And I really do not understand where -- why you are -- you feel affected by what
6 Maître Altit says. I don't understand, but --

7 MR MACDONALD: [15:49:21] My colleague is pleading on the credibility of the
8 Prosecution witnesses in public --

9 PRESIDING JUDGE TARFUSSER: No, no, no, no.

10 MR MACDONALD: -- and he's doing that for the gallery and whatever.

11 PRESIDING JUDGE TARFUSSER: [15:49:31] No.

12 MR MACDONALD: [15:49:33] I'm sorry.

13 PRESIDING JUDGE TARFUSSER: [15:49:34] I did not intend this that way. But I
14 would also ask Maître Altit, I do know all the arguments, too. We have 10 minutes.
15 I must give the floor also to Mr Knoops. Please go ahead.

16 MR ALTIT: [15:49:49] (Interpretation) Thank you, Mr President. My point is
17 simply an observation that I'm making. I'm not talking about witness X or Y. That
18 is not the place. There was a difference between what was said under other
19 circumstances and what was said here, because -- and the reason is why? Because
20 witnesses who are here are reassured they feel protected and safe.

21 MR MACDONALD: [15:50:16] Protégés? Protégés, ils se sentent protégés? Le
22 Bureau du Procureur --

23 PRESIDING JUDGE TARFUSSER: [15:50:19] Please, no. I would just ask you
24 please come to -- we know you are opposed to the witness being video linked.

25 MR ALTIT: [15:50:28] (Interpretation) Mr President, this is a very important point.

1 I know that you are aware, Mr President. But we cannot allow people to say just
2 anything, because we have experienced what has happened and we know what is
3 happening on the field. So the interest of justice and the testimony of the witness,
4 which normally necessarily should pass by this courtroom, it is in the --

5 PRESIDING JUDGE TARFUSSER: [15:51:01] In any case, nothing strange has
6 happened in this, during this trial, so if this is what you are suggesting.

7 MR ALTIT: Non.

8 PRESIDING JUDGE TARFUSSER: Nothing, absolutely nothing strange has
9 happened. So please continue. But we have understood exactly what you mean.

10 MR ALTIT: [15:51:17] (Interpretation) Very well. Thank you. I was just giving
11 the principle to say why it is important for the witnesses to come here. The Victims
12 and Witnesses Unit's arguments are budgetary, bureaucratic and administrative
13 arguments. And these go against the interests of justice, and that is the problem.
14 There always has to be the balance between the two. But the interests of justice have
15 to have priority and the others should come second. And regarding the budgetary
16 arguments, those arguments concern the management of the Victims and Witnesses
17 Unit's budget.

18 Secondly, the Registry seems to make a difference between the -- for the period of the
19 testimony of the witnesses. And I'm speaking quickly in response to your request.
20 That distinction is not relevant. One, the duration of the testimony does not really
21 change anything as provided for in Article 69(2) of the Statute.

22 Implicit in the reasoning of the VWU, when they say that if it is long, it is more
23 important, and if it is shorter, it is not more important, that correlation is moot
24 because all witnesses are legally important, because each witness is considered by the
25 Prosecutor as making it possible for him to honour his obligation to prove the charges

1 beyond all reasonable doubt. So this is an argument to be dismissed.
2 One brief word, because the Registrar has said that the prior statement of the witness
3 has been admitted, that argument is not relevant because the mission of the prior
4 statement is one thing and the testimony is another thing altogether.
5 Lastly, the Registry talks about another argument, that is stress. The video link
6 testimony is supposed to reduce the stress levels of the witness. I think it is not even
7 worth discussing this frivolous argument.
8 And if we accept such arguments, it would be undermining the fundamental
9 principles for the ascertainment of the truth, without which we will never know what
10 happened here.
11 And to conclude with your leave, I would like to tell my learned friend that it is good
12 that there should be courtesy in this courtroom. We call it in French *confraternité*,
13 brotherliness. So he should cease talking about the gallery. It is for justice. It is
14 not for the gallery. The fact that there are people there is normal. It is the principle
15 of the publicity of proceedings. So a little bit of courtesy.
16 So I will not add anything to that, but, Mr President, I think you know what I am
17 referring to.
18 PRESIDING JUDGE TARFUSSER: [15:55:16] I know what you are referring to, I
19 know what you are referring to, of course.
20 And I give the floor to Mr Knoops.
21 MR KNOOPS: [15:55:20] Thank you, Mr President, that you didn't forget me.
22 PRESIDING JUDGE TARFUSSER: [15:55:26] No, of course not.
23 MR KNOOPS: [15:55:27] Thank you. Mr President, as to the first topic, the request
24 of the Legal Representatives of the Victims, the intention is to explore two areas, I
25 emphasise the word "explore." The first question to be explored according to the

1 LRV is why certain categories were targeted and the second one is to explore the
2 alleged modus operandi of use and militia.

3 Both elements, Mr President, relate as we submit to evidentiary issues, and these
4 evidentiary issues are within the mandate of the Prosecution and not within the
5 mandate of the LRV.

6 Apart from directive 17, which brings us to the matter of how the LRV could present
7 these questions in a manner which would be neutral and not leading in the way as
8 directive 17 dictates, apart from this observation, the argumentation of the LRV that
9 these two topics are a recurrent issue in the narrative of the LRV or are able to, I quote,
10 "to understand the extent of victimisation," these two elements are not determinative,
11 Mr President, for meeting the criterion of directive 15 and the criterion as enshrined
12 by Article 68(3) of the Rome Statute, the personal interest of the victims have to be
13 affected.

14 Both issues, Mr President, to conclude, are clearly evidentiary issues which are not to
15 be substituted by the LRV instead of the Prosecution.

16 With the introduction of those two issues by the LRV, it intends to the assume, with
17 all due respect, the role of a second prosecutor, which is not accepted by the
18 jurisprudence of the institutions within this Court. There are two examples which I
19 briefly mention, it's the Katanga ruling 1665 corrigendum paragraph 82, and the
20 second one is paragraph 17 of the Bemba ruling on the directives of conduct of
21 proceedings and decision of 19 November 2010, reference 023, paragraph 17, where
22 the Chamber said that the LRV shall not be considered as support to the Prosecution.
23 In other words, if the LRV submits that those two topics should complete the
24 examination by the Prosecution, that is not a decisive argument to accept whether
25 their personal interests are affected.

1 As to the second point, Mr President, the request for video conferences with nine
2 witnesses, we can be very brief. The first observation, Mr President, is that
3 procedurally of course, as the Court is aware of, the VWU is not in a position to make
4 applications for video link.

5 The second observation is the argumentation as the Chamber provided in the
6 transcript of last Friday, 23 September, page 29 running to 30, from line 17 to line 1 of
7 page 30, refers to two arguments: First, financial and logistical concerns, which
8 might cause impediments caused by having so many witnesses transferred to the
9 Court, which would be difficult to manage.

10 Needless to say, Mr President, that's an argument of management is not decisive to
11 accept video link. And the second argument submitted by VWU in this regard is the
12 risk of stress-related complications to witnesses.

13 As Mr Altit already mentioned, Mr President, we submit that these arguments are,
14 first of all, not decisive for meeting the criterion which are set by the jurisprudence of
15 this Court and, secondly, the mere risk of stress related to witnesses is too abstract,
16 too generic to accept video link conferences by witnesses before this Court. Thank
17 you very much.

18 MS PACK: [16:00:19] Your Honour, please.

19 PRESIDING JUDGE TARFUSSER: [16:00:21] No.

20 MS PACK: [16:00:21] 20 seconds. It's very specific on the sexual violence witness.
21 It goes against the general position. So I really want to be careful to ensure that you
22 know the specifics in relation to one witness.

23 PRESIDING JUDGE TARFUSSER: [16:00:30] We do know.

24 MS PACK: [16:00:31] Our general position is just different to the specific position,
25 that's all, in relation to this witness. It would just be 20 seconds, if that, 5 seconds in

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- 1 private session just to state what that position is, if I may?
- 2 MR KNOOPS: [16:00:52] I was specifically short to meet the deadline of 4 o'clock.
- 3 PRESIDING JUDGE TARFUSSER: [16:00:56] I think we know what we are doing. I
- 4 would say we close here and we will come with a decision in due course.
- 5 And I just want to say the VWU didn't make an application, just a suggestion to the
- 6 Chamber. So it's not an application because, obviously, there is no status of an
- 7 application.
- 8 The hearing, we adjourn the hearing now to tomorrow 9.30 with the continuing of the
- 9 witness. Thank you.
- 10 THE COURT USHER: [16:01:26] All rise.
- 11 (The hearing ends in open session at 4.02 p.m.)