

Trial Hearing
WITNESS: CIV-OTP-P-0588

(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 Carbuccion and
7 Judge Geoffrey Henderson
8 Trial Hearing - Courtroom 2
9 Wednesday, 7 December 2016
10 (The hearing starts in open session at 9.33 a.m.)
11 THE COURT USHER: [9:33:38] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE TARFUSSER: [9:33:50] Good morning. Good morning to you
15 also in the remote location.
16 THE COURT OFFICER: (Via video link) [9:33:57] Yes. Good morning, your
17 Honours.
18 PRESIDING JUDGE TARFUSSER: [9:34:01] Good morning.
19 Before bringing in the witness, I just would like to announce that we will not issue a
20 decision on Witness 106 on the video link, because I think we can't in any case make it.
21 So the thing is moot and we will have Witness 106 as the first witness next year when
22 all the problems are solved. So just also to avoid supplementary questioning in
23 order to prevent us to do -- to bring -- to squeeze him in as was said yesterday. So
24 when we finish with this witness and the next we finish for this year, okay? So just
25 for you to know.

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1 So now please, court officer in the remote location, please, you can bring in the
2 witness. Thank you.

3 THE COURT OFFICER: (Via video link) [9:35:06] Right away, your Honours.
4 (The witness enters the video-link room)

5 PRESIDING JUDGE TARFUSSER: [9:35:43] Good morning, Mr Witness.

6 WITNESS: CIV-OTP-P-0588 (On former oath)
7 (The witness speaks French)

8 (The witness gives evidence via video link)

9 THE WITNESS: [9:35:48] (Via video link) (Interpretation) Good morning.

10 PRESIDING JUDGE TARFUSSER: [9:35:50] Are you fine?

11 THE WITNESS: [9:35:51] (Via video link) (Interpretation) I'm fine.

12 PRESIDING JUDGE TARFUSSER: [9:35:53] So you're ready to answer the questions
13 by the Office of the Prosecutor and the Defence teams?

14 THE WITNESS: [9:36:03] (Via video link) (Interpretation) Yes.

15 PRESIDING JUDGE TARFUSSER: [9:36:05] Okay. Then remember that your only
16 duty is to say the truth.

17 And with saying this, I give the floor to the Office of the Prosecutor for its questioning.
18 Please.

19 MS HENDERSON: [9:36:22] Good morning, Mr President. Good morning, your
20 Honours.

21 QUESTIONED BY MS HENDERSON: (Interpretation)

22 Q. [9:36:42] Good morning, Mr Witness.

23 A. [9:36:44] Good morning.

24 Q. [9:36:45] My name is Claire Henderson, and I am the counsel from the Office of
25 the Prosecution who will be putting a number of questions today. I believe you'll

1 remember that we met very briefly last week during the courtesy meeting.

2 A. [9:37:02] Mm-hmm.

3 Q. [9:37:05] Now, today during your testimony I will refer to you as "Mr Witness."

4 And please do not take this to be a sign of disrespect. It is merely a habit that we
5 have here at this Court.

6 Since we need to be very specific about what we -- and accurate about what we say
7 today, both you and I, well, you see, I will be putting some questions to you in
8 English, which is my mother tongue, but as you will see, and I believe as you've
9 already noticed when the Presiding Judge was speaking to you, we will be different
10 languages and there will be interpretation. I'm now going to switch over to the
11 English language.

12 (Speaks English) Mr Witness, if at any point there are any questions that you don't
13 understand or anything that's not clear, please do tell me. I'd be very happy to
14 repeat my questions.

15 A. [9:38:10] Very well.

16 Q. [9:38:12] Today my questions will be brief. I will just be asking you about three
17 brief areas. I'll go straight to the first area. It's about the statement that you made
18 last year with some investigators from the Office of the Prosecutor. It's the statement
19 that Mr President, the Judge, told you yesterday has now become your evidence in
20 this proceeding.

21 Now, Mr Witness, when you gave the statement, it says on the cover page, the very
22 first page of your statement, and I'm citing this in French, (Interpretation) "Children,
23 two children."

24 (Speaks English) Then in paragraph 11 of your statement under a title that says, and I
25 quote in French, (Interpretation) "Identity, Schooling and Occupation."

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1 (Speaks English) It says this, again I cite in French, (Interpretation) "I got married at
2 the mosque and I have two young children."

3 (Speaks English) Now, Mr Witness, is that still correct today, that you have two
4 children?

5 A. [9:39:44] No. I now have four.

6 Q. [9:39:54] Thank you for confirming that, Mr Witness.

7 Now just two clarifications from other parts of your statement. And this is a part
8 where you were talking about what happened on the day of the march to the RTI.
9 I'm going to read out a paragraph of your statement to you in full. It just appears
10 that there might be one word missing. And so I'm hoping that you can help us to tell
11 us what that word is.

12 And for the record, this is paragraph 29 of the statement CIV-OTP-0084-0079.

13 So I'll now quote to you in French, you'll hear my voice:

14 (Interpretation) "At about the same time from where I was, I saw some young people
15 running off to the side and go into a three-storey building, not far from that place.
16 With the friends who were also towards that place, we drew nearer to that building
17 out of curiosity. The demonstrators told me that someone had shot at the
18 demonstrators from that building, which was located between the railway tracks and
19 the road towards Anyama. I was told that a sniper was aiming directly at the
20 demonstrators on the road to Anyama."

21 (Speaks English) Now, Mr Witness, you've heard that last sentence that says the
22 words, (Interpretation) "Told me that a sniper was aiming directly at the
23 demonstrators."

24 (Speaks English) Can you please help us, can you tell us who told you that?

25 A. [9:42:10] One of the demonstrators.

1 Q. [9:42:12] Thank you, Mr Witness. Now I'm going to continue into the next
2 paragraph with just one more clarification. But before I do that, you just told us that
3 it was one of the demonstrators who told you about the sniper directly targeting
4 demonstrators. Can you please tell us the name of that demonstrator?

5 A. [9:42:56] No.

6 Q. [9:42:56] Why can you not tell us the name?

7 A. [9:42:58] No. In actual fact, I don't know his name.

8 Q. [9:43:09] Thank you. That's fine.

9 Now, moving onto the next paragraph and a clarification here as well, so I'll read out
10 in French the first part of the paragraph and get to the point that I want to ask you
11 about. This is paragraph 30 for the record and I quote in French:

12 (Interpretation) "Along with my friends we went up to the third floor of the
13 building and we saw the spent bullets and a Kalashnikov. We went back down and
14 we left the building. His body was down there in front of the building."

15 (Speaks English) Now there, Mr Witness, you've gone into talking about the body of
16 someone, his or her body. Whose body --

17 A. [9:44:11] Yes. I didn't know the person.

18 Q. [9:44:16] Can you tell us what the body looked like?

19 A. [9:44:19] Well --

20 THE INTERPRETER: [9:44:30] Inaudible.

21 THE WITNESS: [9:44:33] (Via video link) (Interpretation) -- but afterward in the
22 media I later -- from the media I later learned that it was one of the uniformed men.

23 MS HENDERSON: [9:44:42]

24 Q. [9:44:43] Now, earlier in your statement, the part that I read out in fact,
25 paragraph 29, you were talking about a sniper. When you're talking about the body

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1 of someone, are you saying you thought it was the sniper whose body you saw?

2 A. [9:45:02] Yes.

3 Q. [9:45:14] Mr Witness, I'll move onto the second topic I wanted to ask you about
4 today. Now, you spoke in your statement about losing your older brother, Lacina,
5 that day. Can you please tell us, tell the Court in your own words what effect that
6 loss has had on you and your family?

7 A. [9:45:46] The consequences were disastrous for me and my wife. It was that
8 year.

9 Q. [9:46:05] Are you able to tell us a bit about how it was disastrous for you and
10 your family?

11 A. [9:46:12] It was no longer possible to take care of the family. And you see, he
12 left four children behind.

13 Q. [9:46:36] Where does your family get the money now for those four children for
14 living?

15 A. [9:46:44] The four children have been sent out to various relatives. I took one
16 of the children and one of my brothers has taken some of the children.

17 THE INTERPRETER: [9:47:11] Interpreter correction: In the previous reply, the
18 witness mentioned that in reference to his brother that the brother was his elder
19 brother.

20 MS HENDERSON: [9:47:26]

21 Q. [9:47:27] And, Mr Witness, in your statement you also talk about things that
22 happened to your nephew as well. Could you tell us what is your nephew's state of
23 health like at the moment?

24 A. [9:47:42] Well, his health is still not stable. He is still not well.

25 Q. [9:48:02] In what way is he not well?

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1 A. [9:48:22] (No interpretation)

2 THE INTERPRETER: Message from the interpreters: Could the witness be asked
3 to slow down and enunciate. The quality of the sound from the video link is poor
4 and we are doing our best, but we are having trouble making out what the witness
5 has said.

6 PRESIDING JUDGE TARFUSSER: [9:48:36] Mr Witness, could you please speak
7 slower and clearer because the sound from where you are is not the best. The
8 interpreters must have the opportunity to hear you clearly in order for them to
9 interpret properly, okay? So I would ask you to repeat the answer you gave to the
10 Office of the Prosecutor on the question of the health of your nephew. Thank you.

11 THE WITNESS: [9:49:11] (Via video link) (Interpretation) Yes, I was saying that
12 my nephew's health is still not stable and that, well, he's not well at all.

13 MS HENDERSON: [9:49:39]

14 Q. [9:49:39] Mr Witness, when you say "he's not well at all", can you tell us in what
15 way he's not well exactly?

16 A. [9:49:45] Ever since that time before, you see, he used to talk, he did everything,
17 he went to school, but now he doesn't speak to anyone, he doesn't go to school, he just
18 remains seated. He does nothing.

19 Q. [9:50:11] Mr Witness, the last area of questions from me today now, in your
20 statement you talk about trying to find the body of your brother Lacina, along with
21 another older brother. You say you were both looking for Lacina's body. Where
22 did you and your brother eventually find Lacina's body?

23 A. [9:50:40] Ultimately we found his body at the morgue, the Anyama morgue.

24 Q. [9:50:58] Mr Witness, did you say the Anyama morgue?

25 A. [9:51:02] Yes, yes.

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1 Q. [9:51:07] Thank you, Mr Witness.

2 MS HENDERSON: Mr President, your Honours, there are two documents that the
3 Prosecution applies to submit into evidence at this point. These are documents 7
4 and 8 on our list of materials. And I'll cite the two ERNs: At number 7 it's
5 CIV-OTP-0084-3487, that is the individual file seized from the Anyama morgue,
6 copied collectively from the Anyama morgue by investigators from the Office of the
7 Prosecutor bearing the name of Lacina Bakayoko; item number 8 is
8 CIV-OTP-0084-3866, which is the register for the Anyama morgue for the relevant
9 period.

10 Your Honours, they're submitted on the basis they're documents that support -- your
11 Honours, we could perhaps cut the witness off if you wish at this point or we could
12 keep him. I'm going to go into relevance and probative value.

13 PRESIDING JUDGE TARFUSSER: [9:52:25] Did you finish questioning the witness?

14 MS HENDERSON: [9:52:28] Yes, your Honours, I have no further questions for this
15 witness. It's just the submission of these two documents.

16 PRESIDING JUDGE TARFUSSER: [9:52:33] Okay. So Mr Witness, we cut you off
17 for some time before starting the questioning by the Defence lawyers, and just to
18 discuss an issue, and then we will come back soon, okay.

19 Please, can we cut off at least the sound.

20 THE COURT OFFICER: [9:53:11] Your Honour, the sound was cut off.

21 PRESIDING JUDGE TARFUSSER: [9:53:13] Thank you.

22 Ms Henderson.

23 MS HENDERSON: [9:53:20] Your Honours, perhaps before I take the time to
24 address your Honours on these points for submission, it might be opportune to ask
25 the Defence if they object to the submission. If they don't, then I may not need to

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- 1 labour the Court's time with my submissions on the point.
- 2 PRESIDING JUDGE TARFUSSER: [9:53:37] What do you think?
- 3 MR O'SHEA: [9:53:40] Your Honour, yes, we do object.
- 4 PRESIDING JUDGE TARFUSSER: [9:53:46] Of course.
- 5 MR O'SHEA: [9:53:47] We will hear what my learned friend has to say and then
- 6 respond.
- 7 PRESIDING JUDGE TARFUSSER: [9:53:51] That's what I thought. But I still --
- 8 MS HENDERSON: [9:53:57] Your Honours --
- 9 PRESIDING JUDGE TARFUSSER: [9:53:59] In order to gain time --
- 10 MS HENDERSON: Yes.
- 11 PRESIDING JUDGE TARFUSSER: Now we have time after this session and before
- 12 we restart. Why don't make a written submission and then the Defence can respond
- 13 with a written submission? I think that would keep time for the questioning, we
- 14 have the witness over there, I think it would be much more convenient to do so.
- 15 MR O'SHEA: [9:54:28] It may be that this is a matter which can be resolved within 2
- 16 minutes though, your Honour. But obviously we're in your Honour's hands.
- 17 (Trial Chamber confers)
- 18 PRESIDING JUDGE TARFUSSER: [9:54:44] Yes, I'm not very optimistic with this
- 19 outlook you have, but we can try.
- 20 MR O'SHEA: [9:54:56] At least from our side the submissions are very clear and
- 21 short.
- 22 PRESIDING JUDGE TARFUSSER: [9:55:01] Yes, okay. Yes, but -- okay.
- 23 MS HENDERSON: [9:55:05] Thank you, your Honour. Your Honours will see in
- 24 the document that I've labelled as the morgue register, at page 3888, at entry 2435, the
- 25 name Lacina Bakayoko appears there. Your Honours, we're moving to submit this

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1 document as well as the full file collected from the Anyama morgue for Lacina
2 Bakayoko. It's a more complete version of some of the documents that are annexed
3 to the witness' statement. We say that it bears the prima facie indicia of reliability.
4 It was collected by investigators on 5 June 2015. Both documents were disclosed to
5 the Defence on 30 June 2015.
6 Your Honours can see that some of the documents from the file, from Mr Bakayoko
7 do correspond to the annexes to the statement perfectly. And, your Honours, there
8 is also an investigative report that my learned friends will be aware of, and they're not
9 in evidence, that talks about the circumstances of the collection.

10 Your Honours, those are my submissions on the submission of those two documents.

11 PRESIDING JUDGE TARFUSSER: [9:56:27] Thank you very much.

12 The Defence for Mr Gbagbo.

13 MR O'SHEA: [9:56:29] Your Honour, these documents relate to the witness's brother,
14 not to himself. They don't mention him at all. In our submission, these are not
15 documents upon which this witness can reasonably comment. We were told
16 yesterday that he has reading assistance in any event. So if one is dealing with a
17 register of a morgue, I mean if it mentions his brother, it mentions his brother, he can't
18 really add anything to that.

19 So far as the documents relating to his brother or the register of the morgue are
20 concerned, these are documents that perhaps people working at the morgue or a
21 doctor would be able to give evidence about. But so far as this witness is concerned,
22 there is no basis upon which this witness can reasonably comment on these
23 documents in our submission, and on that basis we object.

24 PRESIDING JUDGE TARFUSSER: [9:57:44] Defence for Mr Blé Goudé.

25 MR GBOUGNON: [9:57:45] (Interpretation) Your Honour, we entirely agree with

1 our learned friend because there is no one to really identify the document. What is
2 more, the document in question, if we look at the front page, we do not find sufficient
3 information about the provenance of this document. We also see that some items of
4 information have been scratched out, so we believe that it is possible that the
5 document may have been altered by some -- at the hands of some people, people we
6 know very little about. So we oppose this document being placed on the case record.

7 PRESIDING JUDGE TARFUSSER: [9:58:37] Okay. We will decide on this at a later
8 stage. And now I give the floor, well --

9 MR O'SHEA: [9:58:50] Your Honours, before the witness is reconnected, I find
10 myself in an embarrassing situation. Unfortunately I realised at the beginning of
11 these proceedings that I'd left my notebook in the parking area where my mode of
12 transport is. So when my learned friend is finished I'd appreciate if the Court could
13 adjourn for 3 minutes to allow me to retrieve it.

14 PRESIDING JUDGE TARFUSSER: [9:59:17] Well, I don't think in 3 minutes you can
15 do it.

16 MR O'SHEA: [9:59:20] Well, 5 minutes then.

17 PRESIDING JUDGE TARFUSSER: [9:59:22] Yes, of course.

18 MR O'SHEA: [9:59:23] Thank you.

19 PRESIDING JUDGE TARFUSSER: [9:59:25] This is the minimum we can do and we
20 have to do.

21 MR O'SHEA: [9:59:28] I'm sorry about that.

22 PRESIDING JUDGE TARFUSSER: [9:59:29] No problem. I just wanted to clarify
23 that we recognize the submission and we decide on it in due course as it is said here.
24 So we suspend the time necessary for you to retrieve the notebook and we come back
25 as soon as you have it, as you are ready.

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- 1 MR O'SHEA: [9:59:56] I'm very grateful, your Honours.
- 2 PRESIDING JUDGE TARFUSSER: [9:59:59] Let me just connect with the remote
3 location just to tell them also, otherwise they're waiting.
4 Madam court officer in the remote location.
- 5 THE COURT OFFICER: (Via video link) [10:00:23] Yes, your Honours, we are
6 connected.
- 7 PRESIDING JUDGE TARFUSSER: [10:00:25] I just want to tell you that we will have
8 10 minutes of suspension because of problems we have here. And we will come
9 back in about 10 minutes, okay. So you can --
- 10 THE COURT OFFICER: (Via video link) [10:00:39] Yes, your Honours.
- 11 PRESIDING JUDGE TARFUSSER: [10:00:40] You can give to the witness something
12 to refresh himself before starting, okay. Thank you very much.
13 The hearing is adjourned for about 10 minutes, more or less. Thank you.
- 14 THE COURT USHER: [10:00:54] All rise.
- 15 THE COURT OFFICER: (Via video link) [10:00:56] Yes, your Honours.
- 16 (Recess taken at 10.01 a.m.)
17 (Upon resuming in open session at 10.12 a.m.)
- 18 THE COURT USHER: [10:12:51] All rise.
19 Please be seated.
- 20 PRESIDING JUDGE TARFUSSER: [10:13:14] Now ready?
- 21 MR O'SHEA: [10:13:15] Your Honours, thank you very much for the time. I'm now
22 fully equipped for operation, examination of the non-calling party.
- 23 PRESIDING JUDGE TARFUSSER: [10:13:19] Of course this 10 minutes will be
24 deleted from the time allotted to you, of course. No, it was a joke.
- 25 MR O'SHEA: [10:13:24] Don't worry. I'll find a way to cut things.

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- 1 PRESIDING JUDGE TARFUSSER: [10:13:27] Yes.
2 Mr Prosecutor.
3 MR MACDONALD: [10:13:29] We don't need to deal with this now, but it would be
4 nice before the break, before we break for the holidays that we have a few minutes
5 with the Chamber to discuss the decision that you just issued, document number
6 770-CONF.
7 PRESIDING JUDGE TARFUSSER: [10:13:55] Yes.
8 MR MACDONALD: [10:13:56] I don't want to discuss it now, not now.
9 PRESIDING JUDGE TARFUSSER: [10:13:59] Okay.
10 MR MACDONALD: [10:13:59] Maybe Friday if we have time or at the end of 589.
11 PRESIDING JUDGE TARFUSSER: [10:14:04] We'll see, okay.
12 MR MACDONALD: [10:14:05] It's the process, your Honour --
13 PRESIDING JUDGE TARFUSSER: Okay.
14 MR MACDONALD: -- that has to be addressed.
15 PRESIDING JUDGE TARFUSSER: [10:14:09] Okay. Thank you.
16 Now, I think we give the floor -- first of all, I would like to, we can't start without the
17 witness being in, so I would ask you in the remote location, court officer, to bring the
18 witness in. Thank you.
19 THE COURT OFFICER: (Via video link) [10:14:27] Yes, absolutely.
20 (The witness enters the video-link room)
21 PRESIDING JUDGE TARFUSSER: [10:15:01] Mr Witness, you can hear me?
22 THE WITNESS: [10:15:04] (Via video link) (Interpretation) I can hear you.
23 PRESIDING JUDGE TARFUSSER: [10:15:06] Thank you.
24 Now I give the floor to Mr O'Shea, to the Defence of Mr Gbagbo, and it is Mr O'Shea
25 who is going to question you.

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1 Please, Mr O'Shea.

2 MR O'SHEA: [10:15:21] Thank you, your Honours.

3 QUESTIONED BY MR O'SHEA:

4 Q. [10:15:27] Good morning, Witness. My name --

5 A. [10:15:30] Good morning.

6 Q. [10:15:32] My name is Andreas O'Shea. And I represent the interests of
7 Laurent Gbagbo.

8 Now, apart from meeting with the Office of the Prosecutor, have you ever up to
9 today's date been approached or approached any non-governmental organisations to
10 speak about these events?

11 A. [10:16:30] Never.

12 Q. [10:16:30] Have you at any stage been interviewed by anyone from the judicial
13 authorities or by lawyers within Ivory Coast?

14 A. [10:17:03] No.

15 Q. [10:17:05] Was it the Office of the Prosecutor that contacted you or did you
16 contact someone to contact the Office of the Prosecutor?

17 A. [10:17:37] No, I didn't contact anybody.

18 Q. [10:17:46] So before you met with the Office of the Prosecutor, who contacted
19 you?

20 A. [10:18:04] I didn't contact anybody.

21 MR ALTIT: [10:18:14] (Interpretation) I apologise. I apologise, Mr President. I
22 am intervening with your leave just a second. It's a question of interpretation. The
23 question from Mr O'Shea was "Who were you contacted by?" And it was interpreted
24 as -- it was contrary to what --

25 THE INTERPRETER: [10:18:40] Message from the English interpreter. The sound

1 is very, very -- the sound from the remote location is interfering with the sound that
2 we're receiving here, so we can't really hear what Mr. Altit is saying properly because
3 of the incredible hum in the background. We apologise.

4 MR O'SHEA: [10:18:57] Sorry.

5 PRESIDING JUDGE TARFUSSER: [10:18:57] We have a confusion. The
6 interpreters could not hear you because there is an interference between here, sound
7 interference between here and the remote location. So I don't know how to deal with
8 this.

9 THE INTERPRETER: [10:19:18] Message from the interpreter: If Mr Altit speaks,
10 could he speak a little louder than he usually does, then I should be able to capture
11 him. Thank you.

12 PRESIDING JUDGE TARFUSSER: [10:19:25] You should speak a little bit louder,
13 Maître Altit. So probably the interpreter will catch you. But you didn't speak loud
14 enough, so it was covered, your voice was covered by a sound, by interfering sound.
15 So if you could repeat simply what you said now.

16 MR ALTIT: [10:19:50] (Interpretation) I thank you, Mr President. I shall try and
17 speak a little bit more loudly. I just wanted to say, I just wanted to pick up a little
18 problem of interpretation that would explain the answer provided by the witness,
19 because the question put to Mr O'Shea was, "Who were you contacted by?" and it was
20 interpreted as, as far as I can understand from the witness's response was, "Who did
21 you contact, Mr Witness?"

22 And of course, he did not contact anybody. I just wanted to underscore this fact,
23 because I do believe that there was a little bit of a misunderstanding between the
24 question being put and the answer being provided. And I think that what would be
25 good would be for Mr O'Shea to repeat his question. I hope at least my interruption

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1 was useful to shed light on the matter.

2 PRESIDING JUDGE TARFUSSER: [10:20:51] Mr Prosecutor.

3 MR MACDONALD: [10:20:53] There is a side issue which we can continue, but I
4 think the first 15 minutes or 10 minutes or so, the last 10 minutes were not transcribed
5 in French. It has just started from the comments of my colleague just now. So we
6 don't have it on the record in French anyway, what my colleague was just discussing,
7 just to note. I think we should just ask the question again, your Honour.

8 PRESIDING JUDGE TARFUSSER: [10:21:24] Yes, yes. So we do as if nothing had
9 happened and we restart.

10 Sorry about this, Mr Witness, but we have some technical problems here. So I just
11 would invite you to speak clear and loud so that we can understand you and the
12 same is for the lawyers here. So we restart. Thank you.

13 MR O'SHEA: [10:21:55] Your Honours, when your Honours say restart, you mean
14 from the last question?

15 PRESIDING JUDGE TARFUSSER: [10:21:59] Yes, yes, I think so, yes.

16 MR O'SHEA: [10:22:01] Yes.

17 Q. [10:22:04] Yes, Mr Witness, some difficulties with interpretation because of the
18 sound.

19 But my question was this, because you had said that you didn't contact anybody, so
20 my question was to follow up from that, before you met with the Office of the
21 Prosecutor, who contacted you?

22 A. [10:22:35] Am I supposed to provide you with a name or ...

23 MR MACDONALD: [10:22:42] No names from the Office of the Prosecutor, please.
24 We're in public.

25 MR O'SHEA: [10:22:50]

1 Q. [10:22:50] Well, you can begin by telling us what function that person performed,
2 what position they held as far as you know.

3 A. [10:23:02] They were from the Office of the Prosecutor. They are the people
4 who contacted me.

5 Q. [10:23:15] And how many times have you met with the Office of the Prosecutor?

6 A. [10:23:31] I don't recall the number of times.

7 Q. [10:23:43] Would you say that it was more than or less than three times?

8 A. [10:23:54] I don't recall the number of times.

9 Q. [10:24:12] And when you met with the Office of the Prosecutor, was your
10 interview recorded?

11 A. [10:24:37] No, it was not recorded.

12 Q. [10:24:52] And how many times did you sign a written statement?

13 A. [10:25:07] To my knowledge I signed a written statement on one occasion.

14 Q. [10:25:21] Do you know approximately the size of the population of Touba?

15 A. [10:26:09] I haven't understood.

16 Q. [10:26:18] Do you know approximately the size of the population of Touba?

17 A. [10:26:32] No, I do not know.

18 Q. [10:26:37] And in terms of the ethnicity of the people that live in that area, is it
19 mixed ethnicity?

20 A. Yes, we hail from different ethnic groups.

21 Q. [10:27:10] Do you know when approximately the rebels took occupation of the
22 area of Touba?

23 A. [10:27:37] I didn't live in Touba, so I don't know. I spent the entire of my -- the
24 entirety of my childhood in Abidjan.

25 Q. [10:27:54] In the years from 2000 to 2010, did you have family living in Touba?

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1 A. [10:28:28] Members of my family? Well, we don't live -- the members of my
2 family don't live in Touba-ville. Some live in Banzi in Abidjan and --

3 THE INTERPRETER: Another location the interpreter didn't catch.

4 THE WITNESS: (Via video link (Interpretation) As for Touba, well, I don't know.

5 THE INTERPRETER: [10:28:52] Could the names of the locations please be spelled
6 out clearly? Thank you.

7 PRESIDING JUDGE TARFUSSER: [10:28:56] Could the names of the locations please
8 be spelled out? Thank you.

9 MR O'SHEA: [10:29:03] Your Honour, yes. Touba is spelled T-O-U-B-A.

10 Q. [10:29:39] And, Mr Witness, if you could please assist. You mentioned the
11 names of a couple of other locations other than Abidjan. Could you tell us what
12 those are again and spell them for us if possible. Can you spell them?

13 A. [10:29:53] I didn't quite understand the question.

14 Q. [10:30:03] We know that you need reading assistance. But my question is, the
15 places that you mentioned, are you able to spell them?

16 A. [10:30:20] Yes.

17 Q. [10:30:22] Could you please spell the names of the places which you've
18 mentioned other than Abidjan, of course?

19 A. [10:30:30] I said I was born in Banzi, and I did my schooling in Bin-Houye.
20 And then I ended up in Abidjan.

21 Q. [10:30:46] Now, Banzi is B-A-N-Z-I.

22 A. [10:31:08] Yes.

23 Q. [10:31:11] And Bin-Houye, Bin-Houye is B-I-N hyphen H-O-U-Y-E.

24 A. [10:31:36] Yes.

25 Q. [10:31:39] So the place where you were born, Banzi, is part of Touba, right?

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1 A. [10:31:52] Banzi is within the department of Touba.

2 Q. [10:32:01] Have you heard of someone called Losseni, L-O-S-S-E-N-I Fofana,
3 F-O-F-A-N-A? Have you heard of this name?

4 A. [10:32:25] Fofana, no.

5 Q. [10:32:40] And Bin-Houye, I think I'm pronouncing it slightly differently from
6 the way you did, but the place where you did your primary studies, Bin-Houye, is
7 that better?

8 A. [10:33:35] Mm-hmm.

9 Q. [10:33:36] You say that is near Man, M-A-N. Where in Ivory Coast is that
10 located?

11 A. [10:33:44] Bin-Houye, I believe that is to the west.

12 Q. [10:34:00] Now, you've said that you did your primary education until 1998?

13 A. [10:34:33] Yes.

14 Q. [10:34:35] So were you 13 at that time?

15 A. [10:34:42] In 1998?

16 Q. [10:34:59] You state that you did the CM2 until the fifth level in a school called
17 Agnessakoi-BAD, which is spelled A-G-N-E-S-S-A-K-O-I hyphen B-A-D. And this at
18 Abobo-Avocatier, Avocatier is spelled A-V-O-C-A-T-I-E-R.

19 How old were you when you finished your education or when you stopped your
20 education?

21 A. [10:35:50] 17.

22 Q. [10:36:07] And did you, at 17, had you finished your schooling or did you have
23 to stop prematurely?

24 A. [10:36:31] I had to finish -- I had to end my schooling prematurely.

25 Q. [10:36:38] What was the reason for that?

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1 A. [10:36:39] Well, on the side of my father --

2 THE INTERPRETER: Inaudible.

3 THE WITNESS: (Via video link) (Interpretation)-- not enough to go to school.

4 THE INTERPRETER: [10:37:02] Interpreter correction: Given the health of my
5 father, I couldn't -- I didn't really have the courage to go to school.

6 MR O'SHEA: Could you repeat your answer, because some of it was not heard.

7 THE WITNESS: [10:37:16] (Via video link) (Interpretation) I said given my
8 father's state of health, I just didn't have the courage to go to school.

9 MR O'SHEA:

10 Q. [10:37:23] Now, when you left school, you became a carpenter making furniture;
11 is that right?

12 A. [10:38:00] Yes.

13 Q. [10:38:10] And did that work sustain you sufficiently, you and your family?

14 A. [10:38:15] Yes.

15 Q. [10:38:29] And you've said that you have four children today. How old --

16 A. [10:38:41] Yes.

17 Q. [10:38:42] How old are those four children?

18 MS HENDERSON: [10:38:50] Your Honours, the Prosecution queries the relevance
19 of this line of questioning and also reminds that we are in public session. Even
20 though this is a witness that does not have protective measures, it's still necessary to
21 keep certain details of his family life.

22 PRESIDING JUDGE TARFUSSER: [10:39:10] Yes, but you started with the two
23 children and the four children, I would say. And I asked myself why these questions
24 were put. So I think we should -- I still ask myself the question why the number of
25 children and the age of children has relevance. But my problem is that it was you to

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1 start with this line of questioning.

2 MS HENDERSON: [10:39:39] If I would be able to respond briefly, your Honour?

3 The reason for the Prosecution going on that line of questioning was that it was a

4 correction to the statement, which has been submitted and must be correct for it to be

5 submitted. It's the questioning about the age which we say could be identifying of

6 the children, of the family. There have been questions about geography, provenance.

7 It's getting to the point, your Honour, where if people outside the courtroom wish to

8 look into these circumstances, it could lead to information being identified.

9 PRESIDING JUDGE TARFUSSER: [10:40:20] Yes, being identified by the witness

10 which has no protection, I would say. But the problem much more than the

11 identifying is why we need to know how old they are. I don't understand that.

12 Please go ahead. And try to keep it very narrow, this part. Thank you.

13 MR O'SHEA: [10:40:42] Yes. The relevance may come out at a later stage.

14 Q. [10:40:52] Witness, how old are those four children?

15 A. [10:41:00] Well, that's, that's difficult. The first one is 8 years old. The second

16 is 6 years old.

17 PRESIDING JUDGE TARFUSSER: [10:41:37] Can we say they're all under 10 years?

18 So that's it. Can we say this?

19 THE WITNESS: [10:41:53] (Via video link) (Interpretation) Yes.

20 PRESIDING JUDGE TARFUSSER: [10:41:56] Okay.

21 MR O'SHEA: [10:42:01] I'd like to know, your Honour will see in a minute, but I'd

22 like to know what the ages of the other two children are, please.

23 PRESIDING JUDGE TARFUSSER: [10:42:11] I do hope I see in a minute.

24 MR O'SHEA: [10:42:16] Yes.

25 THE WITNESS: [10:42:29] (Via video link) (No interpretation)

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1 MR O'SHEA: [10:42:34]

2 Q. [10:42:35] Yes, how old are the other two children, please?

3 A. [10:42:38] The third is 3 years old. The fourth child is -- inaudible -- three
4 months.

5 THE INTERPRETER: [10:42:50] Correction: One year three months.

6 MR O'SHEA: [10:42:57]

7 Q. [10:42:58] So when you were interviewed on 4 June 2015, at that time you had
8 four children?

9 A. [10:43:09] Yes. Yes, I think so.

10 Q. [10:43:21] At paragraph 11 of your statement it is recorded, and I quote in
11 French, (Interpretation) "I got married at the mosque and I have two young children."
12 (Speaks English) Close quotation.

13 Did you say that to the Office of the Prosecutor?

14 A. [10:44:14] Yes, I did say that to the OTP.

15 Q. [10:44:20] Now, following the death of your elder brother, Lacina --

16 A. [10:44:58] Yes.

17 Q. [10:44:58] -- have you received any form of compensation or indemnisation in
18 relation to his death?

19 A. [10:45:17] No, I don't remember that. We didn't get anything.

20 Q. [10:45:29] And who paid for his funeral?

21 A. [10:45:52] We didn't pay anything for the funeral.

22 Q. [10:46:05] Who paid the costs of his funeral?

23 A. [10:46:31] The costs of the funeral, the costs of the funeral were covered by
24 President Alassane Ouattara. We didn't pay anything.

25 Q. [10:46:55] Before the funeral took place, were you informed that Alassane

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1 Ouattara would be covering the cost of your brother's funeral?

2 A. [10:47:39] Please rephrase.

3 Q. [10:47:56] Before the funeral ceremony took place, were you at any stage
4 informed that Alassane Ouattara would be covering the costs of your brother's
5 funeral?

6 A. [10:48:19] Yes. We were informed that we would not have to pay for our
7 brother's funeral.

8 Q. [10:48:31] And when were you informed of this?

9 A. [10:48:45] I don't remember the date.

10 Q. [10:48:54] Do you remember in which year the funeral ceremony took place?

11 A. [10:49:24] The year --

12 THE INTERPRETER: [10:49:43] Inaudible.

13 THE WITNESS: [10:49:45] (Via video link) (Interpretation) I don't remember the
14 exact date.

15 MR O'SHEA: [10:49:49]

16 Q. [10:49:50] Now, with respect to when you were informed that the costs of the
17 funeral would be covered, are you able to say in which year?

18 A. [10:50:22] In 2012, if I recall correctly. The date, I -- I really don't quite
19 remember the date.

20 Q. [10:50:57] And you say you cannot remember the exact date of the funeral
21 ceremony. Can you remember the year in which the funeral ceremony took place?

22 A. [10:51:13] No, I couldn't tell you. Well, I can't lie. I don't remember. But it
23 just doesn't come to mind.

24 Q. [10:51:45] Now, when you were informed that the costs of the funeral would be
25 covered or at any subsequent stage, were you told that the cost of your brother's

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- 1 funeral would be more than 2.5 million CFA?
- 2 A. [10:52:38] Never. I was never informed of that.
- 3 MR MACDONALD: [10:53:02] Your Honours?
- 4 PRESIDING JUDGE TARFUSSER: [10:53:04] Mr Prosecutor.
- 5 MR MACDONALD: [10:53:05] Where is the good-faith basis for this? Where is this
- 6 information coming from? I understand we're in cross-examination.
- 7 PRESIDING JUDGE TARFUSSER: [10:53:09] Yes, I don't know.
- 8 MR MACDONALD: [10:53:10] We can put numbers, we can put information and
- 9 the witness will answer, but where does this come from?
- 10 PRESIDING JUDGE TARFUSSER: [10:53:16] I don't know.
- 11 MR MACDONALD: [10:53:17] If we're putting questions to the witness about which
- 12 costs, it will be interesting --
- 13 PRESIDING JUDGE TARFUSSER: [10:53:22] The problem is that Mr O'Shea will tell
- 14 me that in a minute I will know.
- 15 MR O'SHEA: [10:53:30] Well, let me put it another way, your Honour. When we
- 16 are out of the hearing of the witness at a later stage, I'll remind the Prosecutor of
- 17 which document it comes from.
- 18 Q. [10:54:23] Your father was an active member of the RDR?
- 19 A. [10:54:28] Yes.
- 20 Q. [10:54:31] And is it the position that your father is no longer alive?
- 21 A. [10:55:00] Yes. My father has passed away.
- 22 Q. [10:55:08] Can you tell us how old you were when he passed away?
- 23 A. [10:55:14] 23.
- 24 Q. [10:55:39] And when you are 23, that would be 2008; would that be right?
- 25 A. [10:56:03] Yes.

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1 Q. [10:56:06] You say -- you've said to the Office of the Prosecutor that you have on
2 occasion or that you have accompanied your father at RDR meetings; is that right?

3 A. [10:56:32] I never went to a rally with my father, but I did go to some meetings.

4 MR O'SHEA: [10:56:57] Your Honours will note that I did not use the word "rally" in
5 my question.

6 Q. [10:57:12] So these meetings that you accompanied your father, was this in the
7 years between 2000 and 2008?

8 A. [10:57:27] 2000 to 2008? Yes.

9 Q. [10:57:39] And at that time when you were in your early 20s, where you were an
10 RDR supporter at that time, you used to go to these meetings with your father? Did
11 you understand the question?

12 A. [10:58:41] Ask your question again.

13 Q. [10:58:48] At the time when you were going to these meetings with your father
14 were you yourself --

15 A. [10:59:00] Yes.

16 Q. [10:59:01] -- an RDR supporter?

17 A. [10:59:04] At that time, no.

18 Q. [10:59:16] Did your father have a specific role or function within the RDR?

19 A. [10:59:30] I don't remember.

20 Q. [10:59:42] And when did you become a supporter of the RDR?

21 A. [11:00:09] I'm not a supporter of the RDR, but --

22 THE INTERPRETER: [11:00:25] Inaudible.

23 PRESIDING JUDGE TARFUSSER: [11:00:30] "I'm not a supporter, but" -- we didn't
24 hear. "I'm not a supporter of the RDR, but"?

25 MR MACDONALD: It appears, your Honour, the answer appears.

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1 THE INTERPRETER: [11:00:38] Message from the interpreter: The French
2 transcript has come up. The witness said, he concluded his sentence by saying, "but
3 I am a passive member."
4 PRESIDING JUDGE TARFUSSER: [11:00:48] Okay. Thank you.
5 MR O'SHEA: [11:00:57]
6 Q. [11:00:58] Do you have a membership card then?
7 A. [11:01:04] No, I don't have a membership card.
8 Q. [11:01:11] Did you say to the Office of the Prosecutor, and this is at paragraph 15,
9 and I quote in French, (Interpretation) "I am an RDR sympathiser or supporter, but I
10 don't have a membership card and I do not play any role within the organisation."
11 A. [11:01:41] I haven't understood.
12 Q. [11:01:45] Did you say the following to the Office of the Prosecutor, and I quote
13 in French, (Interpretation) "I am an RDR supporter, but I do not have a membership
14 card and I do not play any role."
15 (Speaks English) Did you use the words (Interpretation) "I am a supporter of the
16 RDR" (Speaks English) when speaking to the Office of the Prosecutor?
17 THE INTERPRETER: [11:02:12] Could counsel please not mix his languages too
18 much. Thank you.
19 THE WITNESS: [11:02:19] (Via video link) (Interpretation) I believe so, yes.
20 MR O'SHEA: [11:02:21] Your Honours, I see the time, if this is a convenient moment.
21 PRESIDING JUDGE TARFUSSER: [11:02:29] We have now the break. We have half
22 an hour break and then we come back with the questioning by the Defence for
23 Mr Gbagbo, okay. The hearing is adjourned to 11.30.
24 THE COURT USHER: [11:02:50] All rise.
25 (Recess taken at 11.02 a.m.)

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- 1 (Upon resuming in open session at 11.32 a.m.)
- 2 THE COURT USHER: [11:32:08] All rise.
- 3 Please be seated
- 4 PRESIDING JUDGE TARFUSSER: [11:32:18] Good morning again. Good morning
- 5 to you court officer in the remote location. Did you want to speak?
- 6 THE COURT OFFICER: [11:32:30] (Via video link) Yes. Good morning.
- 7 PRESIDING JUDGE TARFUSSER: [11:32:36] Just a minute before the Witness comes
- 8 in because Mr O'Shea has to address the Court.
- 9 MR O'SHEA: [11:32:41] Yes, your Honour, just to inform the Court that in the
- 10 French transcript at page 9, line 1, it is there stated that Judge Henderson indicated
- 11 that he has no further questions, and I just record for the record that is an error.
- 12 PRESIDING JUDGE TARFUSSER: [11:32:57] Good. Did you -- have you some
- 13 questions?
- 14 MS HENDERSON: [11:33:04] I believe it's the first time it's appeared that way.
- 15 PRESIDING JUDGE TARFUSSER: Okay.
- 16 MS HENDERSON: I think we all understand. Thank you.
- 17 PRESIDING JUDGE TARFUSSER: [11:33:08] Okay. Thank you. Thank you.
- 18 Court officer, could you please bring the witness to the stand. Thank you.
- 19 THE COURT OFFICER: (Via video link) [11:33:18] Yes, right away, your Honours.
- 20 PRESIDING JUDGE TARFUSSER: [11:33:20] Thank you.
- 21 (The witness enters the video-link room)
- 22 PRESIDING JUDGE TARFUSSER: [11:33:46] Good morning, again, Mr Witness.
- 23 We continue with the questioning by the Defence for Mr Gbagbo. Mr O'Shea, I give
- 24 you the floor.
- 25 MR O'SHEA: [11:33:59]

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1 Q. [11:34:03] Witness, since the 4th of June, 2015, when you signed your statement
2 before the Office of the Prosecutor, have you at any subsequent time met with the
3 Office of the Prosecutor?

4 A. [11:34:42] Yes.

5 Q. [11:34:45] And on how many times subsequent to the signing of your statement
6 did you meet the Office of the Prosecutor?

7 A. [11:35:07] Approximately two times, I believe.

8 Q. [11:35:14] And on those occasions were notes taken of what you were saying to
9 them?

10 A. [11:35:35] To my knowledge, no.

11 Q. [11:35:39] And on either of those two occasions, when you met the Office of the
12 Prosecutor after the signing of your statement, did you at any time during those
13 meetings indicate that there was any error in your statement?

14 A. [11:36:14] Yes, I did indicate that there was an error in my statement.

15 Q. [11:36:29] And what error was that?

16 A. [11:36:35] With regard to the number of children.

17 Q. [11:36:41] And you were not asked to sign another statement correcting that
18 information, right?

19 A. [11:36:59] To my knowledge, no.

20 Q. [11:37:18] Now, you had your business as a carpenter?

21 PRESIDING JUDGE TARFUSSER: [11:37:35] Excuse me, can I just intervene a
22 moment?

23 MR O'SHEA: [11:37:38] Yes.

24 PRESIDING JUDGE TARFUSSER: [11:37:40] Can we go in private session, please?

25 (Private session at 11.37 a.m.)

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- 21 (Open session at 11.41 a.m.)
- 22 THE COURT OFFICER: [11:41:42] We're in open session, your Honours.
- 23 PRESIDING JUDGE TARFUSSER: [11:41:51] Mr O'Shea.
- 24 MR O'SHEA: [11:41:52] Your Honours, thank you.
- 25 Q. [11:41:57] Witness, now your work as a furniture maker was in Anonkoua,

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- 1 which is near PK18, PK18; is that right?
- 2 A. [11:42:29] Yes.
- 3 Q. [11:42:39] And at PK18 there were a group of military known as the Commando
- 4 Invisible; is that right?
- 5 A. [11:42:57] Yes.
- 6 Q. [11:43:00] And the Commando Invisible would have battles with the security
- 7 forces; is that correct?
- 8 A. [11:43:24] What did you say?
- 9 Q. [11:43:40] There would be fighting between the Commando Invisible and the
- 10 security forces of the government; is that right?
- 11 A. [11:44:01] I do not know.
- 12 Q. [11:44:13] And the Commando Invisible were involved in fighting, were they?
- 13 A. [11:44:21] I do not know.
- 14 Q. [11:44:27] This work that you had of making wooden furniture, was this your
- 15 business?
- 16 A. [11:44:44] Yes, that is my work.
- 17 Q. [11:44:52] Were you the owner of the business?
- 18 A. [11:44:57] Yes.
- 19 Q. [11:45:02] And in which year did you establish this business at Anonkoua?
- 20 A. [11:45:27] I no longer recall the date.
- 21 Q. [11:45:34] In which year did you establish this business at Anonkoua?
- 22 A. [11:45:38] I no longer recall the date.
- 23 Q. [11:45:49] How many years were you based there?
- 24 A. [11:46:00] Where?
- 25 Q. [11:46:03] At Anonkoua.

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- 1 A. [11:46:11] If I recall correctly, I set up in Anonkoua at the end of 2009.
- 2 Q. [11:46:35] So in the whole of 2010 your business was based there, right?
- 3 A. [11:46:52] Yes.
- 4 Q. [11:47:00] How long would it take you to get to work in the morning?
- 5 A. [11:47:17] I would need approximately 15 minutes on foot.
- 6 Q. [11:47:28] And how long would you have to walk before you would reach PK18
- 7 if you were coming from your place of work?
- 8 A. [11:47:51] To PK18, approximately 30 minutes.
- 9 Q. [11:48:03] And while your work was in the area, did you get to know a lot of
- 10 people who lived in that area?
- 11 A. [11:48:19] Yes.
- 12 Q. [11:48:28] So tell us what you know about the Commando Invisible.
- 13 A. [11:48:40] What I know about the Commando Invisible was that it was a -- these
- 14 were people who would abduct people and then those people would later be found
- 15 dead.
- 16 Q. [11:49:25] Which people were being abducted?
- 17 A. [11:50:05] I don't know all of the names, but there were some relatives who were
- 18 abducted.
- 19 Q. [11:50:17] Are you talking about your own relatives?
- 20 A. [11:50:32] No, friends of mine.
- 21 Q. [11:50:39] These friends of yours, were they supporters of Gbagbo?
- 22 A. [11:51:03] No.
- 23 Q. [11:51:11] Were they supporters of Ouattara?
- 24 A. [11:51:20] Yes.
- 25 Q. [11:51:25] How frequent were these abductions?

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1 A. [11:51:38] There were abductions on the occasion of rallies and clashes as well.

2 Q. [11:51:56] Now, in Anonkoua is it right that there were a variety of ethnicities
3 living there?

4 A. [11:53:19] Yes.

5 Q. [11:53:22] And in Anonkoua village you've stated to the Office of the Prosecutor
6 that the population was principally Ébrié, so what ethnicities were the other portions
7 of the population of Anonkoua village?

8 A. [11:54:13] In the village itself the population is Ébrié, but in the vicinity you can
9 find Sénoufo, Yacouba, et cetera, et cetera, but in the village itself, they are Ébrié for
10 the most part.

11 THE INTERPRETER: [11:54:35] The interpreter did not catch one of the ethnic
12 origins.

13 PRESIDING JUDGE TARFUSSER: [11:54:41] One of the ethnic origins were not
14 caught by the interpreter.

15 MR O'SHEA:

16 Q. [11:54:49] Could you state again the ethnic origins of --

17 A. [11:55:00] I said that in the village itself, the ethnic community in the village is
18 all Ébrié, but in the vicinity you can find Sénoufo, Yacouba and the Attié.

19 MR O'SHEA: [11:55:23] Sénoufo is S-E-N-O-U-F-O. Attié, A-T-I-E would be a
20 phonetic spelling. And Yacouba, Y-A-K-O-U-B-A.

21 And for the record Ébrié is E-B-R-I-E.

22 Q. Now, would it be right that while many Ébrié were supporters of Gbagbo, there
23 were also Ébrié who supported Ouattara?

24 A. [11:56:29] We could say that.

25 Q. [11:56:44] And in Anonkoua 2, so that's Anonkoua 2 English, the majority of the

- 1 Sénoufo you said support Ouattara. You said this to the Office of the Prosecutor?
- 2 A. [11:57:10] Yes.
- 3 Q. [11:57:12] And would it be right that some Sénoufo, the paragraph is paragraph
- 4 17, would it be right that some Sénoufo also supported Gbagbo?
- 5 A. [11:57:33] Yes.
- 6 Q. [11:57:57] Now, would it be right that in Anonkoua-Kouté there were a number
- 7 of killings of Ébrié which took place?
- 8 A. [11:58:16] Yes.
- 9 Q. [11:58:19] Tell us what you know about that.
- 10 A. [11:58:34] I know that the young Ébrié in Anonkoua would go to the
- 11 neighbourhood where I was living and they would abduct people and/or kill people.
- 12 Q. [11:58:54] Is it right that on 6 March 2011 a number of Ébrié were killed in
- 13 Anonkoua-Kouté? Do you know about that?
- 14 A. [11:59:15] I know nothing about that.
- 15 Q. [11:59:31] In March 2011, were you still working in Anonkoua?
- 16 A. [11:59:48] In March, yes.
- 17 Q. [12:00:11] In March did there come a day when you came to work and saw a lot
- 18 of smoke?
- 19 A. [12:00:27] I -- I never saw that.
- 20 Q. [12:00:54] And the people that you knew that were living in the area and the
- 21 people you worked with, did nobody talk to you about the fact that there had been
- 22 fire and smoke?
- 23 A. [12:01:15] Where?
- 24 Q. [12:01:20] As I say it, Anonkoua-Kouté.
- 25 A. [12:01:28] No, I have never been informed of that. I never got to know that.

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1 Q. [12:01:36] And did anybody tell you that there had been helicopters seen above?

2 A. [12:02:06] Never.

3 Q. [12:02:14] When there were incidents in the area of Anonkoua in 2011, was that
4 something that people did talk about with you?

5 A. [12:02:46] Incidents? No.

6 Q. [12:03:08] I'm going to -- during this time in 2011, were you listening to the
7 radio?

8 A. [12:03:34] No, not very much.

9 Q. [12:03:47] Were you watching TV?

10 A. [12:03:51] No, I did not have the time.

11 Q. [12:03:57] I'm going to show you a video, Mr Witness.

12 The reference, your Honours, is CIV-OTP-0061-0558 from 9 minutes and 54 seconds to
13 12 minutes and 23 seconds. There is a transcript of the video which is
14 CIV-D15-0004-1197. And both are public.

15 (Viewing of the video excerpt)

16 MR O'SHEA: [12:07:44]

17 Q. [12:07:53] Did you ever see these images either during or after the events?

18 A. [12:08:08] Never, I never saw those images.

19 Q. [12:08:14] So is it your evidence that while working in that area during this
20 period of time, these killings of Ébrié at Anonkoua-Kouté is something that you have
21 never heard about ever and are hearing about for the first time today?

22 A. [12:08:51] It is the first time that I have seen these images. I never heard them
23 before nor heard about them.

24 PRESIDING JUDGE TARFUSSER: [12:09:10] That was not the question, Mr Witness.

25 The question was if you have ever known before about this, what was shown in the

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1 video.

2 THE WITNESS: [12:09:25] (Via video link)(Interpretation) Never, I never knew
3 anything about that.

4 MR O'SHEA:

5 Q. [12:09:44] Now, you have spoken to the Office of the Prosecutor about youths
6 walking around with weapons in Anonkoua. Now, what did the local population do
7 in reaction to seeing this? What steps did they take in preparation to defend
8 themselves?

9 A. [12:10:39] There were never any defence measures taken because this happened
10 during rallies. There was no measures to defend themselves.

11 Q. [12:11:03] In your statement at paragraph 18, you say the following, and I quote
12 in French (Interpretation):

13 "During the two electoral campaigns, I often saw young Ébriés from the
14 neighbourhood pass by with Kalashs, machetes and hunting guns to go to the Arrêt
15 Anonkoua intersection, which is also known as Escalier Anonkoua when campaigns
16 were taking place there."

17 (Speaks English) So how often did you see this?

18 A. [12:12:47] I saw that during the campaigns.

19 PRESIDING JUDGE TARFUSSER: [12:13:01] The question is how often? Every day,
20 every second day, more times a day? If you could not respond in monosyllabically I
21 would be appreciative.

22 THE WITNESS: (Via video link) (Interpretation) [12:13:25] It was during the
23 campaigns. It was not practically every day, but when there were campaigns in
24 Abobo, the Ébrié had those possibilities; firearms, machetes to go and confront those
25 who were going to the rallies at the Anonkoua carrefour.

1 MR O'SHEA:

2 Q. [12:14:02] So when the local population saw these Ébrié walking with these
3 weapons, did they meet to discuss what to do about it?

4 A. [12:14:33] They met once to decide what they had to do, and they told the young
5 Ébriés to stop that, that it was only a rally, it was not a war. They had to leave the
6 place freely or peacefully so that these people could go to the rally.

7 Q. [12:15:00] And did the -- did the elders among the Ébrié take steps to stop this
8 kind of behaviour?

9 A. [12:15:26] They said that they were going to take measures against that attitude.
10 But it continued, the young people did not stop.

11 Q. [12:15:52] So when the elders of the Ébrié ethnic group said that they were going
12 to take steps, did they then take steps to try to appease the situation?

13 A. [12:16:19] I do not know because it did not appease the situation.

14 Q. [12:16:29] Well, when you say "because it did not appease the situation," the
15 question is this: Did the elders, the Ébrié elders actually try to appease the situation?

16 A. [12:16:58] That, I do not know.

17 Q. [12:17:17] And do you know what the reaction of the young Ébrié were to the
18 elders?

19 A. [12:17:33] No, I do not know.

20 Q. [12:17:40] So why did you say to the Office of the Prosecutor, and this is at
21 paragraph 20 of your statement, and I quote in French (Interpretation):

22 "The Ébrié elders of Anonkoua village tried to appease the situation, but the young
23 people did not listen to them."

24 (Speaks English) Did you say that?

25 A. [12:18:31] Yes, I stated that.

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1 Q. [12:18:41] So you had knowledge of that last year when you spoke to the Office
2 of the Prosecutor, but that's something that you'd forgotten today, is it?

3 A. [12:18:57] I didn't say I -- yeah, I said that before. I said the young people did
4 not listen to them. And why is that? Because when they say that they should allow
5 the young people to go to their rallies and then the following day the same thing
6 happened, then that is why I said the young people did not listen to them, because if
7 they had listened the same thing would not have happened.

8 Q. [12:19:31] Okay. You've told the Chamber today that the elders among the
9 Ébrié said they were going to take steps, but you don't know if they tried to appease
10 the situation. And in your statement you --

11 A. [12:20:04] That, I did not know.

12 Q. [12:20:05] But in your statement you said that they tried to appease the situation.
13 So did you tell the Office of the Prosecutor that the elders tried to appease the
14 situation?

15 MS HENDERSON: [12:20:23] Your Honour --

16 THE WITNESS: (Via video link) Oui.

17 MS HENDERSON: -- that's already answered in part of the paragraph that my
18 learned friend has read out to the witness.

19 MR O'SHEA: [12:20:35] I don't understand the objection, but anyway, he's given an
20 answer.

21 PRESIDING JUDGE TARFUSSER: [12:20:39] I think he has given an answer so.

22 MR O'SHEA:

23 Q. [12:21:23] Now, in speaking to the Office of the Prosecutor and this is at
24 page -- paragraph 1 of your statement. Sorry, your Honour.

25 PRESIDING JUDGE TARFUSSER: [12:21:35] You said page 1 or paragraph 1?

1 MR O'SHEA: [12:21:38] I said paragraph 21.

2 PRESIDING JUDGE TARFUSSER: [12:21:42] 21, I'm sorry.

3 MR O'SHEA:

4 Q. [12:21:45] You spoke about an attack in the neighbourhood of Agripac, and you
5 said, and I quote in French:

6 (Interpretation): "One day before the second round my neighbour at Agripac, a
7 Yacouba who supported the LMP, told me that the Ébrié were soon going to attack
8 the Agripac neighbourhood where I was." (Speaks English) Close quotations.

9 When you were given this information, did you take it seriously?

10 A. [12:23:10] Yes, I took it seriously.

11 Q. [12:23:18] And this person who gave you this information, did he or she stay in
12 Agripac or go somewhere else?

13 A. [12:23:53] She did not stay at Agripac. She went and took refuge in Anonkoua.

14 Q. [12:24:18] Now, you had a friend that you went to stay with sometimes, didn't
15 you?

16 A. [12:24:33] Yes.

17 Q. [12:24:36] And that friend was living somewhere else other than Agripac?

18 A. [12:24:48] He lived at Agripac also.

19 Q. [12:24:52] And did you have friends living outside Agripac that you sometimes
20 went to stay with?

21 A. [12:25:01] No, not elsewhere.

22 Q. [12:25:21] And where were your brothers living at that time?

23 A. [12:25:31] There was one of my brothers living with me the same house in
24 Agripac, and the other one lived just behind us in the same neighbourhood, Agripac.
25 The third one lived at Avocatier.

1 Q. [12:26:03] Did you sometimes go and stay with your brother at Avocatier?

2 A. [12:26:13] Yes.

3 Q. [12:26:23] And when you were informed about this attack on Agripac, did you
4 go and stay with him or did you stay in Agripac?

5 A. [12:26:34] I stayed at my house in Agripac.

6 Q. [12:26:51] Did you think about going somewhere else given the situation, given
7 the seriousness of the situation?

8 A. [12:27:06] Not before we were attacked. Before we were attacked I was in
9 Agripac, I had no intention of going elsewhere.

10 Q. [12:27:28] When you heard that there was going to be this attack on Agripac, did
11 you take any steps to defend yourself if you needed to?

12 A. [12:27:52] No, I did not take any measures.

13 Q. [12:28:02] Did you have any weapons in your house?

14 A. [12:28:10] No, never. I have never touched a firearm.

15 Q. [12:28:24] Did you have a machete in your house or any other type of weapon
16 which could be used to defend yourself?

17 A. [12:28:37] Never, I did not have any machete in my house.

18 Q. [12:28:47] Did you never think that this might be necessary, given the situation?

19 A. [12:28:50] No, never. I do not like violence. I never thought anybody would
20 come to my house to attack me.

21 THE INTERPRETER: Correction: I never thought of having a machete in my house
22 would be necessary.

23 MR O'SHEA:

24 Q. [12:29:29] At the time of this attack on Agripac, which of your brothers was
25 living in Agripac? You said one of them was living there. Who was it, which

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1 brother?

2 A. [12:29:46] The one who died lived at Agripac and the other one also lived in
3 Agripac.

4 Q. [12:30:03] And what was the name of the brother who also lived in Agripac?

5 A. [12:30:13] Losseni Bakayoko also lived in Agripac and then my defunct brother
6 Lacina also lived in Agripac.

7 Q. [12:30:42] In which year was this attack on Agripac?

8 A. [12:30:53] The attack in Agripac took place in 2010.

9 Q. [12:31:02] And how old was Losseni at that time?

10 A. [12:31:26] Losseni must have been about 32 or 33 years of age, between 32 and
11 33 years of age.

12 Q. [12:31:47] And how old was Lacina at that time?

13 A. [12:31:52] Lacina was already dead by that time. He -- well, he was no longer
14 alive, because Lacina died at the end of 2010. He was no longer alive. But his
15 family still lived in Agripac at that time. Well, had he been alive, he would have
16 been 32 or 33 years of age.

17 Q. [12:32:23] So in which month was this attack on Agripac, in which month in
18 2010?

19 A. [12:32:36] The attack on Agripac took place in approximately at the end of the
20 year 2010.

21 Q. [12:32:53] In which month?

22 A. [12:32:58] Well, as to the month, well, it sort of shifts around a bit between one
23 or two months, two different months. 2010, hmm. No, the attack was not in 2010,
24 rather, it was in 2011.

25 MS HENDERSON: [12:33:24] Your Honours, if my learned friend is questioning

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1 on paragraph 21, it's my submission that whatever answer the witness gives to these
2 questions cannot assist the Chamber, given the first line of paragraph 21, which
3 situates the event, the answer that the witness give purely does not assist your
4 Honours is my submission.

5 MR O'SHEA: [12:33:51] This is an exercise in testing the credibility of the witness.

6 PRESIDING JUDGE TARFUSSER: [12:33:55] Yes.

7 MR O'SHEA: [12:33:56] Not assisting the Chamber.

8 PRESIDING JUDGE TARFUSSER: [12:33:58] Yes, I do understand. But witness
9 should also not be put in complete confusion is what I would say.

10 MR O'SHEA: [12:34:06] I haven't been doing that, your Honours.

11 Q. [12:34:26] So the attack on Agripac took place in 2011; is that right?

12 A. [12:34:32] Yes.

13 Q. [12:34:35] And are you sure about that?

14 A. [12:34:40] Yes.

15 Q. [12:34:47] And your brother Losseni, was he a supporter of Ouattara?

16 A. [12:35:48] No.

17 Q. [12:35:55] Was he a supporter of Gbagbo?

18 A. [12:35:59] No.

19 Q. [12:36:07] Did he have any weapon in his house to defend himself?

20 A. [12:36:17] Never.

21 Q. [12:36:23] When you heard that there was going to be an attack in Agripac, did
22 you speak to your brother Losseni about it?

23 A. [12:36:41] Yes, I told him.

24 Q. [12:36:47] And did he take the information seriously?

25 A. [12:36:51] No, he didn't take it seriously, he took it lightly.

- 1 Q. [12:37:05] Did he not believe you?
- 2 A. [12:37:10] No, he didn't believe me because he was not the one who had been
3 told. He said that it was just rumours.
- 4 Q. [12:37:26] Now, when your brother was alive in 2010, Lacina --
- 5 A. [12:38:02] Yes.
- 6 Q. [12:38:03] -- how much time would you spend with him?
- 7 A. [12:38:05] We would spend the whole day together because we worked together
8 in the same workshop.
- 9 Q. [12:38:20] And was he a supporter of the RDR?
- 10 A. [12:38:37] Yes.
- 11 Q. [12:38:44] And what kind of activities did he involve himself in in relation to the
12 RDR?
- 13 A. [12:38:58] Well, I don't know.
- 14 Q. [12:39:01] You don't know if he engaged in any activities?
- 15 A. [12:39:29] I do not know.
- 16 Q. [12:39:32] In your statement at paragraph 22, you say this, and I quote in French
17 (Interpretation): "My elder brother Lacina Bakayoko was an active member of the
18 RDR." (Speaks English) Close quotations.
- 19 Did you say that to the Office of the Prosecutor?
- 20 A. [12:40:20] Yes, I did say that to the Office of the Prosecutor.
- 21 Q. [12:40:24] So what did you mean by "active member"?
- 22 A. [12:40:29] I said "active member" because he was the only one who talked to us a
23 lot about the RDR. So when I said he was an active member, well, he had a
24 membership card.
- 25 Q. [12:40:58] But other than having a membership card, what else do you know

1 about him and the RDR?

2 A. [12:41:12] I knew that he attended meetings, but as to the report, I know
3 nothing.

4 Q. [12:41:22] And apart from meetings, was he involved in other activities?

5 A. [12:41:34] Apart from the meetings he also attended the rallies.

6 Q. [12:42:00] Now, did you -- did you before 16 December attend any rallies or
7 marches?

8 A. [12:42:29] No.

9 Q. [12:42:34] And did your brother Lacina attend rallies and marches before
10 December 2010?

11 A. [12:43:00] Before 16 December 2010 he would attend the rallies. He would also
12 go to the marches, yes.

13 MR O'SHEA: [12:43:25] I'm informed that my first question about himself didn't
14 come through clearly, so I'll ask the question again.

15 Q. [12:43:33] I don't know whether this question came through to you properly,
16 Witness, or not, so I'm going to put it again.

17 Did you yourself attend marches and rallies before 16 December 2010?

18 A. [12:43:58] No, I never took part in the marches or the rallies.

19 Q. [12:44:08] And your brother Lacina, when he attended marches and rallies
20 before 16 December, did he talk to you about those marches and rallies?

21 A. [12:44:34] No, he didn't talk to me about it, but I knew he went there, because
22 when he came back he said he was coming from rallies.

23 Q. [12:44:47] And in the years preceding or the time preceding 16 December 2010,
24 did you learn about what happened at rallies and marches through watching
25 television or listening to the radio?

1 A. [12:45:20] Yes. Well, I wasn't informed on the television, because I didn't watch
2 the television. But my younger brother told me that there was going to be a rally on
3 16 December, but I didn't attend because I don't attend those kind of things.

4 Q. [12:45:44] Well, putting the march of 16 December to the side for a moment, did
5 you through the television or the radio or discussions with your brothers learn about
6 what happened at marches and rallies prior to 16 December 2010?

7 A. [12:46:18] Yes.

8 Q. [12:46:27] Your brother Lacina, was he involved in the organization of marches?

9 A. [12:46:49] I don't know.

10 Q. [12:47:06] So all the time he was with you, you say you were with him the whole
11 day, you didn't have discussions about these things?

12 A. [12:47:36] Never.

13 Q. [12:47:40] How did you come to know of the march of 16 December 2010?

14 A. [12:48:01] It was he who, he himself who came to talk to me about it. He talked
15 to me about the march of 16 December 2010, and I told him that I wasn't going.

16 Q. [12:48:30] And how long before this conversation -- sorry, how long before the
17 march did this conversation take place?

18 A. [12:48:38] He told me one day before the march.

19 Q. [12:48:56] Did you say to the Office of the Prosecutor the following, and I quote
20 from paragraph 22 in French (Interpretation): "Approximately one week after the
21 day of the march on the RTI" --

22 (Speaks English) Interpreter, I'm going to read that again because the way it came
23 back to me in English was not the way I read it out. So I'm going to start again. I
24 quote in French, (Interpretation):

25 "Approximately one week before the day of the march on the RTI, my elder brother

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1 Lacina Bakayoko told me that there would be a march on the RTI on the Thursday
2 16 December 2010." (Speaks English) Close quotations.

3 Did you say to the Office of the Prosecutor that this conversation took place one week
4 before the march?

5 A. [12:50:17] I do not recall the day, but I said that my elder brother informed me
6 that there was going to be a march.

7 Q. [12:50:30] So was it a day before or a week before?

8 A. [12:50:46] I do not recall. I no longer recall well, but he did tell me.

9 Q. [12:51:07] Did you hear a message from Guillaume Soro about the march on
10 16 December?

11 A. [12:51:20] No, I did not hear.

12 Q. [12:51:30] Were you listening to the radio during that time?

13 A. [12:51:34] No.

14 Q. [12:51:55] Did you hear anyone else other than Guillaume Soro perhaps through
15 the television announcing this march?

16 A. [12:52:09] No, nobody told me that.

17 Q. [12:52:19] Nobody told you that this march was announced?

18 A. [12:52:23] Nobody told me that that march was announced, with the exception
19 of my brother.

20 Q. [12:52:34] What were your brother's words?

21 A. [12:52:44] He just said that there was going to be a march on 16 December.

22 Q. [12:52:58] So he didn't tell you it had been announced?

23 A. [12:53:02] No.

24 Q. [12:53:09] And nobody else told you it had been announced?

25 PRESIDING JUDGE TARFUSSER: [12:53:19] Yes, but now, I mean, he said no,

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1 nobody else. He didn't hear it from the radio, from only his brother, that's it.

2 THE WITNESS: [12:53:33] (Via video link) (Interpretation) No, nobody else.

3 MR O'SHEA: [12:53:37] Your Honour, yes.

4 Q. [12:53:43] In your statement at paragraph 22, you say the following, and I quote
5 in French (Interpretation):

6 "In Anonkoua tension was still high after the announcement of this march." (Speaks
7 English) Close inverted commas.

8 Did you say that to the Office of the Prosecutor?

9 A. [12:54:21] Could you please repeat? I didn't hear it well.

10 Q. [12:54:26] By all means. We have recorded the following, and I quote in French
11 (Interpretation): "In Anonkoua the tension was still high after the announcement of
12 this march." (Speaks English) Close inverted commas.

13 And the question is: Did you say that to the Office of the Prosecutor?

14 A. [12:55:08] I do not recall.

15 Q. [12:55:30] Subsequent to the events, so after 2010, did you come to hear about an
16 announcement by Guillaume Soro?

17 A. [12:55:50] No, I didn't hear that.

18 Q. [12:56:00] And, again, after 2010 did you come to hear about an announcement
19 with respect to the march by anyone else other than Guillaume Soro?

20 A. [12:56:21] No, I didn't hear that. And even if I did hear it, I do not recall, but,
21 for example, I didn't hear it.

22 MR O'SHEA: [12:57:03] I would prefer, if your Honours are willing, to ask my next
23 question after the break. Otherwise it will give an opportunity to think about it.

24 PRESIDING JUDGE TARFUSSER: [12:57:13] Never think about questions.

25 Okay. Let's break.

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- 1 And, Mr Witness, we are having the break now for lunch and we come back at 2.30,
2 which means 1.30 for you.
- 3 Court officer, could you bring the witness out. Thank you.
- 4 THE COURT OFFICER: [12:57:47] (Via video link) Yes, your Honours.
- 5 PRESIDING JUDGE TARFUSSER: [12:57:50] Then thank you. We see you later.
6 We disconnect.
- 7 I don't know -- I don't know if you want -- if you expect a question from me or if you
8 are anticipating my question.
- 9 MR O'SHEA: [12:58:12] No, your Honour.
- 10 PRESIDING JUDGE TARFUSSER: [12:58:14] No.
- 11 MR O'SHEA: [12:58:15] I just was informed of something which allows me to use
12 another 30 seconds, which is this: When I was showing the video, I gave the wrong
13 ERN number for the transcript. It should have been --
- 14 PRESIDING JUDGE TARFUSSER: [12:58:32] the written as opposed to the number
15 you said, no.
- 16 MR O'SHEA: [12:58:36] Okay. I will educate myself appropriately to make sure
17 this doesn't happen again. It's CIV-D15-0004-1197. That's what it should be.
- 18 PRESIDING JUDGE TARFUSSER: [12:58:51] Okay. Now, my question, which you
19 probably can imagine, what is your outlook?
- 20 MR O'SHEA: [12:59:16] Between 1.5 and 2 hours.
- 21 PRESIDING JUDGE TARFUSSER: [12:59:20] So this session we finish, next session
22 we finish?
- 23 MR O'SHEA: [12:59:25] Yes, I will do my best to ensure that happens.
- 24 PRESIDING JUDGE TARFUSSER: [12:59:28] Okay. Thank you very much. Also,
25 because we have lost the 10, 15 minutes because -- no.

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1 And I don't ask Maître Gbougnon, I don't ask yet, Mr Gbougnon, only after in the
2 evening, yes, I will ask you, because then you know how much was covered already
3 by the colleagues from the other defence team.
4 Thank you very much. We break now until 2.30. Thank you.
5 THE COURT USHER: All rise.
6 (The hearing ends in open session at 1 o'clock)
7 (Upon resuming in open session at 2.32 p.m.)
8 THE COURT USHER: [14:32:20] All rise.
9 Please be seated.
10 PRESIDING JUDGE TARFUSSER: [14:32:45] So good afternoon.
11 Good afternoon also to you in the remote location, court officer. Please could you
12 bring in the witness.
13 THE COURT OFFICER: [14:32:59] (Via video link) Yes. Yes, good afternoon,
14 your Honours. And I'll bring the witness.
15 PRESIDING JUDGE TARFUSSER: [14:33:04] Thank you.
16 (The witness enters the video-link room)
17 PRESIDING JUDGE TARFUSSER: [14:33:35] Good afternoon, Mr Witness.
18 THE WITNESS: [14:33:40](Via video link)(Interpretation) Good afternoon.
19 PRESIDING JUDGE TARFUSSER: [14:33:43] I give immediately the floor to the
20 Defence counsel for Mr Gbagbo for his questioning. And I would ask you again to
21 speak clear, to speak slow and to respond to the questions so that we can move
22 forward. Thank you very much.
23 MR O'SHEA: [14:34:04] Good afternoon, your Honours.
24 Q. [14:34:07] Good afternoon, witness. I'm going to start by -- I'm going to start
25 by just reading out a sentence in your statement, what you said to the Office of the

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1 Prosecutor, and it's at paragraph 19. You said, and I quote, in French

2 (Interpretation):

3 "On that day he wanted to take part in the campaign and had not come to the
4 workshop." (Speaks English) Close quotes.

5 Now there you're talking about your apprentice. So --

6 A. [14:35:21] Yes.

7 Q. [14:35:23] And this is in the context of activities at Arrêt Anonkoua. Did you
8 give permission for your apprentice to take the day off work because of this
9 campaign?

10 A. [14:35:51] No.

11 Q. [14:35:53] And this same apprentice, did he also take the day off on 16
12 December?

13 A. [14:36:15] On that day we did not work.

14 Q. [14:36:25] And was this the general situation or your decision in relation to
15 your business?

16 A. [14:36:47] I took a decision in view of the situation.

17 Q. [14:36:59] And was this to allow people to go on this march?

18 A. [14:37:16] The march of when?

19 Q. [14:37:18] I'm now -- I'm now talking about 16 December.

20 A. [14:37:25] (Speaks English) Okay.

21 Q. [14:37:27] I understand that your previous answer related to that, is that right,
22 that nobody was working on that day?

23 A. [14:37:39] There are two questions there.

24 Q. [14:37:41] So on 16 December nobody was working in your workshop; is that
25 right?

1 A. [14:37:52] Yes, that is correct.

2 Q. [14:37:55] And did you make that decision in order to allow people to go on
3 the march?

4 A. [14:38:12] No.

5 Q. [14:38:13] Why did you make that decision?

6 A. [14:38:23] I took that decision because before the march, during the campaign,
7 one of my apprentices had been shot. So from that day I told the others not to come
8 to the workshop, so the workshop had to be closed. And so I said they -- if someone
9 had to come, it shouldn't be an apprentice, they should stay at home.

10 Q. [14:39:00] So before this march started on 16 December, you already
11 recognized, did you, that it could be a dangerous situation at the time?

12 A. [14:39:21] Yes.

13 Q. [14:39:45] Now, at paragraph 24 of your statement, you say to the Office of the
14 Prosecutor the following, and I quote in French: (Interpretation)

15 "At around 800 hours, I went and sat on a bench, which is in front of the house, just in
16 front of our own house. At normal times I would spend some time on that bench.
17 My brother Lacina Bakayoko passed by and saw me there and he told me that he was
18 going to the march at the RTI, to march to the RTI."

19 (Speaks English) End of quote. So my question is this: Was it at 8 o'clock in the
20 morning that your brother passed by and told you that he was going to the march?

21 A. [14:41:13] Yes.

22 Q. [14:41:23] And is it right that between Agripac and Cocody, where the RTI is
23 located, it would take more than three hours to walk there?

24 A. [14:41:47] Yes, that is correct.

25 Q. [14:41:55] And in the discussions that you had with your brother, Lacina,

1 before the march, did you -- did he tell you at what time the marchers were planned
2 to be at the RTI?

3 A. [14:42:24] No, he didn't tell me anything about that.

4 Q. [14:42:41] Did you have other information from other sources or other people
5 as to the time at which people were supposed to meet at the RTI?

6 A. [14:43:01] Can you kindly repeat the question? I didn't quite understand.

7 Q. [14:43:06] Did you learn from anyone else or from any other source, such as
8 the radio or TV, what time the marchers were expecting to protest at the RTI?

9 A. [14:43:29] No. Nobody told me and I didn't even hear about that in the
10 media.

11 Q. [14:43:45] Now, at 8 o'clock in the morning when your brother came to speak
12 to you and told you that he was going on the march, did he then start walking for the
13 purpose of going towards the march?

14 A. [14:44:17] Yes.

15 Q. [14:44:28] How far is the intersection away from the bench, how long would it
16 take you to walk from the bench to the intersection?

17 A. [14:45:02] About one minute.

18 Q. [14:45:40] At this time on this day, on 16 March, were you living with your
19 brother, Lacina, in the same house?

20 A. [14:46:00] On 16th March?

21 Q. [14:46:08] Sorry, that's my mistake. On 16 December, on the day of this
22 march -- sorry, Witness, that's my mistake.

23 On 16 December did you -- were you living with your brother in your house?

24 A. [14:46:31] No, we did not live in the same house, but in the same
25 neighbourhood.

- 1 Q. [14:46:38] Okay. On that day, did you have a watch or a phone on you?
- 2 A. [14:47:03] Yes. I had a mobile phone.
- 3 Q. [14:47:16] And is that how you knew the time?
- 4 A. [14:47:29] Yes, I had my telephone and that's how come I knew what the time
- 5 was approximately.
- 6 Q. [14:47:59] Now, you say -- you say that at 10 o'clock some people in military
- 7 uniform arrive. And you describe, at paragraph 26, how these military were armed
- 8 with Kalashnikovs and they had, and I quote in French, and this is at paragraph 26,
- 9 (Interpretation) "a tube with which tear gas canisters are usually launched or thrown."
- 10 (Speaks English) How did you know that what you were seeing was used for that
- 11 purpose?
- 12 A. [14:49:42] Because this is what the tear gas was -- they used to throw the tear
- 13 gas.
- 14 Q. [14:50:00] Where had you seen these before?
- 15 A. [14:50:15] I had never seen it before. It was on that day that those -- I saw
- 16 people throw tear gas on that day. I had seen armed people before with guns, but on
- 17 that day that was the first time I was seeing that one.
- 18 Q. [14:50:42] Well, you see, when you're talking to the Office of the Prosecutor
- 19 and you're describing these military who arrive, before you talk about what they
- 20 actually do, you say that they're carrying a tube which is normally used for launching
- 21 tear gas. So how did you know when you saw this tube that it's normally used for
- 22 launching tear gas?
- 23 A. [14:51:25] Because they launched the tear gas with it right in front of me, that
- 24 is how I knew they used it to launch tear gas.
- 25 Q. [14:51:43] So you only know what it was used for on that day, you don't know

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1 what it was normally used for?

2 A. [14:51:53] No.

3 Q. [14:52:02] How were these military dressed?

4 A. [14:52:16] Some of them were wearing fatigues, green and black, and the
5 others were wearing blue and black fatigues. So you had a blue and green fatigues
6 with black stripes.

7 Q. [14:53:38] (Microphone not activated) Have I understood you correctly?

8 MR MACDONALD: [14:53:53] I'm sorry, I think your microphone was off when
9 you asked the question, so that's why it's not being transcribed or there's nothing.

10 MR O'SHEA: [14:54:05] All right. I'm grateful to Mr MacDonald if that's the case.

11 Q. [14:54:10] So you're saying that some of them were wearing green and black
12 and some of them were wearing blue and black with -- sorry, blue and green with
13 black stripes; have I understood you correctly?

14 A. [14:54:53] No, I said blue and black.

15 Q. [14:55:07] So some of them were wearing blue and black, and others were
16 wearing green and black; is that right?

17 A. [14:55:20] Yes.

18 Q. [14:55:31] And what were they wearing on their heads?

19 A. [14:55:44] Some of them were wearing red berets, while others wore green
20 berets.

21 Q. [14:56:01] Now, isn't it right that around this time, around December 2010, one
22 would see a lot of different people wearing uniforms, not just the army?

23 A. [14:56:33] No. During that time it was only the army that wore the uniforms.

24 Q. [14:56:45] What about the Commando Invisible, what did they wear?

25 A. [14:56:56] I do not know the Commando Invisible.

1 Q. [14:57:11] So all the time that you were working in Anonkoua you never
2 saw -- you never saw rebels, never saw men wearing uniforms who were not from the
3 government?

4 A. [14:57:39] Yes, I never saw them.

5 Q. [14:57:58] And if I have understood you correctly, you never attended any
6 other marches or saw any other marches before this march on 16 December?

7 A. [14:58:23] I never took part in a march, and I never saw any march before 16
8 December, but I saw rallies.

9 Q. [14:58:55] And is it right that you, yourself, have no experience in the military?

10 A. [14:59:07] Yes.

11 Q. [14:59:10] Is that yes, I have no experience in the military?

12 PRESIDING JUDGE TARFUSSER: [14:59:13] Yes, but why do we have to repeat
13 always the same questions? He's never had an arm, he's never seen an arm. He has
14 no machete, he has nothing. I think this should be clear by now.

15 MR O'SHEA: [14:59:24] Well, he said he didn't like violence. I haven't actually
16 asked him the question.

17 PRESIDING JUDGE TARFUSSER: [14:59:30] No, no, no, no. No, no, no, no. He
18 has never had an arm. He has never -- one who is in the military has an arm.

19 MR O'SHEA: [14:59:36] I accept that, your Honour. But my questions were about
20 whether he kept a weapon in his house.

21 PRESIDING JUDGE TARFUSSER: [14:59:41] Yes, but the response was that he --

22 MR O'SHEA: [14:59:43] It was "No."

23 PRESIDING JUDGE TARFUSSER: [14:59:45] It was no that he has never had a
24 weapon, he has never handled a weapon, and he has no machete and he has nothing.

25 MR O'SHEA: [14:59:51] Very well. Very well. Very well.

1 PRESIDING JUDGE TARFUSSER: [14:59:54] It is just to avoid to repeat questions
2 which are -- or where the outcome is clear.

3 MR O'SHEA: [14:59:58] (Overlapping speakers) I do understand, your Honour.
4 But I hadn't understood that I had asked that question before.

5 PRESIDING JUDGE TARFUSSER: Okay.

6 Q. [15:00:09] So, Mr Witness, you had no basis for knowing, these soldiers who
7 you saw, you had no basis for knowing which part of the army they belonged to or
8 whether they belonged to the army at all, did you?

9 A. [15:00:46] I know what army they were from because by their uniforms
10 already, even if though I have not been in the military, I knew whether they were -- I
11 knew whether they were a soldier, a gendarme or another member of a -- or a
12 policeman.

13 Q. [15:01:13] How did you know these things?

14 A. [15:01:25] I knew all of that because I often saw them.

15 Q. [15:01:52] Now, you're sitting on this bench and you see these military arrive,
16 and they are positioned on the road that goes towards Abobo Gare; is that right?

17 A. [15:02:19] Yes, that's right.

18 Q. [15:02:24] And how many soldiers did you see?

19 A. [15:02:33] I don't know how many, but there were a lot of them.

20 Q. [15:03:01] And you saw these soldiers for the first time from the bench, so
21 other than guessing, you had no way of knowing where they'd actually come from,
22 did you?

23 A. [15:03:23] I didn't guess. I was in the habit of seeing these -- of seeing soldiers.
24 I didn't guess anything. When I saw them, I knew where they were from. I
25 couldn't not know.

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1 Q. [15:03:43] Well, if you're sitting on a bench near the intersection, how could
2 you be sure where they came from? You couldn't, could you?

3 MS HENDERSON: Your Honour, the Prosecution submit that this line of
4 questioning is becoming argumentative.

5 PRESIDING JUDGE TARFUSSER: [15:04:03] No, I --

6 MS HENDERSON: And it is also putting closed propositions on things that are
7 contradictory in the witness's statement. If they are perhaps clear from the witness's
8 statement it could be put in a slightly leading fashion, we wouldn't object to that, but
9 there are some things that are contrary to what is put. And we object to leading
10 questions where it is contrary to what is in the statement.

11 MR O'SHEA: [15:04:26] Can I please ask that the connection be cut for a moment.

12 PRESIDING JUDGE TARFUSSER: [15:04:31] Yes, just to -- not cut the connection,
13 but cut the audio.

14 MR O'SHEA: [15:04:49] Before my learned friend --

15 PRESIDING JUDGE TARFUSSER: [15:04:50] Just a moment.

16 MR O'SHEA: [15:04:51] Sorry.

17 THE COURT OFFICER: [15:04:54] The sound has been cut off.

18 PRESIDING JUDGE TARFUSSER: [15:04:57] Now we are cut off.

19 MR O'SHEA: [15:05:00] I would just like to quickly say out of the hearing of the
20 witness that before my learned friend makes that kind of objection, she should ask for
21 the witness to be disconnected. She should not be telling the witness that he said
22 something contradictory in his statement. But to save --

23 PRESIDING JUDGE TARFUSSER: [15:05:16] Yes, I would add something else.

24 Before speaking, I would like to give the floor before. It's a little bit of a habit that
25 from one side people stand up and speak, instead of standing up and waiting until

1 the floor is given, because normally I wait also until the witness is finished, until the
2 translation is finished; otherwise we make a lot of confusion. This is something, the
3 second point I make. Thank you.

4 MR O'SHEA: [15:05:47] And to save time, I will simply move on rather than
5 engaging in this analysis of my questions.

6 PRESIDING JUDGE TARFUSSER: [15:05:56] That is a very good idea. And
7 before you change your mind, I give you the floor.

8 I ask the court officer to reconnect.

9 And I give you immediately the floor.

10 THE COURT OFFICER: [15:06:18] (Via video link) Yes, we are back, back on.

11 PRESIDING JUDGE TARFUSSER: [15:06:21] Okay, we are back.

12 And I give you the floor, Mr O'Shea, just for the continuing of your questioning.

13 MR O'SHEA: [15:06:29] Thank you.

14 Q. [15:06:32] Where you were sitting at the bench, were there other people
15 around you as well in that same location?

16 A. [15:06:46] Yes.

17 Q. [15:06:47] Were you many?

18 A. [15:06:58] I would say seven or eight people.

19 Q. [15:07:27] And at the time that the military arrived, how many marchers were
20 in the vicinity of the intersection? What kind of numbers are we talking about,
21 hundreds or tens?

22 A. [15:07:50] I would say hundreds of people.

23 Q. [15:08:32] Now, you say that after about 30 minutes these soldiers launched
24 tear gas.

25 A. [15:08:53] Yes.

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1 Q. [15:08:55] During the 30 minutes before the tear gas was launched, what were
2 the soldiers doing?

3 A. [15:09:15] They weren't doing anything, they had stopped there.

4 Q. [15:09:25] So they were simply standing there and blocking the entrance to the
5 road which goes towards Abobo Gare?

6 A. [15:09:39] Yes.

7 Q. [15:09:46] And in those 30 minutes before the tear gas was launched, what
8 were these hundreds of marchers doing?

9 A. [15:10:02] They were there, they were waiting. They had stopped, they
10 weren't doing anything. And the security forces were there.

11 THE INTERPRETER: [15:10:11] Inaudible.

12 MR O'SHEA: [15:10:18]

13 Q. [15:10:18] Were the marchers standing in front of the security -- in front of the
14 security forces?

15 A. [15:10:35] Yes, they were in front of them.

16 Q. [15:10:43] And they were just standing there?

17 A. [15:10:49] Yes.

18 Q. [15:10:50] Were they singing?

19 A. [15:10:59] No, they weren't singing.

20 Q. [15:11:01] Were they talking?

21 A. [15:11:12] Of course they were talking.

22 PRESIDING JUDGE TARFUSSER: [15:11:18] In other words, what were they
23 doing? What were they doing?

24 THE WITNESS: [15:11:27](Via video link)(Interpretation) They had stopped there.

25 MR O'SHEA: [15:11:31]

1 Q. [15:11:31] Were they shouting anything out?

2 A. [15:11:42] What I heard they were shouting and yelling saying, "Let us get
3 through." They were just -- all I heard was them shouting "Let us go through."

4 Q. [15:11:59] During that half an hour, is that the only thing you heard?

5 A. [15:12:08] That's the only thing I heard.

6 Q. [15:12:37] Now, you say that after half an hour the soldiers were launching the
7 tear gas. So describe to us exactly what you saw at that moment what the soldiers
8 were doing?

9 A. [15:13:15] At that time the soldiers started lobbing canisters of tear gas, and
10 they wouldn't let people go through, and the demonstrators were calling out "Let us
11 go through." The demonstrators fell back somewhat.

12 Q. [15:13:39] And how much of this tear gas did you see being thrown?

13 A. [15:13:53] I couldn't tell you exactly, but a lot.

14 Q. [15:14:05] And you say that marchers were picking these tear gas canisters up
15 and throwing them away?

16 A. [15:14:18] Yes.

17 Q. [15:14:35] And this throwing of tear gas or launching of tear gas, how long did
18 it go on for?

19 A. [15:14:49] I couldn't tell you exactly how long it went on for.

20 Q. [15:14:59] Was it continuous?

21 A. [15:15:13] Continuous when?

22 Q. [15:15:15] Did they throw tear gas for one or two minutes, or did they continue
23 to throw it for half an hour?

24 A. [15:15:38] About half an hour, almost an hour.

25 Q. [15:15:54] So for almost an hour the atmosphere was full of smoke, was it?

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1 A. [15:16:02] Yes.

2 Q. [15:16:22] In your statement you say, and this is at paragraph 28, and I quote

3 in French: (Interpretation)

4 "Around 11 in the morning the soldiers shot upon the crowd using real bullets." End

5 of quote.

6 (Speaks English) Did you say that to the Office of the Prosecutor?

7 A. [15:16:53] Yes, I said that.

8 Q. [15:16:54] So these bullets were used about half an hour after the military

9 arrived? Sorry, about an hour after the military arrived?

10 A. [15:17:14] I can't be specific as to the time.

11 Q. [15:17:19] But while they were firing bullets there was smoke in the

12 atmosphere?

13 A. [15:17:35] Not anymore. There was not any smoke anymore and we

14 continued.

15 THE INTERPRETER: [15:17:50] Interpreter correction: There was no longer any

16 smoke while they fired.

17 MR O'SHEA: [15:18:01] Sorry, if we could go to your sketch map, which is annex 1,

18 it's CIV-OTP-0084-0096.

19 THE COURT OFFICER: [15:19:06] (Via video link) Your Honours, we have the

20 document CIV-OTP-0084-0096. It is being presented to the witness.

21 PRESIDING JUDGE TARFUSSER: [15:19:24] I've heard only half of what you said,

22 but I think I heard -- I could understand you, and please show it to the witness.

23 THE COURT OFFICER: [15:19:39] (Via video link) Yes, the document is being

24 shown to the witness.

25 MR O'SHEA: [15:19:52] Could it be perhaps enlarged to the edges of the screen.

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1 MS HENDERSON: [15:20:06] Your Honours, as long as this is confidential.

2 PRESIDING JUDGE TARFUSSER: [15:20:10] Can it be seen outside? No. Okay.

3 It is kept confidential.

4 MR O'SHEA: [15:20:58]

5 Q. [15:21:03] Now, you've shown on this map where the house is in front of

6 which is the bench, and you've shown your position marked with an X.

7 PRESIDING JUDGE TARFUSSER: [15:21:25] I see lots of Xs.

8 MR O'SHEA: [15:21:29]

9 Q. And you've identified where you are by using the word "moi."

10 Which, your Honours, is slightly below where it says "rail."

11 And you've shown the road which goes towards Abobo Gare on one part of the

12 intersection where the soldiers are, and then you've shown the road towards N'Dotr ,

13 where you've put marchers. And this road going towards N'Dotr , this is where the

14 bridge is that your brother crossed when he started his march; is that right?

15 A. [15:22:52] Yes.

16 Q. [15:23:09] And just in front of the bench we see the word "rail," so these are the

17 railway tracks; is that right?

18 A. [15:23:33] Yes.

19 Q. [15:23:49] So in your statement at paragraph 26 you say, and I quote in French:

20 (Interpretation)

21 "To see the railway line that heads towards Abobo Gare and the soldiers and their

22 cargo vehicles, I moved a few metres forward, and I went a little bit past the railway

23 tracks."

24 (Speaks English) So just to try and get an image of this, when you're walking from the

25 bench across the railway tracks, the railway tracks are immediately beneath your feet,

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- 1 right? You're literally walking across them?
- 2 A. [15:24:58] I crossed the railway tracks.
- 3 Q. [15:25:12] So when you're doing that you can actually touch your foot onto the
- 4 metal rails if you wanted to; right?
- 5 A. [15:25:32] Yes.
- 6 Q. [15:25:34] And you say that your brother was making signs to you. How
- 7 often did he do this?
- 8 A. [15:26:09] About two or three times.
- 9 Q. [15:26:14] And how did he do it?
- 10 A. [15:26:19] Like this.
- 11 PRESIDING JUDGE TARFUSSER: [15:26:23] For the record, the witness is waving
- 12 with his hand. Just otherwise we don't know what "comme ça" means.
- 13 MR O'SHEA: [15:26:39] Thank you, your Honours.
- 14 Q. [15:26:52] And you've shown on your sketch map, you've shown with Xs the
- 15 positions of the marchers, which goes up towards, up towards N'Dotré, down and
- 16 across towards, towards Anyama?
- 17 A. [15:27:21] No, they weren't going that way. They were coming from there.
- 18 Q. [15:27:27] Yes. But they're positioned there while all this is going on, they're
- 19 positioned partly into the road towards N'Dotré, partly down, and partly across
- 20 towards Anyama?
- 21 PRESIDING JUDGE TARFUSSER: [15:27:46] Well, they came from all sides.
- 22 That's --
- 23 MR O'SHEA: [15:27:50]
- 24 Q. [15:27:50] They came from all sides, isn't that right, witness?
- 25 A. [15:27:59] Yes, that's right.

1 Q. [15:28:14] And those occasions when your brother waves at you, how long
2 after the arrival of the military is the first time that he signals to you?

3 A. [15:28:47] I can't give you a specific time.

4 Q. [15:29:07] So can you say whether during the first half an hour he waved at
5 you, first half an hour after they arrived?

6 A. [15:29:20] Yes, he did wave at me.

7 Q. [15:29:26] What about in the second half an hour?

8 A. [15:29:34] Yes, he did wave at me.

9 Q. [15:29:39] And what about in the third half an hour?

10 A. [15:29:48] Yes, he did wave at me.

11 Q. [15:29:57] On your sketch map you've also marked a building which is marked
12 "immeuble" on the right-hand side of the sketch, and you've marked with an X the
13 word "tireur"?

14 A. [15:30:28] Yes.

15 Q. [15:30:29] Now, if we go to the X where you've written "moi," your position, to
16 that building, how long would it take you to walk from your position to that
17 building?

18 A. [15:30:58] At least one minute on foot.

19 Q. [15:31:30] When you say "at least one minute," are we talking about about a
20 minute, and if longer, how much longer?

21 A. [15:31:46] Yes.

22 Q. [15:31:48] So about a minute?

23 A. [15:31:58] About one minute on foot.

24 Q. [15:32:06] And that's walking?

25 A. [15:32:13] Yes, on foot.

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1 Q. [15:32:17] I'd like to now show you an aerial view which the Prosecutor
2 showed you, which is annex 2 to your statement, and it's CIV-OTP-0084-0097, and it's
3 public.

4 MS HENDERSON: [15:32:59] Your Honours, I would have to double-check, I don't
5 believe that it's public though.

6 PRESIDING JUDGE TARFUSSER: [15:33:03] Yes, but it cannot be confidential. I
7 mean, this is something -- it is a photo probably from Google map. How can it be
8 confidential?

9 MS HENDERSON: [15:33:17] This one has markings though, your Honour,
10 including this particular witness --

11 PRESIDING JUDGE TARFUSSER: [15:33:22] Yes, but it might also have markings.

12 MS HENDERSON: [15:33:25] And it includes his house.

13 PRESIDING JUDGE TARFUSSER: [15:33:27] Is it public? No, it's --

14 MR O'SHEA: [15:33:34] Well, my learned friend could avoid these problems by
15 making statements like "it shows his house."

16 MR MACDONALD: [15:33:45] My learned friend should respect, your Honour,
17 the confidentiality level with which things have been disclosed --

18 PRESIDING JUDGE TARFUSSER: [15:33:50] No, of course, of course.

19 MR MACDONALD: [15:33:51] -- in the first place.

20 PRESIDING JUDGE TARFUSSER: [15:33:53] Of course. But I think we are really
21 going too far with the confidentiality here. I just want to know if it is confidential or
22 if it is public?

23 MR O'SHEA: [15:34:07] Well, apparently it is confidential, I'm told.

24 PRESIDING JUDGE TARFUSSER: [15:34:11] Then we switch off and we -- if it's
25 confidential, we disconnect from the public and we will take this out from the -- okay,

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- 1 redact it.
- 2 I'm told it was not shown to the public.
- 3 Now, let's continue, please.
- 4 MR O'SHEA: [15:34:49]
- 5 Q. [15:34:53] So you see the point in this aerial photograph where it says "Position
- 6 Kaladjy Bakayoko," Witness?
- 7 PRESIDING JUDGE TARFUSSER: [15:35:15] Yes, but he needs reading assistance.
- 8 MR O'SHEA: [15:35:19] Oh, yes, of course.
- 9 PRESIDING JUDGE TARFUSSER: [15:35:20] That's his problem.
- 10 Court officer, could you please help the witness.
- 11 THE COURT OFFICER: [15:35:31] (Via video link) Your Honours, we have here
- 12 a document CIV-OTP-0084-0097, and I'm showing it to the witness.
- 13 PRESIDING JUDGE TARFUSSER: [15:35:46] Yes, and please guide him to where it
- 14 is written "position," his position, and where is written "immeuble tireur." I think
- 15 this is the question which the counsel wants to put, so I just --
- 16 THE COURT OFFICER: [15:36:07] (Via video link) Yes, your Honours, I have
- 17 shown the witness where it is written "immeuble tireur."
- 18 PRESIDING JUDGE TARFUSSER: [15:36:15] Okay.
- 19 THE COURT OFFICER: [15:36:16] (Via video link) And there is "Position Kaladjy
- 20 Bakayoko."
- 21 PRESIDING JUDGE TARFUSSER: [15:36:21] Okay, perfect. Now I give the floor
- 22 again to Maître O'Shea, although I know what he's asking.
- 23 MR O'SHEA: [15:36:29]
- 24 Q. [15:36:29] So, Witness, you see those two points?
- 25 A. [15:36:37] Yes.

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1 Q. [15:36:40] Do you agree that the -- where it is marked "immeuble tireur" that's
2 the building where you say there was a sniper?

3 A. [15:37:01] Yes.

4 Q. [15:37:01] And you agree that "Position Kaladjy Bakayoko" represents the
5 position where you were when you saw these events?

6 A. [15:37:20] Yes.

7 Q. [15:37:21] And it's your evidence that to go from the one point to the other
8 takes one minute, about one minute; is that right?

9 A. [15:37:35] Yes, one minute at least.

10 Q. [15:38:21] I'd like to show you a video, if I may, and it's CIV-D15-0004-1161,
11 public. I don't know, I might be told it is confidential, but I would assume it's public.
12 (Viewing of the video excerpt)

13 PRESIDING JUDGE TARFUSSER: [15:39:21] Is it? Can we have the
14 confidentiality level, somebody?

15 MR O'SHEA: [15:39:26] Well, it's our evidence and we say public, but the
16 Prosecution might object, I don't know.

17 MS HENDERSON: [15:39:34] Your Honours, sorry. At this stage I'm just asking
18 for the item number on the list of materials. I'm sorry, I've located it, it was 49.

19 THE COURT OFFICER: [15:39:57] It was already shown, the portion that was --

20 MR O'SHEA: Okay, thank you.

21 PRESIDING JUDGE TARFUSSER: [15:40:02] It was already shown, so it's public.
22 Please.

23 MR O'SHEA: [15:40:06] And just for the record, the video runs from, I'm just going
24 to hold it at that image for now, but the video runs from 35.29 to 37.55.

25 Q. [15:40:23] Witness, do you recognize --

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- 1 MR MACDONALD: [15:40:27] I would ask the floor, your Honour.
- 2 PRESIDING JUDGE TARFUSSER: [15:40:32] Mr Prosecutor.
- 3 MR MACDONALD: [15:40:33] Can we show this without sound if it is to
- 4 recognize a location? And I would like then to have the sound turned off so that I
- 5 can explain why I'm asking that.
- 6 PRESIDING JUDGE TARFUSSER: [15:40:48] You're asking what?
- 7 MR MACDONALD: [15:40:50] I would ask for the video, if it's to identify a
- 8 location, that it be shown without sound. And I want to explain this in full, but I
- 9 think it would be preferable, your Honour, to do it without the witness hearing us.
- 10 PRESIDING JUDGE TARFUSSER: [15:41:03] Okay, let's disconnect the audio.
- 11 MR O'SHEA: [15:41:12] Let's save time, let's have the sound off.
- 12 PRESIDING JUDGE TARFUSSER: [15:41:16] Okay, let's have the sound off.
- 13 MR MACDONALD: [15:41:19] Thank you very much, colleague.
- 14 PRESIDING JUDGE TARFUSSER: [15:41:20] Thank you. So we leave it, we leave
- 15 the -- we leave it on. We take the sound off of the video clip.
- 16 MR O'SHEA: [15:41:34]
- 17 Q. [15:41:35] Witness, can you hear me?
- 18 Are we disconnected?
- 19 Witness, can you hear me? Can you hear me, witness?
- 20 A. [15:42:15] Yes, I can hear you.
- 21 Q. [15:42:18] Now, you see the image in front of you. Is that the bridge that your
- 22 brother was walking along to go to the march for the RTI?
- 23 MR O'SHEA: [15:42:41] Your Honour needs to bear with me.
- 24 PRESIDING JUDGE TARFUSSER: [15:42:43] No. But if I see the same thing that
- 25 you see, I can't see a bridge.

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- 1 MR O'SHEA: [15:42:52] Really?
- 2 PRESIDING JUDGE TARFUSSER: [15:42:53] I don't know what that is, it's a street.
- 3 MR O'SHEA: [15:42:57] Well, your Honour, can see the ground below and a railing.
- 4 Well, anyway, if it's not a bridge the witness will tell me.
- 5 PRESIDING JUDGE TARFUSSER: [15:43:08] Well, of course.
- 6 MR O'SHEA: [15:43:09] I'm saying it's a bridge.
- 7 Q. [15:43:12] Is that the bridge that your brother walked on to go to the march to
- 8 the RTI?
- 9 A. [15:43:32] I don't see anything.
- 10 PRESIDING JUDGE TARFUSSER: [15:43:33] Don't you see anything, or don't you
- 11 see what is asked, or don't you recognize what is asked?
- 12 Court officer, does the witness see the photo with two men?
- 13 Yes, so you're seeing a photo with two men, a picture with two persons, Mr Witness?
- 14 THE COURT OFFICER: [15:44:09] (Via video link) Your Honours, the picture
- 15 with the two men has just come on the screen right now.
- 16 PRESIDING JUDGE TARFUSSER: [15:44:14] Okay, thank you.
- 17 Mr O'Shea.
- 18 MR O'SHEA: [15:44:19]
- 19 Q. Well, that was a very fair comment on your part, Witness. You had no image in
- 20 front of you. I'm sorry about that.
- 21 So the image that you see in front of you now, is that the bridge that your brother
- 22 walked onto in order to go the RTI?
- 23 A. [15:44:41] Yes, it is the bridge.
- 24 MR O'SHEA: [15:44:49] So if we can just continue playing.
- 25 (Viewing of the video excerpt)

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1 MR O'SHEA: [15:45:17]

2 Q. [15:45:18] All right. So what you see ahead of you in this image, is that the
3 carrefour? Is that the intersection?

4 A. [15:45:33] It's the camp that is there.

5 PRESIDING JUDGE TARFUSSER: [15:45:36] I just would like you to give the
6 timestamp whenever you stop. This would be important. Thank you.

7 THE INTERPRETER: [15:45:45] Correction: It's the bridge which is there.

8 MR O'SHEA: [15:45:51] So just going retroactively, as it were, the first timestamp
9 for the first image was 35.29, and this image is at 35.35.

10 PRESIDING JUDGE TARFUSSER: [15:46:12] Thank you.

11 MR O'SHEA: [15:46:22]

12 Q. [15:46:22] And if we were able to look in the other direction, the direction of
13 the road that's coming towards us from the image, which direction would that be
14 going into? So in other words, where is this road leading when it's coming towards
15 us in the image?

16 A. [15:47:07] It leads to N'Dotr .

17 MR MACDONALD: [15:47:17] Your Honour, I'm -- the witness, I submit --

18 PRESIDING JUDGE TARFUSSER: [15:47:24] Yes, please.

19 MR MACDONALD: [15:47:25] Sorry, not the witness. The question may be hard
20 to understand the way it was posed.

21 PRESIDING JUDGE TARFUSSER: [15:47:32] No --

22 MR MACDONALD: [15:47:35] I mean, it was like the road is going somewhere.

23 PRESIDING JUDGE TARFUSSER: [15:47:38] I do agree --

24 MR MACDONALD: [15:47:39] And the road is coming from somewhere.

25 PRESIDING JUDGE TARFUSSER: [15:47:42] I do agree that the question was a

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1 little bit complex and complicated to be understood.

2 MR O'SHEA: [15:47:50] I thought the witness understood.

3 PRESIDING JUDGE TARFUSSER: [15:47:52] Yes, yes, but at the end the witness
4 understood.

5 MR O'SHEA: [15:47:55] I thought the witness understood from his answer.

6 PRESIDING JUDGE TARFUSSER: [15:47:58] Yes, yes. At the end the witness
7 understood, yes.

8 MR O'SHEA: [15:48:56]

9 Q. [15:48:56] Witness, is that the intersection?

10 Oh, sorry.

11 PRESIDING JUDGE TARFUSSER: [15:49:03] We've lost the connection, I think.

12 Witness, can you hear us?

13 THE COURT OFFICER: [15:49:19] (Via video link) Your Honours, we hear you
14 clearly.

15 PRESIDING JUDGE TARFUSSER: [15:49:21] Okay. Okay, thank you very much.

16 Mr O'Shea, although you can't see the witness, he can hear us.

17 MR O'SHEA: [15:49:30] Your Honour, yes.

18 Q. [15:49:33] Is that the intersection, Witness? Is that the intersection?

19 A. [15:49:58] If the image was a bit bigger I would be able to tell whether it's the
20 intersection or not. The way it is it's difficult to say.

21 Q. [15:50:19] How about now, witness?

22 A. [15:50:24] It is the intersection.

23 MR O'SHEA: [15:50:26] That's at 36.02.

24 Q. [15:51:04] Witness, is that the railway line we've been talking about?

25 A. [15:51:17] Yes, it is the railway line.

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1 Q. [15:51:32] And is the bench that we've been talking about along the sides of
2 this railway line? You don't have to say exactly where, but ...

3 A. [15:51:53] Yes, along there.

4 PRESIDING JUDGE TARFUSSER: [15:51:55] Timestamp.

5 MR O'SHEA: [15:51:56] So this is 36.21.

6 (Viewing of the video excerpt)

7 MR O'SHEA: [15:52:17]

8 Q. [15:52:35] So can you see the same military standing on the same bridge?

9 A. [15:52:51] No, I'm not seeing the same soldiers.

10 Q. [15:52:54] Okay. I'll play it on a bit more.

11 (Viewing of the video excerpt)

12 MR O'SHEA: [15:54:21]

13 Q. [15:54:22] So can we again see the railway line in this image?

14 A. [15:54:30] Yes.

15 MR O'SHEA: [15:54:32] That is 37.15.

16 PRESIDING JUDGE TARFUSSER: [15:55:25] May I recall you that we have five
17 minutes left.

18 MR O'SHEA: [15:55:29] Yes.

19 Q. [15:55:59] Right. Witness, can you see from this image that the level of the
20 bridge, the height of the bridge and the height of the intersection are the same?

21 A. [15:56:17] Yes.

22 Q. [15:56:21] So my question to you is this: Since the railway lines are below the
23 bridge, and we saw that in this video, how are you able to see what was going on on
24 the intersection which was above?

25 A. [15:56:52] I moved about.

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1 Q. [15:57:19] Well, you see, your evidence is that you crossed the railway lines a
2 little bit in order to see what was going on, and you've marked with an X and the
3 word "moi" on your sketch map where you were when your brother was waving at
4 you. And you've marked your brother with an X and a circle.

5 So if your brother was where he is located on this sketch, and you were where you're
6 located on this sketch, you wouldn't have seen your brother waving at you, would
7 you?

8 PRESIDING JUDGE TARFUSSER: [15:58:02] Yes, but this is a consideration, there
9 is a consideration, it is not a fact. I mean, that's a consideration you draw from the
10 responses. But I don't think it's -- you should ask him facts and then you draw your
11 considerations.

12 MR O'SHEA: [15:58:17] Well, I just thought it would be fair to give the witness an
13 opportunity to respond. But if your Honour feels that I've asked enough, I don't
14 need to go further and your Honours have the point. I was just trying to be fair to
15 the witness.

16 If your Honours can give me one moment, please.

17 PRESIDING JUDGE TARFUSSER: [15:58:35] I give you one moment. You had it
18 already also before.

19 (Counsel confers)

20 MR MACDONALD: [15:58:59] Out of the presence of the witness eventually,
21 your Honour, if we could have one quick moment with the Chamber.

22 PRESIDING JUDGE TARFUSSER: [15:59:05] I beg your pardon?

23 MR MACDONALD: [15:59:07] I'm sorry to interrupt.

24 PRESIDING JUDGE TARFUSSER: [15:59:10] Yes.

25 MR MACDONALD: [15:59:11] After my colleague is done for the day, if I could

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1 have outside the presence of the witness just two minutes with the Chamber in
2 public.

3 PRESIDING JUDGE TARFUSSER: [15:59:20] Yes. Related to the witness?

4 MR MACDONALD: [15:59:23] Related to the --

5 PRESIDING JUDGE TARFUSSER: [15:59:24] To this questioning.

6 MR MACDONALD: [15:59:26] To this video.

7 PRESIDING JUDGE TARFUSSER: [15:59:27] Yes, yes, yes, okay.

8 MR O'SHEA: [15:59:36] There's one more thing I would like to do, your Honours,
9 and then I can finish my cross-examination.

10 PRESIDING JUDGE TARFUSSER: [15:59:41] Do that, please.

11 MR O'SHEA: [15:59:43] And I think it is better to do it now than to struggle to
12 tomorrow.

13 PRESIDING JUDGE TARFUSSER: [15:59:47] Yes.

14 MR O'SHEA: [15:59:50] So I'm going to -- I'm going to show the witness another
15 video, and it won't be a long exercise like this one. So it's CIV-OTP-0026-0028, and
16 it's public, of course.

17 Q. Okay. There will be an image coming on the screen, witness.

18 Witness, is that the building where you say the sniper was found?

19 THE COURT OFFICER: [16:01:22] (Via video link) Your Honour, the video is just
20 coming on board.

21 MR O'SHEA: [16:01:26] I have to give it some time.

22 PRESIDING JUDGE TARFUSSER: [16:01:29] Okay, thank you. Now is it on the
23 screen?

24 THE COURT OFFICER: [16:01:34] (Via video link) Yes, the picture is now on the
25 screen.

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1 PRESIDING JUDGE TARFUSSER: [16:01:36] Okay, thank you.

2 MR O'SHEA: [16:01:38] For the record, this is 52.05.

3 Q. Is that the building where you say you that you heard that there was a sniper?

4 A. [16:01:55] Yes, that's the building.

5 (Viewing of the video excerpt)

6 MR O'SHEA: [16:03:44] So the time codes are 52.05 to 53.23. And the transcript is
7 CIV-D25-0022-0003.

8 Q. [16:04:02] Was this the state which you found the body in, Witness?

9 A. [16:04:14] Yes. That is how I found the body. That was the state of the
10 body.

11 Q. [16:04:25] And my last question is: Why did you omit to say in your
12 statement that the body had been burnt?

13 A. [16:04:46] I said so in my statement.

14 Q. [16:04:57] And did you hear -- did you hear that the building in question was
15 the building where the security officer in question was living?

16 A. [16:05:25] I didn't hear that.

17 Q. [16:05:28] And given that you were living in the area, did you know that there
18 were members of the security forces who were living in that particular building?

19 A. [16:05:46] I never knew any such thing.

20 (Counsel confers)

21 MR O'SHEA: [16:06:45] I've just been reminded of one last matter that I should put,
22 your Honours.

23 Q. [16:06:51] Now, you gave some certificates relating to your brother's death to
24 the Office of the Prosecutor.

25 A. [16:07:07] Yes, I did give them some certificates having to do with my brother.

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- 1 Q. [16:07:16] And just for the record, we're talking about CIV-OTP-0084-0098.
- 2 Now, those certificates are dated May 2011. And this death occurred on 16
- 3 December of 2010. And is it your evidence that it was impossible to get an autopsy
- 4 closer to the time of death of your brother?
- 5 MR MACDONALD: [16:08:20] With your permission?
- 6 PRESIDING JUDGE TARFUSSER: [16:08:24] Mr MacDonald.
- 7 MR MACDONALD: [16:08:29] It is a famous name.
- 8 No, but I don't want to speak in front of the witness.
- 9 PRESIDING JUDGE TARFUSSER: [16:08:36] Yes, but --
- 10 MR MACDONALD: [16:08:37] I'm just wondering if he's --
- 11 PRESIDING JUDGE TARFUSSER: [16:08:41] I think I know what you want to say.
- 12 MR MACDONALD: [16:08:43] Can we shut the sound just very quickly,
- 13 your Honour?
- 14 MR O'SHEA: [16:08:47] Is the point that he can't give his opinion? Is that the
- 15 point?
- 16 PRESIDING JUDGE TARFUSSER: [16:08:50] No, no, no, no. It's not about an
- 17 opinion, I think.
- 18 MR MACDONALD: [16:08:53] No, it's not about that.
- 19 PRESIDING JUDGE TARFUSSER: [16:08:54] It is not about an opinion.
- 20 MR MACDONALD: [16:08:57] It's -- sound off very quickly, your Honour?
- 21 PRESIDING JUDGE TARFUSSER: [16:09:00] Yes, please.
- 22 Nothing is very quickly here, it is all time consuming.
- 23 THE COURT OFFICER: [16:09:36] The sound is off.
- 24 PRESIDING JUDGE TARFUSSER: [16:09:38] Mr MacDonald.
- 25 MR MACDONALD: [16:09:42] The point is is this witness the best placed witness

1 to answer such a question about could autopsies be conducted at that time? So that's
2 the objection, knowing that we have other witnesses eventually that will be in a better
3 position to answer such questions. Thank you.

4 PRESIDING JUDGE TARFUSSER: [16:10:06] Thank you. I would say
5 furthermore, just, we know that he had to -- he already stated this, that he didn't -- he
6 had to search for the body of his brother. He didn't -- he was not found the day of
7 the death, so I have understood it, but only at a later stage.

8 So the discrepancy between the day of the death and the rest is somehow already
9 stated, but -- so can we go back to the -- so I don't know where you want to go, but
10 please take this into consideration. Thank you.

11 We are back, I think. Yes, we are back.

12 Please, Mr O'Shea.

13 MR O'SHEA: [16:11:37]

14 Q. [16:11:38] Mr Witness, at paragraph 41 of your statement, you said the
15 following, and I quote: (Interpretation)

16 "The fourth day, the day after the march to the RTI, Losseni Bakayoko and I, we went
17 to the Anyama morgue to see whether we could find the bodies of our two family
18 members there. During that time things had settled down somewhat and we could
19 still move about. But we were still afraid to do so. When we got to the Anyama
20 morgue there were other people who were there and they said that they, too, were
21 looking for family members or friends.

22 The person in charge of the morgue was not there, only the guards were. They said
23 that they would bring in one person at a time because it was difficult to look at.

24 When it was the turn of me and my elder brother, the guards said that I was too
25 young to go in. They let Losseni Bakayoko go in. I stayed outside."

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1 (Speaks English) So two questions, first of all. Two questions, first of all, was it four
2 days after the march that you went to the morgue?

3 A. [16:13:45] I don't remember that date.

4 Q. [16:13:46] And, secondly, that day when you went to the morgue, did you
5 discover your brother or did your brother discover your brother's body inside?

6 A. [16:14:08] Yes, he located the body of my brother.

7 Q. [16:14:13] And when you were told that you were too young to go inside, what
8 was your reaction?

9 A. [16:14:31] I agreed because they said I couldn't go in and look. They wouldn't
10 let me in.

11 Q. [16:14:38] And is it right that you've never seen your brother's body?

12 A. [16:14:49] We were never given my brother's body. It was never handed over
13 to us.

14 Q. [16:14:58] Given that this was your brother, did you take steps to insist to see
15 the body?

16 A. [16:15:13] I didn't insist because my brother had seen the body, so I didn't
17 insist.

18 Q. [16:15:19] And did your family, did your family take steps to insist to have an
19 autopsy closer to the time of his death?

20 A. [16:15:40] No, we didn't insist.

21 MR O'SHEA: [16:15:43] Your Honour, those are all my questions.

22 PRESIDING JUDGE TARFUSSER: [16:15:46] Thank you very much.

23 Court officer in the remote location.

24 THE COURT OFFICER: [16:15:54] (Via video link) Yes, your Honours.

25 PRESIDING JUDGE TARFUSSER: [16:15:55] Thank you very much.

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1 Thank you to you, Mr Witness. We are finished for today and we meet tomorrow
2 morning, I don't think for a long, long time, but I will ask Maître Gbougnon in a
3 minute. So thank you very much and we disconnect from the remote location. See
4 you tomorrow.

5 (The witness stands down)

6 PRESIDING JUDGE TARFUSSER: [16:16:36] Mr MacDonald.

7 MR MACDONALD: [16:16:39] Sorry, your Honours, I thought -- I was looking at
8 Mr Gbougnon.

9 Sorry, I just want to come back on the video --

10 PRESIDING JUDGE TARFUSSER: [16:16:51] On why you didn't want the sound.

11 MR MACDONALD: [16:16:56] The sound, yes, because I understand, if I'm not
12 mistaken, first of all, it's a video that was already shown with Witness 0625 and I
13 think the same arguments had been made at the time, even though the sound had
14 been on. It is a video that was filmed and made on 3 April 2014. And it's people
15 talking on the video from allegedly the Commando Invisible, former Commando
16 Invisible and they are describing events.

17 And, therefore, the Prosecution objects to content being admitted or submitted in
18 evidence which cannot be tested by the parties because we cannot cross-examine
19 the -- sorry, question the people that are talking on the video.

20 But here for this purpose was to show locations, we have no problem. So, in other
21 words, I want it to be clear on record that what is submitted are the image and not
22 sound on this video at this very moment for this witness. Thank you, your Honour.

23 PRESIDING JUDGE TARFUSSER: [16:18:07] Thank you.

24 But I think it is quite clear. Do you want to --

25 MR O'SHEA: [16:18:12] Well, it was shown without sound during the proceedings,

1 so that is the way it is submitted.

2 PRESIDING JUDGE TARFUSSER: [16:18:19] Of course.

3 MR O'SHEA: [16:18:19] And I think it was crystal clear that I was just trying to
4 show that the witness couldn't have seen what he claimed to have seen.

5 PRESIDING JUDGE TARFUSSER: [16:18:28] That's what you have tried. If you
6 have succeeded, we will see, of course.

7 Now I ask Maître Gbougnon. I would like to ask Maître Gbougnon, just for
8 organisational matters, what do you foresee for this witness in terms of time?

9 MR GBOUGNON: [16:18:58] (Interpretation) Your Honour, before answering, I'd
10 like to give you a very measured response. But I would like to point out to the
11 Prosecution that they have already shown video footage here and we did not have an
12 opportunity to cross-examine regarding the contents of the video. So I'm quite
13 surprised by the Prosecution, but -- well, I think one session, one session.

14 PRESIDING JUDGE TARFUSSER: [16:19:27] And so now you come to the reason
15 why I gave you the floor. One session.

16 MR GBOUGNON: [16:19:40] (Interpretation) At the very most.

17 PRESIDING JUDGE TARFUSSER: [16:19:42] Thank you very much.

18 MR O'SHEA: [16:19:44] Your Honour, it looks like Mr Gbougnon is going to come
19 back to the issue of the Commando Invisible by the looks of things.

20 PRESIDING JUDGE TARFUSSER: [16:19:51] Maybe. We'll see. In other words,
21 this was a hint to him. Okay.

22 So just for the Registrar, tomorrow morning, so second session we can start with the
23 next witness.

24 Now I adjourn the hearing. We are already 20 minutes over time. Thank you very
25 much. The hearing is adjourned to tomorrow, 9.30 the Hague time. Thank you.

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- 1 THE COURT USHER: [16:20:43] All rise.
- 2 (The hearing ends in open session at 4.20 p.m.)