

1 International Criminal Court
2 Trial Chamber I - Courtroom 1
3 Situation: Republic of Côte d'Ivoire
4 In the case of The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé
5 ICC-02/11-01/15
6 Presiding Judge Cuno Tarfusser, Judge Olga Herrera Carbuccion and
7 Judge Geoffrey Henderson
8 Trial Hearing
9 Wednesday, 3 February 2016
10 (The hearing starts in open session at 9.37 a.m.)
11 THE COURT USHER: All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE TARFUSSER: Good morning to everybody.
15 Before we start with the first witness, I would just make some statement on how we
16 proceed related to the witness questioning, some general statements because, as I said
17 in the opening of the trial, this Chamber is fully committed to uphold the principle of
18 expeditiousness of the proceedings.
19 This has also a direct impact on the way in which the parties are directed to conduct
20 their questioning of the witnesses and requires some amendments to the directions
21 previously given by the Chamber in filing number 205.
22 No party will be allowed to conduct an inefficient examination of a witness. No
23 unfocused or repetitious questioning will be allowed. As already said, no
24 overlapping of questions from the two Defence teams will be allowed.
25 Objections to the other party's questioning must be raised promptly, be clear and

1 concise, and should not be raised as a matter of, as I called it and as in TC-VII was
2 called, as an automatic reflex, and they will be ruled upon orally.

3 Additional questions, directions on the questioning. As to the mode and scope of
4 the questioning, first, no leading questions, whether by the calling or non-calling
5 party will be permissible.

6 Two, a re-examination by the calling party is allowed insofar as it only relates to
7 issues raised for the first time during the questioning by the non-calling party.

8 Three, with regard to non-vulnerable witnesses such as, for example, rape witnesses,
9 victims, I will not allow questions or, more generally, a conduct of the examination
10 which may prejudice in any way the psychological well-being and or the dignity of
11 the witness. If possible, I will request that any such question must be reformulated
12 in a more appropriate way; and otherwise, I will simply not allow the question as
13 asked, and ask you to continue with questions on other matters.

14 Furthermore, the questioning party shall bear in mind that in accordance with Rules
15 70 and 71 of the Rules of Procedure and Evidence, evidence of the prior or subsequent
16 sexual conduct of a victim or witness is not admissible.

17 Fourth, an application by Legal Representative of Victims to questions -- to question a
18 witness pursuant to Rule 91(3)(a) of the Rules of Procedure and Evidence shall be
19 made orally before the witness first takes the stand. The Chamber will ask the
20 parties if they have any objections prior to giving its decision on the Legal
21 Representative of Victims' application, and it will rule on the request orally pursuant
22 to Rule 91(3)(b) of the rules.

23 Further, the general principles mentioned above as to the prohibition of unfocused,
24 repetitious or overlapping questions and the general rules on objections also apply to
25 the questioning by the Legal Representative of Victims.

1 Fifth, questioning of witnesses which are also admitted as victims relating to
2 reparations is allowed to the extent that the questioning is only aimed to establishing
3 the nature and the extent of the harm allegedly suffered by the witness and are
4 without prejudice to the issue of the guilt or innocence of the accused; this with a
5 view to preserving the overall expeditiousness of the proceedings and, in particular,
6 to avoid that the witness be required to return to The Hague at a later stage should
7 reparation proceedings take place, and this also obviously to prevent unnecessary
8 burdens on the budget.

9 As to the requests submitted by the Legal Representative of Victims to question
10 Witnesses P-547 and P-536 respectively, dated 21 and 29 January 2016, the Chamber
11 grants them and rejects the objections raised by the Defence.

12 Finally, pursuant to the decision on the submission and admission of evidence dated
13 29 January 2016, items of evidence may be submitted to the Chamber, whether by
14 presenting them in the courtroom or by way of filing. Either way, the submitting
15 party has to succinctly explain the significance of the submitted item in respect of the
16 charges.

17 The parties are instructed to read the ERN numbers of the items presented in the
18 courtroom so that this is included in the record.

19 So I think we can now proceed with the first witness and I -- we have to go -- I ask
20 that the witness be brought in. The public can't see the witness, so we can do this
21 in -- without having -- without going in private session.

22 (The witness enters the courtroom)

23 PRESIDING JUDGE TARFUSSER: (Interpretation) Good morning.

24 (Speaks English) We are now going in private session for your identity. We are
25 now going into private session for your identification.

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- 1 THE WITNESS: (No interpretation)
- 2 PRESIDING JUDGE TARFUSSER: Don't talk. Don't talk. Don't speak. Don't speak.
- 3 THE COURT OFFICER: (Interpretation) We are in private session, your Honour.
- 4 (Private session at 9.50 a.m.)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Open session at 9.52 a.m.)
- 18 THE COURT OFFICER: (Interpretation) We are in open session.
- 19 PRESIDING JUDGE TARFUSSER: (Interpretation) Thank you.
- 20 (Speaks English) Mr Witness, before we go, we start the questioning, I will want to
- 21 give you some information, some preliminary information.
- 22 The Chamber, the Judges, have granted you protective measures. These protective
- 23 measures will apply during the whole testimony and they consist, first of all, that we
- 24 went in private session for your identification. That means that nobody except us in
- 25 here knows your name.

1 Secondly, you have been given a pseudonym, a number, so we all here will address
2 you as "Mr Witness" or with your pseudonym number 547, 547, so that the public
3 does not know your name.

4 Third, third, nobody will be able to see your face and to hear your real voice because
5 the images of your face and your voice are distorted as you maybe can see on the
6 screen now.

7 Can he?

8 Okay. To make sure that these protective measures are effective, you must give your
9 contribution by avoiding when you answer to mention anything which could identify
10 you. If you want to say something which could identify you, just tell me so that we
11 can go in closed or private session.

12 I have been informed that you might need some assistance with reading and with
13 moving and that you may need some breaks. As the security and well-being of the
14 witness is very important to the Chamber, please just tell the Chamber if you have
15 some need or you don't feel at ease.

16 Finally, I know that you will speak in Dioula. That means that your Dioula has to be
17 translated by our interpreters in French and then in English. So I ask you to speak
18 slowly, to speak clearly, and to allow some times for the interpretation. This is also
19 the reason why I speak so slowly.

20 So now we come to your testimony. You know that this Chamber, this Court and
21 this Chamber has been -- is here to try the case of the Prosecutor against Mr Gbagbo
22 and Mr Blé Goudé.

23 You are a witness called to give your testimony here and, in so doing, assist the
24 Chamber in the search of the truth. You will be asked questions by the lawyers, the
25 counsels here in the courtroom and maybe also by the judges.

1 As a witness in this proceedings, it is your obligation, I repeat, your obligation to tell
2 the truth. So before we start, you are required by the law to make a solemn
3 undertaking to this effect and, therefore, I would ask you or I ask you to repeat with
4 me the following words: I solemnly declare that I will speak the truth.

5 THE WITNESS: (Interpretation) I solemnly swear that I shall tell the truth. I solemnly
6 swear that I shall tell the truth.

7 PRESIDING JUDGE TARFUSSER: The whole truth and nothing but the truth.

8 THE WITNESS: (Interpretation) All the truth and nothing but the truth.

9 PRESIDING JUDGE TARFUSSER: Thank you, Mr Witness. I have also to inform you that
10 giving false testimony or, in other words, not saying the truth is an offence before the Court
11 and, as such, punishable. Do you understand this?

12 THE WITNESS: (Interpretation) I understand.

13 PRESIDING JUDGE TARFUSSER: Now, I think we are through and ready for the
14 questioning. And to that effect, I give the floor to the Office of the Prosecutor who called you
15 as a witness.

16 Mr Prosecutor, yours the floor.

17 MR MACDONALD: I'm very sorry, but just to -- a matter of management, I will be
18 addressing the Chamber in English, but I will be addressing -- questioning the witness in
19 French. So for the interpreters, when I'll be addressing my colleagues or the Chamber, it will
20 be done in English.

21 Now, as a matter of also management, I have not heard in English the answers of the
22 witness, so I was wondering on which channel do we have to be to have the answers
23 of the witness? In English I'm not getting it. On original or English? Do I put
24 myself on channel zero or one?

25 PRESIDING JUDGE TARFUSSER: I, myself, was on channel English, channel 1 --

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- 1 MR MACDONALD: Okay.
- 2 PRESIDING JUDGE TARFUSSER: -- and I heard the --
- 3 MR MACDONALD: Thank you.
- 4 PRESIDING JUDGE TARFUSSER: I think it should be okay.
- 5 MR MACDONALD: Thank you.
- 6 PRESIDING JUDGE TARFUSSER: Did you?
- 7 MR MACDONALD: That's fine.
- 8 (Trial Chamber confers)
- 9 MR MACDONALD: I was on channel zero.
- 10 PRESIDING JUDGE TARFUSSER: Channel 1 should be the right one. Okay.
- 11 QUESTIONED BY MR MACDONALD: (Interpretation)
- 12 Q. Good morning, witness.
- 13 A. Good morning.
- 14 Q. My name is Eric MacDonald.
- 15 A. I understand.
- 16 Q. And I had the opportunity to meet you. My colleague here on the left was there. It
- 17 was on the occasion of a courtesy visit. In the course of my questioning, I shall refer to you
- 18 as "Witness" because, as the Presiding Judge said, your identity is protected.
- 19 Witness, before we begin, I'd like to remind you of a number of things, and I want to
- 20 make sure that you fully understand my questions. And please feel free to say so if
- 21 you do not understand my questions. I will be happy to repeat them for you.
- 22 Witness, there are a number of questions that I'm going to put to you in open session
- 23 and other questions that might identify you, and those questions will be put to you in
- 24 private session.
- 25 To begin with, Witness, what is your nationality?

- 1 A. I am Ivorian.
- 2 Q. What religion are you?
- 3 A. I am a Muslim.
- 4 Q. And to which ethnic group do you belong?
- 5 A. Tagwana.
- 6 Q. I'd now like to put a number of questions concerning your education. Did you go to
- 7 school?
- 8 A. No, I did not go to school.
- 9 Q. Did you follow any apprenticeship?
- 10 A. Yes. I learnt to drive, and I'm a truck driver.
- 11 Q. Without telling us the name of the company for which you work or the last company for
- 12 which you worked --
- 13 A. (Redacted). *That was where my last job was.
- 14 Q. And what sort of job was it?
- 15 A. We transported petrol and oil in a tanker. That was the job that I carried out.
- 16 Q. Can you tell us to which places you made the deliveries, the geographical places?
- 17 A. Yes, I can tell you those places. I loaded in Abidjan, and I off-loaded in a small company in
- 18 Abidjan. * We also went to Bondoukou, to Guiglo, to Duékoué. We went to Gagnoa as well. So I
- 19 off-loaded in quite a number of towns, sometimes companies, sometimes filling stations.
- 20 Q. I'm going to come back to the precise area where you lived at the time of the
- 21 post-electoral crisis. For the moment, and this is something I'm going to put to you, I believe
- 22 you lived in Yopougon, did you not?
- 23 A. I was in Yopougon Port-Bouët II, Yopougon Port-Bouët II.
- 24 Q. At the time of the events, were you a member of a political party?
- 25 A. Yes, at the time I was a member of the RDR. I had a member's card.

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1 Q. The RDR, there is an admission entry at submission 201-Conf-Anx1, entry 62 as to the
2 significance or the meaning of the acronym. So I understand it's -- the RDR was
3 Rassemblement des Républicains.

4 A. RDR is the Rassemblement des Républicains; is it not?

5 Q. I'm not quite sure I caught your answer there.

6 A. I said I belonged to a political party which was at Rassemblement des Républicains, the
7 RDR.

8 Q. Could we please have -- and this is in private session; in other words, this will not be
9 shown to the public gallery, but those in the courtroom will be able to see it.

10 PRESIDING JUDGE TARFUSSER: And the problem with the private session by showing
11 something is obviously the possibility for the public to look at the screens. So I would say
12 that we go in closed session every time we have to display something on the screens.

13 Otherwise --

14 MR MACDONALD: Why don't we go, your Honour, in closed session or private session
15 where we close the blinds, and I will deal with other matters immediately that relate to the
16 identity of the witness so that we can group them together and then move on to public session.
17 There are not that many; this is one of them and a few others. I am jumping right now.

18 PRESIDING JUDGE TARFUSSER: That's a good idea. So please, court officer, do we go in
19 closed session in order for the Prosecution -- so he can display on the video confidential
20 information?

21 (Closed session at 10.14 a.m.)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

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5 (Redacted)

6 (Open session at 10.23 a.m.)

7 THE COURT OFFICER: (Interpretation) Your Honour, we're in open session.

8 PRESIDING JUDGE TARFUSSER: Thank you, court officer.

9 Mr Prosecutor, the floor is yours.

10 MR MACDONALD: (Interpretation)

11 Q. For how many years had you been a member of the RDR?

12 A. Yes, I was a member of the RDR for a long time, for about 10 years. This is not my first
13 RDR member's card.

14 Q. Is it your last one?

15 A. Yes, that is correct. I was injured while I had that RDR member's card, so that's my last
16 one.

17 Q. What were your political activities in the months or weeks just before the elections in
18 2010?

19 A. I was not a militant as such, I was a driver, and I worked in order to feed my family.
20 But as I said, in the family where I lived, the owner of the coach there was an RDR member
21 and we organised meetings there. We called people to come, and we asked them to vote for
22 our party. And we had gatherings, and the idea was to move ahead. And when I wasn't
23 travelling, we would sit down together, we would organise meetings. And when I was away,
24 I didn't attend those meetings; but when I was there, I was present at the meetings. That was
25 my role.

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1 And then when I came back from my travels and we would sit down together, I
2 would pay for the chair hire, and that's all I did in the way of expenditure for the
3 party. But I wasn't any particular militant other than that.

4 MR MACDONALD: Mr President, we'd like to submit as Exhibit Number 1 or EVD
5 Number 1, I don't know the practice, the membership card, your Honour, in confidential.

6 PRESIDING JUDGE TARFUSSER: Yes, it's submitted I mean.

7 MR MACDONALD: Now, just for maintenance purposes or management, sorry, purposes,
8 do these get EVDs or ERNs? Just the ERN is the document and then we'll know in the final
9 judgment?

10 PRESIDING JUDGE TARFUSSER: That's right.

11 MR MACDONALD: Okay. We're on the same page. (Interpretation)

12 Q. After the second round of elections, and we know that this was on 28 November 2010,
13 that was when the second round took place.

14 A. That's correct.

15 Q. And in the subsequent weeks, could you describe to us the situation prevailing in
16 Abidjan?

17 A. Yes, I can tell you about it. After the second round of the elections, we came back from
18 the elections on the Sunday evening, and we were told that President Gbagbo had said there
19 was a curfew and we had to stay indoors. People said that we've voted, and our voting slips
20 have not really reached their destination, so how are we to stay at home under curfew?

21 So in Port-Bouët II, people said no, they were going to accompany the votes to see
22 what happened there. So we went through and we found that the gendarmes had
23 come to take the voting ballot boxes away. We were told to go home because there
24 was a curfew and we said: No, no. We're not going. Kill us if you want.

25 I mean, when we turned up, the gendarmes felt awkward. There were the UNOCI

1 people there as well and the gendarmes were there too, and the UNOCI sent a
2 company that took the ballot boxes. They took them from the Palmeraie school
3 social centre and from the marché school as well, and then we went -- they went to
4 Banco II to get others, and all the ballot boxes were taken from ONUCI. I followed
5 them. I took my private car to follow them and we went with all the ballot boxes.
6 And after that I went back home and went to bed, so I went to bed at home.

7 PRESIDING JUDGE TARFUSSER: Slow down. I think it's -- I was not advised in that
8 direction, but I think he is -- you are speaking too fast, so if you can slow down a little bit.
9 Thank you.

10 THE WITNESS: (Interpretation) I will repeat what I said. After we voted on the Sunday
11 evening, the president, Laurent Gbagbo, decreed a curfew. He said that people were not to
12 leave their homes. We were in our neighbourhood at the place where we voted. Well, we
13 stayed there. We were there, and we were keeping an eye on the ballot boxes. Some
14 gendarmes came, and they wanted to take the ballot boxes away. We refused. We
15 negotiated with them, and they wanted to take the ballot boxes by force. They couldn't.
16 Then some soldiers from ONUCI came. The gendarmes didn't know quite what to
17 do. They left. We stayed.

18 Then the people who were supposed to take the ballot boxes, they came and they took
19 these ballot boxes to the centre. They left with the ballot boxes. I followed them.
20 It was in a Honda Sport vehicle. And they came back, they took the ballot boxes
21 from the market school, then they went and got ballot boxes from Banco, and then
22 they were taken to the Senyi (phon) in Yopougon, and then we went back home.
23 That is how it came to be -- that is how things began.

24 Have you understood? Did you understand this time?

25 MR MACDONALD: Yes. I'm speaking for the president right now, but --

1 PRESIDING JUDGE TARFUSSER: No, no. We understood, but it's more for the purpose of
2 the translation, so we have understood, but keep going the pace you had now in this last
3 answering.

4 MR MACDONALD: (Interpretation)

5 Q. Mr Witness, I'd like to try for us to focus, because I realise that you must have a great
6 many things that you would like to tell this Court about, including things that you may not
7 have mentioned in your written statement. So, once again, please listen to my questions very
8 carefully. And I'll try to be more specific, because I don't want to suggest possible answers
9 to you. And if ever at the end of your testimony you think there are some subjects that we
10 would like to go back to, we can do that. Is that all right with you? Excellent.

11 A. Yes, I've understood.

12 Q. Once again, just to guide the witness somewhat, how were you injured? And we will
13 talk about the details, but just generally speaking, at this particular stage in the proceedings,
14 how were you injured? What happened?

15 A. Yes, I've understood your question. During the second round of voting, I was
16 wounded. The international press was no longer accessible. We were not informed we
17 couldn't get France 24 channel. We were in the habit of staying in front of our houses and
18 await the results, but they weren't published.

19 Someone said that the ONUCI radio station was broadcasting, so we were waiting for
20 the results to be announced, but in vain.

21 One day, the RTI station was broadcasting the news, and they were making fun of
22 people. They accused people and they were trying to make out the white people to
23 be devils and saying that they were trying to hand over power to Ouattara and they
24 weren't going to go along with that and they would protect their country.

25 So we were listening through the ONUCI radio station one day. We were listening

1 to the programmes from that station, and I heard Soro speaking, Soro Guillaume, the
2 former prime minister of Gbagbo. And he said that anyone who voted for * the RHDP,
3 he encouraged them to go to the RTI. And once there, the instructions were to raise
4 their hands and show Laurent Gbagbo their bare hands.

5 And we, as people of Côte d'Ivoire, we wanted him to recognize that Ouattara had
6 been chosen to be president, and in that manner peace would return to the country
7 because, you see, the people were very tired.

8 After hearing that statement on the ONUCI radio station, we thought that would
9 bring Gbagbo to see reason. And if we demonstrated showing our bare hands,
10 Mr Gbagbo would see, and he would change his position.

11 So we decided to do that on 16 December 2010. So the next day I got up, I had a
12 shower, I had breakfast, and I went out and I went to the Sylla crossroads, where we
13 usually drink black coffee. That's what I did. Then I went to Adjamé, and I
14 continued along my way towards the cinéma du la Liberté.

15 Then I went towards Fraternité and I heard some noise behind me. I hurried to head
16 up there and take the pedestrian overpass.

17 Q. I'm sorry to interrupt, sir. And if I do so, it is mainly for the whole issue of
18 interpretation because, of course, you see, you are speaking rather quickly, and this may make
19 things difficult for the interpreters.

20 A. They have a difficult task. I understand. I will slow down. Should I repeat what I
21 just said?

22 Q. No, that's not necessary for the time being.

23 I'm going to ask you some questions to elicit more specific information, and then after
24 that we will continue at the point where you had left off. Is that all right?

25 A. I've understood.

1 Q. So if I understand correctly, you took part in the march of 16 December?

2 A. Yes, indeed. We went to the RTI station, but we were not able to actually get right to

3 the very place because we were the -- people were shooting at us.

4 Once I got in front of the cinema de la Liberté, I heard some noise behind me, and I

5 headed towards Fraternité Martin. I heard noise and I hurried to take the pedestrian

6 overpass and I looked behind me and I heard some bangs, loud noises, the sound of

7 teargas, men with black uniforms, CRS. I continued along my way.

8 I got to Cocody. I got there slowly, and I got to a crossroads, an intersection, and I

9 saw an armed vehicle that was arriving and a cargo truck arrived as well.

10 And the people in the truck got out and they were wearing Republican Guard

11 uniforms. I continued along my way, and then I started to become scared. And I

12 was saying to myself, what is the Republican Guard doing here? And I saw some

13 people behind me head off.

14 I went with them, and we continued along our way to the headquarters of the RDR.

15 There were a great many people, and we exchanged instructions, namely we were not

16 to do anything. We were to go to the office of the PDCI with bare hands.

17 The crowd, once they got there, we rose up and we got to the PDCI headquarters and

18 then we moved towards the RTI barehanded.

19 And the instructions we had received was not to do anything, not even respond to

20 any provocation.

21 So we headed slowly in that direction and we came across a roadblock, a checkpoint,

22 and so this was at an intersection and there was a house there where * there were

23 some commando gendarmes on duty.. We had already got to the intersection, and

24 * we saw that there were other...bags there with armed commandos. We headed west,

25 and we met up with the CRS, who had blocked the road.

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1 Behind them there were Republican Guard soldiers with vehicles.

2 MR MACDONALD: Let's break for the time being.

3 MR O'SHEA: Mr President, your Honours, my learned friend, Mr MacDonald, is a very
4 experienced counsel before this Court, and I've seen him on many occasions before, and this is
5 not the way I'm used to him examining a witness, with respect.

6 It is important that he exercises a little bit more control over his witness and takes the
7 witness stage by stage through his evidence.

8 If the witness is just allowed to speak continuously in this manner, first of all, there is
9 a risk that the witness will say things of which the Defence has no notice; and
10 secondly, it is difficult to follow.

11 So it's important that at least my learned friend ask the witness to pause from time to
12 time and tries to take the witness through the subject matter.

13 PRESIDING JUDGE TARFUSSER: May I disagree with you. I think that the witness is here
14 to say the truth, his truth, and I think that he should not be guided. That's why we also
15 didn't accept the witness preparation. That would be a guidance.

16 I think if he -- if the witness speaks, he should speak what he has witnessed, and
17 that's it, the facts what he has witnessed. So I just think that it's up to the Prosecutor
18 to deal as it will be then for you to guide or not to guide the witness. But I think the
19 protagonist here is the witness, and the witness says what is interesting -- what the
20 facts which are interesting to him, and what he wants to speak out here, so --

21 MR O'SHEA: Mr President, I fully understand your position on this. However, it's not
22 usual practice in the sense that the Defence must have adequate time and facilities to prepare
23 for the case.

24 We are provided with statements in advance of what the witness is going to say, and
25 the purpose of the Prosecution counsel taking his witness through the evidence -- and

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1 I don't mean coaching and I don't mean leading questions but with proper open
2 questions guiding his witness through his evidence is to avoid a situation where there
3 are chunks of evidence where the Defence have not had notice of.

4 PRESIDING JUDGE TARFUSSER: That's the good thing about the trial. I think the truth
5 has to come out here. I'm not, I must say, of your view.

6 MR O'SHEA: Very well, your Honour.

7 PRESIDING JUDGE TARFUSSER: Thank you very much.

8 MR MACDONALD: Thank you, your Honour.

9 PRESIDING JUDGE TARFUSSER: Mr Prosecutor.

10 MR MACDONALD: And one has to adapt to the witness before him or her, so I will try to
11 interrupt. (Interpretation)

12 Q. Once again, I may have to interrupt you from time to time for the purposes of
13 interpretation.

14 I'd like to ask you -- well, I'll ask you to continue with your account at the spot you
15 left off. And once you've finished, we will go back to the very beginning and I'll ask
16 you more targeted questions.

17 Mr Witness, you said you met up with a number of CRS people. Could you
18 continue from that particular point in your account?

19 A. We got to a building, and it was a one-way street, you see. *There were some
20 commando gendarmes there. And close to that large building, the commandos had set up a
21 a number of guns on sandbags. And to the left, the east, we went in that direction and the
22 CRS had closed off the road even though that was the way we had to go. And we eventually
23 got to the office of the *PDCI. And you see, at the intersection, we wanted to draw closer,
24 and they threw tear gas at us. We raised our hands up and we said we have nothing.
25 They directed a great deal of tear gas upon the crowd, and the crowd panicked. We

1 were at the front, and we could not go back. The road towards the west, we
2 had -- well, I went in that direction. I ran a bit. I fell. I heard a gun-shot, I fell
3 down, and I saw that my leg had been hit, broken.
4 Everyone in front of me fell to the ground. I remained on the ground, lying on the
5 ground. I looked around behind me, and I saw that the commandos were still firing.
6 I stayed down on the ground. The people in front of me, everyone in front of me
7 also was on the ground. I stayed there until the gun-shots ended.
8 I managed to get up and sit, and I saw a cargo truck. It stopped, and there were
9 many soldiers in that truck.
10 In front there was the driver and another person. They stopped, they got out, and
11 the person who was close to the driver came out of the vehicle. He had a radio in his
12 hand, and he was wearing the clothing of the Republican Guard. He gave orders to
13 the others. He said, "All of the ones on the ground, put them in the truck." They
14 gathered them up and threw them in the cargo truck.
15 They came to me, they stopped, and the leader of them said, "You have to search him.
16 And if you find a gris-gris or a knife on him, you'll have to kill him." If there is a
17 gris-gris or a knife on me, I was to be killed. So they frisked me. They took my
18 wallet and they did not find anything else. They gave it to -- they gave that to their
19 leader, and the leader said to them "Well, okay." He said, "Keep him and just make
20 sure that he hasn't thrown something away that might be around here"; and if they
21 found anything, they would kill me.
22 So I fell to the ground, and God saved me. Only the Lord knew. They looked.
23 They didn't see or find anything. They told their leader that they hadn't found
24 anything, and the leader said to them -- (Redacted)
25 (Redacted)

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1 (Redacted)
2 (Redacted)
3 (Redacted)
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19 (Redacted)
20 (Redacted)
21 (Redacted)
22 (Redacted)

23 MR O'SHEA: My apologies, Mr President. I'm not in any way going back on the ruling that
24 you made a moment ago. I would, however, request, for the benefit of the interpreters and
25 also so that we can absorb the evidence, that the witness be invited to pause from time to time,

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1 if possible.

2 PRESIDING JUDGE TARFUSSER: That is exactly what I tried to do.

3 MR O'SHEA: Yes.

4 PRESIDING JUDGE TARFUSSER: But it's probably also his passion that brings him to speak
5 not too slow.

6 So I will again ask the witness to slow down when speaking so that everything he
7 says comes clear to us.

8 Please, Mr Prosecutor.

9 MR MACDONALD: Thank you, your Honour. Just going back to the transcript to situate
10 the witness.

11 Q. Mr Witness, you were at a stage where you mentioned -- (Interpretation) You said you
12 were lying down on the ground.

13 A. Yes, that's right.

14 Q. So you gave them your name. Don't repeat your name. Don't repeat your name.
15 And then what happened?

16 A. Yes. After that, he asked me -- I gave him my name, and he said to me, "What are you
17 doing outside?"

18 And I said -- I said, "We are marching. We voted, and we want justice."

19 And once I said that, he asked the officers to start hitting me. They started to hit me.

20 There were many of them. They hit me, I fell down. And he said -- and they said
21 to -- he said to them -- he told them to beat me to death. At one point, I heard a
22 gun-shot, and I saw that there were two people running and shooting at them.

23 Didn't hit them. And their leader said to go after those two people and catch them.

24 So that's how they left. They ran after those people. And the last one who had
25 remained behind said to their leader "Should I kill him, finish him off or" -- but he

1 went off to go after the others. And he said, "This guy's nearly dead. He won't
2 last."
3 So they left. And the leader went back to the truck, got back into the truck and the
4 truck started. I remained on the ground. I was dragging my leg, and I saw that my
5 leg was broken at -- the bone was sticking out. I raised up my head, and I saw a
6 pickup come in, and it was the same colour of the gendarmerie vehicles. There were
7 four people in the back. They were the driver with a person beside him. The
8 pickup stopped, and the first person got out, armed his weapon, and the three others
9 came and they surrounded me.
10 The leader, who was in front, had the radio, and they all were wearing the commando
11 gendarmerie uniforms. They came up to me and he asked me -- he asked the men to
12 frisk me. They frisked me. They didn't find anything.
13 He said even if -- well, if we find gris-gris or a knife or some kind of weapon with a
14 blade, but they didn't find anything. They said "We haven't found anything on him."
15 So he asked them to make sure that I didn't have anything, that I hadn't thrown
16 something away, and they looked around and they saved me really. They looked
17 around and they didn't find anything. So the men came back and they said that they
18 had not found anything.
19 The leader asked me my name, I said my name, and he said to me that I had already
20 given my name and who I was, and he knew my ethnicity. And he said, "What is
21 Ouattara giving you that you would sacrifice yourselves for him?"
22 I said, "Alassane Ouattara, it's not about him. This is about the country."
23 And the person who was third slapped me. He hit me my left ear, and I still can't
24 hear out of there, that ear. They hit me many times. And when I clutched at my
25 thigh, they realised that it was injured and they pulled my leg. And I said to myself:

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1 How am I going to survive?

2 I stayed there and their leader, who had the radio in his hand -- someone was talking
3 on the radio, and he moved off to the side. He listened to the message, and he ran
4 back to the pickup. He told the others -- the three others left me, and they went into
5 the truck.

6 One of the men asked -- well, they said, "We're going to go. He's already finished
7 off."

8 So he went into the pickup and he said to me after that he would come back to finish
9 me off and they left. I stayed on the ground.

10 I was pulling at my leg towards me. I raised my head, and I saw another vehicle
11 come towards me. The vehicle came up to me. It was a Red Cross vehicle. The
12 people got out. They came up to me. They asked me if I was alone, and I said, "Yes.
13 The others who fell to the asphalt have been taken away. I'm the only one here."
14 They looked at my leg and the belt. They took my belt off, and they made a
15 tourniquet, and someone was running ahead and had fallen down. He couldn't get
16 up. They went to him. And, you see, then they tore off my trouser leg, and they
17 applied a tourniquet to stop the bleeding.

18 They asked me if there were other wounded people around. No one said anything.
19 No one answered. They put me in a vehicle with the other injured person. The
20 vehicle started, and we got to a civilian roadblock or a checkpoint.

21 Q. Witness -- and with the permission of the Chamber --

22 PRESIDING JUDGE TARFUSSER: I think it's 11.05.

23 MR MACDONALD: We propose that with your --

24 PRESIDING JUDGE TARFUSSER: Yes.

25 MR MACDONALD: -- authorisation --

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1 PRESIDING JUDGE TARFUSSER: Yes.

2 MR MACDONALD: -- that we break here.

3 PRESIDING JUDGE TARFUSSER: Yes. We have now worked one hour and a half. We
4 have come to the break.

5 Mr Witness, also you will have now half an hour break.

6 In the meantime, during this break ICC security will enforce the order to take the

7 name of the journalists and the media they're working for just for security, also for the
8 benefit of the witness and the security of the witness.

9 So the hearing is adjourned to 11.35.

10 THE COURT USHER: All rise.

11 (Recess taken at 11.04 a.m.)

12 (Upon resuming in open session at 11.37 a.m.)

13 PRESIDING JUDGE TARFUSSER: Good morning again. I want just to first apologise to
14 the public for this little bit Draconian measures we ordered, but I think it is necessary for the
15 well-being and the security of the witness.

16 So now I give back the floor to the Prosecutor for his questioning.

17 MR MACDONALD: Thank you, your Honour.

18 Q. (Interpretation) When we adjourned, you were in an ambulance, and you said that in
19 that ambulance you came upon a roadblock?

20 A. When the Red Cross people picked us up, we came up against a civilian roadblock.

21 They were armed. Some were wearing a singlet, others in army fatigue trousers. And they
22 said to the Red Cross people, well, they asked what they were transporting, and they said
23 they were transporting injured people.

24 "Are they marchers?"

25 And we said, "Yes."

1 And they asked them to offload us, saying, "Are they Dioula?" that they were going
2 to kill them. "We're all here for them, so you have to get them off the vehicle."
3 So that's what they said to the representatives of the Red Cross.
4 I said, "No, I don't agree with that. You can't offload us. We can't be killed."
5 They said "No, no. We can't hand over someone who's injured."
6 So they went off and spoke to the people at the roadblock. They refused. They
7 wanted to kill us, and they talked for quite a long time, and then they opened the
8 roadblock to let us through.
9 The Red Cross people called someone, I don't know who, but they called someone
10 and said they were conveying sick people, and they asked where to take us. And
11 they were told to take us to * the Yopougon CHU.
12 We reached a health centre. We got off the vehicle. Doctors were working there.
13 They took charge of us and took us to a room.
14 They took a look at me and so they saw that my leg was broken. I had an x-ray
15 taken. There were a lot of injured people coming in for x-rays. I had two x-rays.
16 And then I was put into a bed, put on a drip.
17 And the injured people, the wounded were coming in, and they were put on drips.
18 And then I started to feel a bit better.
19 But the wounded continued to arrive. And some of them were seriously injured.
20 They were crying out. And doctors were saying that they were going to save them,
21 but some of them died because they'd lost too much blood. At least four people
22 close to me died.
23 And then there were a lot of wounded people, and I was pushed aside. I was taken
24 out of the room where the seriously injured were. I was put close to a door by the
25 stairs. And after that I was taken to another place. And then there were wounded

1 people who were evacuated depending on the state of their injuries.

2 I was there. I stayed there for some time, until someone came downstairs. They

3 called the doctors and they all came, and he said to them, "Nobody is to pay.

4 Nobody from among the wounded should pay anything. Alassane Ouattara will

5 provide all of the resources for people to be treated." And he said that three times

6 over, we were not to pay anything. And then he went back upstairs.

7 He didn't say it to me, but I was next to him. He was talking to the doctors. So I

8 was there, and I felt reassured, I knew I was going to receive treatment. I was there

9 for quite a while at the hospital.

10 Q. I'd like to interrupt you, if I may. I understand you're in the hospital. Later on we're

11 going to go into what happened next. But what I'd like to do now is to bring you back to the

12 very beginning, and I'm going to put some very specific questions to you.

13 We listened closely to what you were saying in your testimony, but now I'd ask you

14 to answer only the question put to you, in other words, these will be much shorter.

15 You don't have to remind us of what you've already said. There is a transcript, so

16 we have everything before us. I'd like to reassure you on that score.

17 Witness, earlier on you said that you heard on the radio, it was the ONUCI radio, that

18 there was to be a demonstration, and it was Guillaume Soro who made that

19 announcement.

20 Do you remember the details of what Mr Soro said? That's the first thing. So it's a

21 very specific question, what Mr Soro said when you heard him, that's all I want.

22 A. I heard him on the ONUCI radio station. I heard him inviting people to gather on 16

23 December 2010 at the RTI. That was what his message said. And we had to show our bare

24 hands to Laurent Gbagbo and show that Ivorians had chosen a president, and that was

25 Alassane Ouattara, and invite him to leave the presidential residence, and

1 Then five years later he could stand for election. That was the instruction we
2 received.

3 There was an appeal for unity. And even at * the RHDP we wanted -- well, the idea
4 was to show to Gbagbo without -- that we had nothing in our hands, and that we had
5 expressed ourselves in an election, and that we hadn't chosen Gbagbo at that time, but
6 we had chosen Ouattara as president.

7 And then we stayed there until 16 December. I woke up. I had breakfast. I had a
8 shower.

9 Q. I'm interrupting you. What exactly do you mean when you say "show our hands"?

10 A. (Indicating) That was to show that we had no violent intentions. Our hands were
11 bare. We had not come for the purpose of violence. We were not carrying weapons,
12 whether they were firearms or bladed weapons. We were civilians. That's what we were
13 trying to make him understand.

14 Q. Witness, so you're saying that on 16 December, you left your home. What time was it?
15 Do you remember what time it was?

16 A. I left my house after 7, because I went to the kiosk at the Sylla crossroads, and I arrived
17 there at around about 9.

18 Q. A kiosk, a small café, somewhere where people could take breakfast?

19 A. Yes, absolutely. We had coffee there. There were also things to eat.

20 Q. After the kiosk, where did you go next?

21 A. I went to Adjamé on a gbaka, and then I continued on foot toward the Liberté cinema
22 going off in the direction of Cocody.

23 Q. So you took a gbaka, a collective taxi?

24 A. Yes.

25 Q. To Adjamé. The commune of Adjamé is large. Is there a specific area in Adjamé that

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1 you went to?

2 A. I took the gbaka, and it dropped us off -- well, I can't remember exactly the name of the
3 place where it dropped us, not far from * the Sidi Sylla shop. Sidi Sylla sold rice. And that's
4 where we got off the vehicle. And then you can get to the Liberté cinema very quickly from
5 there.

6 Q. On foot?

7 A. Yes, absolutely. I got off there and continued on foot.

8 Q. Before the march, on that day when you were at the cinema, what was the state of your
9 health?

10 A. Before the march I was in good health, and I thank the Lord for that. I had problems of
11 subsistence, but thank the Lord that I was in good health, and I also had a little bit of money.

12 MR MACDONALD: Your Honours, with your permission, I think we can show it to
13 colleagues on the screen. It's annex 4 to the statement. It's EV -- sorry, CIV-OTP-0073-1052.
14 I have a hard copy. You can't see from here. It's the witness next to a car. And I would
15 like that to be shown to the witness, and then I would like to submit this in evidence, if he
16 recognizes it obviously.

17 MR O'SHEA: Your Honours, there would be an objection to this. My learned friend can
18 ask questions to lay a foundation and have answers from the witness as to what the witness
19 was doing. If the witness then mentions something in relation which has a relationship with
20 the photo, then he can put the photo in front of the witness.

21 The difficulty with just placing a photo in front of the witness without a context from
22 the witness himself is it becomes identical to a leading question. It's essentially
23 pushing the witness into a specific assertion by asking the witness to have a look at
24 the photo.

25 MR MACDONALD: Theoretically, my colleague is right; your Honour, but it's to speed up

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1 things.

2 PRESIDING JUDGE TARFUSSER: Yes. But I did not -- I think there is a question going
3 along with the photo.

4 MR MACDONALD: There is.

5 PRESIDING JUDGE TARFUSSER: There is a question, and then he shows him the photo. I
6 don't see the problem really, by either party I don't see the problem.

7 MR O'SHEA: Well, I was under the impression that Mr MacDonald wanted to show the
8 photo to the witness and then ask him questions. I submit that he needs to do it the other
9 way around --

10 PRESIDING JUDGE TARFUSSER: Well, I --

11 MR O'SHEA: -- because there needs to be a connection to the photo before he shows the
12 photo to the witness; otherwise he's leading the witness into what the witness should be
13 saying.

14 PRESIDING JUDGE TARFUSSER: Well, it depends on the question. I mean, if he says "Is
15 this your car?"

16 Well, let's see how -- put the question and show the photo and then I think we are on
17 the same page.

18 MR MACDONALD: (Interpretation)

19 Q. Did you submit a photo to the Office of The Prosecutor?

20 A. Yes, because it was my vehicle. It was a photo of my vehicle.

21 Q. Is there anything on the photo apart from your car?

22 A. On the photo, there is nothing else apart from my car. But behind the car, I had a
23 personal car, I had two houses, and I had two plots of bare land. This is the car that you can
24 see, and it belonged to me, it was a third personal vehicle.

25 MR MACDONALD: So, your Honour, I will not show the photo to the witness, but I will

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1 nevertheless submit it.

2 PRESIDING JUDGE TARFUSSER: Yes, of course. But just for clarification, evidence used
3 in this courtroom is considered to be submitted. So that's it. I mean, we don't have to
4 always to say to submit it. If it's used, it is considered to be submitted for the purpose of 74.
5 The same thing applies to, for example, if you read out a part of the statement to a
6 witness, this part of the statement of a witness which was read out here and which is
7 on the record is submitted. So I think things are much more simple than they seem
8 while reading the decisions.

9 But in this case, let me just say something else, in this case you submit and the photo
10 and you say: "Do you recognize this photo? What do you say about it?" I mean,
11 it's a direct -- it's not a leading question, it's a direct -- would have been a direct
12 questioning. I just didn't know what the Prosecutor was going to ask about it. But
13 to show the photo and ask directly what is it about, I think it's not leading.

14 MR O'SHEA: It depends, your Honours.

15 PRESIDING JUDGE TARFUSSER: Everything depends.

16 MR O'SHEA: It depends. If the contents of the photo is not in dispute, then your Honour is
17 quite right. But if the content of the photo is in dispute, as your Honour has quite rightly
18 pointed out, the evidence has to come from the witness. My learned friend has laid a proper
19 foundation, so I would not object any further.

20 What my learned friend did was correct, he laid the foundation by asking preliminary
21 questions, which made -- which gave him the capacity to show the photo to the
22 witness.

23 PRESIDING JUDGE TARFUSSER: Well, I'm again not of the same -- we're not completely on
24 the same page. But it doesn't matter. What is important is the result, that we have the
25 photo, we have an answer to the photo, and questions and answer to the photo, and the photo

1 in the record.

2 Please go ahead.

3 MR MACDONALD: (Interpretation)

4 Q. Witness, when you're at the cinema, and you then continue your march afterwards, are
5 you on your own or are you with other people?

6 A. I was on my own. In fact, I went on my own. I wasn't with anybody else.

7 Q. And when you leave the area where the cinema is, which direction do you take?

8 A. I went -- I passed in front of Liberté. And then there is the motorway on the other side,
9 you have to cross over the motorway to get into Cocody. So I went in front of Liberté, I
10 walked in front of it. I went towards the pedestrian overpass. I crossed it to cross the
11 motorway to get onto the other side at Cocody.

12 Q. Which motorway are you talking about?

13 A. It's the northern motorway, the one that comes down towards the plateau.

14 Q. When you cross over the northern motorway, are you on your own or are you with
15 other people, people that you either know or don't know?

16 A. There were a lot of people with me that I didn't know, and all of those people were
17 crossing over, but each going off in his or her own direction.

18 Q. Cocody, is that a district that you know well?

19 A. No. Cocody is not my area. I don't know it very well. Sometimes I go through it,
20 but I really don't know Cocody. The places I went through, I would still recognize them
21 today, going right through to the RTI headquarters, but it's not my particular district.

22 Q. Witness, a few moments ago you said that when you were in Cocody, after you had
23 crossed over, crossed over the northern motorway, you heard some noises?

24 A. Yes, I heard noise. But that was from Adjamé side. That was behind me. I had
25 already left that area, and I was close to the pedestrian overpass. I got -- I went up there. I

1 looked where the noise was coming from, I saw smoke, and I saw the CRS black uniforms.

2 Q. We are going to go back to that point, the CRS and the uniforms. We are going to get
3 back to that point a bit later. Let us continue.

4 Other than the smoke and the noise, the noise that you heard --

5 A. I continued along my way until I got to Cocody. We were walking, and I got to an
6 intersection and * I saw a cargo truck that was coming in. It stopped at the intersection, and I
7 continued, and I saw some uniformed people get out. And, in fact, they were wearing the
8 uniforms of the Republican Guard.

9 Q. What do you mean exactly when you say a "cargo"?

10 A. Those are trucks, a 10-ton truck that soldiers travel in. They are trucks, well, about 10
11 tons, and they have a place for cargo behind with a large bin, so to speak, at the back. Have
12 you understood?

13 Q. Let me ask you a question for greater clarity. Now, you say that there is a back part. I
14 beg your pardon. Is that open or is there some kind of roof on it?

15 A. (Indicating) Well, there is a tarp, but on the sides it's rolled up. And at the top, you
16 see, there is a tarp, and on the sides, the tarp is rolled up. Usually soldiers use these vehicles.

17 Q. You said that these people were members of the Republican Guard. Why can you tell us
18 that? Why can you say that?

19 A. Yes, at first I told you that I used to drive tanker trucks. * Once the trucks were loaded
20 up, we would pass in front of the Republican Guard's camp in Treichville, so I'm familiar
21 with their uniforms. So that's how I knew that those people were wearing uniforms of the
22 Republican Guard. The place where we would load up as well, there was -- there were
23 commandos there, people of the commando gendarmerie.

24 * At times, during the day, police officers would stand duty there. And I can tell the
25 difference between the two. When there are problems, the CRS comes and joins the

1 BAE and the gendarmes, so I know their uniforms.

2 *And the place where I loaded up my tanker truck, there were commando gendarmes
3 on duty at night. During the day, most of the time there would be police officers, but
4 when there were problems, the BAE would be at the entrance. And if there were
5 problems, the CRS would join the commando gendarmes. And after the customs
6 officers would sign the slips of paper. I was a driver for nearly 17 years, so I am
7 familiar with the various uniforms. The gendarmes were the ones on the road, so I
8 can tell the difference between the various kinds of people. The customs officers are
9 the ones who sign the slips. So that is why I'm in a position to recognize the various
10 uniforms, including the uniforms of the gendarmes.

11 Q. Let me take you back to the cargo truck on 16 December. And you say that
12 you saw members of the Republican Guard. What were they wearing?

13 A. They were wearing camouflage clothing, but the colour of their stripes was darker, their
14 stripes were darker than that colour.

15 Q. Now, just for the purposes of the transcript, you gestured towards a handkerchief. You
16 showed a handkerchief that was red or ochre coloured. And as well you mentioned -- you
17 also gestured towards your left shoulder. That's fine. And their headgear?

18 A. Their headgear was the same colour, a bit darker than what I showed you as well.
19 Their berets, I mean, the berets were darker than the handkerchief that I just showed you.

20 Q. And what colour was the clothing?

21 A. It was sort of a camouflage kind of clothing with spots. I really don't know the names of
22 colours in French, but I could recognize the colour if I saw it. So it was sort of a camo print.
23 Well, in actual fact it's the stripes and the beret that allow you to distinguish easily. Their
24 stripes are not the same, and the berets are not the same. The commando gendarmes have red
25 berets and the others have a darker colour, the colour is darker -the Republican Guard I mean.

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1 Q. What weapons did they have?

2 A. They had Kalashnikov. Well, the magazine of that weapon is lower down.

3 Q. Now, when you say they had Kalashnikov --

4 A. Yes. The magazine for loading the ammunition was lower, below (indicating). It's a
5 long gun, but the magazine for loading the ammunition is lower down. It's at the bottom.

6 Q. Just for the sake of the transcript, shall we say that you were gesturing downwards?

7 A. Yes, that's right.

8 Q. Let's keep on going.

9 PRESIDING JUDGE TARFUSSER: "Downwards" doesn't -- I think does not -- if you say
10 "downwards," it doesn't give the meaning. I think the gesture is of loading a gun from the
11 bottom up --

12 MR MACDONALD: Yes, your Honour.

13 PRESIDING JUDGE TARFUSSER: -- I would say the gesture.

14 MR MACDONALD: Yes.

15 PRESIDING JUDGE TARFUSSER: Okay. Thank you.

16 THE WITNESS: (Interpretation) Yes. The magazine is placed like this (indicating). And
17 you put the ammunition in from the bottom going up. It is kind of like what I have here.
18 You grab it and you plug it in, into the lower part towards the ground.

19 THE INTERPRETER: Overlapping speakers.

20 MR MACDONALD:

21 Q. I think that's clear. Now, these soldiers from the Republican Guard, what did they do?

22 A. Well, the first ones I saw when I was heading towards the headquarters, they didn't do
23 anything. I left. The first group I saw, well, I saw three people walking. I speeded up and
24 I caught up to them, and we went together. The first ones didn't do anything to me. Then
25 we got to the RDR.

1 Q. Why did you catch up to the three people who were ahead of you?

2 A. I was walking and I was alone. I saw three people ahead of me, and I tried to catch up
3 to them. I didn't see other people. And, well, you see, that's why I tried to catch up to them.
4 We walked together, but I didn't bother about the others.

5 We were heading towards the march. We were heading towards the RDR. There
6 was nothing other than that. I was a bit afraid when I saw the first men wearing
7 uniforms.

8 Q. Why? Why were you afraid?

9 A. Well, you don't always see them in town. When you see them in town, that means
10 something is going on. They don't go around for no good reason just like that in town.
11 That is why I became a bit frightened. They're not like the other uniformed men. When
12 you see them, it means that something is going on in the town.

13 Q. Now, you went as far as the RDR office?

14 A. Yes, that's right.

15 Now, just to allow the Chamber to better understand the various positions (Speaks
16 English) I'll switch to English.

17 We have, your Honour, and we've sent an email using the same PowerPoint, we have
18 identified the locations that we're discussing. We're not giving an itinerary. We
19 don't want this to be shown to the witness. It's only for the benefit of the Chamber,
20 with the indulgence of my colleagues. And we have an electronic version that was
21 sent that can be displayed, I presume, or we have paper copies for everybody,
22 whatever is easier.

23 And I would maybe ask the court usher at least to take the paper copies and
24 distribute them, not to the witness though, not to the witness.

25 MR O'SHEA: I don't have a difficulty with that, Mr President, your Honours, in the light of

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- 1 the fact it's not being shown to the witness. It is of assistance to the Chamber. The only
2 thing I need to put the Chamber on notice of is that we disagree with them, with what's been
3 sent. So I'd just bear that in mind when Mr MacDonald is showing it to you.
- 4 PRESIDING JUDGE TARFUSSER: We take notice of this disagreement. You disagree
5 because the map is falsified? I don't know why on a map one can disagree.
- 6 MR O'SHEA: We disagree because the map is wrong. The way the Prosecution has located
7 places is wrong.
- 8 MR MACDONALD: Well, it means Google Map is wrong.
- 9 PRESIDING JUDGE TARFUSSER: I would find this strange.
- 10 MR O'SHEA: That as it may be, your Honours. We do not agree with where the
11 Prosecution has placed specific locations. We'll come back to it.
- 12 PRESIDING JUDGE TARFUSSER: But the map as such --
- 13 MR O'SHEA: Yes. No, the Google Map is fine.
- 14 PRESIDING JUDGE TARFUSSER: Okay, good.
- 15 MR O'SHEA: It's the annotations which we --
- 16 PRESIDING JUDGE TARFUSSER: Okay, okay, okay. So it's clarified.
- 17 MR MACDONALD: I can continue while this is taking place.
- 18 PRESIDING JUDGE TARFUSSER: Can we maybe have also a copy?
- 19 MR MACDONALD: You can keep the extra ones. It's okay.
- 20 Q. (Interpretation) Mr Witness, you got to the RDR headquarters, and what were people
21 doing in the premises?
- 22 A. There were many people at the RDR headquarters. They had all come and then they
23 were going to head off to the RTI. That was what we all intended to do. There were a great
24 many people there. Many other people met up with us. And we said to ourselves -- well,
25 in fact, we were given advice: We were told not to do any damage, to march with our hands

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1 up, showing our bare hands, * and to go to the PDCI headquarters, which was the RHDP
2 headquarters.

3 And then we were going to head towards the RTI with our bare hands, showing our
4 bare hands, to show Laurent Gbagbo that the people of Côte d'Ivoire have chosen
5 someone, Mr Ouattara.

6 And the price of -- and that he had to pay the price, so to speak, and give way, and
7 after five years he could run again and then maybe he would win. That was our
8 intent.

9 Q. Now, after the RDR, you personally, where did you go?

10 A. No, I didn't walk alone. Once I met up with the crowd, I was not walking alone. I
11 moved along with the crowd. We moved together as a group. We were heading towards
12 the PDCI headquarters, and from there we were going to go to the RTI. Once we got --

13 THE INTERPRETER: Inaudible.

14 THE WITNESS: (Interpretation) -- we saw that there was a one-way street. There was a
15 building, and there was some commando gendarmes in front of that building, and it was a
16 one-way street. There was no way out to -- on one side, to the west, there was a way out.

17 MR MACDONALD:

18 Q. Mr Witness, when I raise my hand, that's a signal, please, for you to stop, if you don't
19 mind.

20 So the purpose was to go to the premises of the Democratic Party of Côte d'Ivoire; is
21 that correct?

22 A. That was our intent. We wanted to go to the PDCI headquarters first. That was our
23 objective.

24 Q. Did you get to that place, the headquarters of the PDCI?

25 A. No, we weren't able to get there.

1 Q. Why?

2 A. There were uniformed people who blocked the road, and we were not able to get there.

3 Q. How far is that place away from the RDR, if you can tell us?

4 A. I can't give you the number of kilometres. I can show you which place it is, but I really
5 couldn't tell you the distance in terms of kilometres, no, I can't do that.

6 Q. Now, you came up across some uniformed people, people wearing uniforms. What
7 group, what unit was that?

8 A. The people who were on the road in front of us, the people wearing uniforms were
9 wearing CRS uniforms. They had clubs and shields as well as rifles. Well, the kind of rifles
10 that allow you to launch tear gas. And there were also Republican Guard officers with their
11 trucks. We tried to move towards them and they launched the tear gas against us. We put
12 our hands up in the air, and they used tear gas on us, a great deal of tear gas. And someone
13 fell -- something fell. The crowd panicked. People could not go backwards. And the road
14 to the right, to the east, we began to run in that direction. I heard a gun-shot and I fell.
15 When I fell down, I saw a whole bunch of gun-shots and many people falling to the ground.
16 I stayed down on the ground. Then I got up -- correction. I raised my head, and I
17 saw some people in front of the building. They were the ones who were firing at the
18 crowd. I remained down on the ground.

19 Q. And who were these people who were shooting?

20 A. The ones I saw shooting were the commandos, the commando gendarmes. They were
21 the ones who were shooting, the ones who were close to the building, they were the ones who
22 opened fire.

23 Q. Did you notice what kind of weapon they had?

24 A. I told you that I'm not familiar with weapons. But I saw that they did have weapons.
25 I don't know exactly what brand or kind they were. I explained how you load those

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1 weapons. But I'm not a soldier. I can't tell one kind of weapon from another. I can tell
2 between different kinds of vehicles. I'm a driver, that's my work.

3 Q. Now, at that point, you say that you couldn't go back, the crowd could not draw back.
4 Why is that?

5 A. There were many people. We could no long -- the people at the front could not step
6 back. It's an intersection, a crossroads. The people at the back could move back, but the
7 people at the front could no longer move back. So we tried to go off to the right. We tried
8 to go off to the right. And that is when I fell, because we no longer could step back because
9 of the tear gas and the confusion, and we could no longer step back or go backwards. We
10 could only go to the east.

11 Q. Very well. Now, you explained that part to us earlier in your testimony. You were
12 down on the ground. You also saw other people fall to the ground. And now I'd like to
13 move directly to that point in time when you say a cargo truck arrived.

14 A. Yes. It's a military vehicle. It's a large vehicle that can carry many people.

15 Q. From what group or belonging to what group?

16 A. The first vehicle that arrived, their leader had a Republican Guard uniform.

17 Q. Then what did they do? What was their objective?

18 A. I was down on the ground. My leg had been broken, fractured. When the uniformed
19 people arrived, the ones at the front, well, you see, the one at the front, he got out. He had a
20 radio in his hand, and he said that the people who were down on the ground should be
21 gathered up and put in the truck. And they threw them into the truck.
22 After that, they walked towards me.

23 Q. At that time, was there any information at all that would explain why they were taking
24 these people and putting them in the truck?

25 A. People fell and they weren't moving anymore. They were down on the ground. They

1 took them and they threw them in the truck, and they didn't move. I don't know why they
2 picked them up. In any event, they weren't moving. They put them in the cargo truck.
3 And I was there alone. All the others were down on the ground, and they weren't
4 moving anymore.

5 Q. You mentioned that you were frisked.

6 A. Well, they came towards me, they surrounded me, and their leader asked his men to
7 frisk me. And if they found a gris-gris or a knife on me, they were going to kill me. They
8 did that and they did not find any gris-gris on me or any knife. They took my wallet and my
9 mobile, and they gave those items to their leader.

10 Q. Now, why do you say that if they had found a gris-gris or a knife they would have
11 killed you? Why do you say that?

12 A. It was their leader who said that, that if they found a knife on me or a gris-gris, that they
13 were going to kill me. Why? Because if you see someone with a gris-gris or a knife, that
14 means they had come to attack them.

15 But I was just a civilian. I wasn't a soldier. We were just marchers. We did not
16 have any gris-gris. We did not have any knives. We did not have any rifles. We
17 were there with bare -- with our bare hands.

18 Q. So that we can understand properly, can you explain to the Chamber what a gris-gris is?

19 A. In Côte d'Ivoire, if they find gris-gris on anyone, then that person is a rebel and they try
20 to kill you. Those were the orders they had received. Gris-gris are considered to be
21 amulets to protect them, to make them invulnerable. And the instructions given were that if
22 they found anyone carrying a gris-gris, then that person was to be killed.

23 Q. As far as you know, who carries gris-gris?

24 A. In fact, the Dioula carried gris-gris. So when you're stopped and you're carrying a
25 gris-gris, the conclusion drawn is that you are a Dioula.

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1 Q. And according to your own experience, explain to us what Dioula is?

2 A. It's Ivorians from the north. They're referred to as Dioula. And people from Mali,
3 Burkina Faso, they're also referred to as Dioula.

4 Q. You're talking about Dioula?

5 A. Yes, I'm talking Dioula.

6 Q. I'll come back to that.

7 So no gris-gris are found. No knives are found. Your wallet is stolen. Your cell
8 phone is stolen?

9 A. Nothing was found on me.

10 THE INTERPRETER: Overlapping speakers.

11 MR MACDONALD: (Interpretation)

12 Q. I understand that they then leave, that the cargo truck leaves, and they leave you on the
13 tarmac?

14 A. They left, they beat me up and then they left. And then there were two people who
15 were running, and they shot at them, but they didn't hit them.

16 Their leader told them to arrest the two who were running away. And then they all
17 chased after them. And the one who stayed behind said to his leader, should he kill
18 me before going off? And his leader said "Go and chase the others."

19 And he got on the cargo truck, and they went off to look after the people running
20 away, and I remained there seated at the same place.

21 Q. They fell and --

22 A. (Overlapping speakers)

23 Q. Witness, I was putting a question to you in French. You were answering in French. It
24 would be preferable for you to answer in Dioula. It's in the interest of continuity, if you
25 agree.

1 So I'll repeat my question. There were two people that you were talking about who
2 were fleeing. I would like us to focus on that for the moment. Did you notice who
3 those people were, how they were dressed?

4 A. The ones running away were civilians. They weren't wearing uniforms. They were
5 dressed like any civilian.

6 Q. So you're there on your own?

7 A. Yes, absolutely. I was there on my own.

8 Q. And then there is another vehicle that arrived?

9 A. A truck with a tarpaulin arrived with -- well, it was painted in the colours of the
10 gendarmerie. And there were four people in the back and one person sitting next to the
11 driver.

12 Q. When you say they were the colours of the gendarmerie, what colour is that?

13 A. It's a blue that's somewhat darker than the colour of my crutch.

14 Q. You're showing your crutch. Well, when I look at it, to me it looks grey. But you're
15 saying it's a little bit darker?

16 A. I'm talking about the vehicle. It was much darker in colour than my crutch is.

17 Q. And what about the gendarmes in the truck, what was the colour of their uniform?

18 A. They were wearing the uniform of commando gendarmes with their berets. They also
19 had a belt around the waist.

20 Q. The same type of weapons?

21 A. I didn't catch what you said, Mr Prosecutor.

22 Q. Did they have the same type of weapon as you mentioned earlier
23 on?

24 A. Yes, they had the same type of rifle. But the first one who got down had a different
25 rifle, and he pointed at me, he pointed his weapon at me. And then the others came closer

1 once they got off the vehicle.

2 So the first one to get down was carrying a radio. But they were all wearing
3 commando gendarmes uniforms, and they -- well, he gave them instructions telling
4 them to frisk me. That's what they did. They didn't find anything. They told him
5 I wasn't carrying anything, and he asked them to take a good look everywhere. And
6 then they came and said they didn't find anything. He asked them to frisk me to see
7 if they could find a knife or a gris-gris on me and then kill me. They didn't find
8 anything.

9 Then he asked me my name. I gave him my name. And then he was really
10 annoyed and said to me, "Alassane Ouattara, what does Ouattara give you so that
11 you kill for him?"

12 And I said, "It's nothing to do with Ouattara. It's to do with the country. We all
13 want peace."

14 And the person behind me slapped me across the head. And to this very day I can't
15 hear properly. He hit me, and the instructions were given to beat me to death.
16 They continued to beat me until I fell to the ground.

17 And the one with the radio went off to the vehicle and asked the other three to come
18 back. And the one who was pointing his rifle at me said to the leader, should he
19 finish me off before leaving. And he said, "No. There is no point. He's pretty well
20 dead anyhow."

21 So they ran off to the vehicle, they got on and said they were going to come
22 off -- come back to finish me off, to kill me.

23 Q. And what happened? Did they come back to you?

24 A. No, they didn't come back. They left. And then the Red Cross arrived afterwards.
25 The tarpaulin-covered truck left and the Red Cross vehicle arrived and parked next to me.

1 Q. When they beat you, did they injure you, aside from the injury to the head?

2 A. They beat me. Can't you see my head? You can still see the scars. And my ribs hurt
3 to this very day. I really can't tell you, because when I tell people what they did to me,
4 nobody believes me. But they really did seriously beat me up. It was serious. It was
5 extremely painful.

6 Q. And what about your leg at that moment, what state was it in?

7 A. Well, I didn't say anything about my leg, but they stood on my leg to beat me. That
8 was what hurt most, the three of them beat me up. It was worse than being trampled by a
9 crowd.

10 Q. Once you were in the ambulance, you said you came upon a roadblock. I'm not going
11 to go over the details of what you said, but I want to put a number of questions for
12 clarification concerning the identity of the people who were in charge of that roadblock, who
13 were carrying out the controls. Who were those people?

14 A. You couldn't identify them. Some were wearing singlets. Some were wearing army
15 fatigue trousers. But they were armed and they also had coupe-coupe. That's all I can say.
16 I can't say that they were the same as other uniformed men. I mean, some of them were just
17 wearing dark-coloured singlets, some wearing military trousers, some wearing civilian
18 trousers. So I really don't know who they were. But it was a civilian-held roadblock, and
19 they said they were there to kill us, because the Dioula wanted to take power, so they were
20 going to kill us all.

21 Q. Can you tell us how old were the people who were in charge of that roadblock?

22 A. They were young. I was older than them, than all of them, all of the people at the
23 roadblock. They were young men. But I couldn't say that they were wearing uniforms
24 because they were wearing civilian clothing, certainly the trousers.

25 Q. What sort of weapons did they have?

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1 A. Some had coupe-coupe or machetes. Others had the same type of rifle as the soldiers
2 did. There was a mix of weaponry.

3 Q. For the purposes of clarification, there is a term that you've used in French,
4 "coupe-coupe." That is the term you used. What exactly is that?

5 A. It's a sort of machete. That's what it is, a machete. It's a long knife literally.

6 Q. And what is it habitually used for?

7 A. It was used to harm people, to injure people. Some people sharpened them before
8 using them. But they were machetes, generally usually used to cut down trees.

9 Q. So you arrived at the hospital. * You said it was in the CHU Yopougon. Do you
10 remember the name of that place?

11 A. * CHU Yopougon. That's where the hospital was. It was * the CHU Yopougon hospital.

12 Q. How long did you stay there? You said earlier on when you were describing part of
13 the time you spent there, you said that, and this is where you stopped, that there were people
14 who had come downstairs and who got together --

15 THE INTERPRETER: Overlapping speakers.

16 MR MACDONALD: (Interpretation)

17 Q. Please listen to my question. I'm taking you back to where you were. You said or it
18 was said at that time that the hospital's expenses would be paid. Do you recall having said
19 that earlier on?

20 A. No, that's not what I said. I said that when I got to the hospital, the Red Cross people
21 took us there and we started to receive treatment. I had x-rays taken, and then they took me
22 to a ward where there were seriously injured people. Several of them actually died.
23 And then I was taken out closer to the door, I was in the corridor. I was no longer in
24 a ward. And the doctors were working and one of them came downstairs to say to
25 the others not to take any money from the people who were injured. Alassane

1 Ouattara, they said, was going to pay the cost of medical care.

2 I said that we paid. But the doctor insisted that no money be taken from the injured
3 people. He didn't talk to me directly, but I heard what was said.

4 MR MACDONALD: I'm just going to make a small pause here to indicate that there may be
5 an issue with the translation between a Dioula term that is mentioned, depending if we're
6 listening in French or in English, and the word "south." It may not correspond to what the
7 witness said. So I'm just flagging it now. We can come back with that, because it's what I
8 was trying to get at, but we'll come back to that.

9 Q. (Interpretation) Witness, I shall continue. When did you leave that hospital?

10 A. I spent the night in Yopougon. When people arrived to film us, they wanted to take a
11 photo of me, and I covered my face with my hand. A doctor saw that. And I asked them
12 what it was they wanted to do. And they said they wanted to know me or they knew me,
13 and the doctor said "How come?" and then they left after that.

14 And then the doctor came, came to take me out of the corridor into another ward, and
15 that's where I spent the night until the following day. And the following day I was
16 taken out, and then it was a question of identifying me. And the idea was to find out
17 who I was so that they could inform my wife. So I gave my -- my cell phone had
18 been taken, so I gave my wife's cell phone number. They called her. And I told
19 her -- I was able to tell her that I was still alive, even though she had been led to
20 believe that I was dead.

21 And I asked her to bring some clothing in. So she arrived with some neighbours.
22 They came to visit me in the hospital. They found me there in the hospital. And I
23 was taken into a ward to be cleaned, to change my clothes. And I remained in that
24 room, in that ward until a doctor came and said that we were going to be transferred
25 to -- from south Yopougon to south Cocody. And I said that's fine. We stayed

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1 there for a while. And they came to change the drip, my drip.

2 MR MACDONALD: I want to clarify this now, because it's twice now and it's clear, "south"
3 is not "south." It's clearly CHU that the witness is mentioning, which stands for Centre
4 Hospitalier Universitaire.

5 I think everybody understands and agrees with that. I'll move on.

6 PRESIDING JUDGE TARFUSSER: Yes, of course.

7 MR MACDONALD: (Interpretation)

8 Q. Witness, so you're transferred to the Yopougon hospital?

9 A. Before leaving, I was told that I was going to be transferred to the hospital at Cocody. I
10 changed my clothes. The drip was changed. And I was brought next to a vehicle.
11 And then there was somebody else injured, who had been injured in the chest, who
12 was brought along, and we were told that the injured who were not seriously injured
13 were going to be taken. And then they called somebody and that person said they
14 weren't going to move because they'd heard everything that was said the day before,
15 in other words, that they had been sent by Laurent Gbagbo with instructions: We
16 were not to receive treatment. We were to be allowed to die. And if we were going
17 to the Cocody hospital, it would be to face certain death.
18 The doctors dissuaded them from expressing themselves in this way. Anyhow, they
19 repeated what was said. Everyone who was there could hear. So they took me
20 aside to -- they took him aside to tell him to keep quiet, and he refused, he said that
21 this had been in the presence of everybody.

22 Q. I'll stop you here, because you're speaking very fast. You have to give a little bit of
23 breathing space to the interpreters.

24 A. They came to tell us that we were going to be transferred to the Cocody hospital. They
25 brought us up to the ambulance. And then there was someone who had a chest injury,

1 whose injury as getting worse, who was brought as well, and then somebody else who had
2 been injured and had a hand wound, less serious wound. And they told us that we were
3 going to be taken into the ambulance to go off to Cocody.

4 He asked the question, and he said he wasn't moving because of what he had heard
5 the night before, in other words, that people had come to say that they had been sent
6 by Laurent Gbagbo to be told that nobody was to be -- to receive treatment, that we
7 were to be allowed to die, and said they weren't going to move, and if we were
8 transferred to the Cocody hospital, then we wouldn't get any treatment there.

9 Q. Fine. Before we move to the next place and hear about the Cocody hospital, and this
10 will be the final point that I have this morning -- with your leave, your Honour -- when you
11 described the atmosphere in the hospital, when you arrive, you say that's on the 16th, you
12 arrive in the Red Cross ambulance. You're injured. And you say --

13 A. We got good treatment at the hospital; there is no doubt about that. And then I was on
14 a drip. But what happened next, that's what I'm talking about. In other words, we were
15 told that we were going to be transferred to the Cocody hospital.

16 Q. And we will come to that. I'd just like to go back in time somewhat.
17 In your previous testimony you said this morning that there were other wounded
18 people at the hospital. I'd now like to focus my final questions this morning on that,
19 if you agree?

20 A. Yes. I said when I arrived I was taken in, I was admitted. I was taken to the place
21 where the seriously wounded people were treated. I was x-rayed, and then I was taken to
22 the ward where I was put on a drip, and then I was there next to the seriously injured people.
23 And many of them died right next to me. That was the situation at the hospital.

24 Q. Did you see the type of wound?

25 A. What I saw, well, that was people who had been shot, bullet wounds. And there were

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1 a lot of them who were treated there. Those who stayed still had a bullet in them. Well, a
2 lot of them died because if you got a bullet wound in the chest or the head, well, that's what
3 happened. People where the bullet went out of the body on the other side, they survived.

4 Q. And those people, can you describe them? What sort of people were they?

5 A. A lot of young people, even children, young men. They brought people from all of the
6 neighbourhoods. I was taken from Cocody to Yopougon. Others had come from
7 Port-Bouët II. They were taken to the hospital. And they'd all suffered bullet wounds.

8 Q. Thank you.

9 MR MACDONALD: I would break here. And for timing purposes, we'll regroup, but I
10 think that in half an hour I should be done, so close to the three hours initially planned, even
11 with the little technical issues.

12 PRESIDING JUDGE TARFUSSER: So close to the three hours, and then I give the floor to the
13 victims, to the Legal Representative of Victims, okay, today and then we see where we arrive.
14 Another thing just to tell you this, I don't consider it submitted, so it's just an idea that
15 we have, it's not submitted, give us just an idea of where the things are, so it's not
16 evidence, that thing, okay.

17 MR O'SHEA: I'm grateful, your Honours.

18 PRESIDING JUDGE TARFUSSER: Thank you very much. The hearing is adjourned at 2.30.

19 THE COURT USHER: All rise.

20 (Recess taken at 1.01.p.m.)

21 (Upon resuming in open session at 2.34)

22 THE COURT USHER: All rise. Please be seated.

23 PRESIDING JUDGE TARFUSSER: Good afternoon to everybody. Good afternoon,

24 Mr Witness. This is now our third session of one hour and a half, and then we will continue
25 tomorrow.

1 The floor is again to the Prosecutor for his examination.

2 MR MACDONALD: Thank you, your Honour.

3 Q. (Interpretation) Mr Witness, now just before our lunch break, we were talking about
4 the people who had been wounded, who were coming in, the people you had seen at the
5 Yopougon CHU, the hospital.

6 A. We were in Yopougon, not Cocody.

7 Q. Yes, that's quite right. So this is my question to you, sir: Did you learn about the
8 context, how those people actually came to be wounded?

9 A. The wounded people who I saw were marchers. The people who had gone for the
10 walk, the march, they were the ones who had been wounded. There were no people who
11 were wounded who were different. They were only marchers. I was there and I had been
12 wounded. A bullet went through my thigh and I had a fracture, and I was told that I would
13 be taken to the Cocody CHU, and that's where we were -- that's what we were talking about
14 just before we suspended the hearing.

15 Q. One last question about the time you spent in Yopougon at the Yopougon CHU. Did
16 you receive any written documents from the hospital?

17 A. Yes. They did an x-ray, and they gave some documents about the x-ray that had been
18 done. They did the x-ray, and they provided some papers along with the x-ray.

19 Q. And do you still have those documents?

20 A. Well, it's a good thing you asked me that question. The first x-ray that was taken of me,
21 at one particular point a doctor came and saw me and he said he would help me. He would
22 take care of me and treat me. He asked me to give him the x-ray, and then he ordered
23 another one. That was (Redacted). Then after that he looked at the x-ray and said that the
24 operation had to be redone. I was walking only with wooden crutches, and he told me to
25 leave the x-ray with him. And that's what I did. I left the x-ray with him. And he said:

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1 Very well. Tomorrow come back and we will -- well, we will do a bill, we'll do a -- fill up
2 a -- fill out a bill for form's sake.

3 I went back home. I went back two days later and he said to me that the x-rays and
4 the papers -- he had looked for them, but he hadn't found them. So, you see, they
5 were lost. I had to have some other papers drawn up. But the very first set of
6 papers, all those papers were lost. And if someone says that that is not the truth,
7 you could ask that very doctor because he is still alive, you know.

8 Q. Let's keep on going, Mr Witness. Please tell us about your arrival at the Cocody CHU,
9 the hospital there. You said there -- you were there on the 7th -- the 17th?

10 A. Before I left Yopougon. In Yopougon I will tell you what they told me. You see, there
11 was this medical vehicle that took me to Cocody. They came, and they sent me off to one
12 side, and they sent someone else who had been shot in the chest. Then they went to get a
13 third person who had an injured hand. And when they came back, they came to the door
14 and they said -- well, I said where are you taking me? And they said we're taking you to
15 Cocody.

16 And you see, what was said inside the hospital he understood, he said, that it had
17 been said that Mr Gbagbo had said that the people were not to receive treatment and
18 they should be left to die. The doctors didn't want to care for those people, and so
19 those people set them -- the doctors set them aside, but they said, no, no, no, they
20 shouldn't say such things and -- but he was going to say that. They said no, not to
21 say it.

22 He said, no, it's not a question of medicine or medication. That is what they will say
23 in Cocody. They will say the same, not to treat. And I said no. And I said we can
24 go in the vehicle, let's go, and -- well, you see, we went and they didn't want to treat.
25 And we convinced that person. We went into the vehicle. The other person who

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1 had an injury to the chest, he went in, then I went along with my wife. At one point,
2 we had to get out and we were put in the hall, and the other person was beside me.
3 My wife was also there.
4 And the fellow beside me -- well, the vehicle came back and went to get some other
5 people and they, too, arrived. They were all injured. We were brought into
6 another room just beside and I stayed there. We stayed there. After awhile, the
7 person who had the injury to the chest - no doctor came to see us - he started to have
8 pain, and he was complaining of pain, and he complained -- he want -- he was asking
9 for help. He said he was going to die. He called out. The blood flowed out of him,
10 and he died.
11 Then they brought a sort of a kind of a bed on wheels, and he was on the ground, and
12 I was asked to -- well, I -- the others who were injured were in the room also were
13 suffering, having pain, and he -- they said: Brother, they're not going to treat us.
14 We stayed there and -- but they thought they were going to die one after another. I
15 stayed there with my wife. And one doctor who was working off to the side, he
16 would go by from time to time, and he saw us, and when he went by, he looked at me
17 and my and wife, and he would come and go, do his work. And the two others in
18 the room were complaining. They were calling out. They were calling for help
19 because they were suffering and in pain. Another died.
20 And I was facing the door and I asked and I was told that he had died and he was
21 taken to the morgue. I stayed there with my wife, and the other person stayed in
22 that room. He was complaining. There were about five of us. The fellow who
23 had an injury to the hand, he left. One person died and finally two people remained.
24 Q. Did you receive treatment at the Cocody CHU?
25 A. No doctor came to see us. No one came to see us. When you called for a doctor, he

1 would not come.

2 Q. Do you know why you were not treated?

3 A. Yes, I know why. What was said at Yopougon was the same thing, and I can tell you
4 why. It was the same situation. Do you want me to tell you? Do you want me to say
5 why?

6 Q. We're getting there, but I just want to understand. At the Cocody hospital -- forget
7 about Yopougon. Let's focus now on Cocody. Did anyone explain to you why you did not
8 receive treatment?

9 A. No. We remained seated. No one said anything to us. And when we called for a
10 doctor or some medical staff, no one came and -- or they would say the doctor who's going to
11 take care of you isn't here yet.

12 At one point we called one and that person said: Okay. We're going to send
13 someone off to the operating room. And we waited for the personnel, the medical
14 staff. No one came.

15 People would go by from time to time, and at one point they were supposed to go.

16 There was someone beside me, you see, and this -- someone came up to me and
17 greeted me and I gave my name and he said to me: What's with you?

18 And I explained that I was wounded. I had been wounded during the march.

19 And he said: It would be better for you to leave because we received a message to
20 the effect that anyone who had been wounded during the march should not be
21 treated and should be left to die, and so I was not going to receive care and it was
22 better for me -- no. Correction. He said it would be better for you to leave
23 and -- well, we stayed. And when a doctor came, well, he said that he would be
24 with us, but they never came.

25 The people who were in the room, one of the injured people was complaining and

1 saying if no one came to help him, he was going to die, and he did die. He, too,
2 died.

3 Q. When did you leave the Cocody CHU?

4 A. We spent the night there. No one took care of us. The next morning I said to my wife:
5 I'm going to call my friend, and he will come and fetch us. My friend's name is (Redacted)
6 (phon), and I asked him to come and get me at the Cocody CHU; I had spent the night there,
7 no one was taking care of me. He came to get me, and we tried to get some sort of discharge
8 slip and the doctor -- well, actually, they pushed me out in a wheelchair and I wanted to leave
9 because all the people who had died, no one had given them any treatment. And he got
10 angry. And he got angry, you see, when I said that. He filled out the bit of paper, and so he
11 just did the form, and I was pushed out of there. I went down and then I went into a
12 personal vehicle. That was the day after. So I just spent one night inside the CHU Cocody,
13 and I have explained to you the conditions under which I left.

14 Q. Witness, if I've understood your testimony correctly, you are saying that on the 16th,
15 you were at the Yopougon hospital. On the 17th you left the Yopougon hospital and you
16 went to the Cocody CHU. And the day after that, the 18th, you left the Cocody CHU.

17 A. I left that place and I went to a clinic.

18 Q. What is the name of that clinic?

19 A. I went back to the Sainte Jane Leora clinic. I went to that clinic. It's in Ananaraie.
20 The doctor examined you and he quoted me a fee and he put me in a room.
21 I said to my wife to rest, and at one point I was put on a table. They began to shave
22 my leg; and then after that, I was put to sleep, and I don't know what happened after
23 that. When I woke up, I had plaster all around my leg, and I spent some time there
24 and until I ultimately left.

25 Q. Witness, did you receive any documents from this clinic?

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1 A. Yes. They did give me some documents, some papers. I made photocopies, and I
2 gave them to the ICC investigators. I have the originals.

3 Q. Very well. Now, the first document I would like to have displayed confidentially, I
4 believe we can show it on the screen and that shouldn't cause any problem if we make sure
5 our screens are tilted properly, but even then it's quite far away.

6 The first document is CIV-OTP-0073-1059. And I would like to show the document
7 to the witness.

8 Now, Mr Witness, while we're in the process of going through this exercise -- and
9 with all due respect, I realize that you do not know how to read or write. I'm going
10 to show you some documents, but are you able to -- how -- let me rephrase my
11 question.

12 How do you identify documents that you receive?

13 A. I can't read very well, but I do know my numbers and I can say numbers in my own
14 way. Sometimes I can manage to read the letters of the alphabet and distinguish
15 between -- make things out.

16 Q. Could it be possible to put the item up on the screen? And if you don't -- if you can't
17 see it properly, I do have a hard copy that has not been annotated. I don't know whether
18 you can see the document up on the screen.

19 A. Yes, I can see the first thing, yes. That's complete. The rest of the amount is at the
20 bottom. Up at the top to the left.

21 Yes, the first amount is shown there. After the operation, there's a second amount
22 that was paid, and that is indicated lower down. That's the first amount you see.

23 Q. So these are the fees; is that right?

24 A. Yes. The first amount is there. After the operation, he asked for a second amount,
25 which is lower down. And he said if I didn't pay, I couldn't leave the clinic. That's why I

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1 have two bills and two amounts.

2 Q. Very well. (Speaks English) But I just want to highlight the date. 18 December 2010.

3 (Interpretation) I'm going to show you another document, and this is

4 CIV-OTP-0073-0154. 0154. Can you see the document up on the screen? Do you
5 recognize this document?

6 A. Yes, I can see it. This is a prescription.

7 THE INTERPRETER: (Overlapping speakers)

8 MR MACDONALD:

9 Q. (Interpretation) So this is a prescription?

10 A. It is a prescription.

11 MR MACDONALD: So, your Honours, I note the date of 18 December 2010.

12 Q. (Interpretation) Another document.

13 A. Yes. You do have the date, the 18th, yeah. Those are the first bills, 18 December.

14 That's the date. Those are the first prescriptions. They were written on the 17th, the day I
15 got to that clinic, the clinic Sainte Jane Leora.

16 Q. Witness, I'd now like to show you another item on the screen, CIV-OTP-0073-1053.

17 And please wait for the question. Do you recognize this document?

18 A. Yes, I recognize this document. It's also a prescription.

19 MR MACDONALD: Your Honours, I also note the date of 18 December 2010.

20 Q. (Interpretation) Witness, do you remember on which date you left the clinic?

21 A. No, I don't remember. I left the clinic and I bought medication using other
22 prescriptions, but I don't remember exactly the date.

23 Q. And where did you get the prescriptions from?

24 A. The prescriptions, well, some were given to me by the clinic; and when I was at the
25 clinic, we also bought medication for which I had been given prescriptions.

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1 Q. Fine. I would now like us to see the following item, CIV-OTP-0073-1057. This is a
2 medical prescription. Do you recognize it?

3 A. Yes, I recognize the prescription, but all of these are prescriptions because when I left
4 the clinic, I went to the hospital where I was given another prescription.

5 Q. Witness, I note that as regards this item, the date is 22 December 2010. And I'm saying
6 this for the Chamber as well.

7 The next item before I show it to you -- I'm actually going to put questions before, but
8 I'll give you the ERN. CIV-OTP-0073-1060.

9 Earlier on you said that in order to leave the clinic, you had to pay your bill. Do you
10 remember when you left whether you had been given the final amount to pay?

11 A. The first document, I remember the document, the amount is indicated there, and that
12 was added by hand, and that was the amount that I had to pay. We had already paid an
13 advance, and that was the first document that you showed us, and the amount is indicated.
14 It's written by hand on that document.

15 Q. Yes. Absolutely. Now I'm going to show you another document. Could we see the
16 item for which I gave the reference earlier? Thank you.

17 Witness, do you see this? Do you recognize this document?

18 A. Yes. That is the total amount that we had to pay.

19 Q. The date is 22 December?

20 A. Yes. That is the invoice. That's the bill that I paid before leaving the clinic.

21 Q. December? I'll reformulate the question. I was rather hasty.

22 THE INTERPRETER: (Overlapping speakers)

23 MR MACDONALD:

24 Q. (Interpretation) The date on the document is the 22 December 2010. Does that refresh
25 your memory as regards the date when you left the hospital?

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1 A. Yes, absolutely. The day I left the clinic was indeed 22 December, and I went back
2 home.

3 MR MACDONALD: I have additional documents that I could show this witness in relation
4 to that clinic, and I ask for the indulgence of my colleagues in order to avoid taking time on
5 this if they would admit that we could just submit them. And I refer to documents from that
6 same clinic that can be found on our list submitted prior to the testimony of this witness.
7 And I'll give the ending last digits just so my colleagues know which one I'm talking about:
8 1055, 1056 and 1058. And that would be very helpful, I'm sure, so that we can move on and
9 try to finish the witness a little bit more quickly than I'm doing it at the moment.

10 MR O'SHEA: There's no objection.

11 PRESIDING JUDGE TARFUSSER: Thank you very much. So they are submitted.

12 MR MACDONALD: Mr Knoops, I presume, too?

13 PRESIDING JUDGE TARFUSSER: Oh.

14 MR MACDONALD: I'm sorry.

15 PRESIDING JUDGE TARFUSSER: I'm sorry, yes.

16 MR KNOOPS: No objection, your Honour.

17 PRESIDING JUDGE TARFUSSER: I'm too hasty.

18 MR KNOOPS: No objection, your Honour.

19 PRESIDING JUDGE TARFUSSER: Okay. Thank you. No objection. All right. The
20 Legal Representative of Victims?

21 MS MASSIDDA: Of course it's also fine for us. Thank you.

22 PRESIDING JUDGE TARFUSSER: Okay.

23 MR MACDONALD: (Interpretation)

24 Q. Witness, I'd now like us to talk about your injuries quickly. My intention is not to ask
25 you to stand up or to show them to the Chamber, but I understand that there were a number

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1 of photographs taken of your injuries, photographs taken by the investigators at the time of
2 the written statement that you made.

3 The first photo, it is 0073-1069. And for the Chamber, let me say that the photo was
4 taken on 31 January 2015 by our investigators. This can be shown publicly. There's
5 no problem.

6 Witness, can you see this on your screen? Could you explain what can be seen?

7 A. Yes, I can see it. In fact, it was pus that was coming out of the wound all the time from
8 morning to night.

9 Q. From which wound?

10 A. It was where I was operated on my leg and it swelled up, and that was where the bullet
11 had entered my leg.

12 Q. I won't ask you to stand up, but is it your right leg or your left leg?

13 A. It's here that the bullet came out and it swelled up and there was pus, and that's what
14 you can see on the photo.

15 Q. Very well. I shall continue with 0073-1061. I'd ask you to describe to us what you can
16 see on that photo, and tell us which part of your body it shows.

17 A. It's my thigh that was fractured. It was a serious injury. They had to cut my thigh
18 open and put some metal in to hold the bones together, and it's also where they extracted the
19 bullet.

20 Q. And the last photo 0073-1062, what do we see here?

21 A. Here we have the leg at the time when it had swollen.

22 Q. Witness, I'm going to show you the same item as the one shown to the Chamber
23 previously concerning your vehicle, 0073-1052, but we cannot show this to the public.

24 PRESIDING JUDGE TARFUSSER: So if we twist the screens, it should be enough?

25 MR MACDONALD: Yes, but not -- the public should not be able to see, sorry, in the gallery

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1 the picture --

2 PRESIDING JUDGE TARFUSSER: Yes.

3 MR MACDONALD: -- on their TV.

4 PRESIDING JUDGE TARFUSSER: Okay. Okay. But we -- it's enough that we twist?

5 MR MACDONALD: That's right.

6 PRESIDING JUDGE TARFUSSER: Okay. Okay.

7 MR MACDONALD: Monsieur N'Dry.

8 Q. (Interpretation) Do you see this photo?

9 A. Yes, I see it. I can see the photo.

10 Q. This is a photograph of you? It was taken how long before?

11 A. At the time I was in good health. And that's my car, (Redacted). That's the number plate.

12 It's a Honda, a Honda Sport.

13 Q. Do you still have that car?

14 A. It's been sold. I sold the car.

15 Q. And I'm going to show you the reverse. It's dated 10 September 2010. Do you

16 currently work, Witness? Do you have a job?

17 THE INTERPRETER: Did you work then? Interpreter's correction.

18 A. Yes, I was employed. In fact, I worked until the moment that I was injured, and it was

19 as of then that I was no longer able to work. Other than that, beforehand I did have a job.

20 Q. And why can you no longer work, Witness?

21 A. It's because of my leg that I can't work. I can't stand for very long. I no longer have

22 any strength in my leg if I stand, and my leg hurts if I'm standing for too long, and that's the

23 reason why I no longer work.

24 Q. Witness, one last question. You told us earlier on in your testimony that you took part

25 in the demonstration at the RTI and that gunshots were fired and that you were hit. Now,

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1 before the gunshots were fired, did the people who fired those shots say anything at all to
2 those who were demonstrating, to the people who were taking part in the demonstration?

3 A. No. They didn't say anything. We were interested in the CRS and, in fact, those who
4 shot at us were grouped in front of a house. They didn't say anything to anyone. They just
5 started to shoot at people.

6 Q. Thank you very much, Witness. I understand that my colleagues in the room will also
7 have questions to put to you, and I may well have further questions to put to you for
8 clarification, if that should be necessary. Thank you.

9 PRESIDING JUDGE TARFUSSER: Thank you very much, Mr Prosecutor. Thank you very
10 much, Mr Prosecutor. I now give the floor to the Legal Representative of Victims for their
11 questioning with the limits imposed by the legal framework and with the exception given by
12 the explanations today by the Chamber. Thank you very much.

13 MS MASSIDDA: Thank you, Mr President. I will limit my questions because the Office of
14 the Prosecutor has already taken some of my proposed questions.

15 QUESTIONED BY MS MASSIDDA:

16 Q. (Interpretation) Witness, good day to you.

17 A. I am well, thank you. How are you?

18 Q. I'm well, thank you. I won't introduce myself because you know me. I'm going to put
19 a number of questions to you.

20 A. Good day to you as well.

21 Q. Witness, you've just told us that you are not employed currently. Can you tell us --

22 A. I can't work. I'm not able to work because if you don't have a leg, you can't work.

23 Q. Thank you. You are responsible for how many people? You have how many
24 dependents?

25 A. My wife, her young daughter, myself, one of my sisters, plus the -- my four children.

1 These are all my dependents: My four children, the little sister of my wife, my wife, and the
2 child of one of my younger sisters. So those are the people who are my dependents.

3 Q. Witness, how do you take care of your family today?

4 A. I said that I have rented a house. I did that when I was in good health. I had two
5 houses then. I sold one and I've kept one. The other one has been let and it's with the rent
6 that I manage to feed my family. And my wife has a small shop, and with all of that, we
7 manage to survive.

8 Q. Witness, are you today receiving any medical treatment?

9 A. Medical treatment, you say?

10 Q. Yes, Witness. Do you receive any medical treatment of any sort today?

11 A. No. Today I take care of myself, nobody helps me, and I treat myself according to my
12 resources.

13 You know, when you're not working, even if you've got a little bit of money, there's
14 an end that comes to that money when you don't work, so I use my own resources for
15 my treatment and I really have to say that I don't have much, so the situation that I'm
16 in is really rather difficult.

17 Q. Would it be correct to say that you actually need surgery on your leg?

18 A. Of course. All sorts of promises were made to help me to operate my leg, but it's not
19 been done. The promises were made, but I'm still waiting. So even if the promise wasn't
20 kept, I would still like to mention it.

21 Q. And when you were told that you might undergo surgery, were you told whether it
22 might be possible for your leg to function normally as a result of the operation?

23 A. It might be possible to receive treatment, but my leg will never be the same because
24 there are bits of bone that are no longer there and my leg is actually shorter now. Even
25 though I've been told I can be treated, things will never be like they were before because an

1 awful lot of the bone was broken.

2 Q. Witness, what would be of the greatest assistance to you today in your daily life?

3 A. You know, I'm a driver. That's my job. So that's my way of earning a living. I've
4 spent my whole life as a driver. Even if I got a -- even if I had a car and I had a driver to
5 drive it, that could be useful. Other than that, I really don't know what I could do by way of
6 activity. Anything that might help me to feed myself or perhaps if I got some money to open
7 a shop, that's the sort of thing that would be helpful; but I can't work now as I did in the past.

8 Q. Witness, what are your desires, your wishes for the future?

9 A. As regards my future, you know, when people make promises to help you, anything
10 that you receive is welcome because you're the one receiving the assistance. You cannot be
11 anything other than grateful. You receive gifts. I have no demands. I can have no
12 demands in my current situation. If people help me, then they help me, but I can't impose
13 anything upon them, so they do what they can and whatever they can do to help me is
14 enough.

15 Q. I have one last question, witness. How do you feel today?

16 A. Personally today I'm happy because all of the people who were injured, well, if they
17 can't take part in the trial, that's God's will. A lot of other people were injured, but thanks to
18 people's assistance, thanks to the Lord, it was possible for me to come here.
19 You know, some people have lost an eye, an arm, a leg. If you could come back to
20 Côte d'Ivoire with me, I could show you some of the survivors and their families. So
21 here I am. I'm here in the courtroom for a trial and I'm happy because we place a lot
22 of hopes in the Court. Poor people have to be helped when certain acts are
23 committed by the rich, by the leaders, and today I have nothing, that's true, but here I
24 am addressing the Presiding Judge in the Court and I thank the Lord and I'd like to
25 thank you for giving me this opportunity. This sort of thing could perhaps

1 contribute to reducing evil on Earth. There are some people who, if this sort of thing
2 were not to happen as it is, perhaps there could be grace shown, so I'd like to thank
3 you.

4 Q. Thank you very much.

5 MS MASSIDDA: Thank you, Mr President. This concludes my questioning.

6 PRESIDING JUDGE TARFUSSER: Thank you, Ms Massidda. I will now give the floor for
7 the first half an hour to the Defence, Maître Altit.

8 MR ALTIT: (Interpretation) It will be my colleague, Mr O'Shea, who will be actually
9 conducting cross-examination.

10 MR O'SHEA: Mr President, your Honours, before I embark on this very important task
11 which is before me, I have a preliminary issue to raise, which goes to the heart of how I will be
12 conducting this task.

13 I've been very conscious of the distinguished manner in which you, Mr President,
14 have controlled these proceedings during the course of the day, and I'm also very
15 conscious of the fact that you are very concerned as a Chamber to ensure that this trial
16 is both expeditious and fair, and it is in that spirit that I make the following request
17 for clarification from the Chamber.

18 Now, naturally, before coming here today, while it is true that one has to listen to the
19 witness before one can be sure how to conduct cross-examination, there is a fair
20 amount of preparation which takes place beforehand and the preparation which I
21 have conducted for the purposes of this cross-examination has been no different from
22 the preparation in terms of methodology, no different from the way I have done it in
23 the last 23 years, both before national courts and international courts and tribunals.
24 And I've also, of course, prepared on the basis of the protocol which was set out by
25 this Chamber in advance of the trial. And I note in particular in the protocol in

1 question that it was stated that in accordance with *Rule 140(2)(b) of the rules, the
2 non-calling party may question a witness concerning any relevant matters, unless
3 otherwise directed by the Chamber, leading questions by the non-calling party will be
4 permissible.

5 Now, as far as I am aware, since this decision was reached until today, there has been
6 no invitation to the parties to make observations or arguments on the specific point in
7 the decision. However, I heard this morning, you, Mr President, when you were
8 going through the procedures that we should follow during the course of this trial, I
9 heard and I hope I heard correctly - and it's on that that I wish to seek clarification - I
10 heard your Honour say that whether one is dealing with the calling party or the
11 non-calling party, there will be no leading questions.

12 Now, my understanding of cross-examination is based upon the fact that the witness
13 that one is cross-examining is not one's own witnesses and that one may need to
14 challenge certain aspects of the testimony of that witness. And if we come back to
15 expeditiousness and fairness of the trial, the question then arises is it possible for a
16 lawyer to cross-examine a witness, possible effectively for a lawyer to cross-examine a
17 witness and challenge, in particular, the credibility of that witness without asking
18 legal -- leading questions.

19 Now, we all know what a leading question is. A leading question is a question in
20 which the answer is contained. And in my experience as an advocate, it is quite
21 difficult to challenge the credibility of a witness without asking a certain number of
22 such questions. And in this particular Court, the International Criminal Court, there
23 has been a degree of latitude, even though this is a court based on both civil law
24 conceptions as well as common law conceptions and based on the understanding that
25 there is an adversarial process here between the Prosecution and Defence that the

1 cases have, in general, permitted a degree of leading questions during
2 cross-examinations as a tool for attempting to challenge the credibility of a witness.
3 The last case in which I appeared was the case of Katanga, and the relevant decision
4 there was number 1665 at paragraph 74 in which the Court stated in their decision on
5 the conduct of the proceedings that during cross-examination, leading questions
6 would be allowed.

7 And I note, as with your good self, Mr President, that the presiding judge in that
8 Chamber, Judge Cotte, was a prestigious member of, if I can call it, the Roman law
9 system, being a French Judge and, in fact, a previous President of the Cour de
10 Cassation.

11 And a similar ruling was made in the case of Lubanga and also a similar ruling in the
12 case of Ntaganda.

13 In the case of Lubanga, in the oral decision of 19 January 2009, and in the case of
14 Ntaganda in the decision of 619, paragraph 28.

15 There are two further decisions that bring some ambiguity into the question. In the
16 case of Ruto, where it's said that no general principle would exist and things would
17 be dealt with on a case-by-case basis, and that was decision 841, paragraph 78. And
18 then the decision that essentially stands by itself as far as I'm aware, being the
19 decision of Bemba, where at one point it was said that both parties would ask neutral
20 questions.

21 Now, I don't know if your Honours would find it useful to dedicate a portion of
22 tomorrow's hearing at the beginning of the hearing to allow the parties in these
23 proceedings, of course, including the Prosecution, to make representations on this
24 issue.

25 I know Your Honour has made a ruling this morning, but of course a previous ruling

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1 was made by the same Chamber which appears to be inconsistent. It may be that it's
2 not inconsistent. It may be that your Honour can provide some clarification on this
3 immediately. But if it is the case that there is an inconsistency, it might be useful for
4 your Honours to hear representations from the parties on this very significant issue.
5 Otherwise, those are the representations which I wish to make without in any way
6 wishing to go back on any rulings which have been made by this Chamber; but, in
7 essence, seeking clarification based on the fact that as far as I'm aware at this point in
8 time there is some inconsistency between two rulings of the same Chamber and based
9 upon the fact that my preparation up until today has been premised on a particular
10 understanding of cross-examination. Thank you very much.

11 PRESIDING JUDGE FREMR: I think -- well, of course, I will give the floor to the Prosecutor
12 and to the other parties, of course. Mr Knoops, I think we should go this way.

13 MR KNOOPS: Thank you, Mr President. We fully concur with the observations of --

14 PRESIDING JUDGE TARFUSSER: May I just ask the court usher to -- I think that we don't
15 come to resume the testimony today because of this issue, so I think we could release the
16 witness for today.

17 (The witness stands down)

18 PRESIDING JUDGE TARFUSSER: Mr Knoops.

19 MR KNOOPS: Thank you very much, Mr President. We, in the first place, would like to
20 emphasize we concur with a few of our learned friends from the team of Mr Gbagbo.

21 I have, your Honours, three additional observations to make. First of all, the
22 protocol on the conduct of proceedings dates from 3 September last year, meaning
23 that the Defence teams have anticipated the rule that leading questions are in
24 principle permissible unless otherwise dictated by the Chamber. In this light I think
25 it's fair, the argument of my learned friend, that the Defence was anticipating the

1 possibility to cross-examine or question as a non-calling party the witness on the basis
2 of leading questions.

3 Secondly, Mr President, this is not just one case. The Prosecution has announced 138
4 witnesses. If the Defence is abstained from posing any type of leading questions, it
5 will mean that the Defence case will be seriously prejudiced. 138 witnesses without
6 having any option to challenge the witness on his credibility on the basis of certain
7 questions, that might endanger the rights of the accused persons and the right to
8 challenge the Prosecution case, not simply with open questions, but in a way also, and
9 that's inevitable in this case, leading questions.

10 My third point, Mr President, is my learned colleague, Mr O'Shea, alluded to other
11 cases before this Court, other protocols. If the Court would interpret your ruling of
12 this morning as it is, no leading questions whatsoever, it would create, in my humble
13 submission, Mr President, a type of inequality between Defence teams, meaning that
14 in one case Defence teams are allowed to ask leading questions during
15 cross-examination while in this case it might not be possible.

16 This creates, I think, not a uniform and consistent approach in terms of adhering to
17 the rights of the accused person.

18 And let me briefly point your Honours to the decision of the bench in the Jean-Pierre
19 Bemba case. The decision is from 15 December 2010, paragraph 18, 19. It was in
20 the request of the Prosecution for leave to appeal basically on this same principle, this
21 conduct of proceedings paragraph. In that case the Chamber, indeed, adopted in its
22 protocol the mode of questioning such that the Chamber expects all parties and
23 participants to ask neutral questions to the witnesses.

24 Now, the Prosecution sought leave to appeal and the Chamber, in paragraph 19, ruled
25 the following: "The Prosecution seems to interpret this as an absolute ban on the use

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1 by the parties of leading questions when questioning any witness. However,
2 although the Chamber expressed a preference for neutral questions and stated that it
3 expects the parties to use such questions as a general rule, the Chamber stopped short
4 of imposing a prohibition on asking leading questions. Therefore, the Chamber
5 must conclude that the matter raised by the Prosecution does not arise from the
6 specific decision."

7 Your Honour, in that case there was a protocol saying neutral questions have the
8 preference and the Chamber in its decision to reject the request for leave to appeal
9 actually nuanced this decision by saying you cannot interpret that instruction to pose
10 neutral questions such that there is an absolute ban on leading questions.

11 Now I go back to my third and last point. In my humble submission, Mr President,
12 if your Honours would indeed interpret your ruling of this morning in a very strict
13 sense, in our submission that would create not uniformity with the rights of the
14 Defence in terms of cross-examination and, therefore, we concur with the view of our
15 friends from the Gbagbo team to seek further clarification from your Honours on the
16 basis of the previous conduct of proceedings protocol of September and the ruling of
17 this morning before we could start with the cross-examination of the Defence.

18 Thank you.

19 PRESIDING JUDGE TARFUSSER: Legal Representative of Victims? No. I go this way
20 back. The last.

21 MS MASSIDDA: Your Honour, thank you. We don't have specific submission on this, so
22 we will --

23 PRESIDING JUDGE TARFUSSER: Perfect.

24 MS MASSIDDA: -- leave it to the Chamber.

25 PRESIDING JUDGE TARFUSSER: Prosecutor?

1 MR MACDONALD: Your Honours, this is one of the fundamental questions. There are
2 some that are more fundamental than others, but this one is certainly one of them and,
3 therefore, I think it is an issue that maybe needs clarification at this stage.

4 I think your microphone is on, your Honour.

5 The issue may be at the moment what is meant by a leading question and its
6 formulation. Now, in the most general terms, a leading question is one that would
7 suggest an answer to the witness, but there are formulations to get to suggesting an
8 answer. And what -- I want to maybe raise a few ways out, basically, or options that
9 maybe the Chamber would want to contemplate on this, seriously contemplate, that
10 what is certainly not a leading question is a question that would harass, badger a
11 witness, and you've said that already, Mr President, and the Chamber was clear,
12 certainly for vulnerable witnesses.

13 A misleading question where a party would seek to confuse a witness or put words
14 into the witness's mouth, that would also be something that the Chamber would want
15 to prohibit. And there are -- non-leading questions before this institution would
16 create a new precedent if we mean it in the traditional way of not being able to
17 suggest an answer in the question.

18 But I think, your Honour, and I refer to your legal background, and it's a distinction
19 that I think everybody in this courtroom agrees with and this is why I think maybe
20 clarification from -- as to the decision, and I'll -- my Italian is not the best, but I have
21 the impression that with time I may learn it, actually, and it goes back to what is a
22 leading question and a misleading question, *domande nocivi*, *domanda suggestiva*.
23 I don't know if that was close enough.

24 PRESIDING JUDGE FREMR: I understood what you meant.

25 MR MACDONALD: I'll work on my accent with time.

1 So again, I think we all agree that the former, the *nocivi*, is not allowed, but that the
2 latter is allowed. And that is actually what - that is, in a civil law system that is
3 yours - is what is applied. So I think the parties here agree to the same thing. It
4 will -- we -- and it's true that in the Bemba case or in other cases there was a notion
5 of -- and even in Lubanga it was not -- there's no examination and cross-examination;
6 there is an examination of a witness. That we agree on. If it's a question of
7 terminology, we agree on that.

8 Now, I understand that your car was red, yes. Isn't it that your car was red? Your
9 car was red, isn't it? Those are all different formulations of the same thing which can,
10 I understand, hurt. And I know that because Mr O'Shea's co-counsel, Mr Hooper,
11 even raised the issue of I was being overly leading in the Katanga case, which for me
12 it's a foreign concept. You cannot overlead in cross-examination. But I understand
13 that it can hurt the ear sometime. But I think -- but I think it would be wise, your
14 Honour, if you would clarify that.

15 But if it is truly that we need to conduct an examination of a witness of the other party,
16 an opposing -- a witness of the opposing party, then it is very difficult to get to the
17 issues without being able to suggest to bring the witness. So I think you are well
18 aware of these nuances, and we look forward to the Chamber's decision on this. But
19 like I said, it's a fundamental issue for certainly this institution, and also I think it's
20 something that has to be recognized, when you have the parties agreeing on
21 something, it doesn't mean that we're necessarily right, but I look around and I see
22 people that have been practising for a number of years and including before
23 international tribunals, national tribunals and, therefore, I mean, if we recommend
24 this and there is a unanimity on this recommendation, rejecting it cannot be done also
25 too lightly.

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1 That being said, I will now sit down, your Honour, because I think I have explained
2 myself a lot -- enough, sorry.

3 PRESIDING JUDGE TARFUSSER: Well, I think that this more than a request for clarification
4 is a request for reconsideration, I would say. So that's what I understand from what you
5 have said. And I will not now -- I would have a lot of things to say in response to your
6 arguments, of course, but I will refrain because first I want to speak with the colleagues and
7 come up with something tomorrow morning at the beginning.
8 The only -- I say the only argument which would somehow convince me is the
9 argument that this was given this morning and you're prepared in some other way,
10 okay? This is, but as I repeat, to me the only argument which somehow convinces
11 me. On the other thing, *lex posterior derogat priori* would be the clarification on
12 what is in place. But I think we have to decide among -- I have to speak with
13 colleagues, and we will come up tomorrow with a clarification, a clarifying decision.
14 So, therefore, it's now 5 to 4. The hearing is adjourned to tomorrow morning at 9.30
15 with a continuing of -- with the clarification and then the witness, continuing with the
16 questioning of the witness.

17 THE COURT USHER: All rise.

18 (The hearing ends in open session at 3.52)

19 CORRECTIONS REPORT

20 The following corrections have been brought into the transcript:

21 *Page 8 line 13:

22 "That was my last job." Is corrected by

23 "That was where my last job was."

24 *Page 8 line 18:

25 "We also went to Bondoukou, Doukouré and Gagnoa as well." is corrected by

- 1 “We also went to Bondoukou, to Guiglo, to Duékoué. We went to Gagnoa as well.”
- 2 * Page 16 line 2:
- 3 “the RHPD” is corrected by “the RHDP”
- 4 * Page 17 lines 22-23:
- 5 “there were some commandos.” is corrected by “there were some commando gendarmes on
- 6 duty.”
- 7 *Page 17 line 24:
- 8 “we saw that there still were other commandos there.” is corrected by “we saw that there were
- 9 other... bags there with armed commandos.”
- 10 *Page 19 lines 19-20:
- 11 “There were some commando police officers there.” is corrected by “There were some
- 12 commando gendarmes there.”
- 13 *Page 19 line 23 “PCD” is corrected by “PDCI”
- 14 *Page 26 line 11 “the south of Yopougon” is corrected by “the Yopougon CHU”
- 15 * Page 28 line 3 “the UHDP” is corrected by “the RHDP”
- 16 * Page 29 line 3 “the CDCI la shop. CDCI la sold.” is corrected by “the Sidi Sylla shop. Sidi
- 17 Sylla sold rice.”
- 18 * Page 33 line 6 “I saw a cargo truck that I was coming in” is corrected by “I saw a cargo truck
- 19 that was coming in”
- 20 * Page 33 lines 19-20 “Once the -- well, you see, we would go by the camps, and I'm familiar
- 21 with their uniforms.” is corrected by “Once the trucks were loaded up, we would pass in front
- 22 of the Republican Guard's camp in Treichville, so I'm familiar with their uniforms.”
- 23 * Page 33 line 24 “* One day there were police officers who were standing duty there.” Is
- 24 corrected by “At times, during the day, police officers would stand duty there.”
- 25 * Page 33 line 25 – page 34 line 1:

1 "When there are problems, the CRS comes and joins these people." Is corrected by "When
2 there are problems, the CRS comes and joins the BAE and the gendarmes, so I know their
3 uniforms.

4 *Page 34 lines 2-10:

5 "And the place where I loaded up my tanker truck, there were commando people in the
6 evening. Sometimes there would be police officers, and sometimes the BAE would be at the
7 entrance. And if there were problems, these other people would join them. And after that
8 the customs officers would sign the slips of paper.

9 There were uniformed people, policemen, gendarmes, on the road. I can tell the difference
10 between the various kinds of people. So I'm in a position to recognize the various uniforms,
11 including the uniforms of the gendarmes." is corrected by

12 "And the place where I loaded up my tanker truck, there were commando gendarmes on duty
13 at night. During the day, most of the time there would be police officers, but when there were
14 problems, the BAE would be at the entrance. And if there were problems, the CRS would join
15 the commando gendarmes. And after the customs officers would sign the slips of paper. I
16 was a driver for nearly 17 years, so I am familiar with the various uniforms. The gendarmes
17 were the ones on the road, so I can tell the difference between the various kinds of people. The
18 customs officers are the ones who sign the slips. So that is why I'm in a position to recognize
19 the various uniforms, including the uniforms of the gendarmes."

20 *Page 38 line 1:

21 "* and to go to the headquarters, the RHDP headquarters" is corrected by "and to go to the
22 PDCI headquarters, which was the RHDP headquarters."

23 *Page 46 line 9:

24 " You said it was in the south of Yopougon" is corrected by " You said it was in the CHU
25 Yopougon"

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1 *Page 46 line 11:

2 "A. South Yopougon. That's where the hospital was. It was the south Yopougon hospital."

3 Is corrected by "A. CHU Yopougon. That's where the hospital was. It was the CHU

4 Yopougon hospital."

5 SECOND CORRECTION REPORT

6 The Court Management Section has made the following correction in the transcript:

7 *Page 66 line 1:

8 "Rule 142(b)" is corrected by "Rule 140(2)(b)"

9