

Trial Hearing
Witness: CIV-OTP-P-0547

(Open Session)

ICC-02/11-01/15

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 Friday, 5 February 2016
10 (The hearing starts in open session at 11.05 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 I think that first thing to do is to issue and to read out, therefore, the Chamber's
16 decision on leave to appeal requested by the Defence counsel of Mr Gbagbo and
17 Mr Blé Goudé, and that's what I'm going to do now.
18 Trial Chamber I issues by majority, Judge Henderson dissenting, the following
19 decision:
20 On 3 September 2015, the Chamber, in its previous composition, rendered the
21 directions under the conduct of proceedings, and I'm referring to file 205.
22 On 18 September 2015, the Chamber, also in its previous composition, rejected the
23 Gbagbo Defence for request for leave to appeal that decision.
24 On 3 February 2015, the Presiding Judge of this Chamber made an oral statement on
25 how the parties will proceed in relation to the questioning of witnesses, particularly

1 amendments to directions previously given by the Chamber in filing 205.

2 For the purpose of this ruling, the Presiding Judge stated that, and I quote: "No
3 leading questions, whether by the calling or not calling party will be permissible."
4 End of quote.

5 On 4 February, yesterday, upon request of the parties, the Chamber, by majority,
6 provided, and I quote: "Clarifications requested by the Defence of Mr Gbagbo on the
7 leading question issue of the aforesaid oral statement." Particularly it clarified that:

8 A, the system for the conduct of the proceedings is open and each Chamber has
9 discretion to rule as it deems appropriate;

10 B, witnesses are called in front of the Chamber to be questioned potentially by all
11 parties and also by judges on the facts with the precise obligation under the threat of
12 perjury to tell the truth pursuant to Articles 69 and 70 and Rule 140;

13 C, the Presiding Judge may give directions pursuant to Article 64(8) and rule 140 in
14 order and manner in which the evidence shall be submitted, meaning also the manner
15 in which witnesses shall be questioned and the evidence shall be admitted at trial;

16 D, the Presiding Judge will, in no case, allow counsel to unduly direct or influence
17 evidence to be provided by a witness by framing the question in a manner which
18 predetermines the answer and, in doing so, is unfair to the witness, to the parties; and
19 even more, undermines the Chamber's duty to establish the truth;

20 E, counsel may challenge/confront a witness with facts and circumstances such as
21 documents, prior statements of the witness or other persons, et cetera, which appear
22 to be in contradiction with the testimony given by the witness while in the stand,
23 casting doubt to his or her credibility and to questions and/or clarification on these
24 contradictory facts or circumstances;

25 F, the concept of leading questions cannot be defined in the abstract and, therefore,

1 the Presiding Judge will rule as appropriate on the basis of an objection or motu
2 proprio.

3 For the purpose of this ruling, I will refer to the oral statement and the subsequent
4 clarifications as to the impugned decision.

5 After a brief suspension of the hearing requested by the parties in order to consult,
6 the Defence counsel of Mr Gbagbo and Mr Blé Goudé requested orally leave to appeal
7 the impugned decision.

8 Having heard during the same public hearing the other parties, Legal Representative
9 of Victims and OTP, which, beside making oral observations in court also filed
10 written observations as authorised by the Chamber, in its request the Gbagbo Defence
11 submits that the Chamber did not distinguish between examination and
12 cross-examination. It states that there is a need to harmonize the judicial policy of
13 the Court and contends that the impugned decision is the first time in ICC
14 proceedings that the issue of leading questions during cross-examination has been
15 dismissed.

16 As regards the expeditiousness of proceedings, it submits that the accused's right to
17 be tried without undue delay cannot be used in detriment of the Defence's right to
18 cross-examine witnesses.

19 The Gbagbo Defence further states that the impugned decision has no legal basis and
20 that the discretion invoked by the Chamber is not without limit. In its view, the
21 right of a party to use leading questions is a principle of international criminal law.

22 As regards to the criteria under Article 82(1)(d) of the Statute, the Gbagbo Defence
23 submits that the issue arises from the impugned decision and affects the fairness of
24 proceedings because it prevents the Defence from effectively challenging and testing
25 evidence and could affect the outcome of the trial because non-credible evidence

1 could be taken into account for the purpose of the judgment. The Blé Goudé

2 Defence considered this -- consider this as a fundamental issue that needs to be
3 decided speedily.

4 Referring to the Chamber's earlier directions of September 2015 and with the ample
5 case law within this Court, the Blé Goudé Defence submits that the impugned
6 decision is contrary to the principle of legal certainty and is detrimental to the rights
7 of the accused, and it puts the Defence in a situation of disproportionate prejudice
8 before the ICC.

9 Moreover, it contends that the directions indicating that the Presiding Judge will rule on the
10 matter as appropriate leads to ambiguity and uncertainty.

11 The Prosecutor submits that the Gbagbo and Blé Goudé Defence application for leave
12 to appeal is an issue within the meaning of Article 82(1)(d) of the Statute because it
13 undermines the fairness of proceedings since:

14 A, there are essential tools enabling all parties to elicit truthful testimony;

15 B, their prohibition affects the parties' ability to present their case; and

16 C, parties had prepared their questions on the assumption that leading questions
17 would be allowed, consistent with the protocol adopted on 3 September 2015 and the
18 jurisprudence of this and other international tribunals.

19 It also submits that the impugned decision could seriously delay proceedings and
20 affect the outcome of the trial.

21 As to the second prong of Article 82(1)(d)'s test the Prosecution submits that an
22 intervention by the Appeals Chamber would materially advance proceedings
23 considering that it will impact cross-examination throughout the trial, avoid reversal
24 of the judgment, and unify the conflicting practice that had challenged decision -- that
25 the challenged decision creates.

1 The Legal Representative of Victims submits that the request -- the requested leave to
2 appeal should not be granted. In her view, the issue identified by the Defence does
3 not arise from the challenged decision since the letter does not deprive the Defence
4 from the possibility of confronting witnesses by means other than -- of confronting
5 witnesses by means other than unduly influencing evidence to be provided by a
6 witness.

7 She also contends that the issue does not affect the fairness of the proceedings as:

8 A, all parties will be subject to the same limitations when questioning witnesses they
9 did not call;

10 B, the Chamber is independent in adopting decisions on the conduct of its
11 proceedings;

12 C, in the Court's jurisprudence, the issue of leading questions is far from settled;

13 She also states that the issue is mere speculation and the Chamber has the power to
14 control the questioning.

15 Finally, she argues that the outcome of the trial as the challenged decision expressly
16 provides the non-calling party with a broad scope of action in the conduct of their
17 questioning.

18 The Chamber recalls the applicable law relating to Article 82(1)(d) of the Statute,
19 particularly that an issue under this provision is an, and I quote, "Identifiable subject
20 or topic requiring a decision for its resolution, not merely a question over which there
21 is a disagreement on conflicting opinion," as the Appeals Chamber said.

22 The purpose of interlocutory appeals under Article 82(1)(d) is to create a procedure
23 which by -- by which appellate intervention on a certain issue can be anticipated to an
24 intermediate stage of proceedings when it is determined that to have that issue
25 decided only in the final appeal at the conclusion of the proceedings would mean to

1 risk that large parts of the entire proceedings may be invalidated.

2 The Chamber also recalls that the Appeals Chamber has repeatedly stated the limited
3 condition under which it would rule on a discretionary decision of another Chamber.

4 In this regard, it has determined that it will not interfere in a Chamber's exercise of
5 discretion even if having the power to do so it would have made a different ruling.

6 The Chamber, therefore, rejects -- well, not therefore.

7 The Chamber rejects the request for leave to appeal, as the Defence has not identified
8 an appealable issue, since it has not demonstrated that the fair and expeditious
9 conduct of the proceedings or the outcome of the trial might be significantly affected
10 by the impugned decision.

11 The reasons are as follows:

12 First, the arguments raised by the Defence are speculative and, in large part, premised
13 on a misunderstanding of the Chamber's directions, despite the given clarifications;

14 Two, in the impugned decision, the Chamber, and particularly the Presiding Judge,
15 merely set out the basis upon which it will control the manner in which the parties are
16 to question the witness. Whether the decision impacts on the fairness and
17 expeditiousness of the proceedings or the outcome of the trial cannot be

18 predetermined in the abstract but will depend on how the impugned decision is
19 implemented on a case-by-case basis in the sense of how this control will be exercised.

20 In exercising its statutory responsibilities, the Chamber will ensure that the rights of
21 the parties and participants will be duly safeguarded at all times;

22 Three, in exercising its discretionary powers under Rule 140 of the Rules, the
23 Chamber is only compelled to apply the Statute and the Rules of Procedure and

24 Evidence consistently with internationally recognized human rights. Thus, when
25 exercising this discretion, the Chamber must strike a balance between effective trial

1 management and respect for the rights of the accused. However, this has to be
2 evaluated on a case-by-case basis in relation to specific facts.

3 It is, therefore, insufficient for the parties to allege that the Chamber's discretion on
4 how it will exercise its discretion in general renders proceedings unfair and violates
5 human rights.

6 Finally, the flexibility of this system, as reflected in *Rule 140(2) (c) cannot be constrained
7 by the practice of another Chamber -- of a number of another Chambers either in this
8 Court or - and I would add even more - in another other international tribunals.

9 In fact, pursuant to Article 21(2) of the Statute, the Chamber may take into account
10 prior decisions, but it's also -- but it is also a common practice of this tribunal to
11 depart from its prior holdings.

12 Thus, the Chamber is not in any way compelled to follow the rulings of another
13 Chamber interpreting the Chamber's discretionary powers under Rule 140, which I
14 add in any case as far as the matter attributed is concerned are not as univocal as the
15 Defence and the Prosecution has presented it.

16 This said, this is the decision, and I now give the floor to Judge Henderson, to my
17 colleague, Judge Henderson, to read the reason for his dissent.

18 JUDGE HENDERSON: Thank you. The following is my dissent from the majority:

19 I, Introduction.

20 I respectfully disagree with my colleague's decision to reject the oral applications for
21 leave to appeal the Chamber's oral ruling prohibiting the use of leading questions in
22 the proceedings, applications which receive support from the Prosecution.

23 In my respectful view, no issue could more clearly meet the Article 82(1)(d) test than
24 an issue which concerns the very manner in which evidence is adduced and
25 credibility is tested during the course of the trial.

1 The purpose of Article 82(1)(d) is to provide the parties with an exceptional appellate
2 review when there is an issue raised at trial that carries with it the potential for
3 irrevocably changing its course, affecting the fairness and expeditiousness of the trial
4 proceedings or the outcome of the trial.

5 The nature and the extent of the prejudice identified by the parties in their
6 submissions with which I agree ought really to give the Chamber pause to permit
7 appellate resolution to ensure that the proceedings follow the right course.

8 II, Background.

9 In its directions on the conduct of proceedings issued on 3 September 2016, the
10 Chamber authorised the calling party, in exceptional circumstances, permission to
11 pose leading questions to its witnesses; and in the case of the non-calling party, unless
12 otherwise directed, permission to use leading questions. No leave request was made
13 with respect to this aspect of the directions by either the parties or the LRV.

14 On 3 February 2016, after opening statements were concluded and prior to the
15 testimony of the first witness called by the Prosecution, the Presiding Judge, on the
16 basis of the Chamber's commitment to uphold the expeditiousness of the proceedings,
17 an objective laudable in itself, amended the Chamber's earlier directions. In relation
18 to the mode and scope of questioning, leading questions, whether by the calling party
19 or the non-calling party, were no longer permissible.

20 The subsequent clarification of the presiding Judge's amended directions made by a
21 majority of the Chamber the following day has resulted in the oral requests for leave
22 to appeal the majority's decision.

23 III, Submissions.

24 The parties' submissions are briefly summarised.

25 Counsel for Mr Gbagbo submitted that the decision prevents the Defence from using

1 their right to mount an effective Defence and to challenge or test the evidence of the
2 parties.

3 The impugned decision would affect the outcome of the trial insofar as the Defence
4 would not be in a position to effectively challenge the Prosecution's evidence and that
5 this would affect the very outcome of the trial.

6 Counsel concluded his submissions by forecasting that the Chamber's oral ruling will
7 also affect the way in which the parties will conduct their cross-examinations
8 throughout the course of the entire trial and that appellate intervention to settle the
9 matter immediately was necessary, otherwise the entire procedure may be fatally
10 flawed.

11 Counsel for Mr Blé Goudé identified two ways in which the impugned decision
12 occasioned prejudice: The prohibition itself and the lack of certainty produced by
13 the clarification.

14 As to the first, he concurred with counsel for Mr Gbagbo, adding that the new
15 prohibition of the use of leading questions as a general rule, which he submitted was
16 an important Defence tool, might cause disproportionate prejudice to their Defence
17 and that an examination by the Chamber -- and that an examination by the Chamber
18 on this matter will fundamentally affect the outcome of the trial. A decision by the
19 Appeals Chamber on this -- that the direction of the Chamber on this matter will
20 fundamentally affect the outcome of the trial. Beg your pardon.

21 On the lack of legal certainty, counsel submitted that the principle of legal certainty
22 dictates that no deviation from the principles of procedural law, which go to the heart
23 of the Defence's rights, could be accepted to the detriment of an accused person.

24 The principle he argues derives from, inter alia, Article 7 of the European Convention
25 on Human Rights where the European Court of Human Rights, in its consistent

1 jurisprudence, has interpreted the principle as ensuring two elements: Accessibility
2 of the law and foreseeability of the law.

3 He observed that the earlier clarification still maintained a level of uncertainty as to
4 the precise scope of what was permitted during the examination by the non-calling
5 party and that the ruling, itself, still creates, in their view, ambiguity and uncertainty
6 and that this requires the Judge every time to assess the acceptability of certain
7 questions which might be potentially leading.

8 Notwithstanding the limited time given by the Chamber, the Prosecution admirably
9 filed authority, detailed an equally well-reasoned submission in response to the oral
10 applications for leave to appeal made by the Gbagbo and Blé Goudé Defence. I
11 consider that any attempt on my part to summarise their written submissions may be
12 a disservice.

13 The LRV opposes the request as, among other things, the exceptions set out in the
14 "clarifications" cure any prejudice which arises from the impugned decision.
15 IV, Analysis.

16 In my respectful view, three discreet issues arise from the impugned decision, and in
17 my view all three meet the requirements of Article 82(1)(d), namely whether:

18 One, the prohibition of leading questions undermines the rights of a party not calling
19 a witness to challenge that witness's testimony;

20 Two, whether the parties have suffered prejudice by the impugned decision being
21 issued after the commencement of the trial, they having prepared their respective
22 cases on the basis of the Chamber's earlier directions;

23 And three, whether the parties' lack of certainty and the resultant need for
24 case-by-case decisions occasions prejudice to the parties, hinders the parties, hinders
25 the expeditiousness of the proceedings and, in particular for Defence, whether it

1 hinders their preparations.

2 In the context of adversarial proceedings, generally the purpose of examining a
3 witness by the party that has not called that witness is with a view to either adding
4 further evidence from that witness or with the intention of contradicting the evidence
5 that was given when examined by the calling party.

6 Examinations by the non-calling party differ in that the - and I have to say in my
7 respectful view - settled practice is that leading questions have always been
8 permitted.

9 In the context of adversarial proceedings where such a party fails to confront a
10 witness on his evidence or on every aspect of it, this amounts to an implied
11 acceptance of the evidence and the party ought not to challenge the evidence in
12 closing speeches. The reason for the rule is to ensure fairness both to the witness
13 and to the fact finders in that such examinations give the witness an opportunity to
14 put his version of the events forward in the face of any contradictions proposed by
15 counsel in the form of leading questions which were made to test the veracity of the
16 witness's testimony.

17 In my view, the abolition of the right to pose leading questions carries with it the
18 serious potential to hinder the party from advancing his case.

19 In my respectful view, leading questions are not themselves -- not in and of
20 themselves unfair, as the Presiding Judge has a duty to control any unfair, misleading
21 or vexatious questions during the course of testimony.

22 For these reasons, in my view, the first issue, which has been raised, in essence, by
23 both Defence teams, significantly affects the fairness of the trial and also its outcome.
24 Allowing the Appeals Chamber to adjudicate the matter would, therefore, materially
25 advance the proceedings by ensuring that they remain on the right course.

1 As to the issue of whether the timing of the decision has resulted in prejudice, the
2 second discreet issue, the parties, having prepared their respective cases on the
3 Chamber's earlier -- and I have to say -- well, the Chamber's directions, decision, I
4 accept that the parties had a legitimate expectation that leading questions would be
5 permitted. The directions were issued having reviewed the parties' submissions,
6 counsel having indicated that in reliance on this decision they prepared their
7 respective cases.

8 The significant departure rendered after opening statements from what has been
9 argued as a settled and consistent practice at not just this Court but other
10 international tribunals carries with it the risk of unfairness to the parties. The basis
11 of the risk is that preparation of their respective cases was premised on the basis of
12 leading questions. Allowing the Appeals Chamber to adjudicate the matter again, in
13 my view, would materially advance the proceedings.

14 Finally, the parties have complained that there is a lack of certainty in the Chamber's
15 ruling, and this lack of certainty threatens the expeditiousness of the proceedings.

16 This may very well be a misunderstanding of what the term "leading questions"

17 means. Nevertheless, the impugned decision, which makes leading questions

18 impermissible, and the subsequent clarification, which in the words of counsel for

19 Mr Blé Goudé "still maintained a level of uncertainty as to the precise scope that the

20 Presiding Judge will permit during the examination by the non-calling party" creates

21 some ambiguity and uncertainty requiring the Judge every time to assess the

22 acceptability of each question which might be potentially leading.

23 In my view, with 138 witnesses listed to be called by the Prosecution alone, this

24 carries with it the risk of threatening the expeditiousness of the proceedings.

25 Resolution by the Appeals Chamber will resolve this.

1 Regarding the risk of unfairness to the parties, the direction was motivated by the
2 laudable objective of expeditiousness of proceedings and the Presiding Judge's desire
3 to expedite the proceedings, ensuring fairness is a fundamental obligation of a Trial
4 Chamber as a means of achieving its ultimate objective of determining the charges,
5 whatever other factors or demands it has to balance.

6 Expeditiousness in proceedings is one such factor, but expeditiousness is not to be
7 considered for its own sake but must be linked to fairness in the trial process itself.

8 And in the discharge of the Chamber's obligations, the Chamber is required to ensure
9 that the trial is fair and expeditious and that it is conducted with full respect to the
10 rights of the accused and due regard for the protection of victims and witnesses.

11 While acknowledging that a Trial Chamber and the Presiding Judge in particular
12 enjoy broad powers to conduct and to control the proceedings to ensure that a trial is
13 conducted efficiently and expeditiously, these must be exercised in accordance with
14 the Statute and Rules.

15 Expeditiousness may either vindicate the rights of the accused or they may
16 undermine such rights. Counsel for Mr Blé Goudé has argued that they have, in fact,
17 undermined his rights.

18 In my view, the impugned decision and its timing may carry with it the potential to
19 unintentionally create unfairness.

20 For the foregoing reasons, I would have granted the request. Thank you.

21 PRESIDING JUDGE TARFUSSER: Thank you to Judge Henderson. I think we now
22 continue. And while the witness is brought in -- down to the courtroom to continue with the
23 questioning by the Defence, I would like very much, as Presiding Judge, to briefly add a few
24 things. So could you please just ask to prepare the witness.

25 In yesterday's exchange of submissions and observations by the parties -- in

1 yesterday's exchange of submissions and observations by the parties, and although I
2 perfectly know that it is, of course, part of counsel's prerogative to make their
3 arguments and to do so in the most persuasive manner, I had something more than
4 the impression that some limit has been exceeded.

5 I'm referring to apocalyptic scenarios envisaged to the fact that the ruling of the
6 Presiding Judge fundamentally violates the human rights of the accused, seriously
7 prejudices the Defence case and the rights of the defendant; that a trial conducted on
8 these directives will be fundamentally unfair and similar statements.

9 I just note in this respect that the many legal systems in which, in the manner of
10 questioning witnesses, no distinction exists between examination-in-chief and
11 cross-examination, for example, would by default be, according to the submissions, to
12 these submissions, fundamentally unfair and violate all the rights of all the accused in
13 those systems, and this is obviously not the case.

14 But yesterday's very much I considered dogmatic and very little substantive
15 discussion made also very clear to me that the parties, although I tried my best to be
16 clear and understandable, still do not appreciate the true scope of the decision.
17 Evidently my best is not enough.

18 And as I try always first to find the reason for mistakes or misunderstanding by
19 myself and not in the others, I read, time and again, the clarification, my clarifications,
20 or the clarification decision issued and realised that perhaps the casus belli is given by
21 the fact that I have not sufficiently expressed myself clearly.

22 Therefore, I try, once again, to clarify that the questions that I will not admit or will
23 not be admitted are those which are framed in a manner which predetermines the
24 answer, unduly directing, manipulating or influencing evidence to be provided by a
25 witness and which, as such, are unfair to the witness.

1 This as a general directive, regardless of the name anyone wants to give it, will not be
2 allowed and which, I have no doubt, would not be allowed in any legal system, be it
3 based on common law or be it based on civil law principles.

4 We will see a concrete or the concrete implementation of these directions on a
5 case-by-case basis during the parties' questioning. Once again, I clarify that this has
6 nothing, but nothing to do with questions or clarifications posed to the witness about
7 potentially contradictory information appearing in other documents, in other
8 statements, and particularly on the witness's prior statements. This is what

9 yesterday I called "challenge" or "confrontation." And Article 500 of the Italian Code
10 of Procedure, which I was reminded, recalled by the Prosecutor says "contestazione."

11 By the way, this also seems to me very much to be the understanding of Maître Altit,
12 as expressed in his yesterday's submission because I read it again - not only my
13 statement but also the transcript - where he stated, and I quote from French, and
14 excuse my pronunciation (Interpretation) "On the other hand" - (Speaks English) 8
15 to page 10 line 9, just to be precise - (Interpretation) "On the other hand, the
16 non-calling party has a duty during cross-examination to shed light on the
17 contradictions and flaws of the witness's account and to challenge, to test whether the
18 account is consistent in light of all the evidence at the disposition of parties. That is
19 the only way that the truth can come out." (Speaks English) End of quote. Well, I
20 couldn't agree more with this statement, and it is exactly in this perspective that the
21 ruling was given. Therefore, I'm talking here about a misunderstanding much more
22 than something real, some real problem.

23 Let me now conclude by saying that the parties as well as the general public shall rest
24 assured that at all points this Presiding Judge, this Chamber, will uphold the fairness
25 of the proceedings and the fair trial rights of Mr Gbagbo and Mr Blé Goudé.

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1 A disagreement between the parties on the one hand and the Bench on the other on
2 trial management issues does not at all make, as such, the trial unfair and in violation
3 of the accused's human rights.

4 I would say that at this point we close this matter and proceed with the questioning
5 by the Defence of Witness 547.

6 Before the witness comes in, just housekeeping. Yesterday the Prosecution filed an
7 application seeking exception -- he can come in -- seeking exceptional measures to be
8 implemented during P-0190's familiarisation session, according to the amended
9 protocol.

10 As P-190 is expected to start testifying next week, the deadline for responses, if any, is
11 shortened to Monday morning, 8 February. And I ask these responses to be
12 submitted at the opening of the trial in the morning at 9.30 so that the Court can take
13 a decision.

14 So thank you very much. Now I give the floor to the Defence for the -- whatever it's
15 called, but to question the witness.

16 MR ALTIT: (Interpretation) Thank you, your Honour. Cross-examination shall be
17 conducted by Mr O'Shea.

18 MR MACDONALD: Your Honour, with your permission, I'm very -- I'm doing this now
19 because I don't want to interrupt my colleague once he starts until it's necessary.

20 We have received lists of documents intended to be used in cross-examination by
21 both Defence teams. I sent an email, if I'm not mistaken, Thursday -- Wednesday or
22 Thursday morning indicating that we will have objections. So I would kindly
23 request that before any documents are shown to the witness, not the Chamber, to the
24 witness, that it's displayed, that there is a few seconds where we can retrieve the ERN
25 numbers, see what it is and object or not because there are -- there is likely to be

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1 numerous objections. So I'm just -- I want this to become automatic, but I think it's
2 going to be the next legal battle will be that one, and we'll have to get your guidance
3 so that we can move forward for the trial with this witness and the future witnesses.

4 PRESIDING JUDGE TARFUSSER: Well, I'm very surprised that you have -- that you will
5 have a position after what we said in the last two days, but we'll see.

6 Yours is the floor. Thank you.

7 MR O'SHEA: Thank you very much, Mr President. Of course, I've heard my learned friend,
8 and we'll see how it goes. Can I just say --

9 PRESIDING JUDGE TARFUSSER: Just one thing, we can go until 1 o'clock.

10 MR O'SHEA: Your Honours, yes.

11 PRESIDING JUDGE TARFUSSER: It's not one and a half. I said two hours, okay?

12 MR O'SHEA: I'd just like to say for the benefit of the interpreters that I shall be
13 cross-examining the witness in French. If there are any legal objections and I have to address
14 the Judges, I shall speak in English, but I will give you sufficient time to adapt, I hope.

15 QUESTIONED BY MR O'SHEA:

16 Q. (Interpretation) Good morning, witness.

17 WITNESS: CIV-OTP-P-0547 (On former oath)

18 (The witness speaks Dioula)

19 A. Good morning.

20 Q. My name is Andreas O'Shea, and I am appearing here representing the interests of
21 President Gbagbo, who is seated behind me.

22 I would like to ask you some questions to elicit preliminary or additional information.

23 First of all, I would like to ask you this: Please listen to my questions carefully and
24 try to answer the question, nothing more than that, so that we can proceed. That's
25 my first request of you.

1 My second request is this: If you could please speak slowly and if you could direct
2 your replies to the Chamber.

3 Finally, I would like to say this to you: I have no intent at all whatsoever to reveal
4 your identity, and it is very important that your identity not be revealed. As I put
5 my questions to you, the Bench will be monitoring me. And if I put any question to
6 you that might be dangerous, the Bench will indeed intervene. I will do my best not
7 to do so; but on your side, please be very, very careful not to reveal your name or any
8 items of information that might identify you. That is to say, you must realise that
9 this is a public trial conducted in public, and we will try to conduct the proceedings
10 with as many answers given in public as possible. Thank you.

11 MR O'SHEA: Response from the witness?

12 THE INTERPRETER: Message from the interpreters. Could the witness be asked to repeat
13 his response.

14 MR O'SHEA:

15 Q. (Interpretation) Witness, I believe that you mentioned that you have quite a few
16 dependents.

17 A. Yes, that's right.

18 Q. And among other things, you must provide financially for five children. That is your
19 responsibility, is it not, at least five children?

20 A. Yes, that's quite right. You are correct. I have five children. And other people also
21 live in my home, and I take care of them. I am responsible for them.

22 Q. Might it be the case that in your culture it is also important for a man to make sure that
23 your wife's family is not experiencing problems?

24 A. I haven't understood your question. Could you explain more clearly? I really don't
25 understand your question.

1 Q. In addition to the responsibilities that you have for your direct dependents, you also
2 have a duty to ensure the well-being of the immediate family of your wife; isn't that so?

3 A. No. In Africa, when you marry a woman and one of her relatives join you, yes, you
4 provide for them. I have my niece actually who lives with us, and so the sister of my wife, so
5 we greeted her, added her to the family, so to speak. And as Muslims, that is part of our
6 customs.

7 Q. Now, judging by what we have heard from you, it would appear that at least *since 16
8 December 2010 you have been without employment; isn't that so?

9 A. My leg was broken. I was no longer able to work. I'm a driver. And as a driver, I
10 can't drive a vehicle with a broken leg.

11 Q. And over the last five years, have you received any medical treatment?

12 A. Over the last five years I treated myself and I have all of the documentation for
13 treatment that I received. I have x-rays. *Promises were made that I would be operated on
14 but I had to wait because of my bone which was not consolidated enough.

15 Q. Who promised you that you would have an operation?

16 A. The person who told me that I was going to be operated on -- well, actually it's people
17 from the Court who promised that they would help me get treatment. And a long time ago
18 they gave me a favourable response saying they would help me get treatment. And there are
19 other people who came to examine my leg, and it wasn't possible to operate immediately
20 because there was still pus coming out of my leg, so nothing could be done. I had to wait
21 until I came here to make my testimony. That's the situation.

22 Q. And during the period when you were answering the Prosecutor's questions, you made
23 mention of certain promises that were made that were not kept. Aside from the promise that
24 you've just referred to --

25 THE INTERPRETER: Overlapping speakers.

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1 THE WITNESS: (Interpretation) You know, there is no point in complaining if a promise
2 isn't kept. I don't want to give the impression that these were empty promises.

3 MR O'SHEA:

4 Q. (Interpretation) Yes. Witness, may I remind you, please, before you answer, listen to
5 my question, because if you come in too quickly while I'm still talking, then there are
6 problems for the interpreters. So please wait until I come to the end of my question before
7 you answer.

8 So this is my question: Apart from the promise that you've just mentioned, were
9 there any other promises that were made to you?

10 A. Yes, concerning the medical treatment. That's the only promise that was made to me.
11 There were no other promises that I recall apart from that from the Court.

12 Q. Was an explanation given to you as to the way in which the Court helps a victim at the
13 end of trial? Was that process explained to you?

14 A. Yes, indeed. I was given an explanation. I was told that, God willing, at the end of
15 the trial, the judgment, I would be given help to get treatment. But I have to say I no longer
16 trust anything or anyone. I don't believe in promises, so I'll believe it when something has
17 been done for me. Other than that, I've been in pain. My leg has been giving me pain for a
18 long time, and I'm very tired.

19 Q. And in the context as regards your current situation, this case has significance for you,
20 does it not?

21 A. Yes, that is correct. Yes. It's a very important case for me.

22 Q. I'd like to take you back to the time of 16 December 2010. At that time after the events
23 that occurred on that day when was the first time that the RDR people came to see you?

24 A. After I was wounded, when I left the clinic, when I went back home. My family and
25 neighbours came to see me. When they left, the RDR people came to see me. They greeted

1 me and they asked how I had been injured, and I gave them all the explanations. And they
2 said -- well, I said we were going to the RTI and I was injured on the way. It wasn't at
3 Port-Bouët II that I was injured. And they said they would help me.

4 But I said that I went to the hospital, I didn't get treatment and I had to use my own
5 money to get care. Then they asked me to give them a copy of my medical file. So I
6 asked the children to make a photocopy, which was then given to them. And they
7 said once they left, they'd come back and help me.

8 They left, but they never came back. They never gave me any money. Nobody
9 came back to see me. So I was left like that. That's what happened as regards the
10 RDR.

11 And here I'm not the spokesperson for the RDR. The RDR didn't help me, didn't
12 give me a single cent. So we shouldn't talk about the RDR. I was a militant, I was
13 injured, but they abandoned me and I had to use my own resources to get medical
14 care so far. So that's the situation that I'm in. Saying that they gave me any money
15 or help, well, no, that's not true. That's what I can say by way of an answer.

16 Q. If you don't mind, I'd like to come back to what I said at the start. Please, could you
17 listen closely to my question and limit your answer to answering the question I'm putting to
18 you, which means that we will save time for you. Have you understood?

19 Exactly how long after your stay in the hospital, in terms of days, did the RDR come
20 to see you?

21 A. I was in three hospitals; two large hospitals and then the clinic, so which medical
22 establishment are you referring to?

23 Q. Let me put the question in the following way: How long after 16 December did the
24 RDR come and see you?

25 A. I was injured on 16 December. I spent one night at the Yopougon hospital. The next

1 day, I was taken to the Cocody hospital. I spent one night there, and the next morning I left.
2 So that was on 18 December. On the 18th, I went to the clinic, that's where I was operated on,
3 and I spent three days there before I left.

4 So that is the answer that I can give you concerning the medical establishments, and I
5 hope you've understood me.

6 Q. I did understand you, but I'm still waiting for the answer to my question, in other words,
7 when did the RDR come; how long after the 16th? Was it when you left the hospital? Was
8 it before you left the hospital? And if it was after, how long afterwards was it?

9 A. Ah, I've understood. When I left the clinic to go home, I can't give you the exact date of
10 that, I don't know exactly which date they came, but when I got home, my neighbours came
11 to see me, and my family as well, and it's after that that the RDR people came to see me at
12 home. They greeted me, they took the photocopies of my medical file, and they left and I
13 never saw them again.

14 Q. Was it a question of days or weeks after you returned home?

15 A. When the people came to see me, it was perhaps three days later. I was in great pain,
16 and they saw that I was suffering. I was in real pain when they came. No more than three
17 days after I left.

18 Q. Did you know those people from the RDR?

19 A. We all live in the same district. I know them. Yes, I know those people. I also know
20 the Côte d'Ivoire lawyers who are here.

21 Q. And what did they say to you on that day?

22 A. Yes. I said that I was in pain. They said they'd help me. I told them that I had used
23 my own money for my treatment because the hospital wouldn't treat me. And they said
24 they'd help me and perhaps try and get a refund of my money. They went off with the
25 photocopies.

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1 Since then I've never seen them again.

2 Q. Who are the Côte d'Ivoire lawyers that you know?

3 A. They're seated here close to you. I saw them during a trial in Côte d'Ivoire.

4 Q. Do you know their names?

5 A. I do not know their names, but I've seen them in Abidjan at the Plateau when there was
6 a trial.

7 Q. Which trial was that?

8 A. It was Madam Gbagbo's trial.

9 Q. Did you follow Madam Gbagbo's trial?

10 A. I was (Redacted)

11 (Redacted), and I sat down there. I didn't see anything in particular. (Redacted)

12 (Redacted) People sat there. They were there. They can
13 confirm that.

14 Q. Did you attend the trial every day?

15 A. As I don't have any work, I went to sit there, to follow the trial. But some days it was
16 difficult for me to walk, so I didn't go.

17 Q. What connection do you have with the soldier called Ali?

18 A. We come from the same neighbourhood. We're all from the same neighbourhood.

19 He knew me when I was in good health, when I had a job. And when he saw that I was
20 injured -- he knew that in the past I had had resources, my own vehicle and when he saw that
21 I was injured and I was walking on crutches, he took pity on me. And that's when he was in
22 touch with me. But I'm not a soldier. I've never fired a single shot.

23 Q. Is he your friend?

24 A. I said he was a young man from the same neighbourhood. He saw me. When you're
25 in the neighbourhood, if you're good, you're a good person, then everyone knows you. He's

1 not my friend. We never did anything together. He, quite simply, did me a favour. He
2 came with Issiaka Diaby, but I never did anything particular with him.

3 Q. Is Ali also an RDR member?

4 A. I cannot answer that, tell you whether he's an RDR militant or not. I'm much older
5 than him. I'm much older than he is. He's a soldier, but I'm much older than him. And in
6 fact, he's not my friend or comrade. He is the one who came with that gentleman. In fact,
7 you have to stay with people of the same age group, and that was not the case.

8 Q. Witness, you've just made an interesting observation. It is indeed the case, is it not,
9 that it's very difficult to see whether somebody belongs to a particular party or not if you
10 don't know them well?

11 A. Yes, that is correct.

12 Q. So when did Ali come with Diaby to see you?

13 A. In fact, things had calmed down. President Gbagbo had been arrested. I went to
14 N'douci. I went to Tiassalé. So I came back from Tiassalé and it was after I came back to
15 Abidjan that they came. President Gbagbo had already been arrested then.

16 Q. Diaby organised meetings of victims involving you, did he not?

17 A. Yes. He organised a meeting, and he said he was going to help the people who had
18 been injured. He gave me his business card, and it said CVCI on the card. I've got it here, if
19 you want to see it.

20 Q. And how many meetings organised at the initiative of Diaby did you attend?

21 A. Here is his business card.

22 Q. Thank you. We don't need it for the moment.

23 PRESIDING JUDGE TARFUSSER: Can we just put on the record that from his stand the
24 witness shows something which he indicates as a business card without us having seen it, just
25 for the record.

1 Please go ahead.

2 MR O'SHEA: Yes. Thank you, your Honour.

3 Q. (Interpretation) So how many meetings did you attend with Diaby and the other
4 victims?

5 A. The first time that I saw him, there were not many people. That was the first time that I
6 had seen him and I said: I'm suffering. My leg is in pain. There is pus leaking, coming
7 out of it.

8 And he said he would help me. He would organise a meeting at the Palmeraie
9 school.

10 And when he organised that meeting, I went. The Ivorian press was there. Each of
11 us explained his or her problem. There were a lot of victims who came. Some had
12 come from Port-Bouët II. Some had come from Dabou road, so each spoke about
13 their own problem or situation.

14 And I explained my situation, I showed them my leg, and I said that I used to be in
15 pretty good health but now I was in pain, I'd spent all of my money and the *RTI
16 filmed my leg and said they would leave with that film footage, and we went back
17 home. So that was the first big meeting with Diaby.

18 Q. And when Diaby said he was going to help you, did he specify how he would help you?

19 A. He told us that he would leave with our files. He'd photocopied our medical files and
20 he said he would give them to the government so that they would help us. So we made
21 photocopies, we gave them to him. And whenever there was a meeting, he would call me.
22 He had my phone number. He also gave me his business card, and I had his number. So
23 we would phone each other, and I would go to the meetings.

24 So we had these meetings, and I said I was in pain and one day he said we're going to
25 give you -- get you treatment. As I was suffering, my leg was so sore I said if I could

1 get treatment, that would be a good thing.

2 And in fact, I stayed there. I didn't see him. He had made these promises, but he
3 didn't keep them, and he did nothing for me, nothing that would have helped me
4 recover my health. And that's the way it is right until this very day. Diaby has still
5 done nothing for me.

6 When he asked me to go to a meeting, I went. I went to all of his meetings.

7 Q. Could you be a little more specific as regards the promises made?

8 A. He said he would help me; he would help me to get out of the difficult situation I was in.
9 He was going to give documents to the government so that we would get compensation.
10 That was the promise that he made. He made promises, and he said he would give the
11 government our files so that they would take care of us, provide us with treatment first and
12 then get compensation. Nothing was done. I wasn't even healed even before thinking
13 about any form of compensation.

14 Q. At that first meeting that was organised by Diaby with you and the other victims, the
15 one that you refer to as the first large meeting, as far as you can recall, was there on that
16 occasion any discussion about the International Criminal Court?

17 A. Yes. I heard about the ICC, but I didn't know how to send my file to the Court.
18 Mention was made of it, but I didn't really believe it. I didn't know how to go about things
19 in order to get here, but I had heard about it. And sometimes on the France 24 TV channel I
20 saw verdicts of the ICC.

21 But if you don't know anyone, who can take your case to the ICC?

22 So that was the situation we were in until the Lord helped me.

23 Q. The acronym "RDR" means Rassemblement des Républicains, does it not?

24 A. Yes, that's correct.

25 Q. And during the questions that were put to you by the Prosecution, you spoke about the

1 acronym Rassemblement des Républicains, and it's something you were always aware of,
2 were you not?

3 A. Yes. In Côte d'Ivoire everybody knows the RDR. Everybody knows the RDR today.

4 Q. And you always knew that RDR stood for Rassemblement des Républicains, did you
5 not?

6 A. Yes, yes. That's the name that I know, but I don't know if there is anything else behind
7 that name. But that is the name that I know.

8 Q. And you can never forget those words?

9 A. Yes. That is where I am today. The president is somebody I love because he tells the
10 truth. And when he says something, he does it. Since he has been in power, we sleep
11 soundly at night, and I love him for that. But the Rassemblement des Républicains, well, if
12 the party disappears, I'm not too sure whether I would vote for them if they were in power
13 unless they change their stance.

14 Q. I think during the previous questions you actually said that you love the current
15 president, or would that be going too far to say so?

16 A. Yes, I love him, because since he came to power, he tries to unite people. He doesn't
17 differentiate or single people out. And since he came to power, we've been at peace. And
18 when you move around, you don't have any problems, any difficulties, and that is why he
19 pleases me.

20 But apart from that, unless there are any other changes, I will no longer vote for the RDR. I
21 voted for them, but that was because I love the president.

22 Q. And you were willing to do a great deal from your soul and within the scope of your
23 abilities for the president. You even volunteered. You did volunteer work for the RDR;
24 isn't that so?

25 A. Yes. Out of my love for him, that is why I took -- or rather, I attended many meetings.

1 And I would use my own money, my own resources when there were meetings. I would
2 pay for renting chairs, for example, for political meetings.

3 But, you see, when I was injured, I didn't get any help, and I was disappointed. And
4 I fought for them, I was injured, and they did nothing for me. So it's difficult for me
5 to trust them.

6 But as far as the leader is concerned, I really trust him. He did not divide the
7 country. He asked or he called upon everyone to help one another out, and I like his
8 vision. I like what he says.

9 Q. And you were a member of the RDR, and you were -- and in actual fact, you were a
10 member of the RDR since 1999?

11 A. That's right. Yes, I have been a member of the RDR since that time. But, you see, I
12 was injured and they didn't help me, so I didn't renew my membership. I didn't renew my
13 membership card.

14 Q. But you have had a membership card since that time, since 1999; isn't that so?

15 A. Yes, I did have a card. I used the card to vote. I didn't get another card.

16 Q. You explained that during these meetings, you would pay for the cost of renting chairs.
17 Was that out of your own pocket? You paid with your own money?

18 A. Yes, that's right, because at the time I had a job, and I used my money for that. And all
19 the people who attended are still alive, witnesses. They can -- they're still alive. They can
20 witness that or testify to that.

21 Q. Now, you yourself organised meetings in your neighbourhood on behalf of the RDR;
22 isn't that so?

23 A. Yes, that's right. You're quite right. I would organise meetings that brought together
24 various people so that we could support one another and support the person we loved.

25 Q. And you also helped people, explained to them how they should vote?

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1 A. Yes, that's right, because we had meetings with young people, and we would explain
2 things to them, which way to vote. We would explain which paper to put into the ballot box
3 and how to provide a fingerprint, for example.

4 Q. And to carry out that exercise, I suppose you had meetings with other people so that
5 you would know what to say when you were explaining to people how to vote. I will start
6 all over again.

7 A. Yes, yes, please do so.

8 Q. Now, the other RDR officials no doubt had small meetings with you so that you would
9 be well trained and you could explain to people how to vote; isn't that so?

10 A. Yes, that's right, *they would explain to us how to vote. They would show us a
11 document. They would explain to us how to vote.

12 Q. How many meetings did you have with people to explain to them how to vote?

13 A. I don't remember. I couldn't tell you how many times we met. We met several times.

14 Q. Well, if you don't remember, is it because it was many times?

15 A. Well, that's what I just said. I don't know how many times we met, but we did meet
16 several times. That is, indeed, what I said.

17 MR O'SHEA: (Speaks English) Okay. Mr President, I'd like to go into partial closed
18 session because I'm going to touch upon something which could identify the witness. It
19 would only be for a few minutes.

20 PRESIDING JUDGE TARFUSSER: Okay. Please, court officer, could you call for the
21 private session.

22 (Private session at 12.37 p.m.)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 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 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Open session at 12.40 p.m.)
- 21 THE COURT OFFICER: (Interpretation) We are in open session, your Honour.
- 22 PRESIDING JUDGE TARFUSSER: The floor is back to you.
- 23 MR O'SHEA: Thank you, Mr President.
- 24 Q. (Interpretation) Now, you just said that you organised meetings with somebody's
- 25 children. You mustn't say the name of that person or your connection to that person for the

1 time being, all right? But you said that with the children of that person, you organised some
2 meetings. Could you explain what kind of meetings you organised?

3 A. Yes. RDR meetings. We were all in the same compound. We had these meetings.
4 At the time I was working, I didn't have a lot of time. *And when I wasn't there, they would
5 hold the meetings outside and afterwards they would report back to me. I didn't have a lot
6 of time. And you see, I was travelling a great deal during that period of time.

7 Q. Now, when the Prosecution was putting some questions to you, you explained one
8 particular incident with the ballot boxes, the ballot boxes of -- well, during the election. Do
9 you remember talking about that?

10 A. Yes, I do remember, but that is not in my statement. I said that once we had finished
11 voting in the afternoon -- it was Sunday *28 November. When the voting was over, we sat
12 down in front of the voting office, and we received confirmation that Laurent Gbagbo had
13 decreed a curfew. And we said to ourselves: Since we are in the neighbourhood and we voted,
14 we are going to stay close by. And so we did stay there at that place and *the gendarmes came
15 to get the ballot boxes at the Palmariaie school. We refused. There were even witnesses to that.
16 And then the UNOCI arrived. They were ashamed and they left. We stayed until the people
17 who were supposed to get the ballot boxes arrived. We followed from the school.
18 They got the ballot boxes at the social centre, they went to the school to leave them there, and
19 then they went to the marché school, Banco II, and we followed until they had put the ballot
20 boxes at the *CEI office. And at the time, you see, there was a curfew at that time, and we
21 insisted for -- that the boxes be moved only in our presence. That is what happened. I
22 didn't say that in my statement, but I did say that here in the courtroom.

23 Q. How many of you were there? How many of you were following as the ballot boxes
24 were being transported?

25 A. I was in my vehicle along with three other people. There was some other people, more

1 people. You see, there were many cars, up to six or seven. But I couldn't tell you exactly
2 how many people were there who followed the ballot boxes. And, well, you know, that was
3 a long time ago, and I couldn't tell you exactly how many vehicles or how many people
4 followed the ballot boxes.

5 MR O'SHEA: For the benefit of the interpreters, I'm going to quote a part of the transcript of
6 the questioning of the Prosecutor of this witness, and I'm going to quote a passage in the
7 English language.

8 THE INTERPRETER: Many thanks from the interpreters.

9 MR O'SHEA: And it's going to be on page 17 from line 4 of the English transcript.

10 Q. (Interpretation) Now, Witness, you said the following when you were answering
11 questions from the Prosecution here in this courtroom. You said this:

12 "And we were keeping an eye on the ballot boxes. Some gendarmes came. They
13 wanted to take the ballot boxes away."

14 A. You asked me the question. That's the answer I gave.

15 Q. My question hasn't come quite yet. This is my question: Now, these gendarmes, were
16 they armed? Did they have weapons?

17 A. Well, can policemen go about Côte d'Ivoire without weapons? That is not possible.
18 When you see a gendarmes in Côte d'Ivoire, they are all armed.

19 Q. How many gendarmes were there?

20 A. I said -- well, I told you what I was doing. We voted, we kept an eye on the ballot
21 boxes. But the number of gendarmes, I can't tell you. How do you expect me -- do you
22 expect me to count the number of gendarmes who were there?

23 Q. There is a good reason, and I will be getting back to that point. I will continue
24 reminding you what you told the Prosecution. I do have another question. This is from
25 line 5 of the same page 17 of the English transcript: "Some gendarmes came and they wanted

1 to take the ballot boxes away. We refused. We negotiated with them, and they wanted to
2 take the ballot boxes by force. They couldn't."

3 Why is that?

4 A. That's not what I said. You didn't listen to what I said. I said that we finished voting.
5 We stayed at the polling office. *The gendarmes arrived to pick up the ballot boxes. We
6 said to them not to do that because there were people with the authority to do that.

7 In the meantime, the UNOCI came. They were ashamed, they left. And the people
8 with the authority did come.

9 I'm not understanding what you're saying. Please ask me questions that I can
10 understand. I'm just telling you the truth. I only am saying the truth. If you wish,
11 I can take you to Côte d'Ivoire with the lawyers, and I can show you everything.

12 Q. Now, if I've understood correctly, and correct me if I am wrong, if I've understood
13 correctly, what I just read out to you from the transcript to the effect that they wanted to take
14 the ballot boxes by force and they were not able to, you're saying that you never said that?

15 A. I don't understand you. I've already said, and you want to change my words now. I
16 don't understand. We're not saying the same thing here, or you're speaking another
17 language I don't understand.

18 Q. Do you agree that you told the Prosecutor when he asked you a question here in this
19 courtroom, do you agree that you said that the gendarmes wanted to take the ballot boxes by
20 force? First of all, look at -- would you agree --

21 A. That's what I told you. And the rest, I don't know. I don't know what you're talking
22 about. But that's what I told you. Right?

23 Q. Very well. Do you also agree that you answered the Prosecution saying that you, you
24 refused. You said that here in this courtroom, yes or no?

25 A. Really, I just don't understand what you are saying. You are changing my words, and

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1 that's not what I said.

2 Q. So you didn't say that? You didn't say here in this courtroom that you, you refused;
3 you wouldn't let them take the ballot boxes, that is?

4 A. I said? I said? What do you want me to say to you?

5 Q. Let me turn to the last part of what I read out to you. I read out from the English
6 transcript of the trial before this bench, and you answered the Prosecutor. You said that they
7 couldn't take the ballot boxes. They couldn't. Did you say that? The other day the
8 Prosecution -- and now you're saying that you didn't say that.

9 A. I said so. I've answered you, and now you're going back to the same words.

10 Q. So why, why couldn't they take the ballot boxes? Why did you say no? What was the
11 reason for them not being able to take the ballot boxes?

12 A. I just don't understand you.

13 PRESIDING JUDGE TARFUSSER: Excuse me. Mr --

14 THE WITNESS: (Interpretation) They weren't allowed to. They didn't have the authority.
15 There were some people who had the authority to get the ballot boxes.

16 MR MACDONALD: Just one question, your Honour, just one note. I'll do this once, and
17 I'm doing it now. The accused are laughing. This is a serious matter. There is a witness
18 on the stand. Nothing is funny in this courtroom. So I just -- no, I'm raising it, your
19 Honours, because -- I'm raising it and I'm saying I'm raising it once but -- because this is the
20 beginning of the trial. These are serious matters. The witness is testifying. The accused
21 may be disagreeing with what he's saying, they may find that laughable, but it's disrespectful.
22 Thank you.

23 PRESIDING JUDGE TARFUSSER: No. Absolutely, yes. I didn't see that; otherwise, I
24 would have done it motu proprio.

25 I would really ask the accused, well, to comment on the inside if they want, but not to

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1 show their disagreement in a matter which is disrespectful to us all, not only to the
2 witness, but to the Court and to all here, all people in here who are working for this
3 case. So please just -- I will say it only once as well.

4 So Mr O'Shea, I would be very grateful that you look at the clock. I think I was very
5 permissible -- permissive, okay? So just go ahead.

6 MR O'SHEA: I'll just say for the record, your Honours, of course the witness has complete
7 liberty to react in whatever way he wishes to my questions, but I just state for the record so it
8 is clear that at the same period of time which it is suggested that the accused were laughing,
9 the witness was also laughing in response to my questions. I'm not saying that he cannot do
10 that. I'm just putting it on record.

11 PRESIDING JUDGE TARFUSSER: Yes, but we are not here to say who is right and who is
12 wrong. The accused should really maintain a little bit serious. He is under -- much more
13 under stress in this moment, so I don't know if he laughs or not laughs, but he has reactions
14 and emotions which I think are -- we can understand, so I --

15 MR O'SHEA: Yes.

16 PRESIDING JUDGE TARFUSSER: Yours the floor.

17 MR O'SHEA: I completely agree with your Honours. I'm not in any way defending the
18 accused laughing. I'm just simply stating on the record that the witness was laughing
19 because, otherwise, it would not be on the record.

20 Q. So is it the case (Interpretation) I beg your pardon. I was meaning to speak in French.
21 Now, is this the case -- is it the case that you, along with the three other people that
22 you were with, that you did something to keep the gendarmes from taking the ballot
23 boxes?

24 A. I told you, but you don't seem to get it. You are twisting my words around. You
25 should take into account my answers to your questions.

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1 No, I didn't talk about three people that were with. I said that we had finished
2 voting, and we were sitting waiting for -- we were keeping an eye on the ballot boxes.
3 But I never said that I was keeping an eye on the ballot boxes with three other people.
4 We were keeping an eye on the ballot boxes. I never said that there were three of us.
5 If you wrote that down, you have to erase it.

6 PRESIDING JUDGE TARFUSSER: Mr Witness, I would like to say to you that it's not for
7 you to instruct counsel how and what he is to answer -- to question, okay? So it's not up to
8 you.

9 If the question is posed in a way which is deemed not to be pertinent or respectful,
10 then it's the Bench, the Judge who will decide on that. But you have to just be calm
11 and answer the questions, okay?

12 So I would say now we stop at this point in time. It's 1 o'clock, just over. We
13 resume at 2 o'clock, is that okay, because we go another two hours.

14 You're looking at me questioning. You want to eat?

15 MR ALTIT: (Interpretation) Your instructions are very clear. I was just wondering
16 whether the Chamber would be deciding about the filing regarding the request for a number
17 of hours per week. That's sort of our plan B. We asked for one day per week; and then if
18 that's not possible, at least a few hours per week - we were talking about the Friday
19 afternoon - to prepare for the following testimony with our client. That question is pending,
20 and I was just wondering whether the Chamber would like to deal with that now or perhaps
21 on a rolling basis.

22 PRESIDING JUDGE TARFUSSER: Well, I didn't have any memory on this pending issue, I
23 must say, so we will not rule now, but maybe when we come back. I thought that to have
24 these weeks in between of the two or three weeks of hearings, continuous hearings and then a
25 week off would have settled your -- obviously this question, but we will -- we will come

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1 forward with something as soon as we come back.

2 And may I just ask how long do you think it will take you?

3 MR O'SHEA: I'll try to answer that as cooperatively as possible, your Honours, the difficulty
4 being I'm in a new regime of constraints, as it were.

5 PRESIDING JUDGE TARFUSSER: Well, it didn't seem to me so much constraint. I'm just
6 saying, okay.

7 MR O'SHEA: Not that your Honours were constraining me, but I am constantly conscious of
8 the ruling your Honours have made --

9 PRESIDING JUDGE TARFUSSER: Yes, but --

10 MR O'SHEA: -- and this affects, obviously, the way I do things, and I don't have experience
11 in that context.

12 But your Honours will see that I have a trajectory in the sense that I'm going through
13 certain stages of this witness's evidence, and I haven't yet reached the march. So I
14 will -- I will certainly have two to three hours, certainly.

15 PRESIDING JUDGE TARFUSSER: Well, that means that we have to go to Monday as well
16 because then we have also the other Defence team to -- Okay. So Prosecutor?

17 MR MACDONALD: Very briefly, your Honours. We're back at 2 o'clock, 2.30, it doesn't
18 matter. We'll be here.

19 The question is maybe the well-being of the witness, in terms of length of hearings,
20 two-hour sessions. If we're back at 2, I understand you'll want to proceed until 4.
21 We may want to have VWU's views on this. I'm just raising it. The length of a
22 two-hour -- maybe we can have a 15-minutes break. I'm sure you can manage that.

23 PRESIDING JUDGE TARFUSSER: The break is always possible, I think, but now if we
24 continue to speak, we will not start at 2 o'clock, of course, but at a later stage.

25 Maître Altit.

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1 MR ALTIT: (Interpretation) Thank you, your Honour. Now, as the Prosecution was
2 saying, it is indeed important to consider the well-being of the witness and to also consider
3 the well-being of the accused persons. I don't want to belabour the point, but if you now
4 consider what the experts recommended during earlier proceedings, they thought that an
5 hour and a half would be -- all in one go would be a maximum. So I would like to ask the
6 Chamber to consider that particular point which was dealt with by experts when you hand
7 down your decision not only about the duration of the sessions but also the need to sit down
8 and prepare for the witnesses of the following week. We mustn't set too fast a pace.

9 PRESIDING JUDGE TARFUSSER: Okay. Now we break. We come back at quarter past 2
10 because we have to empty the courtroom, as I was told, just before 4 o'clock in any case. So
11 now it is a little bit more than one hour and a half. At 2.15 we resume the hearing, and then
12 we will talk about the other things.

13 THE COURT USHER: All rise.
14 (Recess taken at 1.06 p.m.)
15 (Upon resuming in open session at 2.19 p.m.)

16 THE COURT USHER: All rise.
17 Please be seated.

18 PRESIDING JUDGE TARFUSSER: Good afternoon, Mr Witness. Good afternoon to all the
19 parties.
20 We will continue with the questioning by the Defence of Mr Gbagbo. And I would -- yes,
21 nothing. But don't say that you have to adapt to the new ruling because the adaption was
22 really not very -- I didn't realize it so much, but it's okay.

23 MR O'SHEA: I'll never say it again. Thank you.

24 Q. (Interpretation) Witness, I imagine that you're somewhat more rested after the lunch
25 break. So if we could come back to what we were saying before the break. I'll try now

1 come to -- straight to the point.

2 The gendarmes wanted to take the ballot boxes and you refused. What did you say
3 to the gendarme?

4 A. I'm going to repeat what I said so that you understand me and then we'll come to the
5 question, if you don't mind.

6 Your Honour, I'd like to go back over what I said to make sure that I've been correctly
7 understood, if I may.

8 This is what I said: After the elections, on the Sunday evening, we had heard that Laurent
9 Gbagbo had decreed a curfew. And in the different districts people went to keep an eye on
10 the ballot boxes. And that's what we did. The gendarmes came to take the ballot boxes
11 away, but we didn't agree and we said, "You are not authorized to take them." They wanted
12 to take them by force and we said, "Even if you have to kill us, we're not going to let you take
13 the ballot boxes." UNOCI came along, the gendarmes were put in an awkward position and
14 then they left. And those who were to take the ballot boxes came to the districts. So those
15 who had cars, got into their cars.

16 I had a Honda, a four-seater, so that meant that I got in, there were another three seats. I got
17 into my car, there were three others in the car with me. That's what I said. I didn't say that
18 those three people were guarding the ballot boxes, so that's -- that's as it was. And I hope
19 you've understood me this time around.

20 Q. Thank you. So you did not agree to their taking the ballot boxes and you said even if
21 they killed you, you wouldn't agree?

22 A. Yes, that's correct.

23 Q. If the ONUCI people had not come along, what would you have done? What was your
24 intention? How would you have prevented?

25 A. We were going to continue to keep an eye on the ballot boxes. They couldn't have

1 taken them. It was our district, our neighbourhood. And if they were -- if they had had to
2 shoot us down they would have done so, but when you vote you are entitled to protect the
3 ballot boxes until they are taken away to the central office.

4 Q. Did you discuss things with the other people there? Did you talk about what you
5 would have to do to prevent them taking the ballot boxes away?

6 A. There was a crowd. The crowd said that they wouldn't take the ballot boxes. And
7 that was the situation we were in. The ONUCI people came along and when they did, the
8 gendarmes were ill at ease and they left. That's what happened.

9 Q. When you had the RDR meetings in your neighbourhood, did you within the RDR
10 discuss things? Did you talk about what you were going to do to defend yourselves if you
11 were to be attacked by people from the other political party?

12 A. We hadn't allowed for that sort of situation. We hadn't expected it. It just happened.
13 We didn't know that after the election there was going to be a curfew. Nobody could know
14 that there was to be a curfew, for us to get together and then discuss things. That had never
15 been mentioned in the course of meetings. It's not something that was planned and
16 prepared in advance.

17 Q. You had been an RDR member since 1999. So you knew about what had happened in
18 the context of the RDR story, the Côte d'Ivoire story over that 10-year period, and now you're
19 saying that you hadn't anticipated that situation? Please wait for me to finish my question.
20 Wait for me to finish my question, Witness.

21 You said that you had not anticipated that situation. Were you never confronted
22 with that situation before 16 December 2010? Were you never in a situation where
23 the security forces attacked the RDR? Had -- was that something that happened for
24 the very first time on 16 December 2010?

25 A. I said that I had a job. I didn't always attend the political meetings. If I didn't go to

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1 work -- well, for instance, if it was Sunday, if I wasn't travelling then, I would go to the
2 meetings.

3 But saying that politics was my priority, that's not right. I concentrated on my work, on my
4 job. So on days when I wasn't at work, then I would attend the meetings. And if I went to
5 work and if I was travelling, if I was driving around in my truck, then I didn't go to any political
6 meetings. So the different attacks against the RPR *in Yopougon, I don't know when or how they
7 happened. I knew nothing because I was involved in my job.

8 Now, in the party, if I was there, I did attend the meetings. If I was summonsed and I was
9 available, then I would go. That was my duty. Thank you.

10 Q. From what you've just said, because you weren't always present at the meetings, you
11 are not in a position to confirm everything that happened at the RDR meetings; is that not
12 correct?

13 A. That is correct. That is, indeed, the case.

14 Q. But during the meetings that you attended or organised, and please answer my question,
15 were there ever any discussions about what had to be done if there were to be an attack by the
16 security forces? So over the 10-year period when you would attend those meetings, did such
17 discussion ever occur? Is that what you're saying, that it didn't ever happen?

18 A. Well, you know, if you have got nothing in your hands, if you're bare handed, you're
19 just a militant. If someone comes to attack, all you can say is that you don't want to be
20 attacked. I was in the RDR and I didn't see anyone come along with a weapon, a rifle, or a
21 knife defending us.

22 We had meetings but it wasn't expected that anyone would come and kill us, but if it had
23 happened afterwards, well, I can't say that we'd prepared anything to face such a situation.
24 We had prepared nothing like that at any meeting saying, oh, if we're attacked, this is what
25 we have to do. I never heard such a thing at any of the meetings.

1 Q. Thank you. Listen to my question, please. As far as you're concerned 16 December
2 2010 was the very first time where the RDR was attacked by the security forces, that was the
3 very first experience of such a situation for you; is that correct?

4 A. You're talking about where the voting was carried out or where I was injured? Where I
5 was injured, or after the voting where the gendarmes wanted to take the ballot boxes? Could
6 you please clarify your question.

7 MR MACDONALD: I'll stand up, your Honour, for comment or -- I think my colleague -- I
8 understand your ruling, my colleague is testing the waters, but I think he could also
9 reformulate his questions to be a little bit clearer. What he's asking is easy to ask and I
10 understand he's going quite a road to do that.

11 PRESIDING JUDGE TARFUSSER: Yes. I am surprised that you are saying this. But I
12 think the same, that sometimes questions could be more straightforward without all this
13 premise -- without premising lots of things, just ask the question and wait for the answer. I
14 would very much suggest you to go more to straight questions, straight-forward questions
15 instead of -- as far as possible, of course.

16 MR O'SHEA: As your Honour pleases.

17 Q. (Interpretation) Witness, I'm going to put my question again. On 16 December 2010,
18 at the time when you were injured and you said that it was because of the security forces of
19 the Côte d'Ivoire, on that day, was that the very first time that you had seen a situation where
20 the security forces attacked the RDR?

21 A. Yes. Seeing people being shot at, that was the very first time I saw that. It was the
22 first time I'd been on a march and the marchers were fired at. The demonstrators had
23 gunshots fired at them.

24 Q. And if I put it to you that at the RDR political meetings there was arms training that was
25 organised, teaching people how to use firearms, what would you say to that?

1 A. I've told you that I'd never held a weapon in my hands since the day I was born. I've
2 told you that. That's not my job manipulating weapons. Maybe you're talking about other
3 people, but not me. I have never learnt how to use a weapon, and the RDR never taught me
4 to do that. I never said that. So I can say nothing as regards manipulation of weapons.
5 I'm a driver, I can drive cars, trucks, but firing a weapon, no, I've never done that. And you
6 can ask people. Even when I had treatment refused to me, they said, oh, you're not a soldier.
7 I was never involved in any armed forces. I was told that it was the soldiers who were
8 injured who were being treated, but I wasn't a soldier and I've never fired a weapon.

9 Q. You said that your experience of soldiers is to do with the fact that you drove a truck
10 delivering petrol and that you met them, you came across them.

11 A. Yes. I know some who were guards at the place where we loaded the petrol. I loaded
12 it at the GESTOCI, which is a state company. There are police who are there to guard it
13 during the day, and at night the gendarmes, the commandos come along. And when we're
14 loading it's the customs officers who prepare the loading papers. I know how to differentiate
15 between the different uniforms. When there are problems in front of the GESTOCI the BAE
16 comes along, and that's what happened, and we saw that there were gendarmes by the
17 roadside.

18 *The Republican Guard's camp is in Treichville. Before crossing the second bridge, we
19 would go past their camp. That's where we saw them. That's how I recognized
20 their uniforms. But I'm not a soldier. I certainly wasn't in the army.

21 Q. The other day you were explaining how to load a rifle because you said that you saw the
22 soldiers doing this. So have you also seen how a rifle is cleaned? Have you seen that?

23 A. No. I didn't say I'd loaded it. He asked what type of weapon and I said that it was
24 big and there was a sort of magazine underneath it, but I didn't say that I'd seen the weapon
25 being loaded. I said it was a long weapon, something beneath it, and I said it looked like this,

1 and this is what you put the bottom part of the weapon, that's what I said. I didn't say that I
2 saw anyone assembling or dismantling a weapon. I don't even know how to dismount a
3 weapon.

4 Q. So you have never seen anyone loading a weapon and you've never done it yourself?

5 A. No, I've never done it myself; that's correct. I've never done it.

6 Q. And you've never seen anyone else loading a weapon?

7 A. But that wasn't my job. I'm not interested in that. I'm not interested in weapons.

8 What do you think I'm going to do with a weapon? Nothing to do with me. That's not my
9 job. I'm a driver. So I would drive my vehicle to feed my family. If you can talk about
10 cars or vehicles if you want, but you can ask anyone who knows me, I have never fired a
11 weapon and they know that.

12 Q. And yet you know how it's loaded.

13 A. I said I don't know. I said that there's a weapon and that something is placed beneath
14 it. That's all. I've never fired a weapon. I saw what happened when he was holding the
15 weapon. And then that's what I said to you. I mean, other than that, I don't know
16 anything.

17 Q. You explained that before the march, on 16 December 2010, you had heard a message on
18 the radio, it was a message from Guillaume Soro. And you recognized his voice as being
19 that of Guillaume Soro, did you not?

20 A. Yes.

21 Q. Now as regards the radio message, you didn't hear anyone saying that it was Guillaume
22 Soro who was going to speak, did you?

23 A. It was the ONUCI radio.

24 Q. So at that moment, you recognized Guillaume Soro's voice, is that right, and that's how
25 you knew it was him?

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1 A. Yes, I knew. I recognized his voice.

2 Q. And you didn't know because someone had introduced him? You didn't hear someone
3 saying, "We're now going to hear from Guillaume Soro who's going to make a speech"?

4 A. No. I heard his voice and I recognized him because he often spoke, he was prime
5 minister. So we would hear him on the television and radio. I knew his voice. He was
6 prime minister and that's how I recognized his voice. There was no -- it's not true to say that
7 I knew for some other reason. Nobody introduced him. I mean, once I know someone, if I
8 hear their voice, then I recognize their voice, but I have no connection with him and he doesn't
9 know me.

10 Q. So when you were listening to Guillaume Soro's message on the radio, is it true that you
11 heard part of the message but not the entire speech?

12 A. What I heard is what I've told you. He said he asked the Ivorians who'd voted for the
13 RHDP, on 16 December 2010, to gather in front of the RTI with bare hands. They had to raise
14 their hands to show Laurent Gbagbo that the Ivorians had voted but had not elected Gbagbo.
15 They elected Alassane Ouattara. And the idea was to beg Gbagbo to stand down and he
16 could stand again five years later. That's what I heard and that's what I've said. I didn't say
17 anything else.

18 Q. And you started to listen to the speech on the radio halfway through; in other words,
19 when you started to listen he was already speaking?

20 A. That is what I heard. If I'd heard any other part of the speech I would have told you.
21 The part that I heard is what I've told you. I didn't hear anything else.

22 Q. Answer the question.

23 MR MACDONALD: I'm objecting. I'm objecting here. Sorry. The witness is answering
24 the question, okay. So it may not please the listener who's asking the question, but the
25 witness is answering.

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1 PRESIDING JUDGE TARFUSSER: That is what I think. I just refrain myself very much, I
2 must say, that this is what I think and, therefore, I ask you to go ahead because he answered
3 this question. It can't be that you -- if he answers -- if he answers the way you don't like, you
4 insist until he says something different. I mean, that is what I understand on the leading
5 questions, by the way.

6 I just think that once you have tried in every way, that's -- the answer is the answer
7 the witness gives, and then we discussed about it on the credibility, of course, but
8 this -- that's why I would ask you to go further.

9 MR O'SHEA: Yes, I can move on, your Honour, but I -- I didn't get an answer to the question
10 I asked. The question I asked was as follows: When you listen to the radio and you
11 listened to Guillaume Soro, he was already talking when you started to listen. I didn't get an
12 answer to that question, but I will move on, on your Honour's direction.

13 PRESIDING JUDGE TARFUSSER: No. But I'm happy if you put the -- again the question
14 this way. The question is, did he already listen to the radio and then at a certain point this
15 Guillaume Soro intervened with a speech or not? This is somehow the question I think.
16 Can this be?

17 MR O'SHEA: The question is this: When he heard Guillaume Soro's voice, was Guillaume
18 Soro in the middle of speaking, or did he hear the whole of the speech of Guillaume Soro.
19 That's the question.

20 PRESIDING JUDGE TARFUSSER: Yes, but he answered saying I heard only that part and
21 that's it.

22 MR O'SHEA: Well, if that's his answer, then that's fine.

23 PRESIDING JUDGE TARFUSSER: This is the answer I understood.

24 MR O'SHEA: All right. Well, I've perhaps misunderstood the evidence. That's fine. Fine.
25 I'll move on.

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1 Q. (Interpretation) Now, Guillaume Soro spoke in French, of course?

2 A. Yes, that's right, the speech was in French.

3 Q. And you understood everything he said fully?

4 A. I understood. When people speak French I understand. I didn't go to school. My
5 French isn't good, but when I -- but when French is spoken I understand.

6 Q. Do you understand it well?

7 A. What I heard is what I told you. I don't know if he said something else after, but the
8 part that I heard I have told you about. It is possible that he may have said something else
9 afterwards, but I didn't hear that.

10 Q. Do you know who put Mr Guillaume Soro in the government, who appointed him?

11 A. I'm not a minister. I saw him on the television. I don't know who put him in the
12 government. He doesn't know me. I don't know him. I just recognize his voice. But if
13 you live in a country and see authorities on the television you recognize them.
14 I may not be educated, but I can recognize the voice of someone. If I've seen
15 someone I remember. All drivers have that ability. Once you've seen someone
16 once, you don't forget that person.

17 Q. Do you know the ethnicity of Guillaume Soro?

18 A. Yes, I do know the ethnicity. Niarafolo coming from Ferke. (Redacted)

19 Q. And do you know what religious faith he follows?

20 A. I'm told he's Christian, but I did not ever see him at the church. I heard that he was
21 Christian.

22 Q. Were you aware that Guillaume Soro was responsible for a group of rebels, armed
23 rebels?

24 MR MACDONALD: (Interpretation) Objection.

25 THE WITNESS: (Interpretation) When I heard his voice, he was prime minister, Gbagbo's

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1 prime minister. That's what I said. Yes. I never went to a rebel area. *During the entire
2 time they were, there I didn't go. I only went to San Pedro, Bondoukou, Abengourou and
3 Aboisso, I never went to a rebel zone, never. I have never gone to their territory, so I really
4 can't say anything at all about the rebellion. If I were to say something about the rebellion, I
5 would be lying. I never drove my vehicle into a rebel area.

6 MR O'SHEA:

7 Q. (No interpretation)

8 A. (No interpretation)

9 PRESIDING JUDGE TARFUSSER: Excuse me. We are not getting the translation in
10 English.

11 THE INTERPRETER: Message from the interpreters: We may have not turned on the
12 microphone because there were a number of people speaking at once. Our apologies.

13 PRESIDING JUDGE TARFUSSER: Sometimes you make also mistakes, good. So we are on
14 the same page. Okay. But I think we can read from the -- from the transcript or could
15 you -- could you please read from the transcript so that everybody can -- in English? Thank
16 you.

17 THE INTERPRETER: Message from the interpreter: The last reply from the witness was as
18 follows: "I have no idea. I am not a soldier. I told you that when I was wounded, there
19 was a great deal of upheaval in Abidjan. I went to (Redacted), about 30 kilometres away from
20 Abidjan. *I went and stayed there until Gbagbo was arrested. Whether there were rebels or
21 not *in Abidjan I don't know. They did not come when I was in Abidjan. I have no idea
22 whether they shot at anyone."

23 PRESIDING JUDGE TARFUSSER: Excuse me. Just one thing. Can it have been 130
24 kilometres as I understood from the witness instead of 30 kilometres?

25 THE INTERPRETER: Message from the interpreters: Perhaps the question could be put

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1 again so that the witness can shed light.

2 PRESIDING JUDGE TARFUSSER: Mr Witness, you talked before about a distance from
3 Abidjan of a certain amount of kilometres. How many kilometres did you say?

4 THE WITNESS: (Interpretation) 130 kilometres.

5 PRESIDING JUDGE TARFUSSER: Well, that's why I'm Presiding Judge as well. Sorry
6 about that.

7 But 130 kilometres. Thank you.

8 The floor is again to the Defence.

9 MR O'SHEA: Thank you, Mr President.

10 Q. (Interpretation) Did you hear about heavily armed men at the Golf hotel during that
11 period during the elections?

12 A. No. I was not aware of that because as I told you, everything that has to do with
13 weapons really has nothing to do with me. Even before I was wounded, I would watch
14 television and that's all. I know absolutely nothing about what happened at the Golf hotel.

15 Q. And you don't know anything about the fact that there were pro-Ouattara armed men in
16 Abidjan? You knew nothing about that at the time? That is your position?

17 A. I said that my leg was hurting me. I was having pain. After I was injured, I rested
18 and I tried to take care of myself. I went to (Redacted) and I stayed there. I would stay at
19 home, I would listen to the radio, and I wasn't following the situation. Other than what I
20 saw on television, I did not know anything about what was going on in the city. I wasn't
21 there.

22 Q. And you did not hear on the television that Ouattara's armed men were in Abidjan?
23 Did you hear about that on the television?

24 A. Yes, but I was really no longer interested in the television. You only pay attention to
25 things that concern you. I had a broken leg. I stayed at home. Whether they had weapons

1 or not, that's their business. All of that was going on when I wasn't in Abidjan. The
2 soldiers clashed in Abidjan. I was not there and I was watching the television. I
3 can't -- well, I couldn't spend all my time in front of the television, so I can't tell you
4 everything that was on the television. I can't tell you anything whatsoever about that
5 situation. I don't know what was going on in Abidjan. Only people in Abidjan knew
6 or -- well, perhaps you should ask people who saw what happened there and ask them what
7 happened.

8 Q. So you did hear, judging by your last answer, that soldiers were clashing, facing off in
9 Abidjan.

10 A. I saw that on the television. That's all I saw on the television. I saw the images on the
11 television. As for the rest, I really don't know.

12 Q. And you were talking about the time when you were wounded, but before you were
13 wounded, before 16 December 2010 and the years before that date did you have knowledge to
14 the effect that -- that there were armed people supporting Ouattara? Were you aware of that
15 during those years that you were a member of the RDR? Were you aware of that or not?

16 A. I don't know about that. I was doing my work because those things didn't interest me.
17 *Everything having to do with guns and shooting and firing weapons, none of that was going
18 to put food on the table. I helped. I helped with the voting, I took part in the voting, but as for
19 activities related to weapons, I did not take part in any of that. I was just doing my work.

20 Q. Well, you see, Witness, I must put it to you that a man who was in your position, even
21 though you were working since you were a member of the MDR with a membership card
22 during all those years, I must put it to you that it's incredible for you to say that you don't
23 know anything about Ouattara's armed men.

24 PRESIDING JUDGE TARFUSSER: But excuse me, please. This is your consideration. This
25 is not a question.

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1 MR O'SHEA: I'm putting --

2 PRESIDING JUDGE TARFUSSER: This is a consideration. It's your conclusion of what the
3 outcome is.

4 MR O'SHEA: Yes. I'm putting my case to the witness and giving the witness an
5 opportunity to respond. I'm saying that it's incredible for a man in his position to be making
6 this suggestion.

7 PRESIDING JUDGE TARFUSSER: Well, it might be credible or incredible, but that's the
8 conclusion you are getting from what he has said or not said now, but that's -- that's good --

9 MR O'SHEA: Yes.

10 PRESIDING JUDGE TARFUSSER: -- but that has nothing to do with the fact -- with the
11 question or with the facts he has to answer about.

12 MR O'SHEA: Your Honour, normally when -- when one conducts the cross-examination,
13 there comes a point when one puts one's position to the witness to give the witness a final
14 opportunity to react, and that's what I've done. So I'm asking the witness to react to my
15 suggestion that it's impossible for a man in his position not to have known of the existence of
16 armed men supporting Ouattara.

17 PRESIDING JUDGE TARFUSSER: Yes, but --

18 MR KNOOPS: Mr President.

19 PRESIDING JUDGE TARFUSSER: Please.

20 MR KNOOPS: Sorry to interrupt.

21 PRESIDING JUDGE TARFUSSER: But I don't know, I don't know whether it's -- I don't
22 know why you would interrupt in this --

23 MR KNOOPS: Well, I have to say, Mr President, with all due respect, if the Court is not
24 going to allow the Defence to put its own case before the witness --

25 PRESIDING JUDGE TARFUSSER: No, come on. This is not -- no.

1 MR KNOOPS: -- then --

2 PRESIDING JUDGE TARFUSSER: This is exaggerating. Please, please refrain. I just said
3 this is not a question. The witness is here to answer to questions. Then the lawyer is here to
4 take -- to consider whatever he has to consider like everybody in the courtroom, or the OTP,
5 the LRV and the Judges, if it's credible or not. This is not a question you're putting. This is
6 what I say. And to my understanding, the witness is here to answer questions.

7 MR O'SHEA: Well, I'm happy not to take it any further, your Honours, but it is a question.
8 It's a question put to the witness. I'm basically concluding that what the witness -- what the
9 witness is saying is, in the reality, an impossible position for him to take. And yes, that's a
10 conclusion in the form of a question.

11 I'm putting my case to the witness and giving the witness an opportunity to react, but
12 I'm happy to move on without the witness reacting, without -- without the question
13 being put to the witness, if that's what pleases Your Honour.

14 PRESIDING JUDGE TARFUSSER: Well, the problem is it's not a question. That's what I
15 say.

16 MR O'SHEA: Well, it's not a question in the sense that it ends in a question mark, but it's a
17 proposition.

18 MR MACDONALD: Your Honour, if you allow me to intervene, maybe I can shed light on
19 this. First of all I think in Mr O'Shea's culture, adopted by Mr Knoops, putting one's case is a
20 very truly what I say classic common law position. In my system you don't need to put one's
21 case. You put your question, you had your answer, you will have an opportunity to argue in
22 your closing brief that this witness is not credible because you feel that the evidence on record
23 contradicts them and that's it. The witness answered. He gave his answer. So I think in
24 the context of the directives that I've been given and the latitude that we have so far, it is clear
25 that we don't need to put one's case to the witnesses. And this we'll be putting in our closing

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1 briefs.

2 MR O'SHEA: I'll just move on, your Honour.

3 PRESIDING JUDGE TARFUSSER: Thank you.

4 MR O'SHEA: (Interpretation)

5 Q. Mr Witness, you said that Mr Soro had explained to you what you were supposed to say
6 to Mr Gbagbo. Could you tell us once again what Mr Soro told you should be said to
7 Mr Gbagbo?

8 A. I told you that Soro made an announcement, a message on the ONUCI radio station
9 asking people from the RHDP to assemble in front of the RTI and to show Gbagbo that the
10 people of Côte d'Ivoire had made their choice and that this time they had not chosen Laurent
11 Gbagbo but, rather, Alassane Ouattara and that he should be reasonable and wait five years to
12 run again. That is what I heard from Mr Soro directly, from his very mouth.

13 Q. And to get this message across to President Gbagbo, did you take some signs with you
14 to the demonstration with messages to the -- any signs or placards?

15 A. No. There weren't any banners or anything like that. We raised our hands and we
16 showed our bare hands and we asked Mr Laurent Gbagbo to wait five years to run again.
17 We did not have any signs or banners.

18 Q. You knew, you, your -- your loyalty was with Mr Ouattara, but all the same you knew
19 that Mr Gbagbo had many people who supported him as well. You knew that, didn't you?

20 A. Well, this is not controversial. Laurent Gbagbo is here. If you are in a party and the
21 people are following you, you should know what is going on, you're not the only president.
22 He wasn't the only president. No president stepped down in Côte d'Ivoire. Even Bédié
23 resigned. If part of the population no longer wants you, you should step down and see
24 reason, but when you see people die and you insist even when your two children are killing
25 one another, you have to find a solution.

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1 He's here in the courtroom, so why -- why was the international press kept away? Why did
2 he deprive the international press as a leader? He can't take an apprentice to be his -- as his
3 adviser. That's going nowhere. He is here in the courtroom. All kinds of problems are
4 being mentioned. He's familiar with the problems. People were being killed and he did
5 nothing.

6 Q. Is Mr Gbagbo a democrat in your view?

7 A. That's not my concern. I know how many people died. These were real people, living human
8 beings. *Now he has hired some lawyers. He insulted the French. Today he is being defended by
9 French lawyers, isn't that so? He - How do you expect me to know? My leg was broken, other people
10 lost a leg or their sight, and if someone did that to him would he have accepted that?

11 Everyone can be -- anyone can be angry, but when the situation can't be controlled, you
12 should have some -- you should take an African perspective, not a Western perspective.

13 *He's not better than Henri Konan Bedié. Why did that man step down, but he couldn't?

14 Q. So you thought if -- if you, the people who supported Ouattara, had marched upon the
15 RTI, if you did that, that Mr Gbagbo would understand and would draw -- step down from
16 his position. Is this what you're telling the Court? Was that your motivation?

17 A. That's right. If you try to deceive people, even if you don't do it by way of force, you
18 can just ask people not to kill one another and to have some kind of dialogue and call upon
19 young people to go back home and we were -- and that there would be some kind of dialogue,
20 call in the French or the Americans, and the situation could have been brought under control.
21 No problem doesn't have a solution. Don't you see?

22 If he had been able to keep his position by force, he'd still be president, but dialogue is
23 important. If he had listened to the French, or if he had called upon the Americans. But
24 you can't be a leader, a boss, and ask some apprentice to be your adviser.

25 PRESIDING JUDGE TARFUSSER: Mr Witness, slow. Slow down.

1 THE WITNESS: (Interpretation) He should have considered the situation, people had died,
2 that these were human beings, living human beings. He should have said let us have a
3 dialogue with important people. Let's find a solution with dialogue. Everything -- you can
4 solve things, but now -- well, this is what -- if you don't -- if, at the time, you show some sign
5 of reason, he could have benefited from that situation. No one is born a president. The
6 people vote for someone to be president. If the people say they no longer want you, you
7 have to be reasonable or try to set up some kind of dialogue and finally come to some kind of
8 agreement.

9 PRESIDING JUDGE TARFUSSER: Again, Mr Witness, please slow down; otherwise, the
10 people up there who are working for us drive mad.

11 MR O'SHEA: (Interpretation)

12 Q. Witness, please try not to give a speech. Just answer the question.

13 You know that when you are going to organise a march upon the RTI -- well, you
14 knew full well that Mr Gbagbo was not going to step down just because of a march.
15 That wasn't your motivation.

16 A. No. Gbagbo is a human being and every human being can reflect. If he had seen the crowd, he
17 would have changed his mind or his advisers would have said to do that. *But I was not in a position
18 to know that he would see that crowd and not change his mind. I was not in a position to know that.

19 Q. Now, isn't it the case that your true intent, your intent and the intent of the other people
20 taking part in the march was to storm the RTI, take it by force? It had nothing to do with
21 Mr Gbagbo and his intentions. That's the truth. That's the real -- that's the reality of it, isn't
22 it?

23 A. That we were going to take the RTI by force? With what? People with bare hands?
24 Everyone was lifting their hands up and showing their bare hands. If we had weapons or
25 blade -- or knives, but we had nothing. We had no weapons. How could we have taken the

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1 RTI by force?

2 Q. But you knew that there were armed men with you. You know that?

3 A. I told you that we got to the RDR headquarters and we were told no one should have a
4 weapon. Even if someone insults you, don't respond. If someone hits you, don't respond.
5 No one had anything, not even a needle;* in any event, the people I saw.

6 Q. The message that you were talking about, Guillaume Soro's message, was that the only
7 message by Soro that you heard before the 16th? Did you also see Guillaume Soro on TV or
8 did you hear him on the radio on some other occasion?

9 A. On that day we had no access to international press, other than the ONUCI radio, so
10 everything I heard is what I've already told you about. I didn't hear anything else at all from
11 the mouth of Soro. So that is what we did. We marched following his instructions and I
12 didn't hear anything else. Even if he said anything else, I didn't hear it. And what I did
13 hear is what I've told you.

14 Q. And if I put it to you that Guillaume Soro's real message was to use all means possible
15 to topple those in power and to take the RTI by force, you would not agree with me?

16 PRESIDING JUDGE TARFUSSER: And I would not agree with this question, this is not a
17 question. It's again an assumption. It's not a question.

18 I think the witness, a witness is here to talk about facts, not about feelings or about thoughts
19 or about -- but about facts and this is not a question where he has to answer on the fact. This
20 is my --

21 MR O'SHEA: Well, I'm putting to the witness what the actual message of Guillaume Soro
22 was at the time and --

23 MR MACDONALD: Objection. Objection. Objection.

24 PRESIDING JUDGE TARFUSSER: But you have to put to Soro his -- and not to a witness
25 who has nothing to do with Soro, as he has said. He has never met him, never seen him.

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1 He has only listened to him on the radio. I mean I really find it a little bit disbalanced.

2 MR O'SHEA: So Your Honour's position, as I understand it, is that I cannot challenge what
3 he heard on the radio? Because I'm suggesting to the witness that what he heard on the
4 radio included a suggestion of using force. But I'm not allowed to put that to the witness?

5 PRESIDING JUDGE TARFUSSER: Of course you can. But then ask him if -- ask the witness
6 if he, in this -- in what he heard, there was also what you are saying he should have heard. I
7 don't know. I haven't heard it, so.

8 MR O'SHEA: That's what I thought I asked.

9 Q. (Interpretation) Witness, when you heard Guillaume Soro on the radio, did he not say
10 that the time had come when it would be necessary to use force?

11 A. Not at all. Maybe that happened when I left Abidjan, because I was ill and I don't
12 know what happened during my absence, but as far as I know, I know what I heard and that's
13 what I've told you. I didn't hear anything else otherwise I would have mentioned it. I told
14 you everything that I knew, so I can't add something if I don't know anything about it.

15 Q. I'm going to show you some video footage.

16 Can I finish and then you can object?

17 There will be a legal argument about this shortly, but I'd like to show you video footage of
18 Guillaume Soro talking, and I'm going to ask you whether that was a message that you heard.

19 (Speaks English) Mr MacDonald can take his objection.

20 MR MACDONALD: Now, your Honours, the Prosecution objects because of different
21 reasons, including --

22 MR KNOOPS: Mr President.

23 MR MACDONALD: -- the authenticity of the video itself.

24 MR KNOOPS: Mr President, I think if objections are being raised and they go to the
25 substance of evidence, the witness should be -- should not be in the courtroom.

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1 MR MACDONALD: It would be wise, I think on this point, and it may take a while.

2 PRESIDING JUDGE TARFUSSER: We could just (Microphone not activated) -- sorry. Then
3 we have to suspend because at 4 o'clock we must evacuate. If this takes some time, we have
4 to deal with this, then we have to deal with what Mr Altit has asked about the sitting, and
5 then we have to deal with the request of dealing with something in private or closed session
6 by the Prosecutor, so we have 35 minutes to do this.

7 MR O'SHEA: There is another solution, your Honour.

8 PRESIDING JUDGE TARFUSSER: Which one?

9 MR O'SHEA: The witness can simply take off his headphones and we can speak in English.

10 PRESIDING JUDGE TARFUSSER: No, but then we have also to do -- I would have stopped
11 you in any case at 3.30 because we have to do these other things, so -- and as we don't finish
12 this witness today, it's useless to continue. We stop it here. The witness will come back on
13 Monday, 9.30 when we continue and we deal with the other matters, with these matters
14 opposed by the Prosecutor and with the other two matters I still have on my agenda. Is that
15 okay?

16 So court usher, I would say we -- Mr Witness, we suspend now your testimony and
17 we resume your testimony, we will continue your testimony on Monday morning
18 because we have to deal with other things urgently, so I will accompany you outside,
19 back and you will come back here on Monday morning, okay? Have a good
20 weekend.

21 THE WITNESS: (Interpretation) Thank you, your Honour. I've understood.
22 (The witness stands down)

23 PRESIDING JUDGE TARFUSSER: Mr MacDonald.

24 MR MACDONALD: Just to be clear that we're on the same page, could we have the ERN
25 number of the video that is intended to be shown?

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1 MR O'SHEA: It's CIV-D15-0001-3756. Is that wrong? Sorry. I'm sorry, that was a
2 mistake. It's CIV-D15-0001-0570.

3 MR MACDONALD: What is the metadata that you have for that because that's -- the first
4 thing that we need to clarify, your Honour, is the metadata because this video is also on the
5 Defence's list of Mr --

6 PRESIDING JUDGE TARFUSSER: Blé Goudé.

7 MR MACDONALD: -- Blé Goudé, if I'm not mistaken, and they have different metadatas for
8 the same video, and I'll tell you why.

9 If I'm not mistaken, on the Gbagbo Defence team the estimated date that this would have been
10 shown is on 17 December. Not filmed, shown.

11 In the Blé Goudé Defence, and this is what we have also in our own disclosure, it was shown
12 for the first time on the RTI on 29 December and a second time, or in loop, on 30 December.

13 Now this video was shown at the confirmation hearing. And what I'm saying was
14 already argued at that moment. We believe and we will argue that that video
15 is -- sorry, I'll turn the volume down. This video is a collage, or without using the
16 word montage, of excerpts to make it presented in a way and portray certain things
17 not necessarily the way they took place.

18 Also, what is very important to know is that, and it's something I want to clarify immediately
19 for the record, Forces Nouvelles were obviously in Abidjan and we know -- we will
20 demonstrate why because during the elections FDS from the south went to secure the north
21 and Forces Nouvelles came to secure elections in Abidjan, that was an understanding, and
22 with the UN involved. So that explains why you had Forces Nouvelles forces including at
23 the Golf.

24 So that being said, the first point is that video was never shown or heard, we submit, on RTI
25 or any news channel before 29 December after the march took place, and that's what we want

1 to demonstrate and what we're capable of demonstrating. So, therefore, I want to -- because
2 that's what the Gbagbo -- sorry, the Blé Goudé Defence team have on their list and the Gbagbo
3 Defence team has a different and it's an estimated date. So we need certainty as to when it
4 was shown to the CIV -- sorry, to the Côte d'Ivoire public population. When, on which
5 channel, in which context, what time and so on because right now our evidence shows,
6 demonstrate otherwise.

7 MR ALTIT: (Interpretation) Thank you, your Honour. I just want to try to understand
8 what it is that Mr MacDonald wants. Now, if I've understood correctly, the question is not
9 what's in the video, the question is at what moment was that video that we're talking about
10 broadcast on the RTI; is that the question?

11 MR MACDONALD: The -- to be clear, it's both. We submit it was shown on RTI on a
12 given date, that one, that excerpt on 29 December, and we submit that it's a collage, or a
13 montage, of excerpts with a voiceover, a comments, that do not convey the actual events and
14 what was taking place on those images, so it's both. Both.

15 MR ALTIT: (Interpretation) Your Honour.

16 (Trial Chamber confers)

17 PRESIDING JUDGE TARFUSSER: Maître Altit.

18 MR ALTIT: (Interpretation) Thank you, your Honour. I've fully understood the first part
19 of what my learned friend has just said. I have less understanding for the second part of
20 what he said. We had disclosed part of the same extracts in 2013 at the confirmation of
21 charges hearing and unless I'm mistaken, of course, I might have got it wrong, nobody said
22 anything. Nothing was challenged. And what is more, the very content of the videos, what
23 the Prosecutor is not happy with here, in other words what was said by Guillaume Soro, was
24 never discussed by anyone. There was no challenge of the authenticity thereof by anyone.
25 Now, I fully understand the technical issue and we will I'm sure come back to that on Monday,

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1 but I leave it to you, of course.

2 PRESIDING JUDGE TARFUSSER: The other parties on this? Mr Knoops?

3 MR KNOOPS: Mr President, we observe that the video in question was disclosed by the
4 Prosecution with CIV number OTP-0064-0101. So I believe it was also the Prosecution's own
5 disclosure, the same video. And the metadata was of 30 December 2010. If I'm not correct I
6 hear it from you.

7 MR MACDONALD: That's it. And just to come back on your directives that you orally
8 mentioned three days ago now, or Wednesday, you need -- the Defence needs to indicate the
9 provenance, the metadata basically.

10 PRESIDING JUDGE TARFUSSER: Legal representative?

11 MS MASSIDDA: We support the objection by the Prosecutor, your Honour, for the same
12 arguments essentially.

13 PRESIDING JUDGE TARFUSSER: I might have misunderstood something but if I read from
14 what the -- from what Mr O'Shea has said to the witness, I'm reading -- I'm quoting: "I'm
15 going to show you a video footage. Can I finish and then you can object? There will be a
16 legal argument about this shortly, but I'd like to show you video footage on Guillaume Soro
17 talking and I'm going to ask you whether that was a message that you heard."

18 As far as I know, from what was said in this, we are talking about one message he
19 heard on the radio. We are talking about that one. Is this the case? Because
20 otherwise then we don't show anything but we just listen to it and we say is this the
21 message you heard, if this is the question.

22 MR O'SHEA: Well, the message on the radio, it would appear, may have been a speech, so it
23 might have been the same message. We don't know. But the point of the exercise is to
24 confront the witness with a message from Guillaume Soro about the very same march, which
25 does not correspond with how the witness is describing the message of Guillaume Soro and to

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1 get the witness's reaction.

2 The witness can either say, well, you've misunderstood me, that is, in fact, the same thing as
3 he was saying on the radio, or he can say, well, I've never seen this before and this is
4 completely different.

5 But the point is that what is in -- what Guillaume Soro is saying on that video is quite different
6 to what the witness is portraying to us in -- or to you, the Chamber, and so I want to confront
7 the witness with -- with this message, whether it's the same message or not, I don't know, and
8 get the witness's reaction. Because it's our case that the intention of Guillaume Soro was to
9 take over the RTI by the use of force on the basis that Laurent Gbagbo was not willing to go,
10 that they'd done everything in their power to persuade him to go, but he wasn't willing to go
11 and that the time had come to use force, which is quite a different message.

12 MR MACDONALD: Very briefly, your Honour, because it's one of these debates that we're
13 having now that obviously I don't think we'll need in the future.

14 There's a question also of submitted and admitted, okay? I don't want to come back on your
15 decision but I'm mindful of that. We cannot, at this stage, submit evidence and that's what
16 the Defence is trying to do. They're trying to introduce via this witness also, as a third
17 motive, this video and get it submitted. And there's no link. We can discuss it. Does it
18 need to be significant link, nexus, whatever, but the point is, at this stage I think you put your
19 finger on it. The witness said: I heard on the radio and this is what I heard.

20 Now we're trying to use something, and we don't even know if it's authentic. We don't even
21 know it's real. They're not providing information as to when it was shown. At the earliest
22 according to their own metadata it says estimated date 17 December. This message would
23 have been heard before the march, obviously. So there's not even in time a connection.

24 But more than that, I am saying here that that video was never shown before the 29th on la
25 RTI. And let's see, let's see where it was shown before 29 December. We have the RTI

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1 footage of that period, all of it, news bulletins, so let's have it. Because this video was not
2 shown.

3 So let's be fair to the witness. Let's be fair in the case also. No misleading of any evidence.

4 MR O'SHEA: May I respond?

5 PRESIDING JUDGE TARFUSSER: Please respond.

6 MR O'SHEA: In my submission, I've established a foundation for bringing this video before
7 your Honours. The video addresses the same march and the same person that the witness is
8 talking about, Guillaume Soro. And the question in dispute is: What was Guillaume Soro's
9 message to the population? What was he trying to convey to the population of Ivory Coast?
10 Was he trying to convey a message of: We're going to go and take the RTI, or we're going to
11 go and raise up our hands and show that we're not armed and do this all peacefully?

12 So that's a question of real dispute in this case. And in my submission that's what makes the
13 connection between this video and this witness's evidence and that ought to be sufficient.

14 MR KNOOPS: Mr President, if I may, because it also reflects our position, we have the same
15 document. Mr President, it's -- the question is not, with all due respect, whether the video
16 was displayed before 29 December. Even when the video wasn't displayed before 29
17 December 2010, it's still relevant if it concerns the same march. So we don't submit that this
18 footage was broadcast on the very evening of the 16th. Our case is that there is evidence
19 disclosed by the Prosecution as a package to the Defence, which might show that the nature of
20 the march was different.

21 Even when this footage was broadcasted after 29 December, it's still relevant when we can
22 show that it concerns the very march of 16 December. I think that is the question. And my
23 learned friend Mr MacDonald said: Well, we don't know yet. We have all the footages and
24 we cannot establish that this footage was broadcast before the 29th. That might be so, but
25 still even when it was broadcasted later and it, in hindsight, addresses the same march, it's

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1 still relevant to confront the witness with this footage and ask his view whether he is aware of
2 this information. Thank you.

3 PRESIDING JUDGE TARFUSSER: Well, I think I have my own idea, but I think this has to
4 be discussed with my colleagues, so we will rule on this on Monday because I think we
5 should really discuss it thoroughly.

6 Therefore, I leave this for Monday and I pass to your point before going in private session for
7 the third argument.

8 Maître Altit, you referred this morning before the lunch break to the request made in
9 the status conference on 16 January where you requested in this order I'm re -- I
10 checked in the transcript.

11 First request would be finish a witness, have one day off, start with the other witness. That
12 would be -- if the 138 remains, would be 138 days in between, which you can imagine it's not
13 possible.

14 The second is, one day a week off, making a four days working week.

15 And the third would be have some time on Friday, say Friday afternoon.

16 I didn't recall this when I -- I was surprised when you raised this because I thought
17 that the Chamber -- I thought the Chamber had already ruled upon this on 20 -- the

18 very first day I think, on 28 January, when, and I quote from the transcript, when I

19 said: "This Chamber is determined to do and will do its utmost to ensure that
20 proceedings are efficient and expeditious. It will make use of all its trial

21 management powers to enhance efficiency and expeditiousness" and that "to the
22 extent which is allowed and consistent with the need to ensure fairness. In this

23 perspective the parties and participants shall be expected to always be prepared well
24 in advance of schedule or advance enough, I should say."

25 I jump two pages and I read: "Last point is the schedule of the trial, how it will continue

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1 after the" hearing we have already -- "hearings we have already settled," meaning up to 17
2 February and then from 3 March until Wednesday. So the Chamber has already stated that
3 starting today it will sit every day until 7 February *2016 and then from Thursday, 3 March
4 until Wednesday, 23 March, except Friday 11 and Monday 14th. The current availability of
5 only two courtrooms simultaneously makes it necessary to alternate sitting days among the
6 three pending trials and to suspend one for the ongoing trials.

7 Accordingly, following the adjournment on Wednesday 23rd of 2016, the trial will
8 resume on Monday, 9 May and in principle proceed uninterrupted towards summer
9 recess. And then I indicated also the dates, the weeks we are sitting.

10 Obviously when we did this, we had not -- I had not in mind or we had not in mind
11 what we said on 14 December, but we will for sure sit every day from Monday to
12 Friday for a period of two or three weeks and then have one complete week off and
13 this should enable you to prepare properly the case. You know exactly which
14 witnesses are coming in the two, three weeks, and then you have one full week.

15 We have agreed upon with -- together with colleagues, that we can, of course, we can
16 agree to stop on Friday at the lunch break so that Friday afternoon would be no
17 hearing, but only -- and this is then also up to you -- that we have to finish -- if we go
18 to finish a witness, we will finish it on Friday. So it's up to you the pressure to finish
19 it before 1 o'clock, so it's a good pressure also for the parties.

20 So this can be agreed upon unless it's necessary to sit also the Friday afternoons. So I
21 hope the thing is settled.

22 Then there was a question raised by the Prosecutor on the well-being of the witnesses
23 and the accused because of the two hours -- well, I think Mr Gbagbo, he is walking in
24 and out and I think he has all the freedom in order to take his rests, and I'm happy
25 that he can do so. I've no problem with it.

Trial Hearing
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1 Mr Blé Goudé could do the same, but he is young and strong, so I think he has less
2 need. And obviously the witnesses, if they request, anything they request, they will
3 be obviously granted, times to rest or whatever, so I think we are very much -- we are
4 very much looking also towards the well-being of the parties.

5 This said, I think we have to go in private session to discuss -- or in closed session, or
6 in closed session to discuss an issue which the office of the Prosecutor will raise.

7 Please Court officer.

8 (Closed session at 3.45 p.m.)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

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15 (Redacted)

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Trial Hearing
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- 1 (Redacted)
- 2 (The hearing ends in closed session at 3.52 p.m.)