

Trial Hearing
WITNESS: CIV-OTP-P-0010

(Open Session)

ICC-02/11-01/15

1 International Criminal Court
2 Trial Chamber I
3 Situation: Republic of Côte d'Ivoire
4 In the case of The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé
5 ICC-02/11-01/15
6 Presiding Judge Cuno Tarfusser, Judge Olga Herrera Carbuccion and
7 Judge Geoffrey Henderson
8 Trial Hearing - Courtroom 1
9 Monday, 3 April 2017
10 (The hearing starts in open session at 9.35 a.m.)
11 THE COURT USHER: [9:35:09] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE TARFUSSER: [9:35:32] Good morning. Good morning to
15 everybody.
16 Good morning, Mr Witness.
17 WITNESS: CIV-OTP-P-0010 (On former oath)
18 (The witness speaks French)
19 THE WITNESS: [9:35:52] (Interpretation) Good morning, Mr President.
20 PRESIDING JUDGE TARFUSSER: [9:35:55] Today it is time for the Defence for
21 Mr Blé Goudé to start his questioning of you and therefore -- bonjour, Mr Keïta.
22 MR KEÏTA: (Interpretation) Good morning, Mr President.
23 PRESIDING JUDGE TARFUSSER: [9:36:12] Sorry for not having addressed you.
24 Now it is time, as I said, for the Defence for Mr Blé Goudé -- did you want to take the
25 floor, Mr Keïta?

1 MR KEÏTA: (Interpretation) Yes, Mr President. I would like to say good morning,
2 and I would like to make a statement, Mr President, and hand over a document to
3 you, with your leave.

4 To the extent that the Chamber has rendered its decision with regard to the possible
5 objections that I had made in conjunction with this appointment and with regard to
6 my position within the court at this very moment in time, namely that of assisting
7 both the Defence teams of Mr Gbagbo and Mr Blé Goudé, I have taken note of your
8 decision, according to which the two parties, the two defending parties, were in
9 agreement and that the Prosecution saw absolutely no problem with this.

10 However, in view of my ethical engagements, I have talked to the witness, and I did
11 that first thing this morning. I handed over to him a document that I translated to
12 him, and he signed and dated it. I intend to hand it over to the Chamber, and I
13 would like for this to be annexed to the proceedings, if this is all right with you. I
14 will hand over the original to you, and I have prepared copies for my learned
15 colleagues.

16 PRESIDING JUDGE TARFUSSER: [9:38:08] And what is the content of this
17 document? What is the content of these documents?

18 MR KEÏTA: Mr President, it's a waiver about conflict of interest signed by my client
19 and dated.

20 PRESIDING JUDGE TARFUSSER: [9:38:42] Okay. Thank you.

21 (Pause in proceedings)

22 PRESIDING JUDGE TARFUSSER: [9:39:44] Well, thank you very much, Mr Keïta.
23 Now we can proceed and I give the floor to the Defence for Mr Blé Goudé.

24 Mr Knoops, please.

25 MR KNOOPS: [9:40:00] Good morning, Mr President, your Honours.

1 Mr Gbounon will conduct the examination on behalf of our defence team. Thank
2 you.

3 PRESIDING JUDGE TARFUSSER: [9:40:08] Thank you.

4 Maître Gbounon.

5 MR GBOUGNON: [9:40:44] (Interpretation) Good morning, Mr President. Good
6 morning, ladies and gentlemen of the Court.

7 QUESTIONED BY MR GBOUGNON: (Interpretation)

8 Q. [9:41:00] And good morning, Mr Witness. I'm going to do the same as
9 everyone else, I'm going to be calling you or addressing you throughout my
10 examination as "Mr Witness."

11 And as you will have noted, I am speaking French. You will also be speaking French.
12 And as a result, both of us need to observe pauses in order not to overlap and to make
13 the interpreters' lives easier, all right?

14 A. [9:41:43] Yes, counsel.

15 Q. [9:41:47] Mr Witness, Mr Sanganoko Mory, what rank did he hold?

16 A. [9:42:23] Captain of the gendarmerie.

17 Q. [9:42:24] It is true that you have already spelt out his name here. You know his
18 name because you've already seen his identity papers; is that right?

19 A. [9:42:46] I don't really see what you're driving at with that question, counsel.

20 Q. [9:42:51] You spelt out his name for the Chamber. And the name as you spelt it,
21 is it because you are familiar with it because it is a name that you've already read on
22 one of his identity papers and as such you are in a position to be able to spell it?

23 A. [9:43:21] I was not using them. I didn't have his identity papers before me.

24 But habitually speaking, I know him under the name of Sanganoko Mory.

25 Q. [9:43:44] Thank you, Mr Witness. I'm going to be asking for a piece of paper to

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1 be given to you and you're going to write it down. But subsequently, after you spelt
2 it, there was a problem with the transcript, and you're going to be spelling out that
3 name as you are familiar with it.

4 Mr President, I would like for a piece of paper to be given to the witness for him to be
5 able to write down the name of Captain Sanganoko Mory.

6 PRESIDING JUDGE TARFUSSER: [9:44:11] I think he has paper. Have you?

7 THE WITNESS: [9:44:19] (Interpretation) Yes, I do, Mr President (writing).

8 THE COURT OFFICER: [9:46:13] The document can be seen on evidence 2 channel.

9 PRESIDING JUDGE TARFUSSER: [9:46:16] We are seeing the document on
10 evidence 2.

11 MR GBOUGNON: [9:46:28] (Interpretation)

12 Q. [9:46:30] Thank you, Mr Witness. Whilst you were commander of the CECOS,
13 were there or did you use your men -- did they use any particular CECOS camouflage
14 wear or fatigues?

15 A. [9:47:04] Once again I wanted to generally hark back to the status of the
16 personnel or staff of CECOS. The CECOS personnel did not have a particular status,
17 nor did they have a particular uniform. Each of them --

18 THE INTERPRETER: [9:47:22] Microphone, please. The witness's microphone is
19 off.

20 THE WITNESS: (Interpretation) [9:47:32] As I was saying, the personnel of CECOS
21 did not have a particular status, nor did they have a particular uniform or attire.

22 Each of them would come to the CECOS with the uniform of their corps of origin.

23 MR GBOUGNON: [9:47:55] (Interpretation)

24 Q. [9:47:56] Thank you, Mr Witness. Do you know Colonel Doffou Takou Edi,
25 and I'm going to be spelling for the booth, D-O-F-F-O-U and then T-A-K-O-U and

1 Edi, E-D-I.

2 Do you know Colonel Doffou Takou Edi?

3 A. [9:48:42] Which corps does he belong to?

4 Q. [9:48:47] I don't know any more than you do.

5 A. [9:48:49] Well, I would have liked to have had some indications as to whether

6 he's a gendarme or a policeman or a soldier. This might have given me an idea.

7 But Doffou, as you say, I can't give any indications with regard to this person. I

8 don't know whether he's an officer, a non-commissioned officer. We'd need more

9 information for me to be able to go in the right direction in terms of finding this

10 individual and my thought processes.

11 MR GBOUGNON: [9:49:18] (Interpretation) Mr President, I would like for us to

12 move into private session, please.

13 PRESIDING JUDGE TARFUSSER: [9:49:29] Let's go into private session, please.

14 (Private session at 9.49 a.m.)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

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 (Redacted)

21 (Redacted)

22 (Open session at 9.54 a.m.)

23 THE COURT OFFICER: [9:54:55] We're in open session, Mr President.

24 PRESIDING JUDGE TARFUSSER: [9:55:04] Maître Gbougnon.

25 MR GBOUGNON: [9:55:16] (Interpretation) Could we please have control for us to

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1 be able to play the video, please?

2 THE COURT OFFICER: [9:55:26] You have the floor. Evidence channel 2.

3 MR GBOUGNON: [9:55:33] (Interpretation) The number of the item is

4 CIV-D15-0001-1020.

5 THE INTERPRETER: Message from the booth: We would require the number of
6 the transcript, please.

7 PRESIDING JUDGE TARFUSSER: [9:55:55] Excuse me, the number of the transcript,
8 the reference number of the transcript for the interpreters.

9 MR GBOUGNON: [9:56:05] (Interpretation) Mr President, unfortunately, we do
10 not have the transcript for this video. We are going to be playing this video from
11 minute 03.33 up to minute 05.35.

12 (Viewing of the video excerpt)

13 MR GBOUGNON: [9:56:56] (Interpretation) The witness does not have the video
14 on the screen yet.

15 (Viewing of the video excerpt)

16 MR GBOUGNON: [9:59:28] (Interpretation)

17 Q. [9:59:36] Mr Witness, have you already seen this video?

18 A. [9:59:44] This is the first time that I am seeing this video.

19 Q. [9:59:51] Did you manage to recognise some of the locations in this video
20 excerpt?

21 A. [9:59:59] I believe that it covers the clash or clashes that I mentioned on 16
22 December 2010. I talked about this a few days ago. And the location, there are a lot
23 of people selling flowers between the Golf and the Marie-Thérèse Houphouët-Boigny
24 intersection, and I recognise the landscape where flowers are sold in that location, and
25 I think that all the soldiers that are manoeuvring are doing so in those fields of

1 flowers. And this corresponds somewhat to the clashes or confrontation that I
2 mentioned here before the Court, the confrontation on 16 December 2010.

3 Q. [10:01:27] Mr Witness, last question with regard to this subject. You've already
4 talked at length about the UN forces. My last question is that what colour were the
5 berets worn by the UN soldiers in Abidjan in 2010?

6 A. [10:01:54] They, all the UN soldiers had or wore blue berets and they also had
7 scarves, blue scarves in their lapels.

8 Q. [10:02:13] Thank you, Mr Witness. I will now play for you another video.

9 When the Prosecutor was examining you, the video was mentioned, but it wasn't

10 displayed. I intend to do that now before putting any questions to you. It's

11 0064-0083, from minute 6.36 to minute 8.53. The transcript number is 0094-0336 at

12 page 0337, from line 1, to page 0338, line 46.

13 (Viewing of the video excerpt)

14 THE INTERPRETER: [10:04:01] (Interpretation of the video excerpt) Mr Mangou

15 announced that the national army is ready for any outcome. The chief of staff made

16 that announcement after a meeting with the minister of youth this morning. In his

17 dual capacity as minister of youth, the minister Charles Blé Goudé met with the chief

18 of general staff in Côte d'Ivoire at a time when the country is facing war against all

19 types of westerners and some neighbouring countries being complicit against a chief,

20 a people and an army.

21 Some may think that they're facing a weak army, and I think that at some time they

22 get pricked, and the fact is that we are proud of our army. We are proud of our

23 army and we see the army in the forefront of this crisis.

24 Unfortunately, where there is combat, where combat happens, people sacrifice their

25 lives as well. Unfortunately, we have lost some of our brothers in arms. We are

1 working together defending our country. But the army is always at the forefront.

2 And in spite of the calls to division, in spite of the lies that are carried by certain

3 media, our army has always been together.

4 My friends and myself have decided on this Sunday, 23 January, at stade Champroux

5 to organise a rally in homage to our army.

6 The officers received this announcement well and will be providing the appropriate

7 response in due time. They are therefore, among other things, considering a meeting

8 with the chief of general staff as they await a reaction from Guillaume Soro, who has

9 accused them of not being on the side of the truth.

10 MR GBOUGNON: [10:06:28] (Interpretation)

11 Q. [10:06:38] Mr Witness, have you seen this video before now?

12 A. [10:06:46] I was present in the hall, so I didn't quite need this video.

13 Q. [10:06:53] Mr Witness, it is for the purposes of the record and for the purposes of

14 this proceeding that I ask you the question; otherwise I noticed that you were present

15 in the hall.

16 But before I put the question, my question to you, let me read out a statement or what

17 the Prosecutor said in relation to the video which they didn't show you. And I'm

18 referring to page 70 of the transcript of 29 March from line 19:

19 "Question: For the last three days you have been talking to us --" and I'm going to

20 quote. I'm sorry, I'll be quoting:

21 "For the last three days you have been talking to us about the meetings of generals

22 which were attended by Séka, Séka, who was a young officer with the FDS. What

23 was your reaction to this meeting at which Mr Blé Goudé and the two other persons I

24 have mentioned were present?" End of quote.

25 Now, Mr Witness, my first question is the following. That meeting, well, the

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1 meeting which we have just looked at, was it similar to the meeting which the
2 generals had with Mr Séka Séka in attendance?

3 A. [10:08:40] The video you have just presented is not a meeting of the general staff.
4 It's not a general staff meeting, strictly speaking, where there is information that a
5 delegation led by Mr Blé Goudé wanted to meet with us with a view to paying
6 homage to the soldiers and to all the forces of defence and security. That was the
7 purpose of that meeting, and that's why we came to meet him. So it's not a general
8 staff meeting, and that's different from the context of the meetings which I discussed
9 with the Prosecutor.

10 I was talking about meetings of the general staff where generals met among
11 themselves to talk about developments and plans regarding the conduct of military
12 operations.

13 Now, when you ask me to distinguish, I therefore have distinguished for your benefit
14 the two types of meetings.

15 Q. [10:09:57] Thank you, Mr Witness. Now, to be extremely clear on this matter,
16 during the crisis, during the entire period of the crisis, from November 2010 -- well,
17 you were in office until 30 March, as is on the record. During that period, did Mr
18 Charles Blé Goudé attend even a single meeting of those meetings of the general staff?

19 A. [10:10:34] One time, once. It was this meeting that you have just displayed, but
20 it was not a meeting of the general staff. And this was a request for us to meet with
21 him, but outside of that meeting. Neither Mr Blé Goudé nor the other two persons
22 who were with Mr Blé Goudé, none of them has ever asked to or attended a general
23 staff meeting.

24 Q. [10:11:13] Thank you, Mr Witness. Last question, and this is the last one now.
25 During that entire period of the crisis, and again, let me restate November 2010 to

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1 April 2011, did you ever receive any instructions or even a single military instruction
2 from Mr Blé Goudé? I repeat my question: Have you ever received a single or a
3 number of military instructions from Mr Blé Goudé during that entire period?

4 A. [10:11:53] Are you talking about myself or all the generals?

5 Q. [10:11:56] Let's start with you.

6 A. [10:12:00] No, I did not receive any. And in any event, I would not have
7 executed it.

8 Q. [10:12:09] Thank you, Mr Witness.

9 MR GBOUGNON: Mr President, with your leave, and I'm following your decision,
10 I'm going to hop back to November 2004, and I therefore would like to apply for the
11 Chamber to authorise me to hop back to November 2004, and you'll be able to see the
12 relevance of what I am addressing through the questions that I intend to put. With
13 your leave, Mr President, I would like to proceed in that manner.

14 PRESIDING JUDGE TARFUSSER: [10:13:12] Please go ahead, yes.

15 MR GBOUGNON: [10:13:14] (Interpretation)

16 Q. [10:13:25] Mr Witness, I'm going to show you a video, CIV-D25-0016-0009, from
17 minute 10 to minute 11.40. Transcript is CIV-D25-0016-0010, page 0014, line 220, and
18 page 0016, line 269.

19 (Viewing of the video excerpt)

20 THE INTERPRETER: [10:14:40] (Interpretation of the video excerpt) A French
21 commander and chief of the Ivorian gendarmes: We shall work together. Now, if
22 you have any ideas, then we will see what we can do. We are going to do play at
23 this time. Bring all your men together. We will work them back. We need space.
24 I don't see your men. Bring all your men together and we will sit down. Bring all
25 your men together and then we will push them back.

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1 Now, do you notice that there is a desire to find a friendly solution so that things
2 don't get bad following your discussions with the authorities of the gendarmerie?

3 What is the outcome?

4 What we want is for the crowd to be quieted so that we can be close to our vehicles at
5 the hotel.

6 Concretely speaking, have you confirmed the departure of your forces from Côte
7 d'Ivoire?

8 All of this is being done in coordination with Ivorian forces.

9 And as any official, I'm waiting for a decision from the authorities before taking my
10 own decisions of implementation. Thank you very much. We hope with our
11 fingers crossed that everything will go on well. I hope that's your wish as well.

12 My first wish is that peace and security should return to Côte d'Ivoire and in Abidjan.
13 Thank you.

14 Suddenly there is firing and the camera man stops filming.

15 MR GBOUGNON: [10:16:37] (Interpretation)

16 Q. [10:16:38] Mr Witness, were you the one we just saw at the beginning of that
17 video?

18 A. [10:16:45] Yes.

19 Q. [10:16:45] At the time were you still present at that location when the firing
20 started?

21 A. [10:17:04] Yes.

22 Q. [10:17:07] Do you remember the location from which the gun shots came?

23 A. [10:17:26] The gun shots started from the higher levels of the l'hôtel Ivoire. The
24 first gunshots came from the higher floors of l'hôtel Ivoire, and it is thereafter -- and
25 this appeared to have been some kind of a signal. Then there was general firing

1 which came exclusively from the French regiment, which was in front of me. So
2 those who fired from the higher floors quickly came downstairs and joined the French
3 soldiers.

4 There were five or six of them, and they were all sweating, and they came down
5 quickly from the higher floors, and they passed in front of us and joined their ranks in
6 their arrangements; and the column started to advance, a column of armoured tanks
7 that took off and left the area.

8 The doctors -- or the doctor of the regiment remained at the location, and there were
9 several injured persons. The detachment which I had taken to the l'hôtel Ivoire on
10 that day, one of them was seriously injured and another was killed. The doctor of
11 the French regiment who was still there with his doctors took care of our gendarme
12 who was seriously injured.

13 Now, what I can say is that on the grounds of the l'hôtel Ivoire, many people were
14 injured and many people were killed. But I don't have an exact figure as to the
15 number of injured and the number of persons killed.

16 Q. [10:19:36] Mr Witness, the soldiers of the French regiment, the French soldiers,
17 they moved off in your presence. Now, were you able to notice whether one or
18 some of them were injured by gunshots or anything whatsoever?

19 A. [10:20:10] Our men did not fire. No one in the crowds was armed. I did not
20 see anyone in the crowds who was armed. We had spent a lot of time with the
21 crowds. The colonel and myself, when we were having a discussion, we were
22 surrounded by a crowd of people. People were singing. The atmosphere was
23 positive. No one in the crowds was armed.

24 Now, when the first shots rang out, they prepared to leave the location. So from
25 what I saw, none of the French soldiers was injured. Now, if anything happened

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1 thereafter, I don't know. But as of that time I did not see any injured soldier on their
2 side.

3 Q. [10:21:14] Thank you, Mr Witness. Now, Mr Witness, a letter was mentioned
4 here, a letter to you from the High Commissioner Madam -- the High Commissioner.
5 I'm not going to display it again, but I give the reference 0094-0305. That's a letter of
6 31 December 2011 -- no, 2010.

7 Before you received that letter, had you received that lady in person at your office,
8 after the events of the 16th? Did you receive her or anyone from her service before
9 you received that letter?

10 A. [10:22:21] A few days ago, I also said that the letter from the High
11 Commissioner got to me. It got to the CECOS secretariat, but I don't know by what
12 means. I was surprised because I was not familiar with the structure from which it
13 came. The high commission for human rights, I had heard mention of it. I didn't
14 know where it was located and I didn't know who its leader was. And it's through
15 the letter that I became familiar with all these things. That's why I was surprised by
16 the density of its content.

17 Prior to that letter, I had never been contacted by anyone from that organisation. It
18 is after I received the letter and replied to it that a delegation from ONUCI Abidjan,
19 from the Hotel Sebroko, to meet with me and to have a discussion with me as to what
20 we could do together to improve or to monitor our activities to ensure transparency.
21 And I granted my approval. We exchanged contacts. And from time to time they
22 would call me and I would call them as well.

23 And I thought that the situation was so tense thereafter that they did not dare to come
24 and see what was happening with our men on the ground. What we must
25 understand, however, is that before that letter, I had not had any contact whatsoever

1 with any representatives from the organisation that had sent me the letter.

2 Q. [10:24:24] Do you know whether the clarifications you provided in your reply
3 were taken into consideration in any report whatsoever that may have been written
4 by that organisation? Are you aware that your clarifications and corrections in your
5 reply were mentioned in any report that the organisation may have subsequently
6 drafted?

7 A. [10:24:56] I expected that to be done because the facts as outlined in my report
8 were clear and well documented with specificity. We have talked about some names
9 that are redacted. But the idea was to make it possible for us to have certain indicia
10 that can lead to some cross-checking of the facts.

11 Unfortunately, there was no follow-up, even in relation to some of the erroneous
12 information that was contained in the first letter. So I received the delegation from
13 ONUCI subsequently and then we had a number of discussions and agreed to
14 continue to work together subsequently.

15 Q. [10:26:00] Mr Witness, on 31 March 2017, my learned colleague opposite put a
16 number of questions to you about the officers who had worked with you at CECOS.
17 I'm referring here to the transcripts, realtime transcript of 31 March 2017 from page 45
18 to page 52, except I'm mistaken, and in that transcript you mentioned a number of
19 officers with whom you worked at CECOS.

20 My headcount gave the figure 20. And I'm not going to read out all those names,
21 except for those who are on retirement and those who, or the one who is on a leave of
22 absence, as well as Abéhi, who is in detention for desertion.

23 Now, could it be said, Mr Witness, that all the other officers have been promoted?

24 To jog your memory, let me mention just a few names. Lieutenant Ouidi at page 51,
25 line 6 of your statement or your testimony, he was a commander of the BMO.

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1 Captain Aboubacar Fofana, still on page 51, line 10, who at the time was the leader of
2 the support group. And at that line you referred to him as a brilliant officer. I insist
3 today he is a commander of a major gendarmerie unit in Korhogo. That is the basis
4 on which I am asking you whether we can say that these people have been promoted.

5 A. [10:28:36] Most of those young officers have been promoted. They have been
6 promoted. Ouidi became a captain. He's an instructor in a gendarmerie school.
7 All of them have been promoted, most of them, but I don't have their names at hand.
8 I think they were all promoted. These were people with good profiles. And you
9 see, the decision to keep them which I made and to trust them was based on their
10 potential. And I knew that those were people who, regardless of their commander,
11 were people with a future.

12 And today I believe that they are demonstrating, wherever they are, that they are
13 good, and that is why they were promoted.

14 Q. [10:29:47] Thank you, Mr Witness. Do you know the CCDOs, Centre for the
15 Coordination of Decisions and Operations?

16 A. [10:30:03] Yes.

17 Q. [10:30:07] Is it, like CECOS, made up of soldiers, gendarmes and policemen?

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

19 Q. [10:30:20] Has it, like CECOS, its main aim to fight against major criminality?

20 A. [10:30:36] Yes.

21 Q. [10:30:40] Thank you, Mr Witness. This draws to a close the examination and
22 questioning to you by the Defence team for Mr Blé Goudé, and I would like to thank
23 you for your patience and availability.

24 Mr Witness -- or, rather, Mr President, Mr President, ladies and gentlemen of the
25 Court, this marks the end of my examination.

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1 PRESIDING JUDGE TARFUSSER: [10:31:13] I have only a follow-up question.

2 What is then the difference between the CCDO and the CECOS, if they are
3 substantially the same and have the same tasks?

4 THE WITNESS: [10:31:30] (Interpretation) Thank you, Mr President. I would like
5 to make the observation that they share the same mission. The CCDO fulfils that
6 mission in a very good manner, as did the CECOS for five years.

7 MR MACDONALD: [10:32:12] Your Honour, just to -- I think the next question
8 should be what is the CCDO and when is this, because my colleague never asked
9 when this existed and when it started.

10 PRESIDING JUDGE TARFUSSER: [10:32:27] That would have been the next
11 question, and obviously they're not timely in the same -- they didn't exist at the same
12 time. So the question is: When did the CCDO start to exist? At what time did the
13 CCDO operate?

14 THE WITNESS: [10:32:59] (Interpretation) The CCDO became operational in 2012.

15 PRESIDING JUDGE TARFUSSER: [10:33:21] Thank you very much. I have another
16 couple of questions before then giving the floor for the re-questioning, I suppose, by
17 the Office of the Prosecutor. One is a question which I have on the basis of the
18 question put forward to you by Maître Gbougnon this morning.

19 If I'm not mistaken, you have spoken in one of these days, but please correct me if I'm
20 wrong, about two meetings in March -- in February and March with the president, the
21 then president Mr Gbagbo, together with the other generals; is this correct?

22 THE WITNESS: [10:34:21] (Interpretation) The two major meetings that took place
23 at the palace or the presidency at the Plateau in February and March were in the
24 presence of the head of state at the time.

25 PRESIDING JUDGE TARFUSSER: [10:34:45] So the question would be, in these

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1 occasions, were other politicians present, and particularly was also Mr Blé Goudé
2 present?

3 THE WITNESS: [10:34:56] (Interpretation) Mr Blé Goudé was not in attendance at
4 those two meetings. The president was present with his collaborators, his advisors,
5 and the two ministers in charge of defence and security.

6 PRESIDING JUDGE TARFUSSER: [10:35:22] Thank you. This is another question
7 now. There is a location that was referred to by you during your testimony which I
8 would like to identify on the map, if this is possible, and I'm referring to carrefour
9 Texaco, which you said was, and I quote you, "An habitual point of observation for
10 the école de gendarmerie."
11 You also said that on 16 December 2010, there was detachment from the school that
12 were deployed there. And you said that in transcript T-139 English realtime, page 41,
13 lines 18 to 25.

14 So I ask the Registry to display CIV-OTP-0092-0406, and I request you simply to try to
15 tell us where to zoom in so that you can identify the zone of carrefour Texaco. Can
16 you see it first on 1, evidence 1?

17 MS PACK: [10:37:35] If helpful, I have got some hard copies of the kind of general
18 area.

19 PRESIDING JUDGE TARFUSSER: [10:37:40] But it's the same map?

20 MS PACK: [10:37:41] It's the same map. We've just got them magnified to a point --

21 PRESIDING JUDGE TARFUSSER: [10:37:42] Yes, so we can --

22 MS PACK: [10.37.43] -- that might be more useful.

23 PRESIDING JUDGE TARFUSSER: [10:37:48] I think the witness can see them and
24 look on this, on the hard copies, and then mark on the screen, because otherwise then
25 we make a screenshot.

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- 1 Can you please give to the witness a hard copy of this.
- 2 MS PACK: [10:38:05] Just to be clear, it's not marked. It's just a magnification.
- 3 PRESIDING JUDGE TARFUSSER: [10:38:13] Yes. We trust each other.
- 4 MS PACK: [10:39:23] I wonder if we could just zoom in considerably, your Honour,
- 5 just because it's quite difficult to see the junctions, perhaps just to the point of the map.
- 6 I can just give it to madam court officer, and this much could be zoomed in on.
- 7 PRESIDING JUDGE TARFUSSER: [10:39:39] But now it's here. We are having it on
- 8 the screen.
- 9 MS PACK: [10:39:44] It can be magnified even more, that's all.
- 10 PRESIDING JUDGE TARFUSSER: [10:39:47] Yes. But I would ask now, on the
- 11 basis of this, that the witness marks it also on the screen. So this was just to help him
- 12 identify better.
- 13 THE WITNESS: [10:40:17] (drawing).
- 14 PRESIDING JUDGE TARFUSSER: [10:40:39] We can just -- we can also -- I don't
- 15 know what technically is better. I would like to have your guidance, or we keep this
- 16 one and we put it in the record of the case. We upload it or we do it, I think -- I don't
- 17 know what is easier.
- 18 MS PACK: [10:41:08] We could just register in any event the marked version. I
- 19 think that probably is easy in the first instance, your Honour.
- 20 PRESIDING JUDGE TARFUSSER: [10:41:33] I think now we make a screenshot of
- 21 this and that's it. I think we do both. We keep this as a screenshot and we upload
- 22 also the hard copy.
- 23 One last question I have is the following. You said in your testimony here that the
- 24 Invisible Commando also led incursions from the Casse in Adjamé. Transcript 140,
- 25 page 32, lines 17 to 20 of the English transcript.

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1 My question is, were any measures taken or envisaged in specific connection with
2 these attacks at these specific locations? Or in other words, have the FDS reacted to
3 these incursions by the Invisible Commando, and if yes, how?

4 THE WITNESS: [10:43:27] (Interpretation) The infiltrations that I was talking about
5 were essentially in Adjamé at the Casse scrapyard and also in some neighbourhoods
6 of Adjamé, such as Boribana, the black market sector. And as by definition, the
7 Commando Invisible did not have any characteristic traits.

8 The measures that were taken was to intensify the patrols, the patrols of the forces, so
9 that if we were much more present on the ground, this could be dissuasive to those
10 who might be thinking about infiltrating.

11 But it was also good for the neighbourhood to conduct patrols, because there were
12 roads. But in places like the Casse or the scrapyard in Adjamé, you can't conduct
13 patrols. You can't get in and out of places like that. And your own security was
14 very much on the line if you went in there. And you can't fight against infiltrations
15 if you enter places such as la Casse or the Casse.

16 PRESIDING JUDGE TARFUSSER: [10:45:10] So thank you very much. These were
17 the questions on behalf of the Chamber.

18 I now ask the Prosecutor if the Prosecution wants to re-question the witness.

19 MS PACK: [10:45:28] Yes, I would do, your Honour.

20 May I take the break now? Maybe take the break now --

21 PRESIDING JUDGE TARFUSSER: [10:45:40] That's what I thought.

22 MS PACK: [10:45:42] -- and then come back. We would have 30 minutes, I would
23 have thought, after that.

24 PRESIDING JUDGE TARFUSSER: [10:45:46] That's what I thought as well.

25 MS PACK: [10:45:48] Yes.

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1 PRESIDING JUDGE TARFUSSER: [10:45:48] So let's come back at 11.15 for the
2 re-questioning. So we take the break now. The hearing is adjourned to 11.15.
3 Thank you.

4 THE COURT USHER: [10:46:09] All rise.
5 (Recess taken at 10.46 a.m.)
6 (Upon resuming in open session at 11.19 a.m.)

7 THE COURT USHER: [11:19:31] All rise.
8 Please be seated.

9 PRESIDING JUDGE TARFUSSER: [11:19:54] Good morning once again. Good
10 morning, Mr Witness.

11 And I give the floor, now it's time for the re-questioning by the Office of the
12 Prosecutor, and then the Defence teams have the opportunity to follow up because
13 they have the last word according to our law.

14 And therefore I give the floor to the Office of the Prosecutor.

15 MS PACK: [11:20:36] Thank you, Mr President, your Honours.

16 QUESTIONED BY MS PACK:

17 Q. [11:20:45] Good morning to you again, Mr Witness.

18 A. [11:20:48] Good morning, Madam Prosecutor.

19 Q. [11:20:49] I have a few questions. Let me start with some questions in
20 follow-up to the questions from his Honour just this morning. Now, the first one
21 related to the questioning on the topic of incursions at the Casse, meaning the scrap
22 yard in Adjamé. And that was at page 24 of the English realtime just now.
23 Now, let me just ask you if you can clarify in relation to this particular issue, the scrap
24 yard in Adjamé. Was there an occasion when you met at the état-major to discuss
25 the issue of incursions by the Invisible Commando at the scrap yard in Adjamé?

1 A. [11:21:50] Yes. We met at the staff HQ to talk about it since this was a recurrent
2 event. The Commando Invisible regularly took up position at the Casse in Adjamé
3 and constituted a threat to persons and their property. So we talked about it at the
4 staff HQ.

5 Q. [11:22:21] And this would have been what month?

6 A. [11:22:28] I don't remember the exact dates, but I know that we talked about it at
7 the staff HQ.

8 Q. [11:22:38] Well, not an exact date, but do you recall whether it was towards the
9 end, towards the beginning, towards the middle of the post-election crisis?

10 A. [11:22:52] Maybe towards the middle. I don't have a specific month in mind.
11 But I know that we talked about it, we discussed the issue at the HQ.

12 Q. [11:23:08] And was it before or after your meeting, your first meeting with the
13 president at the presidency in Plateau? Was it before or after that, if you can recall?

14 A. [11:23:21] I am not able to connect that event to that period. These things
15 happened a long time ago, so I'm not able to say whether it was before or after the
16 meeting or, rather, before or after the meetings.

17 Q. [11:23:41] Now, at this particular meeting at the état-major, can you tell us
18 please what was discussed?

19 A. [11:23:51] There was an episode involving a significant number of Commando
20 Invisible troops who had taken up position at the Casse. Those troops threatened
21 CRS2, which was located in Yopougon opposite the Casse. They threatened to take
22 over the CRS. That lasted a day or two, and they would fire at the CRS on a regular
23 basis from the Casse. So their objective was to capture the Casse or, rather, given
24 that they had taken up position in the evening at the Casse, their purpose was to
25 capture the CRS2 barracks.

1 Now, in our discussions, the planners, through the chief of general staff, made a
2 number of operational recommendations or proposals whereby, and I'm referring to
3 one of those proposals, it was necessary to install a battery at the Agban camp in
4 order to shell the Casse with a view to dislodging those combatants who had been
5 shooting at the CRS leading to the desertion of the barracks by a number of policemen.
6 That had to be stopped. We discussed that issue.

7 And during the discussions we came to the view that using the artillery would
8 involve significant risk. But although it was the best way of getting rid of the
9 Commando Invisible from the Casse, the risk was in any event quite high because the
10 artillery is not generally a very specific weapon. You may hit the target or you may
11 hit something else. You may be out of range. And so we talked about these things.
12 The northern highway was right next to the Casse. And so we explained to the chief
13 of general staff that if, for example, the test shots fired by the artillery were to miss
14 their target and land on the highway, the northern highway, a number of vehicles and
15 passengers could be hit, and that would be, that would amount to significant
16 collateral damage, which we were not ready to take responsibility for.

17 After such discussions, the chief of general staff did not entertain that option. So
18 that option was dropped. The idea then was to use operations commandos who
19 would infiltrate on foot and link up with some of our men who were already there.
20 And having abandoned the option of the artillery, the planners at that time were
21 considering infiltration by the infantry commando units to drive out the Commando
22 Invisible from the Casse.

23 So that was the nature of the discussions that we had in connection to that issue at the
24 headquarters.

25 Q. [11:28:46] And just to be clear, you're talking about, which artillery are you

1 talking about? Are you talking about mortars?

2 A. [11:29:02] Yes, mortars, yes.

3 Q. [11:29:08] And you're talking about Adjamé. Was it Williamsville, the area
4 where the scrap yard was located?

5 A. [11:29:19] The scrap yard or Casse is not at Williamsville. It's on the other side
6 of the highway, the highway from Adjamé to Abobo. But Williamsville, when you
7 are going to Abobo, is entirely to your right, while the Casse is to your left. So it's
8 quite a distance from Williamsville, although at the same time, when you have people
9 in ambush shooting at the CRS2, and those snipers were targeting it, so this was the
10 situation we were dealing with.

11 Q. [11:30:10] Okay. I understand the CRS, it's the CRS that were based in
12 Williamsville?

13 A. [11:30:19] Yes.

14 Q. [11:30:22] Now, you've described a meeting with planners. Just present at that
15 meeting, was it the usual group of people you've identified before, the group of
16 generals?

17 A. [11:30:40] Yes.

18 Q. [11:30:45] And you say that the option was dropped to use mortar, mortars on
19 this location on the scrap yard. When you had your discussion with, at the
20 état-major with the chief of staff, at this point was there already positioned at Camp
21 Agban a mortar for use in this operation? Had it already been set up?

22 A. [11:31:22] Yes. As a precautionary measure, a battery or mortar was set up,
23 and when we finished our discussions and the chief of general staff came to a clear
24 position, firm instructions were given at the meeting for the battery to be taken out
25 and to be returned to its base.

1 Q. [11:31:55] And those were instructions from whom to take out the battery and
2 return it to its base?

3 A. [11:32:05] The chief of general staff, after we finished our discussions and he
4 understood our arguments and the relevance therein, the arguments of the generals,
5 including myself, then he said, "That's correct, and you're right," so he gave
6 instructions for us to dismantle the arrangement.

7 Q. [11:32:33] And just to finish up on this, from which base did it come, the battery
8 that you're talking about, which base?

9 A. [11:32:42] Akouédo.

10 Q. [11:32:52] Now I'd like to ask you please about, now we're on this topic of use of
11 this artillery. Were there any other meetings at the état-major that you recall where
12 you discussed use of multiple rocket launchers?

13 A. [11:33:22] Yes.

14 Q. [11:33:27] Can you tell us please then what was discussed at this meeting?

15 A. [11:33:34] That was at the last meeting which was attended by all the generals,
16 and I think it was on 30 March, if I'm not mistaken. As I've already explained, when
17 in answer to your questions, we were in a situation where all the troops had started
18 moving back to Abidjan. They had left their positions and were moving back to
19 Abidjan. The chief of general staff was in a position which all generals could easily
20 understand, a situation where we knew that we were losing the operation that we
21 were conducting. So that can be extremely stressful.

22 So the chief of general staff said, "If those who are at the Golf who are bothering us,
23 may I say, if that's what the situation is, I am going to send them a few LRMs." And
24 again, we had discussions and we told him that this was not a good option, because
25 the Golf was not a military target, even though some soldiers were at that position.

1 And we said that the Golf Hotel by definition is a hotel and not a military target. So
2 he said okay, and we proceeded.

3 But, madam, let me explain something to you. There is a common thread when you
4 look through these types of discussions that we had. Right from the onset of the
5 crisis, we had a lot of discussions at the état-major. I have told you already that in
6 our assemblies we do not vote. It is the chief who decides. He has the final word.
7 Now, the chief of general staff was someone who was very available, very
8 understanding, very open-minded, and he used to listen a lot. And whenever he
9 understood the relevance of an argument as compared to his own operational choices,
10 he would revisit the arguments and agree with the solutions that were proposed by
11 all the other generals.

12 Now, this means, and contrary to what I have often heard here or elsewhere, we were
13 not connected to any specific institutions on a particular basis. We were responsible
14 people, and if a decision was proposed that did not look appropriate, we had
15 discussions on that proposal. And like I said a short while ago, our chief was a very
16 open-minded person who would align with the generals, as I have already indicated
17 in the two previous cases we have just discussed. That's the clarification I wanted to
18 provide.

19 Q. [11:37:25] And just to be clear, I'm sure, of course, their Honours are aware,
20 when you say LRM, you're talking about multiple rocket launcher?

21 A. [11:37:36] Yes, that's correct.

22 Q. [11:37:39] And just on what was said at this meeting, do you yourself recall you
23 saying anything at this meeting as part of the discussion?

24 A. [11:37:52] I have already said that some generals proposed that those types of
25 weapons were not appropriate for those two circumstances, and I was one of those

1 who was of that opinion. In any event, what we need to understand is that the chief
2 of general staff adopted the position proposed by the generals in the two cases, and
3 the proposed weapons for use in those two cases were not used as initially proposed.

4 Q. [11:38:33] And just finally on this meeting, you say it was on 30 March. Who
5 was present?

6 A. [11:38:43] All those who usually attended. And on that occasion the chief of
7 the CCI and the commander who was in charge of the front within the country, that's
8 in the hinterland.

9 Q. [11:39:02] And by that do you mean Konan?

10 A. [11:39:08] Yes.

11 Q. [11:39:10] And the commander of the CCI, by that you mean Kouakou; is that
12 right?

13 A. [11:39:16] Yes.

14 Q. [11:39:17] And we've heard that you discussed use of multiple rocket launchers
15 on this occasion. Is there anything else that you discussed at this meeting on 30
16 March? This was just before you stood down.

17 A. [11:39:45] Yes. Since the troops had quit their positions to return to Abidjan,
18 the chief of general staff proposed that what was referred to as the battle of Abidjan
19 be organised. So we had some discussions around that. Some were of the view
20 that if we had such a big project, we should have at least asked the troops to
21 withdraw step by step, thereby giving them various positions that would enable us to
22 defend Abidjan effectively.

23 But it's not possible to defend Abidjan when you're already in Abidjan. So that
24 would not have been a very successful strategy. But in any event, the plan for the
25 battle of Abidjan was discussed, various strategies were envisaged and there were

1 different opinions as to the strategies.

2 That day we ended up separating from each other. But then we didn't have any
3 other meeting from the next day up until today.

4 Q. [11:41:20] And just finally closing up on this, in relation to the discussion on the
5 battle of Abidjan, do you recall what you said in relation to what the chief of staff had
6 presented, had proposed in relation to the organisation of the battle?

7 A. [11:41:42] Well, that's what I've been saying, namely that I was of the view that
8 if there was such a project to be envisioned, we would not have allowed all the troops
9 to return to Abidjan. We would have adopted a more operational and tactical
10 approach, because it was not good for the troops to withdraw from Yamoussoukro to
11 Abidjan, a distance of 200 kilometres, at a time when there was no major opposition
12 or when we were not under any hot pursuit.

13 So we could have taken measures to slow down the withdrawal process and in so
14 doing provide some three, two or three different defence positions. We would not
15 have had all the troops coming down into Abidjan to defend Abidjan. So I was of
16 the view that this would not have been a very good strategy. Personally, I did not
17 agree with that operational idea.

18 Now, the meeting ended and everyone understood that there was danger in the air.
19 The very next day we tried to reach the chief of general staff unsuccessfully, and
20 everyone took measures regarding their own personal security, just as I did regarding
21 my personal security.

22 Q. [11:43:27] Okay. We'll move on from that meeting in that case and go to
23 another topic that was raised by his Honour just before we had the break, and that
24 was the topic of the presence of Mr Blé Goudé at any meetings that you attended.
25 And you were talking then in particular about the meetings that you've described at

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1 the presidential palace. And I want to ask you about the presence of

2 Mr Blé Goudé --

3 MR GBOUGNON: [11:44:10] (Interpretation) I'm sorry, Mr President, can she
4 indicate the page of the transcript that she's quoting, please.

5 MS PACK: [11:44:20] Yes. It's pages 21 and 22 of the English realtime transcript.

6 It was just before the break, in fact. So I think nothing more specific than that, than
7 just the last few questions before the break this morning. If I can just proceed then?

8 Q. [11:44:40] So the question and your answer related to the meetings at the
9 presidency, the presidential palace, so I would like to ask you about meetings at the
10 residence, the presidential residence, and whether or not Mr Blé Goudé was ever
11 present at those meetings. And I'll just take you to some footage that we played last
12 week in relation to a meeting in January 2011 at the presidential residence. And
13 perhaps you can just help us with this. Let me just read out the reference. Now,
14 this is a video.

15 If we could just have control of the evidence channel. It's CIV-OTP-0064-0110, and
16 the relevant footage is at 00:04:20 to 00:05:00. And the relevant transcript is
17 CIV-OTP-0086-1013, and the relevant page of the transcript is 1014.

18 I'm just going to play it, and if you could just watch that, and then I'll ask you a
19 couple of questions after.

20 PRESIDING JUDGE TARFUSSER: [11:46:29] Maître Gbougnon.

21 MR GBOUGNON: [11:46:32] (Interpretation) Mr President, I have found the page
22 of the transcript in French, and I believe that the Prosecutor is referring to that page.
23 It is page 19 as from line 21. The question of the Presiding Judge is as follows: "So
24 one of them is a question from the questions that Mr Gbougnon asked you this
25 morning, unless I'm mistaken, but it seems that you spoke these last days. And

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1 please correct me if I am mistaken. You talked about two meetings in February and
2 March in the presence of Mr Gbagbo, who was president at the time, with the
3 generals; is that correct?" End of quote.

4 Mr President, in your question, there was no indication, no mention of the
5 presidential palace and no indication or mention at all to the residence. So that is
6 what the transcript says and I wanted to point out that to the Chamber.

7 PRESIDING JUDGE TARFUSSER: [11:48:10] Maître Altit.

8 MR ALTIT: [11:48:11] (Interpretation) Thank you, Mr President. I would like to
9 add something. It was stated specifically that Mr Blé Goudé was not there in those
10 meetings as the witness answered that question. So the link is rather tenuous in
11 relation to the question being put by the counsel for the Prosecution right now.

12 PRESIDING JUDGE TARFUSSER: [11:48:41] Yes, I left it open, residence or palace,
13 because I didn't know. I left it open to the witness to respond. So I don't --

14 MS PACK: [11:48:52] Yes.

15 PRESIDING JUDGE TARFUSSER: [11:48:53] I don't understand the intervention, I
16 must say. But, please.

17 MS PACK: [11:49:00] Can I clarify for Mr Gbougnon.

18 PRESIDING JUDGE TARFUSSER: [11:49:03] Yes.

19 MS PACK: [11:49:03] Because if you then read the next two lines the answer
20 specifically relates to the palais présidentiel.

21 PRESIDING JUDGE TARFUSSER: [11:49:10] Yes.

22 MS PACK: [11:49:10] So there is that differential made. So my question just relates
23 to seeking clarity over the different types of meetings. There are different types of
24 meetings. There's ones at the residence and ones at the palace.

25 PRESIDING JUDGE TARFUSSER: [11:49:22] Yes.

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1 MS PACK: [11:49:22] And the answer at --

2 PRESIDING JUDGE TARFUSSER: [11:49:24] The answer was at the --

3 MS PACK: [11:49:25] Line 20, yes. Sorry, page 20, line 1 of the French then talks

4 about two meetings which took place at the presidential palace.

5 PRESIDING JUDGE TARFUSSER: [11:49:35] Right.

6 MS PACK: [11:49:36] Hence my follow-up question to clarify.

7 PRESIDING JUDGE TARFUSSER: [11:49:39] Okay. So please go ahead, Madam

8 Prosecutor.

9 MS PACK: [11:49:46] Thank you. And if we could just play the video, and this is

10 video footage Prosecution will be playing, meeting on 12 January 2011.

11 MR GBOUGNON: [11:50:08] (Interpretation) Do I have the floor, Mr President?

12 Mr President, before objecting, I would like to have the witness ask to leave the

13 courtroom.

14 PRESIDING JUDGE TARFUSSER: [11:50:25] Mr Witness, can you please leave the

15 courtroom for a few minutes because the counsel is objecting and ...

16 (The witness stands down)

17 PRESIDING JUDGE TARFUSSER: [11:51:14] Yes.

18 MR GBOUGNON: [11:51:15] (Interpretation) Mr President, to begin with, realtime

19 transcript page 20 from line 1, this is the answer of the witness, and I quote, "There

20 were two main meetings which took place at the palace of the presidency at the

21 Plateau in February and March in the presence of the head of state at the time." End

22 of quote.

23 Mr President, the video that the Prosecution wants to show the witness is video

24 footage that speaks instead of the residence, and I'm reading a transcript of that video

25 from line 5. It is written "Yesterday, Wednesday, the president of the republic,

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1 President Laurent Gbagbo, discussed with the main commanders of the national
2 army" --

3 MS PACK: [11:52:32] With respect, that was the point, the point of the question.

4 PRESIDING JUDGE TARFUSSER: [11:52:34] Yes, yes.

5 MR GBOUGNON: [11:52:39] (Interpretation) But, Mr President, the manner in
6 which the question is being brought up -- because when she starts telling the witness
7 that you said a short while ago that you did not attend a meeting in the palace, and
8 then they're being shown a meeting. He's being shown a meeting in the residence in
9 Cocody, that is not fair because he has said that these two main meetings

10 Mr Blé Goudé was not present. That is clear enough.

11 PRESIDING JUDGE TARFUSSER: [11:53:19] First of all, I didn't imagine that my
12 question creates then such problems. But this is always a matter of how to pose the
13 questions. I think we are all much too elaborated in posing questions. We should
14 just pose the question. And therefore I would ask you to pose the question so that
15 there are no misunderstanding can be -- sorry for the speed -- and that we are fair to
16 the witness. And I repeat, the witness is strong enough to oppose to -- he can't be
17 treated unfairly, I think. He demonstrated in the last days that he's good enough
18 also to respond saying exactly what he thinks.

19 MS PACK: [11:54:11] Yes, your Honour.

20 PRESIDING JUDGE TARFUSSER: [11:54:13] So I would now ask the witness to be
21 brought in again.

22 But without going back "you have said, you have said," just put the question.

23 MS PACK: [11:54:30] Yes. It's a meeting at the residence on 12 January.

24 PRESIDING JUDGE TARFUSSER: [11:54:33] Yes, yes, okay.

25 MS PACK: [11:54:34] I'll remind him of that. And then I want to play the footage.

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- 1 PRESIDING JUDGE TARFUSSER: [11:54:39] No. No, you don't remind him.
2 Have you seen it? What is that?
3 MS PACK: [11:54:40] He's seen it before. We showed it to him before, last week.
4 PRESIDING JUDGE TARFUSSER: [11:54:44] So you remember.
5 MS PACK: [11:54:45] Yes, absolutely.
6 (The witness enters the courtroom)
7 MS PACK: [11:54:59] I'd like to play the footage if I may, your Honour.
8 PRESIDING JUDGE TARFUSSER: [11:55:02] Yes, please.
9 (Viewing of the video excerpt)
10 THE INTERPRETER: [11:55:10] (Interpretation of the video excerpt) And the
11 populations that did not agree with them. The president of the republic, Mr
12 Laurent Gbagbo, was briefed on the earlier meeting that the generals had had at the
13 general staff. The commanders of the Navy, the Air Force, the ground forces,
14 CECOS, the gendarmerie and the police. And General Philippe Mangou took
15 measures to secure the territory and stop all attempts to make certain communes of
16 Abidjan incontrollable. And the meeting was expanded to include members of
17 government, particularly Prime Minister Gilbert Aké N'Gbo.
18 MS PACK: [11:56:00]
19 Q. [11:56:01] Questions in relation to that meeting. Do you recall a meeting at the
20 residence on 12 January 2011?
21 A. [11:56:07] Yes, I remember the meeting, but since this was a very long time ago, I
22 really do not remember the details of discussions, but I've followed the comments by
23 the journalist.
24 Q. [11:56:39] Do you recall if Mr Blé Goudé was present at that meeting also or at
25 part of it?

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1 A. [11:56:42] But it is specified that the meeting was expanded to include members
2 of the government, and Mr Blé Goudé was a member of the government at the time,
3 so it is quite possible that he would have taken part in that meeting if the head of state
4 found it necessary.

5 Q. [11:57:19] Thank you. I'll move to another topic, please. Now, you were
6 asked in questioning this morning, and this was in questioning by my learned friend
7 Mr Gbougnon, you were asked about a name of a Captain Mory, and you were asked
8 to spell that name.

9 Now, with your Honour's permission, I'd like to just show, put in eCourt an official
10 document. It's a Defence document. It's not on the list of material. It is in eCourt
11 anyway. If I could put it up and use it and show it to the witness with reference to
12 this name. It's CIV-D15-0001-6610, if I could use that in my questioning, briefly.

13 PRESIDING JUDGE TARFUSSER: [11:58:17] Yes. What is this?

14 MS PACK: [11:58:20] It's the name of the Captain Mory. There was an issue over
15 the spelling and the witness wrote the spelling on a bit of paper. And I wanted just
16 to go to an official document and just ask the witness to look at the name as it is
17 shown on the official document.

18 PRESIDING JUDGE TARFUSSER: [11:58:33] What is an official document?

19 MS PACK: [11:58:37] It's an Official Gazette for Côte d'Ivoire. It's about the
20 promotions of members of the gendarmerie. It's not dissimilar to one of the
21 documents your Honours saw in the last few days. I'll just get the full title correct.

22 PRESIDING JUDGE TARFUSSER: [11:58:50] But are we sure that we are talking
23 about the same person?

24 MS PACK: [11:58:53] Well, perhaps the witness can confirm that, if he looks at it.

25 PRESIDING JUDGE TARFUSSER: [11:58:59] Maître Gbougnon.

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1 MR GBOUGNON: [11:59:02] (Interpretation) Mr President, I would simply refer to
2 paragraph 36 of the conduct of the proceedings, ICC-02/11-01/15-498 and paragraph
3 36. It states that when questioning a witness, the parties and Legal Representatives
4 of Victims can always ask for authorisation to use materials other than those
5 appearing on the lists on condition that they demonstrate to the Chamber the
6 relevance of those additional materials and explain why they were not included in the
7 initial list without prejudice to the rights of the Defence in Article 67.

8 So in this context, the parties will communicate documents, only documents that they
9 intend to use for the questioning of the witness.

10 Mr President, that is why I am strongly objecting to this document being presented
11 because the Prosecutor has not explained the relevance or why the document was not
12 included in the list of materials to be used.

13 PRESIDING JUDGE TARFUSSER: [12:00:42] Maître Altit.

14 MR ALTIT: [12:00:44] (Interpretation) Thank you, Mr President. Mr President,
15 your Honours, we object to the use of that document because, not only because it is
16 not on the list of documents, but the Prosecution has given an argument which we
17 have heard, and also it is not on the list of evidence of the Prosecution. That is
18 important. And I would like to specify that it was never used by the Defence.

19 MS PACK: [12:01:26] Can I just explain?

20 PRESIDING JUDGE TARFUSSER: [12:01:28] Of course.

21 MS PACK: [12:01:28] This is an issue that was raised in cross-examination this
22 morning, the spelling of this individual's name. So it became an issue this morning
23 for the Prosecution to address. And in the interests of justice and truth seeking,
24 we've sought to use a Defence document that was disclosed to us, as I understand it,
25 by the Defence that's got a D number in the ERN, so the supposition is it comes from

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1 the Defence.

2 And it's a journal, Journal officiel de la République de Côte d'Ivoire, probably the
3 kind of document the submission of which would not unduly prejudice at all,
4 prejudice remotely the Defence. It's in the interests of fairness to just show this. It's
5 just a name to lend clarity to an issue which has been confused this morning.

6 It's a Journal officiel. It's dated 25 October 2007, and it attaches and has it, on it a
7 decree which I will just be seeking the witness to look at.

8 MR ALTIT: [12:02:31] Monsieur le Président.

9 PRESIDING JUDGE TARFUSSER: [12:02:37] Maître Altit.

10 MR ALTIT: [12:02:38] (Interpretation) Thank you, Mr President. Mr President, I
11 am on my feet because counsel for the Prosecution was on her feet also, otherwise I
12 would not have stood up, because the Defence has the last word.

13 The document was not used by the Defence and, therefore, the issue is not to know
14 whether there is an important prejudice or not. It is a matter of principle. We have
15 to respect rules or not. If they wanted to add it to their list of evidence, they should
16 do that in a timely manner.

17 MR KNOOPS: [12:03:20] Mr President, could I add on behalf of our team --

18 PRESIDING JUDGE TARFUSSER: [12:03:23] Yes.

19 MR KNOOPS: [12:03:23] -- as a final word, that a document becomes only a
20 document when it's submitted to the Court. It's for the Defence to make the decision
21 and if the Defence has not submitted this document, it has reasons for it, it can refrain
22 from using it, and it's not up to the Prosecution to say then there's no prejudice
23 because it's in the eCourt.

24 It's a document which not yet before the Court. Therefore, it cannot be so that the
25 Prosecution asserts that there is no prejudice because it's a document which is

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1 characterised with the letter D for Defence. That doesn't make it an official
2 document before the Court and, therefore, it's a document which cannot be used in
3 re-examination. Thank you.

4 PRESIDING JUDGE TARFUSSER: [12:04:15] Well, I cannot understand where is the
5 problem in any case, the problem of identifying a person, which seems to be the only
6 issue here. I invite the Prosecutor to submit the official journal as a document to the
7 Chamber without now confronting the witness with it, and we will deal with it
8 argumentatively.

9 MS PACK: [12:04:49] Thank you, Mr President. The only issue I ask in relation to
10 that though is that we have the witness here.

11 PRESIDING JUDGE TARFUSSER: [12:05:05] I know.

12 MS PACK: [12:05:06] He's identified this person. If he can look at the name, he
13 could confirm or not if it's the same person he's been speaking about. The logic --

14 PRESIDING JUDGE TARFUSSER: [12:05:14] I'm really --

15 MS PACK: [12:05:17] Okay.

16 Q. [12:05:26] Do you know, can I -- I'll ask the question in relation to it. The
17 Captain Mory of whom you've spoken, do you know if he was promoted to the grade
18 of captain in 2007? And this would be by a decree of July 2007. Do you know if he
19 was promoted then in July 2007 to the rank of captain, Captain Mory?

20 A. [12:06:14] Yes.

21 Q. [12:06:17] Okay. And that's in reference to a decree of 18 July 2007.

22 Thank you, Mr Witness. I'll move to another topic, your Honour.

23 Now, I want to ask you, you were shown some documents on Friday last week in
24 questioning by my learned friend representing Mr Gbagbo. It was related to
25 casualties suffered by CECOS during the post-electoral crisis. And I want to show

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1 you a list, I'll ask for it to be brought up, of deceased persons from the FDS. It's
2 0029-0473 with the OTP prefix.

3 All right. Now, this is a list of FDS fatalities.

4 MR KEÏTA: We cannot see anything on the screen.

5 MS PACK: [12:07:57] I'm grateful to my friend Maître Keïta. It should be at
6 evidence 1, if that is pressed on the monitor, for both the witness and my learned
7 friend.

8 Q. [12:08:25] I hope you have it in front of you now, Mr Witness.

9 A. [12:08:28] Yes.

10 Q. [12:08:29] And it is a list of deceased persons from the FDS who were received,
11 their bodies, at the IVOSEP mortuary in Treichville, and this was bodies received
12 during the crisis up to, after the crisis, in fact, up to May 2011, it appears from the
13 document.

14 Now, I'll ask you please just if we can go to page 0474, and if you look there please at
15 the entry at number 31. Is this the element, the CECOS element who you told us
16 about last week who was killed, Yapi Saturnin Désiré?

17 A. [12:09:33] Yes.

18 Q. [12:09:33] And we see there in the fourth column along, which I can tell you just
19 from the first page is entitled, quote in French, (Interpretation) "Date of entry into
20 the mortuary," that he arrived in the mortuary on 26 February 2011. To your
21 knowledge, was that the date of his death?

22 A. [12:10:02] Which date was that, 26 February 2011? Yes, he died on that day.

23 Q. [12:10:16] And just take your time to look at this page and then I'll ask to go
24 back to the page before, if you recognise any of the FDS elements here recorded on
25 this document, anyone else by name?

1 A. [12:10:39] Yes, of course.

2 Q. [12:10:50] Any CECOS elements you can identify?

3 A. [12:10:53] Not specifically CECOS elements, but there are other members of the
4 Defence and Security Forces who were killed during the crisis.

5 Q. [12:11:19] Would you name the ones you recognise, please?

6 A. [12:11:25] The two colonels at number 49 and at number 52.

7 Q. [12:11:42] Okay. We see the date upon which they entered the mortuary as 4
8 April and 11 May respectively.

9 Let us go to the preceding page please, which is page 0473. Do you recognise any of
10 the names on this page? Can you just state the number, the entry number?

11 A. [12:12:16] I do not recognise any of the names that is on their full names.

12 Q. [12:12:56] And just so we're complete, just to be complete, if we just go to the
13 last page, 475, and same question.

14 A. [12:13:44] I do not recognise any of the non-commissioned officers on this page
15 of the document.

16 Q. [12:13:51] I'll leave that and we can move on in that case. Now I'd like to take
17 you back to 16 December 2010. And this is specifically in relation to questioning by
18 my learned friend representing Mr Gbagbo. You were asked about the rules of
19 engagement on 16 December. And that was at the transcript reference in the French
20 realtime transcript T-140, page 46, lines 20 and following, and the equivalent in
21 English realtime was at page 47, lines 4 and following. There was a question in the
22 French at line 10 which I won't read, and then at line 20 in the French your answer,
23 quote, in French, (Interpretation) "I wanted to recall that the law enforcement
24 operations are governed by the instrument that the prosecuting counsel presented to
25 us yesterday, 1967, and that in accordance with that document, the use of force and

1 the use of weapons within the context of law enforcement activities is subject to
2 specific procedures characterised by the issuance of specific requisitions for the use of
3 force and specific conditions for the use of weapons. These are the provisions of the
4 law of '67 for activities related to law enforcement. But generally speaking, we have
5 the possibility, that is, the forces of law and order have the possibility in the case of
6 legitimate self-defence, that is of your colleagues or yourself, and given that the first
7 hypothesis for the implementation of the law was not applicable in the environment
8 in which we found ourselves, given that the authority, the civil authority that issues
9 the requisition, has to be in the field; whereas on 16 December no civilian authority
10 could be in the field, and you fully understand why. And so we have another
11 possibility which is legitimate self-defence, and that is why we underscored that
12 second hypothesis."

13 Now, I want to be very clear. What was the legal basis for the continued
14 deployment of the armed forces of FANCI during the blockade of the Golf Hotel and
15 during the 16 December march?

16 PRESIDING JUDGE TARFUSSER: [12:18:06] Maître Altit.

17 MR ALTIT: [12:18:08] (Interpretation) Thank you, Mr President. I object to the
18 question which is talked about, a blockage of the hôtel du Golf. This is a term that
19 was never used by the witness and the question is therefore a leading question.

20 PRESIDING JUDGE TARFUSSER: [12:18:28] Well, I would also say that, I mean, the
21 legal basis, do you think about the legal basis? I mean, I have some problems with
22 the legal basis. But don't use, in any case, terms which are not used by the witness.

23 MS PACK: [12:18:49]

24 Q. [12:18:50] Okay. So on 16 December 2010, what was the legal basis, what was
25 the legal basis for the deployment of the armed forces, FANCI, in Abidjan?

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1 MR KNOOPS: [12:19:05] I believe it's the same question.

2 MS PACK: [12:19:07] No, it isn't. It hasn't got the reference.

3 PRESIDING JUDGE TARFUSSER: [12:19:11] This is not leading, but yes, I don't
4 want to say more because then I would influence the witness. But let's hear the
5 witness.

6 MR KEÏTA: (No interpretation)

7 MS PACK: [12:19:42] Let me change the question.

8 Q. Was there an official document deploying the armed forces on the basis of
9 which they were in situ in Abidjan on 16 December?

10 A. [12:20:09] Very well. The expression armed forces, madam, what does that
11 include? I'm a soldier from Côte d'Ivoire. Now, maybe armed forces for you might
12 not have the same meaning. But we need to agree on the meaning of armed forces.
13 You have used another term which we need to agree on its meaning. The expression
14 you used was deployment in situ. What sides are you talking about?

15 Q. [12:20:42] I'm asking the questions and I'm not being specific about the sites.
16 When I talk about the armed forces, I'm talking about FANCI, forces armées
17 nationales. That's what I'm talking about, just to be clear. Does that clarify your
18 question?

19 MR KEÏTA: (No interpretation)

20 MS PACK: [12:21:15]

21 Q. [12:21:15] Last week, we talked about the decree of 14 November 2010. You
22 might recall, we talked about it. We talked about a decree that requisitioned the
23 forces armées nationales de Côte d'Ivoire. Do you recall being questioned about that
24 last week?

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

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1 Q. [12:21:34] Now, I want to be very clear then, thinking about that decree. I ask
2 the question again. To your knowledge, was there an official document which
3 provided the legal basis for the presence of armed forces, the deployment of armed
4 forces, in Abidjan on 16 December?

5 A. [12:22:09] You yourself have referred to a decree requisitioning the armed forces.
6 That is the decree which requires the armed forces to be involved in the law
7 enforcement activities of that day because the decree was still in force.
8 The requisitioning order was still in force.

9 Q. [12:22:38] Thank you.

10 PRESIDING JUDGE TARFUSSER: [12:22:39] But do we need the witness to tell us,
11 to tell us this? I mean, we know already that there was a decree.

12 MS PACK: [12:22:48] Well --

13 PRESIDING JUDGE TARFUSSER: [12:22:49] I don't know. I have not understood
14 either of the questions.

15 MS PACK: [12:22:55] We leave it there.

16 PRESIDING JUDGE TARFUSSER: [12:22:59] Yes, please.

17 MS PACK: [12:23:00]

18 Q. [12:23:01] Now, to your knowledge, how many times to your knowledge were
19 the armed forces requisitioned before 2010?

20 A. [12:23:06] Whenever there was a need, the political authorities would assess the
21 situation and would request the armed forces. I don't remember the number of
22 times. I can't count the number of times, but whenever it was necessary.

23 Q. [12:23:33] Do you recall them being requisitioned in 2000 --

24 PRESIDING JUDGE TARFUSSER: [12:23:38] Yes. But he said he can't remember.

25 I mean --

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1 MS PACK: [12:23:43] I'll leave it there.

2 Q. [12:23:45] Now I want to ask you, please, about another issue, and this is an
3 issue about which the Prosecution emailed the Trial Chamber on Friday.

4 So I don't know whether it's appropriate to deal with this in the absence of the
5 witness or whether it's a matter about which your Honours can rule now. It's simply
6 the question of whether or not the Prosecution should question the witness
7 appropriately on the document that was circulated. For the record,
8 CIV-OTP-0045-0729. I'm in your Honour's hands as to how properly to deal with
9 this.

10 PRESIDING JUDGE TARFUSSER: [12:24:27] No. I think we should give the floor
11 to the parties, this in the absence of the witness, and then we will decide on that and
12 then the witness come back and we'll see what happens.

13 So, Mr Witness, please, can you leave. There is an issue we have to discuss without
14 you being present. So if you can leave for a few minutes the courtroom. Thank
15 you.

16 (The witness stands down)

17 PRESIDING JUDGE TARFUSSER: [12:25:19] I think the parties are all aware on
18 what is the issue at stake. I mean, there is an email from yesterday by the Office of
19 the Prosecutor requesting in light of the questioning of Witness P-10 on behalf of
20 Mr Gbagbo and in particular on the issue of personnes armées. And noting the
21 questioning of document 0045-0732, we consider that it is incumbent upon us to refer
22 the Trial Chamber to the following document disclosed under Article 67(2) to the
23 Defence teams, and in particular, CIV-OTP-0045-0729, which were attached to the
24 email.

25 So if there is something to say by the parties, please. Maître Altit.

1 MR ALTIT: [12:26:35] (Interpretation) Thank you, Mr President. Mr President,
2 your Honours, on 31 March as you said, Mr President, the Prosecution asked to
3 question the witness on a document that was not listed on its list of evidence and
4 therefore was not disclosed accordingly. This discussion is quite similar to the one
5 we have just had. We objected to the presentation of the document which we dealt
6 with a few minutes ago, and we maintain the same objection for this document for
7 several reasons which I will now broach quite quickly.

8 One, on several occasions this Chamber has decided that during a re-examination it is
9 not possible to use new documents that were not used in the examination-in-chief.

10 Two, this document does not figure on the list, the Prosecution list of evidence, and it
11 has been the consistent position of the Chamber that the Prosecutor cannot use
12 documents that are not listed on its list of documents. Now, if you were to grant the
13 Prosecutor's request, this would amount to giving the Prosecution leave to amend its
14 list of documents freely during an examination of a witness.

15 Three, the Prosecutor has not provided any substantial reason to waive this principle
16 guiding our proceedings which you yourself, you as a Chamber, have put in place.

17 In fact, this document has been in the Prosecutor's possession since July 2013, and the
18 Prosecutor has had more than about two years between then and June 2015, which
19 was the deadline for submitting its list of documents, to decide whether it was or it
20 was not going to use those documents.

21 Today counsel for the Prosecutor claims that it is because of the examination of the
22 Defence that this document has become useful. Now, in relation to the issue of
23 armed civilians or the presence of armed civilians at the march of 16 December
24 involved civilians, and that argument cannot hold sway because the presence of
25 civilians in that march of 16 December is a matter that was raised right from the

1 beginning of these proceedings, even in the confirmation hearings phase.

2 There is, therefore, no surprise for the Prosecution in this regard because this matter
3 was discussed at the confirmation hearings in February 2013 and in the document on
4 the Prosecutor's evidence submitted by the Defence in March 2015. And I refer the
5 Chamber to that document in particular.

6 The Defence from the very onset has provided evidence that it was an armed,
7 insurrectional march that we were dealing with and therefore the Prosecutor ought to
8 have anticipated that Defence was going to be addressing this issue, particularly with
9 this witness.

10 Your Honours, the Prosecutor voluntarily decided to ignore the armed nature of the
11 march of 16 December right from the beginning of this trial. The problem has been
12 consistently in this case that once the Prosecutor comes face to face with reality, he
13 changes his game plan. And again the prosecuting officer is trying to take
14 advantage of a situation to his benefit and to amend his own story line.

15 Four, it is not for the Prosecutor to determine the time at which certain documents can
16 be presented to the Chamber outside of his own examination time. The Prosecutor
17 has notified for each witness or disclosed for each witness a number of documents
18 which he has not used. But the Defence has never asked him to use such and such a
19 document because the Defence does not intervene in the strategy of the Prosecutor.
20 Defence delved into the essential matters relating to the examination of P-10 for the
21 benefit of all, and when it came to additional materials, paragraph 40 of the Rule on
22 the Conduct of Proceedings -- paragraph 43 on the Rule of the Conduct of
23 Proceedings is indeed quite relevant.

24 And my last point, your Honours, is as follows: We object to the presentation of this
25 document, and as a subsidiary argument, if your Chamber were to admit this

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1 document, and given that it is one of our documents, we would ask to open up
2 examination of this witness on this particular document because we are not dealing
3 here again with a matter of re-examination, as it were.

4 Thank you, Mr President.

5 PRESIDING JUDGE TARFUSSER: [12:33:07] Mr Knoops.

6 MR KNOOPS: [12:33:08] Thank you, Mr President. Your Honours, we refer to the
7 ruling of the Chamber of 13 May 2016, paragraphs 21, 22, in which, in paragraph 21,
8 the Court unequivocally stated that the Chamber will not allow the Prosecution to
9 introduce new potential incriminating evidence after the disclosure deadline, except
10 for, that's paragraph 22, when the material is entirely new, not a duplication, and
11 could only have been obtained by the Prosecution after the disclosure deadline, being
12 this portrayed within the principle of having the Defence right to know the entirety of
13 its case.

14 This document, Mr President, in question was disclosed on 9 May 2014. Therefore, it
15 does not meet the criteria of paragraph 22 of your ruling, namely the exceptions
16 which are enumerated there, and therefore the principle as the Court has set in
17 paragraph 21 of this ruling of 13 May 2016 clearly applies here and therefore the
18 request of the Prosecution should be rejected.

19 Thank you.

20 PRESIDING JUDGE TARFUSSER: [12:34:50] Thank you.

21 MS PACK: [12:34:56] Your Honour, of course it's a matter for you as to whether or
22 not you wish to receive this document now.

23 PRESIDING JUDGE TARFUSSER: [12:35:02] Yes, yes, I know.

24 MS PACK: [12:35:03] We would say that this witness is the best person or the person
25 best placed to deal with this document because he received it, of course.

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1 PRESIDING JUDGE TARFUSSER: [12:35:09] Yes, I was going to decide on the
2 matter.

3 MS PACK: [12:35:11] Thank you, your Honour.

4 PRESIDING JUDGE TARFUSSER: [12:35:13] No. You have already spoken.

5 MR ALTIT: [12:35:16] (Interpretation) That is correct. And I'm on my feet again
6 because we have all spoken and I don't see why the Prosecutor had the last word as
7 always.

8 PRESIDING JUDGE TARFUSSER: [12:35:27] No, but she hasn't had the last word
9 because I stopped her.

10 The Chamber has taken note of the Prosecutor's request to be allowed to question this
11 witness, Witness P-10, on a document which is neither on the Prosecutor's list of
12 evidence nor on the Prosecutor's material for Witness P-10. And I'm referring, for
13 the record, to the document CIV-OTP-0045-0729.

14 Having heard the parties and having taken note of the document, the Chamber, in
15 light of its content and in application of Article 69(3) of the Statute whereby the Court
16 shall have the authority to request the submission of all evidence that it considers
17 necessary for the determination of the truth, and not therefore because of the
18 submission, the late submission of the Office of the Prosecutor, considers it
19 appropriate for the search of the truth to order that the document be submitted in the
20 record of the case and that the Prosecutor be allowed to refer to the document in the
21 context of the re-examination of Witness P-10.

22 It goes without saying that, well, but I say it, of course, that the other parties will also
23 be allowed to question the witness on the same document if they so wish on the basis
24 of Rule 140(2)(d) of the Rules of Procedure and Evidence.

25 Therefore, I request the court usher to bring the witness in again.

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1 (The witness enters the courtroom)

2 PRESIDING JUDGE TARFUSSER: [12:38:19] Mr Witness, we had only a procedural
3 discussion on a document, nothing in the merits.

4 I give the floor to the Office of the Prosecutor for her re-questioning.

5 MS PACK: [12:38:53] Thank you, Mr President, your Honours. Could we just have
6 brought up CIV-OTP-0045-0729.

7 Q. [12:39:21] And if you just take your time, it's headed in French, (Interpretation)
8 "Daily information report, number 28, Thursday, 16 December," (Speaks English) and
9 it's from the, quote, "le chef PC opérations," unquote, end quote, and you are one of
10 the recipients.

11 And we'll just go over to the second page, and I'd just like to ask you if it's a
12 document that you recognise. Let's just go right to the end, to the signature at 0731,
13 the signature page. Is it a document that you received?

14 A. [12:40:31] No, Madam Prosecutor, no.

15 Q. [12:40:34] Well, let's just go to the first page, please. Not received by you?

16 A. [12:41:09] I can see that I'm one of the addressees.

17 Q. [12:41:18] Okay.

18 PRESIDING JUDGE TARFUSSER: [12:41:27] Do you remember having -- you don't
19 remember having ever seen this document? Is this what you want to say?

20 THE WITNESS: [12:41:38] (Interpretation) That's what I wanted to tell the
21 Prosecutor, Mr President. It is true that I appear as one of the recipients, but I don't
22 remember seeing this document.

23 PRESIDING JUDGE TARFUSSER: [12:41:52] Okay. Thank you.

24 MS PACK: [12:41:54]

25 Q. [12:41:54] All right. And we see the name on the last page. You've been

1 shown a document by this sender before. You recognise the name of Yoro, Claude
2 Yoro, as the chef PC opérations at this time, 16 December?

3 A. [12:42:11] Yes. But I think we are revisiting the same facts that we have talked
4 about over and over again. This matter is an internal matter for the national police.
5 The meeting that took place the day before was one under the auspices of the director
6 general of the national police, and he was the one in charge of the planning and
7 operational conduct of security operations relating to the march of 16 December.
8 Now, but when it came to the internal arrangements, it was their right. I don't know
9 that I know Yoro as the person in charge of the PC. But I think this is a matter that
10 falls squarely with the director general of the national police.

11 Q. [12:43:18] Okay. Understanding that, we'll just look at some of the content.

12 PRESIDING JUDGE TARFUSSER: [12:43:21] No, no. We don't look at the content
13 if he doesn't know. He doesn't know anything about this document.

14 MS PACK: [12:43:26] But if there is a specific part of the content that he might be
15 able to speak to --

16 PRESIDING JUDGE TARFUSSER: [12:43:31] But beside the document as such, you
17 can put a question but --

18 MS PACK: [12:43:38]

19 Q. [12:43:38] Okay. I'm going to put to you a question. Did you ever yourself
20 receive information that CECOS on 16 December opened fire on armed demonstrators
21 at the mairie, the mairie in Adjamé?

22 A. [12:44:06] Let me say this to the Prosecutor and specifically to the Court. We
23 have been here for about a week, and I have been repeating over and over the
24 procedures that guided our actions. The forces together make available to the
25 commander of the operations who was the DG of the police, who would then provide

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1 guidance, supervision, and deployment and take care of all the operational activities
2 involving those troops. Why is it then that when there is an activity involving
3 CECOS troops that have been made available to the director general of the police,
4 why is it that I'm being questioned about those facts, whereas I did not manage
5 anything on that day?

6 Now, pursuant to our practice, this is all I wanted to say, Mr President.

7 PRESIDING JUDGE TARFUSSER: [12:45:04] I had understood, yes.

8 MS PACK: [12:45:06] I'd like to repeat the question though because the question
9 wasn't answered.

10 Q. [12:45:11] I'd like to repeat the question, okay, the question is clear. Did you
11 receive yourself any information of CECOS opening fire on armed demonstrators at
12 the mairie in Adjamé on 16 December 2010?

13 PRESIDING JUDGE TARFUSSER: [12:45:35] Excuse me, excuse me. The question
14 is quite clear. Have you ever had information in your capacity as commander of the
15 CECOS of this opening fire as said by Madam Prosecutor?

16 MS PACK: [12:45:51] If necessary, we can go into private session.

17 PRESIDING JUDGE TARFUSSER: [12:45:53] No, no.

18 MS PACK: [12:45:54] That was I think probably my friend's objection.

19 PRESIDING JUDGE TARFUSSER: [12:45:56] Do you want to go into private session?

20 THE WITNESS: [12:45:59] (Interpretation) No, Mr President.

21 PRESIDING JUDGE TARFUSSER: [12:46:02] We are just asking if you have heard
22 about this, if you have taken note, if somebody told you, if you are aware, whatever,
23 of this allegation.

24 THE WITNESS: [12:46:20] (Interpretation) I did not receive any information, and I
25 could not -- I was not supposed to receive information on this event. The report was

1 made by the director general of the police as the person conducting the operation. It
2 was under his responsibility. So none of the commanders of the Navy, the
3 gendarmerie, and so on, we cannot just pick out one element of the report because it
4 concerns their elements. It is only one responsible officer who carries out the
5 operations, who draws the consequences, and who would conduct an investigation, if
6 necessary.

7 It was not CECOS as such. It was a detachment of CECOS that was placed at the
8 disposal of the DGPN for deployment. We have to be sufficiently clear about that.

9 PRESIDING JUDGE TARFUSSER: [12:47:26] We are clear, I think. But the thing
10 was not that you had something to do to decide upon, that you had the right to have
11 information about it; not that you were involved. The only question was if you later
12 heard about this.

13 THE WITNESS: [12:47:55] (Interpretation) I no longer remember.

14 PRESIDING JUDGE TARFUSSER: [12:48:00] Madam Prosecutor.

15 MS PACK: [12:48:01] Thank you, your Honour.

16 Q. [12:48:03] Mr Witness, let me just recall to you the letter, the earliest statement
17 that we have from you, related to 16 December events. This is your letter dated 11
18 January 2011, and you brought it to court last week, the letter to the UN High
19 Commissioner for Human Rights. It's CIV-REG-0001-0148. And this is the letter,
20 the copy of the document that the witness brought to court.

21 PRESIDING JUDGE TARFUSSER: [12:49:02] We have it.

22 MS PACK: [12:49:05] And if we can go please to 0316.

23 PRESIDING JUDGE TARFUSSER: [12:49:24] What do you mean?

24 MS PACK: [12:49:26] Sorry, it's not 0316. It's the following page. I'm sorry. I'm
25 confusing my references. Please forgive me. And it's the fourth from bottom and

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1 third from bottom paragraph. We just go to those. I'll just read them out.

2 Q. You say this. This is to the High Commissioner for Human Rights who had
3 written to you a letter about the 16 December events. You say, quote, (Interpretation)
4 "During the demonstrations of 16 December 2010, when the demonstrators crossed all
5 the roadblocks of the police forces, CECOS was instructed to prevent them from
6 reaching the RTI between the Saint-Jacques church and the carrefour known as
7 Carrefour de la Vie.

8 This intervention commanded by a senior officer of the police, the chief of CECOS
9 operations, was quite successful. The demonstrators were pushed back right to
10 Adjamé without any notable opposition. There was no loss of human life at that
11 location."

12 Just to be clear, is this the sum of your knowledge of what happened on the 16
13 December event so far as CECOS was concerned?

14 A. [12:51:12] This was at a very specific location. This is an incident that
15 happened at a very specific location, which you have just read. I gave that
16 clarification about a specific location and a specific intervention.

17 Q. [12:51:44] Do you say anything in your letter, in this letter in January 2011,
18 about CECOS supposedly opening fire on armed demonstrators, anything in this
19 letter on that topic?

20 PRESIDING JUDGE TARFUSSER: [12:52:00] Excuse me. We have the letter. Why
21 should we -- if he says anything in the letter, we can read it and we know it.

22 MS PACK: [12:52:06] All right. I'll leave it, your Honour.

23 PRESIDING JUDGE TARFUSSER: [12:52:09] Thank you.

24 MS PACK: [12:52:11]

25 Q. [12:52:11] Now, let me just ask you relatedly. You brought this document with

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1 you last week, and you mentioned that you had documents with you to refresh your
2 memory. Can you just tell us what documents did you bring with you here to Den
3 Haag --

4 PRESIDING JUDGE TARFUSSER: [12:52:23] No, no, no.

5 MS PACK: [12:52:24] -- to refresh your memory.

6 PRESIDING JUDGE TARFUSSER: [12:52:26] No, no. His documents -- I mean, no.
7 No, no, no. I don't admit any question on this. We have ruled on this and that's it.
8 No, no.

9 MR MACDONALD: [12:52:36] Your Honours, we're asking for reconsideration.

10 PRESIDING JUDGE TARFUSSER: [12:52:38] No. We are not reconsidering.

11 MR MACDONALD: [12:52:41] Just on one point, if you allow us to be heard. It's
12 going to take two minutes. We understand you did not grant the request to have the
13 documents brought. That's fine. What we're asking now, and I think it is
14 important, besides the statement as provided by the VWU, what other documents did
15 he consult while testifying. It goes to his credibility, your Honour; it goes to the
16 assessment of credibility. And this is a very important issue.

17 PRESIDING JUDGE TARFUSSER: [12:53:16] No, it does not go to any -- it does not
18 go anywhere, let me say. I mean, he is a free person. He can have his --

19 MR MACDONALD: [12:53:24] It's not --

20 PRESIDING JUDGE TARFUSSER: [12:53:26] No, no. I don't admit any question.
21 We've ruled on this and that's it.

22 MS PACK: [12:53:36] Your Honour, those are all my questions.

23 Mr Witness, those are all my questions in re-examination. Thank you.

24 PRESIDING JUDGE TARFUSSER: [12:53:42] Thank you very much.

25 Now I ask, obviously, the Defence teams if on the basis of Rule 140(2)(d) they have

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1 questions to put to the witness after the re-questioning.

2 MR ALTIT: [12:54:01] (Interpretation) Thank you, Mr President. We do not have
3 any questions, your Honour.

4 PRESIDING JUDGE TARFUSSER: [12:54:09] Thank you very much.
5 Mr Knoops.

6 MR KNOOPS: [12:54:12] Mr President, our team has no further questions. Thank
7 you very much.

8 PRESIDING JUDGE TARFUSSER: [12:54:16] Thank you very much.

9 So I can finally announce to you, Mr Witness, that after quite a few days you have
10 spent here in court, your testimony has come to an end and, therefore, I just want to
11 thank you for having been here, for having answered the questions of all the parties
12 and the Chamber, and I wish you a good trip back. Thank you very much.

13 THE WITNESS: [12:54:55] (Interpretation) Thank you very much, your Honour.
14 (The witness is excused)

15 PRESIDING JUDGE TARFUSSER: [12:55:22] I have also to say that we continue with
16 Witness 176 tomorrow morning because of two reasons. One is that Mr
17 Wagemakers seems to be only tomorrow available, but he could have also probably
18 been made available before, but I do not feel completely well. So I think it's better if
19 we go to tomorrow.

20 Thank you very much. Tomorrow at 9.30.

21 THE COURT USHER: [12:55:56] All rise.

22 (The hearing ends in open session at 12.56 p.m.)