

Trial Hearing
WITNESS: CIV-OTP-P-0369

(Open Session)

ICC-02/11-01/15

1 International Criminal Court
2 Trial Chamber I - Courtroom 3
3 Situation: Republic of Côte d'Ivoire
4 In the case of The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé
5 ICC-02/11-01/15
6 Presiding Judge Cuno Tarfusser, Judge Olga Herrera Carbuccion and
7 Judge Geoffrey Henderson
8 Trial Hearing
9 Thursday, 19 May 2016
10 (The hearing starts in open session at 9.39 a.m.)
11 THE COURT USHER: All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE TARFUSSER: Good morning. Good morning also to Mr Wells.
15 Good morning to you all.
16 The floor is to Maître Altit for exactly 10 minutes, as you requested.
17 MR ALTIT: (Interpretation) I thank you, Mr President.
18 QUESTIONED BY MR ALTIT: (Continuing) (Interpretation)
19 Q. Good morning, Mr Wells.
20 As we've got a very little time, I think I'll go straight to the matter. You said to us the
21 day before yesterday during your testimony, and I quote, this is the French transcript
22 of 17 May, page 11, lines 10 to 14, quote, "In addition, I drafted a report on the land
23 conflict in Côte d'Ivoire that was published in 2013. This report had a bearing on the
24 illegal sale or appropriation of land in the west of Côte d'Ivoire by the sympathisers of
25 Gbagbo who had fled and who had sought refuge in Liberia, and they sought refuge

Trial Hearing
WITNESS: CIV-OTP-P-0369

(Open Session)

ICC-02/11-01/15

1 in Liberia." End of quotation.

2 My question, who are those individuals, those supporters of Gbagbo, I'm quoting you
3 here, who fled?

4 WITNESS: CIV-OTP-P-0369 (On former oath)

5 A. These were people who lived in western Côte d'Ivoire, primarily from the Guéré
6 ethnic group who during the course of the military offensive of the Republican Forces,
7 the FRCI, were often subjected to serious human rights abuses and as a result fled into
8 Liberia to take refuge there.

9 Q. You mean that the entire population, men, women and children of some Guéré
10 villages fled, is that correct?

11 A. Yes, absolutely.

12 Q. And those individuals who fled, why do you describe them as pro-Gbagbo?

13 A. They often describe themselves as having voted for or supported Mr Gbagbo.

14 Q. Well, that is my question. You are telling us that the entire population of a
15 number of villages fled. Why is it that those who did not vote for Laurent Gbagbo,
16 why did they remain -- why did they not remain? Why did they also flee?

17 A. There were some people who supported the RHDP who fled. There were
18 other people who also remained in western Côte d'Ivoire. Everyone did not flee
19 western Côte d'Ivoire at this time.

20 Q. That is not entirely my question. My question is, if I have understood what
21 you have said correctly, why is it that the population of said villages, those villages in
22 particular, why is it that the entire population fled?

23 A. They fled either after having often witnessed or experienced serious human
24 rights violations by the Republican Forces or they fled at times after hearing that other
25 villages had suffered serious abuses, and to avoid suffering the same fate, they fled in

Trial Hearing
WITNESS: CIV-OTP-P-0369

(Open Session)

ICC-02/11-01/15

1 advance of the Republican Forces arriving in their particular town or village.

2 Q. I do understand. My question is the manner in which things are presented.

3 I'm going to phrase things somewhat differently for us to understand correctly.

4 Why were they threatened?

5 A. They were threatened largely on the basis of their ethnicity in this particular
6 case, the fact that they were Guéré and therefore perceived, whether actually having
7 supported Gbagbo or not, perceived to have supported Mr Gbagbo.

8 Q. Very well. So if I understand correctly, to be crystal clear here, what you are
9 saying to us is that because they were Guéré, they were considered as pro-Gbagbo
10 and as a result they were threatened; is that correct?

11 A. Threatened and, beyond threatened, they were often subjected to very serious
12 human rights violations.

13 Q. Very well. But my question concerns the manner of presenting things, if you
14 like. When you say in this excerpt that I just read to you, "Gbagbo supporters who
15 had fled, Gbagbo supporters who had fled," is it not in a certain way presenting
16 things in a particular manner here, because you seem to be confusing Gbagbo
17 supporters and Guéré; whereas the reason for their flight, if I understand you
18 correctly, was because they were Guéré. Do you see what I'm saying?

19 It's a problem of methodology, because that's what we're talking about here. The
20 manner in which you're presenting things here does not come down to supporting or
21 following one account or following one account which would have that all Guéré are
22 Gbagbo supporters. It's a question of presentation here. We're talking about
23 presentation, namely, using the information that you have before you.

24 MS PACK: Your Honour, is there a question? I didn't hear one myself.

25 PRESIDING JUDGE TARFUSSER: I did not understand the question. What is the

Trial Hearing
WITNESS: CIV-OTP-P-0369

(Open Session)

ICC-02/11-01/15

1 question? It was a statement by you presuming, but I missed the question.

2 MR ALTIT: (Interpretation) Well, I shall rephrase my question.

3 Q. The question concerns the manner in which you use the documents that you
4 have at your disposal and the manner in which you give access to the readers or give
5 the readers access to those documents.

6 By saying that Gbagbo supporters had fled, in reality I understood from what you
7 said to us here that they had fled, not because they were Gbagbo supporters, but
8 because they were Guéré. That's what you said to us. Wait, wait.

9 So my question, do you not think that in presenting things in such a manner you are
10 falling into a trap that you said yesterday that you tried to avoid in the sense that you
11 are in keeping with the account provided by those who state or claim that supporters,
12 people are supporters by virtue of their ethnicity.

13 And to be quite clear with my question here, in so doing, do you not present things in
14 an oversimplistic manner in a westernised reading of things which would have that
15 an ethnic origin is associated with a political commitment?

16 So what do you do with these documents and how do you reflect those to the
17 readership? Is my question clearer now?

18 PRESIDING JUDGE TARFUSSER: Well, it's not clear to me I think. It is still not a
19 question. It's a statement. It's not a question, I would say.

20 THE WITNESS: I'm happy to answer it.

21 PRESIDING JUDGE TARFUSSER: Yes, yes. Please go ahead.

22 THE WITNESS: No, I don't believe it's an oversimplification. We say quite clearly
23 in a number of places in the report including about what happens in western Côte
24 d'Ivoire that people were targeted on the basis of their ethnicity. We didn't simply
25 speak about it in political terms.

1 That being said, there were Guéré supporters of President Ouattara who, as I said
2 earlier, did not flee. Most Guéré fled, not every member of the Guéré ethnic group
3 fled. Other people in Côte d'Ivoire also did not flee.
4 As you well know, in Côte d'Ivoire things are not as simple as ethnicity equals
5 political support. That being said, often times during the crisis people were targeted
6 on the basis of their ethnicity because of a belief that that represented a certain
7 political support, whether that was the Guéré in western Côte d'Ivoire or whether that
8 was people from northern Côte d'Ivoire in places like Abobo. They were often
9 targeted because they came from a particular ethnic group, *whether they be a
10 supporter of a given candidate or not.

11 MR ALTIT: (Interpretation)

12 Q. So I can see the point that you are making, of course, but my question is simpler,
13 and I shall say that do you not believe that in presenting the things in the manner that
14 you have here in the excerpt that I just read to you, in saying that Gbagbo supporters
15 had fled, you in a certain way are betraying the complexity of what occurred and
16 what you've just recalled to us, because what you've just said to us is complex in
17 nature.

18 But in understanding and in listening to you, we do not understand the same thing as
19 we do when we read you. Do you understand my point?

20 This presentation here by virtue of the fact that it is oversimplistic, does it not give a
21 non-adequate reading method for people to understand the crisis and what is going
22 on in Côte d'Ivoire?

23 A. No, it does not. And I'd also point out that you are reading, and I'm not sure
24 where exactly it comes from, one sentence of a report that's around 160 pages. If you
25 are trying to draw conclusions about the complexity with which we are presenting a

Trial Hearing
WITNESS: CIV-OTP-P-0369

(Open Session)

ICC-02/11-01/15

1 situation based off of one particular sentence, whether it was from a statement I've
2 made here or a report, I think that would be a disservice to what the report does as a
3 whole, which presents the complexity just as I have in this courtroom.

4 Q. In reality, as I said at an earlier stage, this does not come from your report, this
5 comes from your testimony, testimony before this Court.

6 Mr President, I will draw things to a close now in order to respect your instructions.

7 PRESIDING JUDGE TARFUSSER: Thank you very much. My instructions and
8 your promise, so it's not only my instruction.

9 MR ALTIT: (Interpretation) Indeed, my promise.

10 PRESIDING JUDGE TARFUSSER: Yes, because I was following your promise, not
11 you my instructions.

12 Thank you, Mr Wells. Now it's the moment for the Defence of Mr Blé Goudé.

13 Yours the floor.

14 MR GBOUGNON: (Interpretation) Good morning, your Honours.

15 QUESTIONED BY MR GBOUGNON: (Interpretation)

16 Q. Good morning, Mr Wells. How are you today?

17 A. (Interpretation) Yes, thank you.

18 Q. I read your professional background. I see that you studied at Harvard.

19 A. Yes.

20 Q. Apparently it's one of the best universities in the world.

21 A. Thank you.

22 Q. So you have benefited from a world class education, have you not?

23 A. I believe so.

24 Q. Now, I believe you have sat the exam for the bar?

25 A. Yes.

Trial Hearing
WITNESS: CIV-OTP-P-0369

(Open Session)

ICC-02/11-01/15

1 Q. Did you pass?

2 A. Yes.

3 Q. Congratulations.

4 A. Thank you.

5 Q. I'd like to begin by asking you a few questions about the methods that you used
6 as part of your work at Human Rights Watch. Now, you said here during your
7 testimony and in your statement rather to the OTP that you do not make any
8 recordings when you have interviews with witnesses and victims; is that correct?

9 A. In this particular context, no.

10 Q. Which context?

11 A. During the crisis.

12 Q. Very well. So you do not record these interviews? You just take notes; is that
13 right?

14 A. Yes, we take notes.

15 Q. I suppose thus that the person that you interview, the witness or the victim,
16 does not have an opportunity to listen to the recording or to look over any sort of
17 account or transcript; is that correct?

18 A. That's correct, yes.

19 Q. Thus we can only rely on what you wrote down when it comes to your reports;
20 isn't that so?

21 A. Me personally or everyone who worked on Côte d'Ivoire during this period?

22 Q. I'm speaking of everyone, everyone who reads the report. Now, you have told
23 us that you do not record the interviews, and thus what you write down is really just
24 an account of what you have noted yourself. So it's as if, it's as if, it's as if a court
25 hearing here would be recorded on the basis of one person's notes. Couldn't we say

1 that?

2 A. Again, the core of our methodology is in interviewing a large number of
3 witnesses. Yes, we take handwritten notes of those, and when we come to certain
4 findings, it's based off of a number of interviews corroborating each other.

5 Q. Mr Wells, let's speak in very simple terms. Let's try to keep things very
6 straightforward. Let me repeat, I will summarise what you have said. You do not
7 make recordings. The person who is being interviewed does not have an
8 opportunity to re-read a transcript of his statement, and so we have to rely on notes,
9 handwritten notes that you take, even be they thousands of notes. So I am asking
10 you, so we must rely on the notes that you take; is that not so?

11 A. In terms of the testimonies, yes, that's correct.

12 Q. Thank you. Now, when you went to Abidjan, Côte d'Ivoire, when you made
13 your observations, did you take any photographs?

14 A. Yes.

15 Q. You took photographs?

16 A. Yes.

17 Q. I would like to read out paragraph 103 from your statement to the OTP.

18 Paragraph 103 of your statement to the OTP, you said this, "The photos included in
19 the report were taken by professional photographers, not by Human Rights Watch
20 staff. The photos were not taken on our behalf during the crisis. The pictures were
21 purchased after the events."

22 So I repeat my question, did you take any photographs?

23 A. Yes. What you're reading from is me saying that the very specific photographs
24 that were in the report were not taken by me. They were taken by professional
25 photographers. I took a number of photos, dozens, if not more than a hundred

1 during the course of the crisis, but they were more about documenting specific
2 evidence, people's wounds, bullet holes in buildings, areas where mortars had
3 exploded.

4 They were not -- I'm not a professional photographer. So when it came time to use
5 photos in the report, we chose photos that were done by a professional photographer.
6 But yes, I took a large number of photos during the course of the crisis.

7 Q. Now, in January, that was the first time you went to Abidjan, isn't that so?

8 A. No. It was the first time during the post-election crisis. It was not the first
9 time I was ever in Abidjan.

10 Q. Are you in a position to say today that you know Abidjan? You are familiar
11 with the city?

12 A. Familiar in a general sense, yes. Do I know all of the streets of Abidjan like a
13 taxi driver in Abidjan does? No, I do not.

14 Q. I'm asking you this because if I were to show you a photograph, any
15 photograph, and I would say that this is Yopougon or this is another place, would
16 you be in a position to know whether or not I was telling the truth?

17 A. If I had been to the specific location, I might be able to. If I have never been to
18 the location, then probably not.

19 Q. So if you had never been to a particular place, you would not be in a position to
20 recognize it; is that what you are saying?

21 A. Unless I had, say, seen it in a television broadcast or a photograph or something
22 else, yeah, probably not.

23 Q. No doubt, no. So I would say that the likelihood that you might come across a
24 photograph taken by a professional photographer, there is that likelihood that you
25 might get it wrong, that some of the -- for example, the place may not be the actual

1 location?

2 A. Our findings in the report are based off of the firsthand testimonies that we took.
3 We used photographs in the report to provide visual images of what a certain
4 situation looked like. But the findings, the conclusions that we made are based off of
5 our firsthand testimonies that we took. They're based off of the additional site visits
6 that we undertook. They're based off of the photographs that I took. But they're
7 not based off of what a professional photographer has done.

8 Q. I said a few moments ago we need to keep it simple. I'm talking about what
9 you saw, what you know about. I'm not talking about firsthand accounts or
10 secondhand accounts. Here we are talking about what you saw yourself.
11 So you, a person who does not know Abidjan, you purchased a photograph after the
12 events, after the events from a professional photographer. I am saying to you, I'm
13 asking you, is there any likelihood that you might have been mistaken? Perhaps the
14 location shown you may have never gone to. It may be a location that you only saw
15 on the television. I'm not talking about firsthand or secondhand accounts or
16 corroboration. I'm talking about you, what you might have seen. That is what I'm
17 talking about.

18 A. You're talking about what I saw myself, then we would have been accurate in
19 representing whatever that location was in the report. When I went to certain places
20 and saw certain things, I made clear notes in my notebook as to where exactly I was
21 and what I had seen.

22 Q. Thank you, Mr Wells. Thus I come to the conclusion that you prepared a
23 report, and in this report, on the basis of this report, you had no recordings, you had
24 photographs taken by a professional photographer that you purchased, and thus us
25 here, we're supposed to just trust, trust what you wrote down without any

Trial Hearing
WITNESS: CIV-OTP-P-0369

(Open Session)

ICC-02/11-01/15

1 opportunity to cross-check what a witness might have said; is that correct?

2 A. I don't understand the point about the photographs because, again, if we were
3 using them as evidence, I took the photographs myself. They weren't from a
4 professional photographer. But yes, again, the basis of our work is the testimonies
5 we take and the notes that we take in the course of taking testimonies.

6 Q. During your testimony, you said that we -- you would be in a position to make
7 any corrections needed if that were required; is that correct?

8 A. Yes.

9 Q. Let's say I am a witness that you have interviewed, and I read your report,
10 which is based on my account. And when I come to you, because I think that what I
11 said was not properly transcribed, I go to you, how do you make a correction? What
12 would a correction be based on if that were to occur?

13 A. If Human Rights Watch makes a correction, it is posted on our website. I
14 believe there is a particular link for corrections to any public work that's done. So it's
15 then for the public record that a certain correction was made.

16 Q. We're not on the same wavelength here. Perhaps I'm not making myself clear.
17 I'm talking about what we've been discussing all morning. You and I agree that you
18 do not make a recording. You do not prepare a transcript. So let's say I am a
19 witness, and when I read the report later or the press release and I think that my
20 words were transcribed incorrectly, what do I base myself on? How do I ask for a
21 correction to be made?

22 A. You could get in touch with any person working on Côte d'Ivoire or with
23 Human Rights Watch's communication department. In general, that would
24 probably have come to me directly.

25 THE INTERPRETER: Microphone.

Trial Hearing
WITNESS: CIV-OTP-P-0369

(Open Session)

ICC-02/11-01/15

1 MR GBOUGNON: (Interpretation)

2 Q. On 17 May you said that you had been trained to identify weapons; is that
3 correct?

4 A. I am not a forensic expert in weapons. There is a basic training that was done
5 at Human Rights Watch where it was the head of the emergencies division, who has a
6 long experience in working in conflict areas, who did a presentation for people who
7 were working in areas of armed conflict or who might work in areas of armed conflict
8 to talk about the different types of weapons you might see, as well as the, say, you
9 know, if a certain weapon is used, the likely radius of damage that it can cause. But I
10 am not a forensic expert and certainly do not hold myself out as such.

11 Q. Thank you. Yesterday you said here in this courtroom that you had three
12 fixers in Abidjan; is that correct?

13 A. No, that's not correct.

14 Q. How many fixers did you have?

15 A. In total or in Abidjan?

16 Q. Abidjan.

17 A. And again when you're using the word "fixer" here, do you mean any
18 interlocutory/intermediary that helps connect us to victims, or are you speaking about
19 people with whom we had, you know, some sort of say fixed contract with at times
20 during the crisis?

21 Q. One moment.

22 Paragraph 49 of your statement to the OTP, you say, and I quote:

23 "These three fixers allowed us to contact less than half of the witnesses we
24 interviewed during the crisis."

25 Mention is made of a number of fixers. Paragraph 49. This is what you say here.

1 A. You said in Abidjan. It's clear in my statement that one of those was in Liberia,
2 related to speaking with primarily supporters of Mr Gbagbo who had fled to Liberia.
3 So no, it was not three in Abidjan.

4 Q. How much did you pay them?

5 A. It was a -- it was a daily remuneration. I believe around 50 US dollars a day for
6 when a full day's work was done.

7 Q. 18 May, page 21, lines 13 to *22, you said that the intermediaries did not take
8 part in the interviews; is that correct?

9 A. They did not interview people, no. We interviewed the victims and witnesses.

10 Q. And yet in your testimony -- rather, your statement, paragraph 71, you said
11 that:

12 "For this report, interviews were conducted almost exclusively in French. A
13 minority of victims preferred speaking in a local language in which case we used a
14 translator."

15 Why did you not mention interpreters? Why did you not mention the use of
16 interpreters during these one-on-one interviews?

17 A. You asked me who did the interviews. We, Human Rights Watch, did the
18 interviews. At times if a person did not speak French, this was fairly rare, but if a
19 person did not speak French, we relied on -- we needed obviously an interpreter to
20 speak with someone in, whether it was Dioula or Guéré, whatever the language may
21 be.

22 And in doing translation, at times the intermediaries acted as translators in those
23 particular interviews because, again, one of the things that's most important to us,
24 whenever you need a translator, we want someone who understands your
25 methodology and, above all, understands that they need to translate word by word,

1 not as often happens at times with translators that don't understand an organisation,
2 that insert their own bias or opinions.

3 And so to have people that knew our methodology was important in terms of
4 selecting a translator for the few cases in which it was needed.

5 Q. Now, these people you used, had they been trained for that task?

6 A. They were not professional translators, but they were people that we had spoke
7 with before they translated about what they needed to do.

8 Again in particular, making clear that what we needed was word-by-word translation,
9 that they were not to ask questions themselves, that we, the interviewers from
10 Human Rights Watch, were the only people who would be asking questions, and that
11 the translator was there to translate word for word what was said and to not add
12 anything based on their own potential understanding or belief about certain events.

13 But no, they were not professional translators.

14 Q. Okay. We are going to now move onto the things that you saw during your
15 various missions to Abidjan. You mentioned, French transcript, 17 May, page 62,
16 lines 5 to 9, that the CECOS had a particular uniform; is that correct?

17 A. Yes. And as I said also had very distinct vehicles.

18 Q. I was not making any mention of vehicles.

19 So what kind of uniforms do the CECOS officers wear?

20 A. The ones I recall were the blue camouflage.

21 Q. The CECOS, they wear blue camouflage; is that what you're saying?

22 A. That's what I recall. It's been a while.

23 Q. And you are saying today that you saw vehicles marked "CECOS," and there
24 were people inside wearing blue clothing; is that what you're telling us?

25 A. I'm trying to think back as to the specific memories of people in vehicles. I

1 recall very specifically CECOS vehicles as we -- as I spoke about several days ago.

2 They say "CECOS" on the side. There's a panther for the logo. The name of CECOS
3 is spelled out. And the number of the particular CECOS unit or group is on the side
4 of the vehicle.

5 Q. Just out of curiosity, now, during your research, have you read the decree that
6 established the CECOS?

7 A. I don't recall.

8 Q. You don't recall. Now, do you understand the differences between the various
9 police units in Côte d'Ivoire?

10 A. I know some of the specific police units, yes.

11 Q. Which ones?

12 A. There is the BAE, for example, Brigade Anti-Émeute, the anti-riot brigade.

13 There is the CRS1, which I believe is based in -- or, was at the time, based in
14 Williamsville, and the second of which was in one of the CRS2 was in one of the
15 southern neighbourhoods of Abidjan. As we speak right now, those are the two that
16 stick out.

17 CECOS was -- was a -- was meant to deal with grand criminality at the time.

18 Q. Is CECOS a police unit, or part of the gendarmerie, or part of the army? Tell us
19 if you know.

20 A. It was definitely not a specific -- to my recollection, it was not a specific police
21 unit. I can't remember if it was gendarmes or a mixed unit.

22 Q. A joint unit, I don't know whether -- what does that mean? Does it mean
23 mixed or joint because I'm listening to the translation here. I want us to be in
24 agreement. Are we talking about mixed or joint?

25 A. What I'm saying is that it was a -- it was a specialised unit that dealt with, again,

1 grand criminality, in particular is what I remember from -- from the time. I know it
2 had -- I believe it had people from the gendarmes within it. What I can't remember
3 is if it also drew from some other official forces as well because it was a
4 specialised -- it was a specialised force.

5 Q. In fact, I insisted upon this point because you used a term "mixed". That's why
6 I asked you that question. I wanted to know whether you meant mixed or joint.
7 That's why I asked whether you were talking about mixed units or not.
8 Let me explain myself. When you talk about mixed units, it means that there are
9 elements from different corps, from the police, from the army, from the gendarmerie;
10 is that what you mean?

11 A. Again, my belief was that it primarily drew from the gendarmerie, but I'm not
12 sure if there were other units that it drew from as well.

13 Q. Thank you. During your mission in January, let's start there, did you have the
14 opportunity to see a parlements to assist or to see or to be physically present in a
15 parlements, what we call a parlements?

16 A. I know of the Agora parlements in Plateaux. I've been by the Sorbonne, as it's
17 called. But as I said during my -- during the testimony with the Prosecution, I don't
18 recall having been to a parlements at the moment that, say, a speech or other activity
19 was actually going on. I had seen what was the Sorbonne, in Plateaux, but I don't
20 recall if -- if I've seen actual activity, shall we say, of the Jeunes Patriotes or otherwise
21 at a parlements.

22 Q. So from what I understand, so apart from the parlements in January, apart from
23 the parlements Deux Plateaux, in Sorbonne, the one we refer to as La Sorbonne, you
24 physically did not see any parlements, did you?

25 A. As I said in my testimony for the Prosecution, we were not able to go to the

1 parlements for example in Abobo Avocatier because of the violence by the Jeunes
2 Patriotes that was happening at that parlements at that time. So I was not able to go
3 there, visit it and see it myself.

4 Q. So you did not go there because of the violence of the Jeunes Patriotes. Is that
5 what you saw the violence of the Jeunes Patriotes? Is that what you saw at this
6 parlements, because you said you didn't go? I want us to understand each other.
7 You are saying that you did not go because of the violence of the Jeunes Patriotes.
8 How do you know that they were violent if you did not go? I want to understand
9 you.

10 A. I had taken at that stage several dozen testimonies of people who lived in
11 Abobo who had passed through that particular checkpoint. They were northern
12 Ivorians or West African immigrants. They had been stopped, at times asked for
13 their identity card. Several of them had been killed at that point. We had witnesses
14 to multiple killings at that specific parlements. And as a result, some of those
15 killings we actually documented the day they happened. We spoke with people
16 within an hour --

17 Q. Please. Please. Slowly. Please do not go beyond the scope of what I'm
18 asking you. Do you know what a nuance is?

19 A. You asked me how I knew. I responded.

20 Q. I'm asking you, I shall put the question to you again: Do you know la nuance?

21 A. Yes, I understand nuance.

22 Q. Because when I read you, when I hear what you're saying you're formal in what
23 you say. You are categorical without having seen, you are categorical without
24 having undergone or experienced what is being claimed. That's why I'm asking you
25 what you know, what you understand by the word "nuance" because when I read you

Trial Hearing
WITNESS: CIV-OTP-P-0369

(Open Session)

ICC-02/11-01/15

1 here, it seems that you went to Abobo but you say now that you did not go to Abobo.

2 So you sounded categorical. That's why I'm asking you if you know what a nuance

3 is.

4 MS PACK: Your Honours, I don't understand this question. I know I'm not as

5 intelligent as the witness, but I do not understand the question.

6 PRESIDING JUDGE TARFUSSER: No. It is not a question. It is an anticipated

7 statement.

8 Please, could you put -- just put questions. Thank you.

9 MR GBOUGNON: (Interpretation)

10 Q. Mr Wells, what is a Young Patriot, a Jeunes Patriotes?

11 A. It was a group of generally youth militant supporters of -- for Gbagbo

12 who -- yeah, a group of youth militants of pro-Gbagbo, of Mr Gbagbo.

13 Q. And in the streets of Abidjan and everywhere else, how did you distinguish

14 between a normal young Ivorian and a Jeunes Patriotes? How did you make that

15 distinction?

16 A. Often it was on the basis of where particular crimes that we documented took

17 place. When --

18 Q. Please, please. My question is specific. It is very specific. I'm asking you in

19 the streets of Abidjan or any other town in the interior of the country, when you see a

20 person physically, how do you ascertain whether this person is a Jeunes Patriotes or

21 not? That's my question. You gave as a definition of a Jeunes Patriotes. I want

22 you to give us the distinctive characteristic of the individuals that you name or

23 describe as Jeunes Patriotes. That's my question.

24 MS PACK: Your Honour, with all due respect to my friend, he cannot seek to

25 constrain the way in which the witness answers the question in this way. If a

1 question is put that is open asking the witness to distinguish between -- or, describe
2 something, then he has to be allowed just to give his answer.

3 PRESIDING JUDGE TARFUSSER: The question, it is open I would say, how do you
4 distinguish one person from another? And I find it quite open.
5 Please go ahead.

6 MR GBOUGNON: (Interpretation) Mr President, I am basing myself on the
7 decision that was taken here. And I believe that I am in -- I'm asking Mr Wells to tell
8 us what he calls a Jeunes Patriotes with regard to what he saw.

9 PRESIDING JUDGE TARFUSSER: Yes. I said the question is specific enough and
10 now it's up to the witness to respond. Let him respond and so we can continue.

11 THE WITNESS: My understanding of who was or was not a Jeunes Patriotes was
12 not simply informed by what I saw myself, and was often far more informed by the
13 testimonies that we took of people who knew personally particular people in their
14 neighbourhoods who were members of Jeunes Patriotes, who again were victims of
15 crimes at or around well-known Jeunes Patriotes parlements. And so the way that
16 we --

17 MR GBOUGNON: (Interpretation)

18 Q. Please, please, please. We agree here that we're not going to enter into a
19 discussion, and that is moreover what the decision rendered by the Court said.
20 We're not talking here about what you received as testimony. My colleague said to
21 you a thousand times when she was questioning you, we are talking and we shall
22 remain with what you saw. So you're saying that there is no distinction made in the
23 street between a Jeunes Patriotes and anybody else. But I'm not asking you what
24 your witnesses told you. I'm asking you for a last time how you in the street can
25 recognize a Jeunes Patriotes, that's all.

Trial Hearing
WITNESS: CIV-OTP-P-0369

(Open Session)

ICC-02/11-01/15

1 A. And I'll say again, and first of all, I believe, correct me, I'd ask again, your
2 Honour, my understanding of the decision related to what the questions that the
3 Prosecution was allowed to ask me, if the Defence is asking me about my thoughts on
4 a particular issue, it's very -- it's impossible for me to distinguish between what I saw
5 and the hundreds of testimonies that I took.

6 If you're asking me how I knew that certain people were Jeunes Patriotes, the basis of
7 that comes from hundreds of testimonies that I took during the course of the crisis
8 and being --

9 Q. Thank you, thank you.

10 PRESIDING JUDGE TARFUSSER: Please, let him finish. Let him finish the
11 sentence. I mean, you can't just cut him off. Please continue.

12 THE WITNESS: And so in terms of my -- again, what I personally saw, it cannot
13 be -- any report or any conclusion that was come to in the report about a certain
14 group being Jeunes Patriotes came through the course of hundreds of interviews.
15 And so trying to scale that back to just what I saw, it's not possible in terms of
16 speaking about how I knew who was Jeunes Patriotes and who was not Jeunes
17 Patriotes.

18 MR GBOUGNON: (Interpretation)

19 Q. I shall read your testimony to you dated 18 May, lines 18 to 20, page 60, line 17
20 in fact:

21 Question: "At that moment, in neighbourhoods and in specific areas there was a
22 high percentage of Jeunes Patriotes, this militia that wanted to react to what had
23 happened." End of quote.

24 What is a militia?

25 A. In this circumstance, it was used to mean again militants from one side or

1 another. We didn't use the term simply with the side of Mr Gbagbo. There were
2 youth militia who supported Mr Ouattara as well. But it was -- we tend -- we meant
3 it in terms of again non -- people who were not part of the security forces, the FDS,
4 but who often had weapons and who took active part in violence or at times even in
5 fighting between different armed groups.

6 Q. Well, I would like us to talk about things in general and come down to the
7 specific. I'm talking about militia in general, then we'll apply it to the specific. I'm
8 talking here about militia in general. What is a militia in general terms?

9 A. I believe I answered it, but again, it's -- so as opposed to, say, the FDS, the
10 security forces, or as opposed to the FRCI, the republican forces, these were fighters,
11 generally youth, who were not part of the formal armed forces or security forces, but
12 who took part in violence during the crisis and, at times, even fought alongside the
13 forces, the true forces, the FDS or the FRCI from both sides in combat against each
14 other.

15 Q. I shall limit myself to what you saw. We need to come back to that because we
16 agreed that in your testimony we had to limit ourselves to what you saw. That's
17 what the Chamber decided because you did not, in reality, see anybody fight. So
18 we're relying here on what you said and what you saw.

19 With regard to what you saw in or during your various missions, on the basis of what
20 do you say that those -- or, what do you base yourself on to say that those young
21 people are militia? I'm basing -- on the basis of what you saw, not your testimony,
22 on the basis of what you saw, what you saw?

23 A. Again, I would ask your Honour here for clarification because it's impossible for
24 me to talk about how I knew someone was a militia or not solely on the basis of what
25 I saw. This comes from hundreds of interviews that we did with people who helped

Trial Hearing
WITNESS: CIV-OTP-P-0369

(Open Session)

ICC-02/11-01/15

1 us come to that conclusion.

2 PRESIDING JUDGE TARFUSSER: Well, I do think that he gave, the witness gave an
3 explanation on what he considers to be a militia. I do not understand where you
4 want to go. I mean, what he said is quite clear, I would say.

5 MR GBOUGNON: (Interpretation) Thank you, Mr President.

6 Q. What I'm driving at is that on the basis of what he saw -- well, I would like to
7 understand because what I want to understand is one can claim, without the
8 testimony, that such and such an individual is a militia. The witness might say to
9 me, no, I didn't do that on the basis of what I saw. Then we agree that on the basis of
10 what he saw the claim that they are militia no longer holds. But he doesn't answer.
11 He's always coming or harping back to the testimonies.

12 MS PACK: Your Honour --

13 PRESIDING JUDGE TARFUSSER: I have -- I don't understand you, I must say. I
14 think you asked what a militia, to his understanding is a militia, and he answered
15 what to his understanding is a militia. Full stop. This is how I heard it.

16 MR GBOUGNON: (Interpretation)

17 Q. Mr Wells, let's be more concrete or more specific. During your mission in
18 March, you say that you saw some young people, some young militia in Adjamé; is
19 that correct?

20 A. I can't remember if I used the word militia. I'd -- I'd have to hear from the
21 transcript. I did see youth, as I said, who were out running in Adjamé. My
22 perception was militia but.

23 Q. I'm going to read from the transcript, page 64. I'm going to start with a
24 question from the Prosecution.

25 Question: "I would like you to tell us precisely what you mean with regard to what

1 you saw, and you do not need to refer solely to the mission in January, you can refer
2 to what you saw in following missions with regard to what you saw." End of quote.

3 Now this term "militia" is up higher in the transcript.

4 Quote: "The term 'militia', I use it to talk about a specific group of pro-Gbagbo youth,
5 militants. And often I personally saw them during the crisis. But what I remember
6 more specifically, I was in Adjamé during the March mission and there were several
7 dozens or more of young people running around the streets where our vehicle was
8 located. They were chanting pro-Gbagbo slogans in what seemed to be not
9 specifically a formation as such, but at least some kind of physical exercise of the
10 group whilst chanting pro-Gbagbo slogans." End of quote.

11 Now, Mr Wells, that is what you said. And the question I put deliberately: You
12 saw dozens of people in the street conducting physical exercises and you draw the
13 conclusion that these are pro-Gbagbo militia; is that correct?

14 A. The conclusion is also drawn from everything that we documented during the
15 course of the crisis. We documented through firsthand accounts that youth were
16 training in this similar sort of way, often with members of the security forces around
17 them.

18 And so again, arriving to a conclusion that these were militia comes from both seeing
19 it firsthand and from taking a number of testimonies that speak to these specific facts.

20 Q. How do you recognize a song -- well, firstly, sorry, did you understand what
21 they were singing?

22 A. As I said during my testimony a couple days ago, I don't recall the specifics.
23 At the time I made notes in my notebook related to the facts that they were chanting
24 for Gbagbo, for Mr Gbagbo, but I don't recall the specifics of what exactly they said,
25 no.

1 Q. I'm going to repeat my question to you. Did you understand -- well, if I sing a
2 Stevie Wonder song in English you will understand me. But whilst they were
3 singing, did you manage to distinguish what they were singing?

4 A. Again, I don't think I used the word "singing." If that was how it was
5 translated, that wasn't the word I meant. They were -- they were chanting slogans.
6 This was not singing a song, this was chanting of slogans.

7 Yes, I understood. And again I made notes at the time, but I don't recall the specifics
8 of what was said at this stage.

9 Q. Between these young people that you saw in Adjamé that you call pro-Gbagbo
10 and the young people that you saw in Abobo whom you call members of the Invisible
11 Commando, what is the difference here?

12 A. In terms of their appearance or?

13 Q. Yes, in terms of their appearance.

14 A. Their physical appearance was not terribly different.

15 Q. And so that means that under other circumstances, in another location, you
16 would not have been in a position to know whether those young people at that
17 moment in time or those that you had seen previously were either pro-Ouattara or
18 pro-Gbagbo?

19 A. I would be able to know on the basis of interviews with firsthand victims and
20 witnesses as to who was in control at that specific moment of a particular area.

21 Q. I'm not talking about control over a location. I'm not talking about control over
22 a location or testimony. I am asking you whether in terms of appearance, let's put
23 control aside, let's put testimony aside, would you have been in a position to make a
24 distinction between these young people who were dressed in virtually the same
25 manner, yes or no?

Trial Hearing
WITNESS: CIV-OTP-P-0369

(Open Session)

ICC-02/11-01/15

1 A. Yes, on the basis of speaking with people who knew them firsthand, who lived
2 in that specific area and could speak to who these people were. Could I myself just
3 at -- in looking at someone automatically know who was who? No. But that's not
4 the way that we do our work at Human Rights Watch.

5 Q. The people that you saw jogging in March who were chanting what you refer to
6 as pro-Gbagbo slogans, you were talking about chanting; is that right?

7 A. Yes, that's correct.

8 Q. Did it never occur to you that those people might have been insulting Gbagbo?

9 A. No, they were not.

10 Q. We do agree that you do not understand the language that they were speaking,
11 so you can't make that claim, you know, right away.

12 A. I speak French. I was also in the car with my driver, who understood as well,
13 perfectly well what they were saying.

14 Q. Because you never mentioned the fact that your driver explained this to you.

15 MS PACK: Is that a question?

16 PRESIDING JUDGE TARFUSSER: I would think that if two people are sitting in a
17 car that they talk to each other. This is what I assume.

18 MR GBOUGNON: (Interpretation) I thank you, Mr President.

19 Mr President, I would like to move on to a new subject, but I won't be able to do it in
20 five minutes. So I don't want to start and then interrupt myself. Maybe we could
21 take the break now and then start off with this new subject after the break, with your
22 leave.

23 PRESIDING JUDGE TARFUSSER: Agreed.

24 We break now and come back at 11.30.

25 THE COURT OFFICER: All rise.

Trial Hearing
WITNESS: CIV-OTP-P-0369

(Open Session)

ICC-02/11-01/15

1 (Recess taken at 10.56 a.m.)

2 (Upon resuming in open session at 11.31 a.m.)

3 THE COURT USHER: All rise.

4 Please be seated.

5 PRESIDING JUDGE TARFUSSER: Good morning, once again. Good morning to
6 the witness.

7 I give immediately the floor to the Defence of Mr Gbagbo in order to -- Mr Blé Goudé,
8 sorry - thank you - in order to continue, not to Mr Gbagbo, of course, because -- of
9 Mr Blé Goudé in order to continue the questioning of the witness.

10 MR GBOUGNON: (Interpretation) Thank you, your Honour.

11 Q. Mr Wells, we shall now continue with this particular exercise. You stated that
12 you went to Yopougon, more specifically Mami Fatai neighbourhood, Doukouré
13 neighbourhood where allegedly you saw a number of mass graves; is that correct?

14 A. Yes.

15 Q. Yes, thank you.

16 I would now like to show some images to you and you can tell me whether or not that
17 is what you saw. CIV-OTP-0012-0038. This is the reference number. And this is a
18 confidential item.

19 Mr Wells, is the image on your screen?

20 A. Yes.

21 Q. Now is this one of the images? Is this one of the things you saw in Yopougon?

22 A. To be honest, it's difficult to tell without seeing more of the specific area.

23 Q. So you don't recognize this particular photograph? Or you recognize it, or not?
24 I'm trying to understand.

25 A. What I'm saying is that I would need more context in order to say whether this

Trial Hearing
WITNESS: CIV-OTP-P-0369

(Open Session)

ICC-02/11-01/15

1 is a site that I visited or not.

2 Q. I will now show a second photograph to you. The reference number is
3 CIV-OTP-0012-0039. And once again this is a confidential item, CIV-OTP-0012-0039.
4 I'll put the same question to you.

5 A. And I will give the same response. It's without context, without additional
6 information, I can't make a declaration one way or another.

7 Q. Understood. Could you describe to me then what you saw in Yopougon in
8 Mami Fatai neighbourhood and in Doukouré?

9 A. Yes. I mean I believe I did so during the examination by the Prosecution, but
10 there were a number of different mounds of dirt, earth, of different sizes in both
11 locations, some of them fairly small, some of them much larger, which related to
12 testimonies that I took in terms of people who had buried bodies within them, you
13 can speak to the number of people within.

14 Q. We must agree on one thing. I said what you saw, what you saw. You said
15 that you saw some mounds; is that correct? Is that what you saw?

16 A. Yes. There were a number of different mounds in each of these two
17 neighbourhoods. Again, they varied in size from relatively small to much, much
18 larger.

19 Q. And so we can agree that what you saw were mounds, yes or no?

20 A. Yes.

21 Q. I would now like to read from the transcript of 18 May. I'll begin with the
22 question from the OTP and then I will quote your reply. Page 84, as of line 2 and
23 onwards. If we could put 0004-0072 up on the screen, it is the report, and I would
24 like for page 0147 to be put on the display. I'm not going to ask you about the
25 conclusions. And this was Ms Pack putting the question to you. And if we could

1 just have a look at the third paragraph. You state:

2 "In this part of Yopougon where a great many Muslim people live, Human Rights
3 Watch" - in other words you - "saw" - saw - "Human Rights Watch saw what
4 appeared to be a mass grave. Human Rights Watch saw what seemed to be a mass
5 grave."

6 Why did you not use the word "mound"? I'm speaking of what you saw with your
7 eyes. Why did you not use the word "mound" and why did you use the expression
8 "mass grave"?

9 A. Our work, as is clear in the report, is based off of taking testimonies in addition
10 to what we see personally. I also believe in what you quoted "ce qui semblait" is
11 actually fairly measured in terms of what we -- how we described it. What we saw
12 on the basis of both what I saw myself and in speaking with a number of direct
13 witnesses, both to what happened and to the burial of bodies in these specific
14 circumstances, led us to the conclusion that these seemed to be mass graves.

15 Q. I'm not talking about your conclusions. I'm not talking about your conclusions.
16 I'm talking about what you saw. And I think we've agreed that you saw some
17 mounds, mounds of dirt.

18 Let's move on to something else. As part of your research and your investigations
19 into Côte d'Ivoire before you came, I suppose that as a brilliant young student, a
20 brilliant career man you must have done some background research into politics in
21 Côte d'Ivoire, you must have looked at a few books here, there and elsewhere? Did
22 you ever listen or analyse any speeches made by Mr Charles Blé Goudé?

23 A. Prior to my time with Human Rights Watch or?

24 Q. Before, during and after.

25 A. Prior to my time at Human Rights Watch, no, I don't believe I looked into

Trial Hearing
WITNESS: CIV-OTP-P-0369

(Open Session)

ICC-02/11-01/15

1 speeches by Mr Blé Goudé. While I was at Human Rights Watch, yes. As I said
2 during the Prosecution's questioning and I believe yesterday, we watched RTI, we
3 followed other news outlets that allowed us to see at times speeches that
4 Mr Blé Goudé had made.

5 Q. So that means in 2009 or 2011 you must have heard many speeches given by
6 Mr Charles Blé Goudé, either on YouTube or on RTI; is that correct?

7 A. Yes.

8 Q. I am now going to play some footage for you and you will tell me whether or
9 not you've already seen this particular footage. Then after that we will continue.
10 This is CIV-D25-0001-0742, from timestamp 1.50 to 2.40 -- 0.50 to 2.40.

11 A. I don't see it. Okay.

12 MR GBOUGNON: (Interpretation) Just one moment. Our apologies.
13 (Viewing of the video excerpt)

14 MR GBOUGNON: (Interpretation) Your Honour, I'll try to read out what was said
15 in the video.

16 THE INTERPRETER: Message from the interpreters: We have a transcript, but not
17 the correct one.

18 PRESIDING JUDGE TARFUSSER: But not?

19 THE INTERPRETER: Message from the interpreters: We have a transcript of a
20 different video, but we will proceed as Defence counsel suggested.

21 MS PACK: Yes, we haven't had a transcript --

22 PRESIDING JUDGE TARFUSSER: Yes, but now I think the counsel will read out
23 and we will have the translation through the interpreters.

24 MR GBOUGNON: (Interpretation) Transcript:

25 When we speak of the future of Côte d'Ivoire do not feel that you are on the sidelines.

1 When we talk about the future of the country do not feel that you are off on the
2 sidelines. When we talk about the defence and of the identity of Côte d'Ivoire,
3 Muslim people should not feel they are off to the sidelines because Muslims are part
4 of Côte d'Ivoire because they are Muslims and citizens of Côte d'Ivoire. When
5 people say 'Let us go and defend Côte d'Ivoire,' people must not feel that they are off
6 to one side. It is with you that we shall defend Côte d'Ivoire.

7 End of quote.

8 MS PACK: Your Honour, is there a date that perhaps should be read?

9 PRESIDING JUDGE TARFUSSER: That's what I was going to ask. Do we know
10 when this footage has been taken and where?

11 MR GBOUGNON: (Interpretation) 18 September 2010, but we will provide a
12 correction. We provided the wrong date. It's actually 18 September 2010.

13 Q. Mr Wells, have you seen this speech beforehand?

14 A. I'm not sure.

15 Q. You may have seen it, but you're not so sure?

16 A. Exactly.

17 Q. I'm going to play another video for you now. The ERN number is
18 CIV-D25-0001-2104. This is a public item. From timestamp 00 to timestamp 3.12.
19 The date is 4 January 2011.

20 (Viewing of the video excerpt)

21 MR GBOUGNON: (Interpretation) Your Honour, since not everyone has the
22 transcript, I will re-read or I will read out the transcript for a better understanding.

23 THE INTERPRETER: Defence counsel reading a transcript.

24 MR GBOUGNON: (Interpretation) I will like to say that this is not exactly military
25 force, but we think that once we have finished waging war, we always ultimately sit

Trial Hearing
WITNESS: CIV-OTP-P-0369

(Open Session)

ICC-02/11-01/15

1 down and discuss. Why not -- why shouldn't we talk now, rather than putting lives
2 in danger, rather than killing people and then afterwards sitting down and talking?
3 Those who advocate use of military force, I think that they have miscalculated, made
4 a bad decision. They must realise that Africa has lost too many of its sons. And
5 today, today we must move on and avoid the use of military force.

6 Q. This footage from France 24, have you seen it before?

7 A. I don't recall. I remember certainly at least reading about this particular speech,
8 yes.

9 Q. I'm going to play one last video for you, CIV-OTP-0043-0269, from timestamp
10 1.13 to timestamp 2.20. This is a public item. The transcript number is
11 CIV-OTP-0047-0611.

12 (Viewing of the video excerpt)

13 THE INTERPRETER: I think that the Côte d'Ivoire that we want to lead is not that
14 kind of country, that is why, once again, I'm calling upon our leaders to follow their
15 consciences. They will ultimately sit down and talk, but sitting down after the war, I
16 think it's better to sit down before the war. You understand? I trust that all of
17 us -- well, the people who are trying to make a name for themselves, to the detriment
18 of Côte d'Ivoire, a name for themselves within Côte d'Ivoire, but what do we want,
19 we the people of Côte d'Ivoire? That is why I am calling upon -- calling for an end to
20 violence in the neighbourhoods immediately, one ethnic group against another.

21 RHDC versus LMP, this does not honour Côte d'Ivoire. Today when people talk
22 about Côte d'Ivoire the image is one of war. I ask for forgiveness. The journalist
23 says a very dark portrait.

24 Mr Blé Goudé continues saying: And myself, I hope that we can move behind our
25 passions so that we can sit down and talk. The violence has to end in the

Trial Hearing
WITNESS: CIV-OTP-P-0369

(Open Session)

ICC-02/11-01/15

- 1 neighbourhoods. The violence must end in the cities. I think that this is still
2 possible. But, you see, how many thousands of people from Côte d'Ivoire will die
3 because someone wants the presidency? That is why I am in favour of dialogue.
- 4 PRESIDING JUDGE TARFUSSER: Just a correction, this was to timestamp 2.43, not
5 2.20. And have we a date also for this footage?
- 6 MR GBOUGNON: (Interpretation) This is the OTP video which does not have a
7 date, but we believe it is from March 2011.
- 8 PRESIDING JUDGE TARFUSSER: Thank you.
- 9 MS PACK: Yes, 20 March.
- 10 MR GBOUGNON: (Interpretation) Thank you.
- 11 Q. Mr Wells, this particular footage, have you seen it?
- 12 A. I don't recall.
- 13 Q. We've just seen three excerpts from various items of footage out of hundreds,
14 and these all depict Mr Charles Blé Goudé. Why? Why? Why is it that none of
15 his speeches, none of his calls for negotiations was mentioned anywhere in your
16 report They Killed Them Like It Was Nothing? Why?
- 17 A. We believed on the basis of a number of other videos that we watch and
18 excerpts that we saw that there were a number of speeches that Mr Blé Goudé made
19 during this time that were not like these three that we've just seen, that they called, in
20 many ways incited people to violence; and, again, we documented in particular how
21 in the aftermath of particular of these speeches that there was a sharp increase in
22 violence based on targeting by Jeunes Patriotes against people from northern
23 Côte d'Ivoire or West African immigrants.
- 24 Q. Thank you.
- 25 Did you ever wonder, or did you ask anybody about the context of the speech of 25

1 February? To be more specific, did you ever ask any Ivorians about the context
2 within which the speech of 25 February was made?

3 A. Does this mean that we're delving deeply into the testimonies and conversations
4 that we had with people throughout Côte d'Ivoire? Because that seems to be what is
5 at the heart of the question.

6 Q. Non.

7 A. Not what I myself saw, but the people that I spoke with.

8 Q. Let me explain. The question I'm putting to you is simple. What I would like
9 to know -- and I'm relying on the fact that you did not reside in Côte d'Ivoire. You
10 came on 10-day missions, so obviously you did not have an overview, a general
11 overview of the situation. That is why I am asking whether you really tried to find
12 out about the context, the background.

13 Did you really try to research on that? That is the question I am putting to you.

14 A. Yes, we researched the background.

15 Q. Thank you.

16 Were you aware of the events that took place in Anonkoua-Kouté?

17 A. Yes, we documented the attack via the Invisible Commando against the village
18 of Anonkoua-Kouté.

19 Q. When I'm asking you whether you were aware of what happened in
20 Anonkoua-Kouté, you said yes, but it was not mentioned in your report. So we were
21 not aware of that.

22 A. It is in my report, just to be clear. There is a specific section of our report on
23 the attack on Anonkoua-Kouté. There is also a section in the press release that was
24 released immediately after our mission in March that documented the attack on
25 Anonkoua-Kouté.

Trial Hearing
WITNESS: CIV-OTP-P-0369

(Open Session)

ICC-02/11-01/15

1 Q. Mr Wells, during your various visits to Côte d'Ivoire, did you even on a single
2 occasion try to meet with Mr Charles Blé Goudé?

3 A. No, I have not.

4 Q. Was it impossible?

5 A. I don't know.

6 Q. In your statement to the OTP you mentioned a certain number of young
7 people's organisations that you said made up the militia, and amongst those groups
8 you mentioned FESCI; is that correct?

9 A. Yes.

10 Q. During your various visits, did you ever meet with a militant, a member or a
11 leader of FESCI?

12 A. Yes, I have met with members of FESCI. Prior to me, Human Rights Watch
13 also wrote a report specifically on FESCI that was based largely on interviews with
14 current and former members of FESCI.

15 Q. Let me repeat my question, Mr Wells: During your various trips to Abidjan,
16 did you personally, that is you, Mr Wells, did you meet militants or leaders of FESCI,
17 and if so, which of them?

18 PRESIDING JUDGE TARFUSSER: I think he said yes, so -- what I understood. So I
19 don't know why you repeat the question.

20 MR GBOUGNON: (No interpretation) Excuse me.

21 PRESIDING JUDGE TARFUSSER: It is okay, I didn't want to interrupt. I just
22 thought that he answered this question.

23 THE WITNESS: Yes, I did.

24 MR GBOUGNON: (Interpretation)

25 Q. Which of the leaders or members did you meet with?

Trial Hearing
WITNESS: CIV-OTP-P-0369

(Open Session)

ICC-02/11-01/15

1 A. Human Rights Watch does not divulge the names of the people it speaks with.

2 Q. I'm sorry. I apologise, I had forgotten the stock answer.

3 The Defence duly notes your position according to which you cannot reveal your
4 sources, and yet your organisation authorised you to testify in this trial, even though
5 the Chamber decided that your sources do not benefit from the principle of
6 confidentiality.

7 MS PACK: Is that a question?

8 MR GBOUGNON: (Interpretation) It was an observation of the Defence.

9 Q. Mr Wells, you have said quite often here about urgency or emergency when you
10 talked about the press communiqués that you produced. What were you referring to
11 precisely?

12 A. It was a situation with very serious human rights violations, again, often
13 committed by both sides, and it was a situation that was evolving rapidly, and so we
14 believed, given particularly the gravity of the human rights violations being
15 committed, that it was important to present our findings as quickly as possible after
16 they had been thoroughly established and vetted.

17 Q. Ever since you joined Human Rights Watch in 2009, can you give me a single
18 example of a communiqué that was issued by your organisation that changed the
19 course of events in any one situation?

20 MS PACK: Your Honour, I do wonder the relevance of that question, which seems
21 to apply to the global work of Human Rights Watch.

22 PRESIDING JUDGE TARFUSSER: I do wonder as well. But it makes no harm.
23 Continue.

24 MR GBOUGNON: (Interpretation) Thank you.

25 Q. I'm waiting for your answer.

Trial Hearing
WITNESS: CIV-OTP-P-0369

(Open Session)

ICC-02/11-01/15

1 A. Human Rights Watch as an organisation is one that has built up a lot of
2 credibility working in more than 90 countries around the world documenting serious
3 human rights violations. Yes, there are plenty of times in which recommendations
4 we make are incorporated, in which the findings that we published influence decision
5 making that's being made in a particular context. Does Human Rights Watch have
6 impact, which I think is your question? Yes.

7 Q. I note that you did not actually answer my question, but the Chamber will make
8 its determination.

9 MS PACK: Your Honour, just one observation. And I'm sorry to stop my friend in
10 making his own observation. But in my submission, in our submission, it is not
11 appropriate to make comments, for counsel to make comments on a witness's
12 testimony. That's all.

13 PRESIDING JUDGE TARFUSSER: I think that OTP is right in this. I think you
14 should not always comment the responses of the witness. This is something which
15 you will do at a proper moment when you have the floor for doing your statements.
16 I think that's a proper moment. Now you have to put questions and receive answers.
17 Thank you.

18 MR GBOUGNON: (Interpretation) Much obliged, Mr President.

19 Q. From the very beginning of your questioning by the OTP and by the non-calling
20 parties, you have frequently stated that your organisation and the researchers
21 working there carry out their research in an objective manner. And the in French
22 transcript of 17 May 2016, page 9, you said that Human Rights Watch is always
23 working in all impartiality. And the key word here for us is objectivity; is that
24 correct?

25 A. Yes.

Trial Hearing
WITNESS: CIV-OTP-P-0369

(Open Session)

ICC-02/11-01/15

1 Q. You also testified that Corinne Dufka was your supervisor and trainer and that
2 she accompanied you during your missions to Côte d'Ivoire in January and March,
3 and that is Corinne Dufka; is that correct?

4 A. She was not my trainer during the course of missions in January and March.
5 She was my supervisor at Human Rights Watch. She was not training me in January
6 and March. I was an established researcher and we were there as colleagues doing
7 research.

8 Q. She accompanied you and she collected information with you, she carried out
9 research; is that correct?

10 A. She also did field research, yes.

11 Q. I'm going to show you a document now, a document from the Trial Chamber of
12 The Prosecutor versus Charles Taylor case, it is CIV-D25-0007-0001, page
13 CIV-D25-0007-008.

14 MS PACK: I'm objecting, your Honours, to this document being shown to the
15 witness. It is a decision of another Court about another person. I just do not see
16 how there has been any foundation established for asking the witness anything about
17 a legal decision in another tribunal in another case.

18 PRESIDING JUDGE TARFUSSER: I think so the same, but I don't -- we'll see what
19 the question is and then we decide on the basis of the question, I would say. So
20 because I'm also curious on what the question would be and how this question is
21 related to our case.

22 So please put the question.

23 MR GBOUGNON: (Interpretation) Mr President, I would like to ask Mr Wells to
24 read the first two paragraphs -- I'm sorry, paragraph 17, and then I will ask him
25 whether he has already seen that decision before or whether he has heard of it.

Trial Hearing
WITNESS: CIV-OTP-P-0369

(Open Session)

ICC-02/11-01/15

1 MS PACK: No --

2 PRESIDING JUDGE TARFUSSER: No, I think that -- I don't understand why he
3 should read. You read in case -- you read the decision. He's not here to be a
4 lecturer, but he's here to answer questions. So if you think that this is needed, read
5 what you think is needed to be read and then we'll see.

6 MR GBOUGNON: (Interpretation)

7 Q. I will read paragraph 17, it is in English:

8 (Speaks English) "The Trial Chamber was of the view that Mrs Dufka's evidence
9 clearly demonstrated a lack of objectivity, therefore the Trial Chamber finds that she's
10 not impartial in this case."

11 PRESIDING JUDGE TARFUSSER: Well, the question is not admitted because the
12 witness should respond on a decision taken by another court on a person which is not
13 himself, and it is out of the decision where we are -- our decision where we say that
14 he has to limit himself to facts which he personally observed and to the methodology
15 used to compiling the report. So it is not admitted. Thank you.

16 MR GBOUGNON: (Interpretation) Thank you, Mr President.

17 Q. Thank you, Mr Wells. I have no further questions for you. And thank you for
18 your cooperation.

19 A. Thank you.

20 PRESIDING JUDGE TARFUSSER: Thank you very much.

21 Now I ask Prosecution if they want to re-question the witness and then I will give, if
22 they do, I will give the floor again to the Defences.

23 Ms Pack?

24 MS PACK: No questions. But the one thing I did want to ask your Honours was
25 just as to the status of the report, because I obviously made my submissions on behalf

Trial Hearing
WITNESS: CIV-OTP-P-0369

(Open Session)

ICC-02/11-01/15

1 of the Prosecution as to its submission and --

2 PRESIDING JUDGE TARFUSSER: What it's submit -- well, it is always the same. I
3 mean, why should we always come back to the same? Should we always say it is
4 submitted, submitted, submitted? No.

5 MS PACK: I just didn't know if the pages numbers --

6 PRESIDING JUDGE TARFUSSER: Okay.

7 MS PACK: -- or if the whole report was submitted.

8 PRESIDING JUDGE TARFUSSER: The report.

9 So this concludes your testimony. I think you are relieved about this. Thank you
10 very much for the time you have spent here, for the answers given. And have a nice
11 good trip back.

12 THE WITNESS: Thank you.

13 PRESIDING JUDGE TARFUSSER: Goodbye.

14 Could you please accompany the witness out. Thank you.

15 (The witness is excused)

16 PRESIDING JUDGE TARFUSSER: I do know because we all received from Trial
17 Chamber I, on the Trial Chamber I account a request by the Office of the Prosecutor
18 by Mr MacDonald that he already is prepared today to give his observations on the
19 filing -- yesterday's filing by the Defence of Mr Blé Goudé. I also received
20 Madam Naouri's email recalling my -- me that yesterday I said that you have time
21 until tomorrow close of business, but I think there is no conflict about the two, so
22 I -- if you just could call Mr MacDonald. Is he on his way?

23 MS PACK: No. I think he asked me to deal with --

24 PRESIDING JUDGE TARFUSSER: Yes.

25 MS PACK: -- the response, so I can just deal with that.

Trial Hearing
WITNESS: CIV-OTP-P-0369

(Open Session)

ICC-02/11-01/15

- 1 PRESIDING JUDGE TARFUSSER: Can you deal with it so that we conclude? He
2 said it's five minutes. I don't know how you will take for your observations.
- 3 MS PACK: Three, three minutes.
- 4 PRESIDING JUDGE TARFUSSER: Three. No, no, but you can have all the time
5 you need, of course, until 1 o'clock. So if you are ready, I will give you the floor,
6 otherwise I would break for 10 minutes if you want this? We have time until
7 1 o'clock, so --
- 8 MS PACK: No. I can deal with it now.
- 9 PRESIDING JUDGE TARFUSSER: Okay. So you have the floor.
- 10 And for the Defence it is obviously, as I stated yesterday, tomorrow close of business.
11 Please, Ms Pack.
- 12 MS PACK: Very short points. We concur with the Blé Goudé Defence that the
13 Witness P-431 should not be allowed to present opinion evidence through his
14 testimony. We nevertheless disagree and would oppose any limitation on the scope
15 of his testimony and that any limitation should automatically lead to the wholesale
16 exclusion of his testimony as I understand is sought by the request.
- 17 That said, and in order to expedite the proceedings, our position is that we won't rely
18 on or submit the documentary in question, which is the documentary that's referred
19 to in the course of the request. We won't be submitting it into evidence. We will
20 rely instead and submit the raw footage or the rushes, as they're called, that are -- will
21 be included on the -- they're on our list of evidence and will be included in the list of
22 material that we intend to circulate later on today along with the examination sheet.
- 23 So our very short submission is that the request is moot, becomes moot as a result of
24 our position.
- 25 PRESIDING JUDGE TARFUSSER: Thank you very much.

Trial Hearing
WITNESS: CIV-OTP-P-0369

(Open Session)

ICC-02/11-01/15

1 If there is nothing else to be discussed, I adjourn the hearing to Tuesday morning 9.30
2 with this witness and we'll see, I hope that we will issue the decision on the request of
3 the Defence for Mr Blé Goudé fairly in advance to Tuesday morning 9.30.

4 Thank you very much. See you later.

5 THE COURT USHER: All rise.

6 (The hearing ends in open session at 12.24 p.m.)

7 CORRECTIONS REPORT

8 The Language Services Section has made the following corrections in the transcript:

9 *Page 5, lines 9-10:

10 "and that was seen as being a supporter of a particular candidate in this case." Is
11 corrected by "whether they be a supporter of a given candidate or not."

12 *Page 13, line 7: "21" is corrected by "22".