

Trial Hearing
WITNESS: CIV-OTP-P-0239

(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 Geoffrey Henderson and
7 Judge Olga Herrera Carbuccion
8 Trial Hearing - Courtroom 3
9 Thursday, 29 June 2017
10 (The hearing starts in open session at 9.30 a.m.)
11 THE COURT USHER: [9:30:01] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE TARFUSSER: [9:30:14] Good morning. Good morning to
15 everybody.
16 Good morning, Mr Witness.
17 WITNESS: CIV-OTP-P-0239 (On former oath)
18 (The witness speaks French)
19 THE WITNESS: (Interpretation) Good morning, your Honour.
20 PRESIDING JUDGE TARFUSSER: [9:30:23] We are here this morning to continue with
21 your testimony and, therefore, with the questions by the Defence for Mr Gbagbo.
22 And, therefore, I give immediately the floor to Maître Altit.
23 MR ALTIT: [9:31:04] (Interpretation) Thank you, your Honour. Good morning,
24 your Honours.
25 QUESTIONED BY MR ALTIT: (Continuing) (Interpretation)

1 Q. [9:31:17] Good morning, Mr Witness.

2 A. [9:31:20] Good morning.

3 Q. [9:31:21] We shall now continue.

4 Now, yesterday we were talking about the shelling that you mentioned from Camp
5 Commando conducted by a number of mortar gunners. And we will now continue with
6 this particular topic, and I'll be putting a number of questions to you to shed light on your
7 earlier testimony, all right? All right?

8 A. [9:31:49] Yes.

9 Q. [9:31:51] Very well. Now, apparently those who were conducting the shelling
10 were Pegard and Kamanan; is that correct?

11 A. [9:32:06] Yes.

12 Q. [9:32:08] Very well. So you have told us that you saw the shooting, the firing;
13 correct?

14 A. [9:32:19] Yes.

15 Q. [9:32:25] Well, now tell me, Mr Witness, who was doing what? Who was actually
16 firing, Pegard, Kamanan? Because if we've understood what you've told us, each one,
17 each person who is part of a crew firing a mortar has a role to play. Who was doing
18 what?

19 A. [9:32:49] When Pegard and Kamanan Brice left the office, they took some shells.
20 There was a brigadier who was helping them carry them, and they went to where the
21 mortars were. The mortar was already in battery, set up in battery, and they gave the
22 shell to the brigadier. The brigadier put it into the mortar and it was automatic. Once
23 you put it in, it goes automatically. There are two shooting modes, there is automatic
24 and then there is commanded, so to speak. So that's how the firing was conducted.

25 Q. [9:34:10] So what you've told us, you're telling us that they gave their shells to the

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1 brigadier, and I'm quoting what you just said moments ago, "and the brigadier put it into
2 the mortar." So there were three people?

3 A. [9:34:29] Yes.

4 Q. [9:34:31] Very well. We will quote from your statement to the OTP investigators,
5 and this is CIV-OTP-0037-0425, page 452. I'll quote, this is from paragraph 194, you said
6 this, and you were the one who was speaking, sir, I'm quoting:

7 "As for the shelling of the Abobo market, I've already told you about that, it was Brice and
8 Pegard who were responsible. That happened the day that I went to Abobo for the third
9 time. And Brice and Pegard fired the 120 millimetre shells to clear the path so that they
10 could leave Abobo. I know that they made mistakes in their calculations and the shells
11 fell in the market."

12 So here you only mention Brice and Pegard, and today you've added a third person. So
13 are you standing by what you've said today?

14 A. [9:36:22] Yes, I've always mentioned the third person, ever since yesterday.

15 Q. [9:36:27] Ever since yesterday? What do you mean by that exactly? So before
16 that time, before yesterday, you never made mention --

17 A. [9:36:37] Yes, I did because -- well, I don't know in the statement. There was a
18 brigadier who was helping them carry the shells, he was the one who got there. They
19 took -- they grabbed one and they told, they told him to put the mortar in and off it went,
20 and then the second and off it went.

21 Q. [9:37:08] Very well.

22 MR DEMIRDJIAN: [9:37:10] I have an objection, which will need to be made in the
23 absence of the witness.

24 PRESIDING JUDGE TARFUSSER: [9:37:15] Can we please bring out the witness from
25 the courtroom for a few minutes.

1 (The witness stands down)

2 PRESIDING JUDGE TARFUSSER: [9:37:41] Mr Demirdjian.

3 MR DEMIRDJIAN: [9:37:42] Yes. Your Honours, the witness says that he always
4 mentioned a third person. And the following question by my learned friend was "You've
5 never spoken about it." So this is at 9:36:26. The end of the question is "you've never
6 spoken about it."

7 PRESIDING JUDGE TARFUSSER: [9:38:02] No.

8 MR DEMIRDJIAN: [9:38:03] (Interpretation) "You never spoke about it." (Speaks
9 English) However, my learned friend is only limiting himself --

10 PRESIDING JUDGE TARFUSSER: [9:38:10] Yes, but --

11 MR DEMIRDJIAN: [9:38:12] Sorry, I'll give you a moment.

12 PRESIDING JUDGE TARFUSSER: [9:38:14] In English it is, "Yes, I have always
13 mentioned the third person ever since yesterday."

14 MR DEMIRDJIAN: [9:38:17] Yes. And then counsel continues saying --

15 PRESIDING JUDGE TARFUSSER: [9:38:20] Yes.

16 MR DEMIRDJIAN: [9:38:21] I'm translating from what I see here in French, "What you
17 want to say is before yesterday you've never spoken about it."

18 Now, my learned friend is limiting himself to paragraph 194 of the statement. And my
19 intervention is that this would be misleading in that at paragraph 134, the witness does
20 mention a third person involved in this shelling. He says "the brigadier whose name I do
21 not remember" was also involved.

22 So I think this would be misleading the witness to say that before yesterday he never
23 mentioned a third person. So that is my objection here. And I think that the witness
24 should not be misled into thinking he never mentioned it before. Thank you.

25 PRESIDING JUDGE TARFUSSER: [9:39:10] Maître Altit.

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1 MR ALTIT: [9:39:13] (Interpretation) Thank you, your Honour. I'm not so sure that
2 the witness never mentioned the third person in the way he put it today. But I put the
3 question to him so that he could say what his position -- his position is clear, and so there
4 we have it. I believe things are quite clear.

5 He's now talking about a third person today, and I believe we can see that his position, we
6 see what his position is, and I think it's quite useful to have his position made clear. It
7 wasn't entirely clear beforehand.

8 PRESIDING JUDGE TARFUSSER: [9:40:00] Yes. But if I'm not mistaken, the objection
9 by the Office of the Prosecutor is that he mentioned a third person also before when he
10 was interviewed by the investigators, not only since yesterday. That's it.

11 MR ALTIT: [9:40:18] (Interpretation) Yes, that is correct, it is not the same wording.
12 But I do entirely accept what was not entirely an objection but, rather, a clarification.
13 Absolutely, yes, yes.

14 PRESIDING JUDGE TARFUSSER: [9:40:29] Okay. So I think it's clear now, and we
15 can bring the witness back in. Thank you.

16 (The witness enters the courtroom)

17 PRESIDING JUDGE TARFUSSER: [9:41:07] Mr Witness, we had just to clarify
18 something without you hearing in order not to influence you. Now things are clear, and
19 I give back the floor to Maître Altit.
20 Yes, please.

21 THE WITNESS: [9:41:27](Interpretation) I wanted to specify one thing. I think that I
22 did mention it. I said that Pegard and Brice went to prison. But the brigadier, the one
23 that they gave the orders to, didn't go to prison. I think I did say that in one of the
24 paragraphs. I think it is in there.

25 PRESIDING JUDGE TARFUSSER: [9:41:46] Okay. Thank you very much.

1 Maître Altit.

2 MR ALTIT: [9:41:50] (Interpretation) Thank you, your Honour.

3 Q. [9:41:53] Now, sir, I refer you to the excerpt in which you said to the investigators
4 that Brice and Pegard fired the two 120 millimetre shells to clear the way so they could get
5 out of Abobo. What do you mean?

6 A. [9:42:17] Well, they thought it was dangerous, that the road or the path was
7 dangerous for the Abobo brigade. It was dangerous. And so they needed to fire shells
8 to clear out the enemy who were there. And so that is how it came to be that they
9 conducted the shelling.

10 Q. [9:42:40] Very well. Now, if we go back, if we go back to the actual sequence of
11 events, the events as they occurred in order. Now, I think you told us yesterday during
12 your testimony, correct me if I'm wrong, that the convoy that you were in had come under
13 fire and got to Camp Commando, a report was made to the authorities, and they called
14 Kamanan and Pegard to organise a number of shots or firing. Was that the exact
15 sequence of events?

16 A. [9:43:34] Yes.

17 Q. [9:43:37] Very well. Would it be correct to say that the firing that you have told
18 us about, the firing of the mortars, was the consequence of the attack that the convoy came
19 under?

20 A. [9:43:57] Well, I don't know whether it was the consequence, but I know that they
21 had said that the intersection was very dangerous. And before they left, they needed to
22 fire some shells for the sake of the brigade, because the enemy was there, they needed to
23 clear the enemy out of there and shell that location.

24 Q. [9:44:31] Very well. Now, you've told us, sir, yesterday it was, and please stop
25 me if I haven't got it quite right, but you said during the third mission to Abobo, the

1 convoy that you were in had to take another route, not the usual route; is that correct?

2 A. [9:44:51] Yes.

3 Q. [9:44:53] Can you tell us why you didn't take the normal route?

4 A. [9:45:04] Well, I don't know. Each day we would go off there, because the first
5 time when we went, we went by way of the motorway. We left Camp Commando, we
6 took the motorway Adjamé, and we went straight forward at the brigade. At the brigade,
7 then we go to Camp Commando.

8 But this time we didn't take the same route. We went by way of Samaké instead, that is
9 to say Camp Commando HMA, then HMA Samaké. Samaké, we got to the market, then
10 the market. Then we headed towards the town hall. We exited around the lycée. And
11 then we got to the lycée intersection, and we took the road that goes down towards the
12 brigade.

13 Before getting to the brigade, there is the intersection, the road that heads towards SOS,
14 we went by that area. And then we continued along, went by the church. And then
15 from the church we went back on to the road to get to Camp Commando.

16 Q. [9:46:45] Very well. So that is the route that you took. But why, why did you not
17 take the motorway? You mentioned the motorway.

18 A. [9:46:55] I don't know why. The chief -- the itinerary was decided upon by the
19 chiefs. I was just a mere brigadier. I don't know.

20 Q. [9:47:14] All right. Do you remember which vehicles were in the convoy? What
21 was the convoy composed of exactly?

22 A. [9:47:24] Well, I told you. I've told you.

23 Q. [9:47:32] Could you tell us what kind of vehicles, this vehicle, that vehicle?

24 A. [9:47:37] Well, the BASA, as I told you, there we have an armoured personnel
25 carrier with a dual-barrelled gun. And then there was the GEB and the BAE, the BAE,

1 the riot squad or the riot brigade. And there was between the two, there were also police
2 officers.

3 Q. [9:48:10] But you don't remember about the other vehicles, the police vehicles?

4 A. [9:48:14] Well, the police officers had a vehicle that had either CRS or BAE written
5 on it. I can't remember.

6 Q. [9:48:25] Were there other vehicles?

7 A. [9:48:27] The GEB also had vehicles, two armoured vehicles, and then was an
8 armoured -- well, the BAE, the BAE, they also had an armoured vehicle. I'm not so sure.
9 I'm not so sure.

10 Q. [9:48:48] Very well. So you were at Camp Commando and you are telling us that
11 you saw the firing. You've already answered the question, but just to make --

12 A. [9:49:03] Yes, I'm being very clear. I saw the firing.

13 Q. [9:49:09] Quiet. I'm asking you questions, please.

14 You were at Camp Commando. You saw the firing. You've told us who conducted the
15 firing, fine.

16 Now, exactly, you were -- could you see the people conducting the firing perfectly well?
17 Were you directly in sight? Did you have a clear view of them?

18 A. [9:49:34] Yes.

19 Q. [9:49:36] Very well. So now the idea, what was -- we've pretty much understood
20 why the firing was conducted. Can you specify what is the actual target of the people
21 doing the firing?

22 A. [9:49:57] I didn't think -- I don't know what the target was. But I think the idea,
23 and I think I've already mentioned that, I don't know -- well, I don't know.

24 Q. [9:50:22] So I'd like to read back to you something that you said to the OTP
25 investigators. The same reference numbers as before, paragraph 122. So you said at

1 paragraph 122, and you were the one speaking, these are your words, I quote:

2 "Then it was necessary to deal with the roundabout of the gendarmerie brigade and the
3 Samaké roundabout before the replacement troops hit the road. So those who had left
4 fired 120 millimetre mortars and fired upon the intersection of the gendarmerie brigade
5 and also at the roundabout. There were two 120 millimetre mortars that we had taken
6 during the second mission at Camp Commando. They used just one to carry out the
7 firing."

8 And then there is a reference made to another document appended to this statement.

9 And then after that you digressed a bit in relation to the date. And then at the following
10 paragraph, paragraph 124, which I will read out to you, you said this, and I quote once
11 again:

12 "It was necessary to 'deal with'" -- and 'deal with' is between quotation marks -- "these two
13 points because it was very dangerous, and the replacement troops couldn't get through.
14 After the firing, those who we had taken over from left. Once arrived at the gendarmerie
15 brigade roundabout, one of the drivers of an armoured vehicle had been injured. I don't
16 know what kind of weapon he was injured by. And they went back to Camp Commando
17 and then after that they changed itinerary."

18 So do you remember saying that, sir?

19 A. [9:52:53] Yes, I think that's what I said and they mention that. But I think with
20 time, you know, people forget. That was, the events were in 2010. But that's what I said
21 and that is what they wrote down.

22 Q. [9:53:08] Very well. And you can confirm?

23 A. [9:53:10] Yes, I stand by it.

24 Q. [9:53:11] Very well. Tell me, when a 120 millimetre shell lands, when the impact
25 occurs, do you feel the earth actually shaking and, if so, to what distance?

1 A. [9:53:45] Well, that in artillery, there are various kinds of firing. You
2 can -- different -- there are different possibilities, different kinds of firing. Sometimes it
3 goes through the ground and then comes out again. Sometimes the shell doesn't explode.
4 Sometimes the shell just touches the -- just the fringe of the target.
5 So it depends on many things, the density of the air, the temperature. These are the
6 various factors that affect the firing. So that's the things that you have to consider.
7 Everything -- that's called the firing table. Each particular weapon, each version has its
8 own firing table.

9 Q. [9:55:07] Now, yesterday during your testimony regarding the shelling that we're
10 discussing now, you said that the shells did not head towards the target. What did you
11 mean exactly by that?

12 A. [9:55:23] Well, I'm a gunner and I fire shells. And, you see, the first thing is that
13 you have to set the actual coordinates, you have to set the instruments. And there's a
14 compass to take stock of the direction. That wasn't done. Those are the things that you
15 do in artillery. One millimetre can make a big difference.

16 Q. [9:56:03] Very well. Could you quickly explain to me the differences between 120
17 millimetre shells and the 81 or 82 millimetre shells? Is one heavier than the other?

18 A. [9:56:23] It's the calibre. The difference there, it's the difference in calibre.

19 Q. [9:56:29] Very well. And are some bigger than others?

20 A. [9:56:35] Yes. A 120 millimetre shell is bigger. The calibre is bigger. So an 81
21 or an 82 millimetre shell, one person can lift that up, but the larger shell, you need a
22 couple people.

23 Q. [9:56:54] Very well. So you mean that an 81 or an 82 millimetre shell can be
24 carried by one person?

25 A. [9:57:03] Yes, one person can carry an 81 or an 82.

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- 1 Q. [9:57:07] But that's not the case for a 120 millimetre shell?
- 2 THE INTERPRETER: [9:57:16] Laughter.
- 3 THE WITNESS: [9:57:19](Interpretation) That's not so. The plaque de base, well, that's
- 4 one spot.
- 5 MR ALTIT: [9:57:26] (Interpretation)
- 6 Q. [9:57:26] What is the plaque de base, the base plate?
- 7 A. [9:57:32] The part that is on the ground.
- 8 Q. [9:57:33] Is it on wheels?
- 9 A. [9:57:35] No.
- 10 Q. [9:57:37] Very well. So it's part of the equipment that helps dampen the
- 11 kick-back?
- 12 A. [9:57:47] Well, it also helps you position the barrel, because the barrel can be
- 13 detached. When you get there, the base plate is what allows us to place the barrel
- 14 properly.
- 15 Q. [9:58:05] Very well. How many people do you need to carry a 120 millimetre
- 16 shell or, rather -- correction, mortar?
- 17 A. [9:58:18] When we are at the BASA, it would be three or four people to lift up the
- 18 base plate, and then the barrel, two people, and the tripod, one person can carry that.
- 19 And then there's the firing glasses or goggles.
- 20 Q. [9:58:46] Now, to your knowledge the rebels in the immediate surroundings of
- 21 Camp Commando, did they have 120 millimetre mortars?
- 22 A. [9:58:55] I didn't see any rebels. I did not see anyone whatsoever, so I can't tell
- 23 you. I can't tell you about their weapons.
- 24 Q. [9:59:06] Very well. Now, you told us yesterday that 120 millimetre mortar was
- 25 of Russian manufacture. Was that right?

1 A. [9:59:19] Oh, yes, yes. Yeah, they were Russian.

2 Q. [9:59:24] What particular brand or make?

3 A. [9:59:27] I don't know what the make was. Can't tell you.

4 Q. [9:59:36] Very well. Was there an officer or an NCO at the BASA who was
5 responsible for the mortars who was the final authority for everything that had to do with
6 mortars?

7 A. [9:59:51] I beg your pardon?

8 Q. [9:59:54] Okay. We've understood that there were captains of the guns, chefs de
9 pièce, and then there was the chief of the detachment. But just say "yes" or "no," I'm just
10 putting the question to you. Was there one person who was responsible, someone who
11 devoted himself to the mortars, the one person that you had to turn to? I'm not talking
12 about the head of unit. I'm talking about someone who would be in charge of specific
13 pieces of equipment, the 12.7s or whatever.

14 A. [10:00:36] In the army everyone has his job. I was an artillery soldier. There are
15 gunners. There are people responsible for the armories and so on.
16 Yesterday you asked me questions about ammunition. But there are people who are
17 responsible for that. There are people responsible for maintaining weapons, others are
18 there for the storage.

19 Q. [10:01:16] Very well. I will move on to something else. You talked to us
20 yesterday about three missions to Abobo; is that correct?

21 A. [10:01:33] Yes.

22 Q. [10:01:35] There was a first mission, and you explained to us where you were, how
23 you got there. Now, why was this mission sent to the Camp Commando?

24 A. [10:02:00] Which of the missions?

25 Q. [10:02:03] The first mission to Abobo that you talked to us about.

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1 A. [10:02:09] These were night patrols. I do not know the purpose. It was simply
2 night patrols. We would leave at 6 p.m. and come back at 6 a.m. in the morning. And
3 that was linked to security of course.

4 Q. [10:02:35] I will read an excerpt of your statement to the OTP, and it is
5 CIV-OTP-0037-0425, page 441, paragraph 102. You are talking about your first mission
6 and you stated at paragraph 100, now, let me quote what you said to the investigators:
7 "Later there was an incident in Abobo where soldiers and police officers were killed. The
8 patrols intensified after that. We went from night patrols only to 24-hour patrols."

9 A. [10:03:51] Yes.

10 Q. [10:03:52] Do you remember having said that?

11 A. [10:03:56] Yes, because initially the patrols were only at night. It was after the
12 incidents in Abobo that we started carrying out patrols during the day and at night.

13 Q. [10:04:19] Very well. Do you have your statement with you right there?

14 A. [10:04:33] What you read?

15 Q. [10:04:36] Yes. Now, it is very clear.

16 PRESIDING JUDGE TARFUSSER: [10:04:45] He has it on the screen.

17 MR ALTIT: [10:04:48] Oui.

18 PRESIDING JUDGE TARFUSSER: Yes.

19 MR ALTIT: (Interpretation)

20 Q. [10:04:59] The second mission, what was the purpose of the second mission, do
21 you remember?

22 A. [10:05:07] The second mission was within the same context. We were given
23 mortars and we went there with those mortars.

24 Q. [10:05:28] Your second mission was for a similar purpose, we understand that, but
25 more specifically during that mission did you have a precise objective?

1 A. [10:05:45] During the second mission when we left, as I have said, there was no
2 incident. We arrived Camp Commando and we were told that there were enemies in the
3 area of Anonkoua-Kouté. And we met ONUCI at the gendarmerie roundabout. The
4 head of the convoy even alighted from the vehicle and discussed with them. Then we
5 continued on our way to Dépôt 9. The others continued, I don't know where they went
6 to and then they retreated. They met us and we went back on our tracks. It was on that
7 very day that Captain Zadi -- well, we had placed our mortars in the batteries and it was
8 on that day that Captain Zadi fired the 81, 82 millimetre mortars. Those two mortars are
9 quite similar.

10 Q. [10:07:07] In your statement to the OTP, same reference, page 443, paragraph 108,
11 and I quote what you said, Mr Witness:

12 "Our assignment was to go to Abobo. Once we got there the commanding officer of
13 Camp Commando, whose name I don't recall, told us that we needed to liberate Anyama
14 from the rebels. We left with two 120 millimetre mortars and some 12.7 guns."

15 Do you remember saying that?

16 A. [10:08:02] Maybe I said that, but I really do not remember because that was a long
17 time ago.

18 Q. [10:08:07] Now, do you remember at least the specific objective of liberating
19 Anyama from the rebels?

20 A. [10:08:19] When we arrived we were told that they were in Anonkoua-Kouté
21 behind Dépôt 9, and that is all in the vicinity of Anyama.

22 Q. [10:08:39] You also talked about a mission to PK18, an exchange of fire between
23 your unit and enemies. You said that during your testimony yesterday. Now, who was
24 the enemy?

25 A. [10:08:57] I have told you that I never saw them, but on that day we came under

1 fire and one person was injured. I never saw them. I've already told you that. I was
2 not able to identify any of them. It is complicated in town because amongst the houses
3 someone may disguise themselves and carry out actions.

4 Q. [10:09:36] Do you know the Invisible Commando?

5 A. [10:09:38] I have heard of the Invisible Commando but I do not know them.

6 Q. [10:09:42] What do you know about the Invisible Commando?

7 A. [10:09:54] It was said that the Invisible Commando was causing terror in Abobo
8 and since they were not being seen that is why they were referred to as Invisible
9 Commando because people did not know who they were.

10 Q. [10:10:18] Very well. Do you remember any incidents, any confrontations
11 between assailants against members of the security forces, policemen, gendarmes and so
12 on in Abobo?

13 A. [10:10:39] Please repeat the question.

14 Q. [10:10:47] Let us set aside the expression Invisible Commando, let us talk about
15 assailants, people who attacked the security forces in Abobo. Do you remember the
16 various incidents? You mentioned some of them yesterday. Do you remember some of
17 them when those assailants attacked the security forces?

18 A. [10:11:18] I think that during my third mission when we were returning we came
19 under fire. There were two people injured amongst us and then we returned to the
20 camp.

21 Q. [10:11:39] Very well. Yesterday during your testimony you talked about an attack
22 against the gendarmerie brigade. Do you remember that?

23 A. [10:11:50] I said that when we arrived we were told that the gendarmerie brigade
24 had been attacked but we were not there on that day. That is what I heard.

25 Q. [10:12:05] Very well. Did you talk to any of those gendarmes who had been

1 attacked?

2 A. [10:12:11] No.

3 Q. [10:12:12] They did not take refuge in the Camp Commando?

4 A. [10:12:19] Yes, they went there, but when you go there you are part of a team and
5 everyone is focused on his mission. It is the leaders who discussed things and they come
6 back and issue orders.

7 Q. [10:12:36] Very well. Was there any attack at the rond-point de la gare in Abobo?

8 A. [10:12:58] I do not remember, but I think that the policemen and the gendarmes
9 that were mentioned earlier, maybe -- I believe, that is where it happened.

10 Q. [10:13:27] Very well. In Camp Commando, did the soldiers, the policemen and
11 the gendarmes, everyone who was there, or in the BASA, those who went to Abobo and
12 came back, did they speak about the attacks and those who perpetrated the attacks?

13 A. [10:14:29] Yes. Everybody was talking about what was happening in Abobo.
14 People were talking about the Invisible Commando and they did not know who they
15 were.

16 Q. [10:14:45] Very well. To your knowledge, in light of what you learnt during that
17 period, where were the positions of the Invisible Commando?

18 A. [10:15:11] Obviously I'm not in a position to know.

19 Q. [10:15:21] Who was the commander of the Invisible Commando as far as you
20 know?

21 A. [10:15:27] I'm not able to know that.

22 Q. [10:15:34] Were there enemies all around the Camp Commando?

23 THE INTERPRETER: [10:15:52] Answer inaudible.

24 PRESIDING JUDGE TARFUSSER: [10:15:56] What was the answer? What was the
25 answer to the last question? Were there enemies all around the Camp Commando?

1 The question by Maître Altit was "Were there enemies all around the Camp Commando?"
2 but we didn't get an answer.

3 THE WITNESS: [10:16:17](Interpretation) No.

4 MR ALTIT: [10:16:41] (Interpretation)

5 Q. [10:16:42] Yesterday you explained to us that you stayed in the new Akouédo
6 camp almost until the end of the crisis. You explained but I want it to be very clear, can
7 you give us a precise date, up to when did you stay on duty as part of BASA in the
8 Akouédo camp?

9 A. [10:17:19] The 31st March.

10 Q. [10:17:25] Very well. To your knowledge, was the new Akouédo camp attacked
11 either before or after 31 March?

12 A. [10:17:34] No.

13 Q. [10:17:35] Was there any shelling by ONUCI helicopters?

14 A. [10:17:42] Yes, there was shelling.

15 Q. [10:17:47] Very well. Was there shelling by French helicopters?

16 A. [10:17:54] There I would say no because I cannot say, it was ONUCI I believe.

17 Q. [10:18:07] Very well. Was the camp attacked by rebels or the Forces Nouvelles?

18 A. [10:18:15] No. After the shelling everyone left, everyone vacated the premises.

19 Some people stayed in the old camp, but in the new camp everyone left.

20 Q. [10:18:31] You're referring to the shelling by ONUCI; is that correct?

21 A. [10:18:36] Yes.

22 Q. [10:18:37] On which day was that?

23 A. [10:18:46] I believe it was on the 4th in the afternoon, in the evening.

24 Q. [10:18:52] So this was after 4 April there was no one there?

25 A. [10:19:02] Yes, everyone left.

1 Q. [10:19:03] Very well. Between 31 March and the end of the crisis, let us say
2 mid-April, were there any rebel groups or the Forces Nouvelles who took up positions
3 around the camp?

4 A. [10:19:25] After what?

5 Q. [10:19:29] After 31 March did the Forces Nouvelles take up a position around the
6 new Akouédo camp?

7 A. [10:19:39] Before 31 March, no.

8 Q. [10:19:43] Very well. And after that?

9 A. [10:19:51] Well, after the shelling of the camp, on 31 March, the FAFN arrived
10 Abidjan. Everyone who had been at the front had retreated to Abidjan, so it was
11 everyone for himself.

12 Q. [10:20:18] Very well. You have just said that as from 31 March the government
13 troops had retreated to Abidjan and the Force Nouvelles themselves were already in
14 Abidjan; is that correct?

15 A. [10:20:37] Yes, they were present in Abidjan because when the people at the front
16 retreated they advanced to Abidjan.

17 Q. [10:20:54] Very well. Who were these rebel troops, the Force Nouvelles? Do you
18 know the composition?

19 A. [10:21:00] Well, I was trying to save my own skin. Did I have time to find out
20 who was who?

21 Q. [10:21:08] Very well. Were there any Dozos?

22 A. [10:21:18] I was trying to take care of myself because at such moments it is
23 everyone for himself. So I did not even want to be seen, so I couldn't know who was
24 who. People were trying to fight against them, so -- and they were fighting against us, so
25 we couldn't -- we were trying to protect ourselves, to save our skins.

1 Q. [10:21:57] Do you say that your life was threatened because you were a soldier?

2 A. [10:22:03] Yes. All the soldiers were trying to save themselves. The lives of
3 certain soldiers from the north were at risk because it was being said that they were
4 supporters of Alassane, so their lives were at risk. Even civilians were at risk, and the
5 soldiers also, some of them were killed. If you were not careful and if you were not
6 known, you would simply be killed.

7 Q. [10:22:50] Very well. What you're saying whatever the origin of the soldiers, from
8 the north, the south, their lives were at risk?

9 A. [10:23:00] That is what I'm telling you.

10 Q. [10:23:08] Very well. And you are telling us that you know examples of people
11 who were killed?

12 A. [10:23:12] I do not know any examples, but there were people who came out and
13 said we lost such-and-such a person. It is difficult. Everyone had their experiences,
14 their own accounts.

15 Q. [10:23:31] And when you say "chacun se cherchait" in French, do you mean that
16 everyone was hiding?

17 A. [10:23:41] Yes, everyone was trying to take cover so it was not advisable to go out.

18 Q. [10:23:55] Very well. Let me ask you a different question. You say you are
19 Tagbanan, that is your ethnic group. Which is the broader group that the Tagbanan
20 belong to?

21 A. [10:24:17] The Senoufo group.

22 Q. [10:24:24] In the 2010 and 2011 crisis, did you have any brothers belonging to the
23 rebels?

24 A. [10:24:38] No. I have an uncle who is a policeman and those were the two of us is
25 in the armed forces. The other is a teacher who is on retirement. So I'm a soldier and

1 my uncle is a policeman.

2 Q. [10:25:05] You talked about the orgues de Staline?

3 A. [10:25:11] Yes.

4 Q. [10:25:19] To be clear, who took the shooting key?

5 A. [10:25:29] After the shelling, when everyone scattered, they started to try to find
6 out whether anyone had a mastery of those weapons which had been camouflaged, and
7 that is how come people came to try to set up the weapons. And I took the key, the key
8 shot and I threw it away.

9 Q. [10:26:07] So you are the one who took the key?

10 A. [10:26:09] Yes. After the chaos, after 31 March, the attack, the shelling, the arrest
11 of President Gbagbo, since they did not know the weapons they were looking for people,
12 so we went there, we dismantled the weapons, I took the key shot and I threw it away so
13 that they should not be able to use it.

14 Q. [10:26:45] We heard that there was a certain Sip from the BASA, a Sip
15 Dioulé (phon), a certain Sip Dioulé who took the key and threw it away.

16 A. [10:27:05] We were there when I took the key. There was somebody there.
17 When he fled, the key remained in the orgues de Staline. There were two weapons, there
18 were two orgues de Staline. I was on duty on that day and I threw away the key. I took a
19 key and I threw it away in any case.

20 Q. [10:27:36] Very well. You told us that you were arrested on 25 December 2010?

21 A. [10:27:47] Yes, Saturday, 25 December 2010.

22 Q. [10:27:56] Counsel for the Prosecution asked you what were the charges and, if I
23 understood you well, and I stand to be corrected, you said two things, you said that you
24 were being accused of training rebels from the FAFN and that you were accused of being
25 in communication with the rebels; is that correct?

1 A. [10:28:24] Yes, I was accused of training rebels in Akakro and that I was
2 communicating with the rebellion.

3 Q. [10:28:39] Very well. Now, more specifically which were the accusation, the
4 charges? Were you told on such-and-such a day you talked with such-and-such a person
5 and so on? Do you remember specific charges?

6 A. [10:28:57] They said that generally. And when they accused me I asked for the
7 evidence, but no one gave me any details, they did not say this is the telephone number
8 that you called and so on and so forth. They never gave me any evidence.

9 Q. [10:29:18] Very well. So you were in detention?

10 A. [10:29:27] Yes.

11 Q. [10:29:28] Where?

12 A. [10:29:28] In the disciplinary premises of the 1st battalion.

13 Q. [10:29:34] In the Akouédo camp?

14 A. [10:29:36] Yes.

15 Q. [10:29:40] And if I understood your testimony very well you stayed there until 15
16 January?

17 A. [10:29:47] Yes, I left the prison on 15 January.

18 Q. [10:29:53] So at that time you were no longer accused?

19 A. [10:29:59] Well, maybe they carried out their investigations and they found out
20 that I was not involved. The commanding officer had actually taken out his gun on the
21 25th and he was threatening to shoot me.

22 Q. [10:30:29] Very well. A slightly different question. You talked about missions to
23 the Marie-Thérèse roundabout and M'Pouto roundabout; is that correct?

24 A. [10:30:49] Yes.

25 Q. [10:30:49] To your knowledge were these the only two control points to the

1 Golf Hotel?

2 A. [10:31:00] We had one post, you see, at Marie-Thérèse. Now, the others -- well,
3 each, each had their own post. There was the first, the BCP, they had a post, the
4 armoured battalion, the BB.

5 Q. [10:31:25] Very well. Very well.

6 Just a moment, Mr Witness.

7 Now, just a few things about the shelling that we were talking about at the beginning of
8 my questioning. Now, sir, are you aware that Kamanan, the person you mentioned
9 yesterday and today, was acquitted, cleared of all charges related to the shelling that
10 we've been talking about and that Pegard was not even put on trial because the examining
11 magistrate in that particular circumstances didn't even believe it needed to go to trial?

12 A. [10:33:31] Well, we're in the same unit right now, Pegard and I. He is a warrant
13 officer and then Brice is at the BAS. And when I did -- well, he was -- he was one of my
14 instructors. And I know that they were in prison, but then they were released. I don't
15 know whether there was a trial or not. I don't know.

16 Q. [10:34:00] Very well. Very well.

17 Now, they're still both serving?

18 A. [10:34:13] Yes, they're both serving.

19 Q. [10:34:15] One at the BAS?

20 A. [10:34:18] At the GMMG. The groupement ministériel des moyens généraux.

21 Q. [10:34:26] What's that? Can you tell us what that unit does?

22 A. [10:34:30] Within the ministry of defence. It's within the ministry of defence.

23 Q. [10:34:37] Very well. Now, yesterday you explained to us, and please stop me if
24 I've got something wrong, you said that you left the camp on 31 March and you told us
25 what you did after that, so could you quickly and just very quickly could you summarise

1 what you did? Please very brief, very concise?

2 A. [10:35:23] When I got out I told you that I got out with three officers and an NCO,
3 and I told you, I gave you the names, Foto, Bolou and Djigbé, and there was sergeant
4 Niankan.

5 We got into Foto's vehicle, we went out one of these secondary exits towards the battalion
6 and we left towards the Faya intersection. We got to around the kilometre 9 roundabout
7 and then what's his name got out of the vehicle, he said he was leaving. And the owner
8 of the vehicle said that I had to get out as well, and I said I don't know anyone and I said I
9 couldn't.

10 Ultimately, I got out of the vehicle and I walked in the neighbourhood. Night fell. I
11 didn't know where to go. I came across a man in a building, a building that was being
12 built, it wasn't finished. I said to him "There's shooting everywhere. I'm a soldier. I'm
13 lost, can you help me?" And he said, "Yes, no problem." After that, night had just fallen.
14 He gave me some water to drink, and then he introduced himself. His wife was there.
15 They cooked something. We shared a meal. He gave me -- well, it was a building with
16 multiple stories and up on the second floor there was a spot, there was no door, no
17 windows, I took refuge there. The next day --

18 Q. [10:37:27] If you don't mind, I'm interrupting you just for a moment because
19 you've already told us that. So can we say, correct me if I'm wrong, but can we say that
20 the first night you spent the night with a stranger?

21 A. [10:37:48] Mmm-hmm.

22 Q. [10:37:52] You said he was from Ghana. Were there many people from Ghana in
23 that neighbourhood?

24 A. [10:38:00] When I got back to his home, well, I didn't go back out -- the day -- 2100
25 hours, there was a little television, he turned it on and we watched the 8 o'clock news and

1 colonel -- the colonel made the statement that the people who had left should come back,
2 that the situation was under control. And so that is how it came to be that by the Sunday,
3 the 3rd, I tried to go back to the camp.

4 Q. [10:38:36] Let's try to get this clear. First of all, you left the camp and you were
5 wearing civilian clothing? Were you wearing a uniform or not?

6 A. [10:38:44] No, no, I wasn't. When I got to the entrance I took off my uniform.
7 That's what the others did as well. And you see once we got to the post we took off our
8 clothes and we put on civilian clothing.

9 Q. [10:39:04] So when you crossed the --

10 A. [10:39:15] The guard at the secondary entrance wasn't there. I took off my clothes
11 there and I left.

12 Q. [10:39:22] So you left the camp, and you were wearing civilian clothing; is that
13 right?

14 A. [10:39:27] Yes.

15 Q. [10:39:28] So the first night you spent in the home of a stranger and then you
16 stayed there with that same person until you went back to the camp?

17 A. [10:39:37] Yes.

18 Q. [10:39:38] Very well. And then, then you came back to had camp and you told us
19 that you couldn't get back to the camp and that there were some members of the BASA,
20 stop me if I'm wrong, they came and they got you, they took your phone and 425,000 CFA
21 francs; right?

22 A. [10:40:03] Yes.

23 Q. [10:40:03] So that was on 3 April?

24 A. [10:40:05] The Sunday.

25 Q. [10:40:09] Sunday, 3 April?

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1 A. [10:40:12] Yes.

2 Q. [10:40:13] I've done some calculations, they may not be quite right, so please
3 correct me if I'm wrong. Now, please, apologies if it's not quite right. 425,000 CFA
4 francs that's about 700 Euros. That's a lot of money. Where did that money come from?

5 A. [10:40:49] I was in construction in 2010 and, you see, I was at San Pedro and I
6 bought some land, I was building. I had taken -- I had hired a mason to do some work
7 and I had to pay him his money, so with the situation being what it was I had no more
8 money. I had a motorcycle, I asked my wife to sell the motorcycle. When they sold it,
9 the agent sent me -- well, my wife kept the money and then the what do you call it? I
10 was in Akakro and she sent it. And there was a spot where you could put your money.
11 And one of the members of the GEA, the G-E-A, who came to -- I gave him my number
12 and he withdrew the money. I had the money on me. With the crisis, the guy called me
13 and he wanted his money, I wasn't able to send it because -- well, I didn't send the money.
14 I wasn't going out.

15 Q. [10:42:09] Am I to understand from what you've told us just now, are you saying
16 that during the entire crisis you had that money on you?

17 A. [10:42:17] Yes.

18 Q. [10:42:21] Very well. As of that particular day, and you explained to us yesterday
19 what the various discussions were with the various -- we won't go back to those points, it
20 was clear, but as of that day you went back to the unit or not? What did you do after, the
21 4th, the 5th? First we're talking about the 3rd, the 4th, the 5th and after.

22 A. [10:42:46] The 3rd, when they didn't let me back in, well, I said I went back to the
23 old camp. The old camp, I went there and the second in command of the -- Colonel
24 Mambo and colonel --

25 THE INTERPRETER: [10:43:01] Inaudible.

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1 THE WITNESS: [10:43:04](Interpretation) -- and I explained what had happened to me,
2 that -- they even called Captain Goué. And he asked to speak to me on the phone and he
3 said I shouldn't go back to the BASA.

4 MR ALTIT: [10:43:20] (Interpretation)

5 Q. [10:43:20] Very well.

6 A. [10:43:22] I stayed there Sunday. Monday, the 4th, it was just Monday, the 4th in
7 the evening, that is when the BASA was shelled. I left.

8 Q. [10:43:35] Where did you go?

9 A. [10:43:39] I went to Akouédo village and then there I came across a friend, I asked
10 him for a favour. He had his phone, I called my uncle who was on duty at
11 Yamoussoukro policier. I called him, I explained the situation to him and he gave me a
12 number, the number of a lady who could shelter me. The number of that lady I called.
13 I called, the lady told me where I could go and she gave me shelter during that entire
14 time.

15 Q. [10:44:18] Very well. So, during that entire time, how long was that?

16 A. [10:44:22] Until I was able -- until I was able to get out of there and go back to
17 Daloa to my family later.

18 Q. [10:44:36] Very well. But how much time? Was it a week? 10 days? A month
19 later?

20 A. [10:44:42] I stayed there until the salaries were paid because I didn't have any
21 money. The lady she fed me and -- well, she did everything for me, and that was until
22 we were given two months of salary. Two months of salary were transferred and then
23 after that I went to Daloa to my family.

24 Q. [10:45:10] Very well.

25 A. [10:45:12] Before going to my family we had already been told where to go and get

1 weapons and the Stalin's organ and so on.

2 Q. [10:45:28] Wait. So you got your two months of salary. How much time after,
3 after meeting up with that lady? A month, two months?

4 A. [10:45:36] Well, March no payment. There was no payment. I think it was late
5 April, that was when they transferred -- well, it was like a back and then they did two
6 months of salary. It was like back pay.

7 Q. [10:45:56] So you were there until nearly the end of April, we agree?

8 A. [10:46:03] Ben, oui.

9 Q. [10:46:21] So you didn't go to the Golf Hotel, sir, during that time?

10 A. [10:46:27] Golf Hotel? The day we went to get out the shells, when we finished,
11 we were at captain -- we went -- we registered and then each person was trying to save his
12 own skin.

13 Q. [10:46:40] And they registered you, who registered you?

14 A. [10:46:44] The people there.

15 Q. [10:46:45] Where?

16 A. [10:46:46] At the Golf Hotel.

17 Q. [10:46:49] Very well. Now, we did hear from a witness, Idrissa Kangouté was his
18 name, Idrissa Kangouté, who told us that you were one of the people who asked him to
19 help him to go to the Golf Hotel. Do you remember that?

20 A. [10:47:31] What?

21 Q. [10:47:33] Idrissa Kangouté, do you know him?

22 A. [10:47:37] Kangouté, at BASA there was a person by the name of Kangouté, but
23 Idrissa I don't -- there was a person called Kangouté, I don't know if Idrissa. Well, at the
24 BASA I only went -- I was a member of the BASA ever since the year 2006 but I was on
25 training at the time and, you know, it was tough to remember names, that sort of thing.

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1 Q. [10:48:08] Very well. You didn't mention yesterday in your testimony --

2 A. [10:48:13] Kangouté, yes. Yes, yes, Idrissa was the name. I said that there was a
3 Kangouté guy complaining that the shells that were fired had killed one of his cousins,
4 something like that. That story, I mentioned that yesterday. But I don't know the first
5 name, Idrissa.

6 Q. [10:48:36] Very well. Now, he said that you were one of the people, part of a
7 group of people, whom he helped go get to the Golf Hotel. Did he help you?

8 A. [10:48:52] Me? Well, Kangouté was there when -- he was one of the instructors.
9 We left together and we were registered there. And then I left. I don't know if that's
10 what you're talking about, but I do know that Golf Hotel I never stayed there, I never
11 spent more than a day there.

12 Q. [10:49:26] And what day was that approximately?

13 A. [10:49:32] I can't remember the dates.

14 Q. [10:49:33] Very well. Now, sir, I asked you about some people that you may
15 have -- I'll ask you some questions about some people that you came across during the
16 crisis. Patrice Kouassi, is that one of the people that you met during the crisis?

17 A. [10:50:03] Patrice? Patrick? No, not during after the crisis, after the crisis.
18 Patrick, actually I learned that he went, he contacted Captain Nazaire (phon) and asked
19 him to find some people to go and get the Stalin's organ and to find the shells, to go and
20 get those shells.

21 Patrick Kouassi, I saw him later once everything had settled down, but I didn't know him.

22 Q. [10:50:44] Very well. And how long have you been at the BASA for?

23 A. [10:50:48] I was assigned to the BASA in 2006, October I think it was. I don't
24 remember the specific date, but I was on secondment to San Pédro.

25 Q. [10:51:05] Very well. So during the crisis, except these particular times you've

1 told us about, you weren't in contact with him, not even indirectly?

2 A. [10:51:13] No, never. I don't even know him. It was after. I met him after.

3 Q. [10:51:25] Very well. Kangouté.

4 A. [10:51:31] Yes.

5 Q. [10:51:31] He told us that Kouassi, the person we were talking about, Patrice

6 Kouassi, was a military official at the Golf Hotel, part of the Ouattara camp and

7 apparently there was information being provided about government troop movements

8 and he had decided to sabotage some BASA vehicles. Were you aware of any attempts

9 to sabotage?

10 A. [10:52:02] I have no idea. I was not aware. I didn't know. That's all a bunch --

11 Q. [10:52:11] Very well. Now, you, yourself, did you sabotage any vehicles or
12 weapons?

13 A. [10:52:21] God is my witness.

14 Q. [10:52:23] Now, another name, Ouattara Babai? Did you meet this person?

15 A. [10:52:34] Babai?

16 Q. [10:52:35] Yes.

17 A. [10:52:36] He was a BASA element.

18 Q. [10:52:42] So were you aware of other activities that might have been conduct -- he

19 might have been engaged in other than his job as a soldier?

20 A. [10:52:52] Sorry, him -- sorry, I'm from a poor family, I have no idea. I'm not part

21 of -- I'm already under -- I was charged, I was accused, I was trying to get away. And I

22 couldn't -- I was just trying to save my skin. I was just trying to save my skin. Put

23 yourself in my shoes in the middle of the crisis, you're charged with something, you're

24 accused and you're trying to find out what other people are doing. I came here just to

25 tell the truth.

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1 Q. [10:53:31] Very well. Coulibaly Yaya, did you ever meet him?

2 A. [10:53:38] Yaya.

3 Q. [10:53:40] Did you --

4 A. [10:53:41] I don't know Yaya. I don't know. I don't know if you have other
5 information to refresh my memory, but other than that I don't know Yaya.

6 Q. [10:53:51] Very well. Traoré, nickname Tracteur, Ouattara adviser, ring a bell?

7 A. [10:54:02] I don't even know it. I don't even know him. I've heard the name. I
8 don't know. But I can't -- I couldn't point him out to someone. I know that he was part
9 of the FAFN but I couldn't point him out to you, I couldn't tell someone who he was.

10 Q. [10:54:20] A captain called Nicolas, Nico was his nickname, from the gendarmerie,
11 close to Tracteur, an associate, ring a bell?

12 A. [10:54:30] Huh?

13 Q. [10:54:32] A captain from the gendarmerie, Nico was the nickname, Nicolas?

14 A. [10:54:40] Doesn't ring a bell. I do know -- well, I do know someone called
15 Nicolas, he's now a superior commander within the gendarmerie. I don't know if that's
16 him. If it's him -- I've heard the name. He was -- he was in the CCI at the time. I've
17 heard of him. I've seen him on TV but we have no dealings.

18 Q. [10:55:05] Very well. So Kangouté Idrissa, we've mentioned him. Were you
19 aware of other activities that he might have been involved in in addition to his job as a
20 soldier?

21 A. [10:55:23] I beg your pardon? I am -- I was a gunner, I was at the BASA. I was at
22 the BASA. I took my meals there. I never left that place. I never got out of there.
23 Other than the mission to Akakro, so the rest, end of story, end of story, I don't care. I
24 was being charged with things, accused of things. How do you expect me to --

25 Q. [10:55:51] Diomandé Zoumana did you ever meet him?

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- 1 A. [10:55:57] Diomandé Zoumana, no.
- 2 Q. [10:56:00] Mmm-hmm.
- 3 A. [10:56:02] Zoumana.
- 4 Q. Zoumana.
- 5 A. I know there was someone by that name at the BASA. He was my instructor for
- 6 the -- we like -- he played basketball I think. Are you talking about him? I know him.
- 7 Q. [10:56:18] And during the crisis were you in contact with him?
- 8 A. [10:56:22] We were in the same camp. We talked.
- 9 Q. [10:56:28] Karamoko Vakenan?
- 10 A. [10:56:31] Yeah, we were in the BASA together.
- 11 Q. [10:56:34] Sékongo Maliki?
- 12 A. [10:56:39] Sékongo Malik.
- 13 Q. Malik?
- 14 A. Yeah, that name rings. He was at the BASA too.
- 15 Q. [10:56:44] Konan Konan Gilbert.
- 16 A. [10:56:47] Yes, he was in my class. He was at the BASA, we did our training
- 17 together.
- 18 Q. [10:56:51] Sergeant Coulibaly Lanzéni? No?
- 19 A. [10:56:58] I have no idea.
- 20 Q. [10:57:00] Yian Sié (phon), sergeant of the 1st artillery battalion, ring a bell?
- 21 You have to say no.
- 22 THE WITNESS: [10:57:13](Interpretation) The witness, angrily, "No."
- 23 MR ALTIT: [10:57:16] (Interpretation)
- 24 Q. [10:57:17] Brigadier Krah? Krah, Krah?
- 25 A. [10:57:19] No.

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1 Q. [10:57:21] All these names I've mentioned to you or rather --

2 A. [10:57:29] Wait. Krah? Krah? Another name maybe?

3 Q. [10:57:32] This is what I have.

4 A. [10:57:35] No. Well, I don't know if I -- there was a Krah Konan, Krah Konan at
5 the BASA in my class, he was in the 1st battalion. Krah Koné was his name. I don't
6 know exactly who that person was.

7 Q. [10:57:56] Very well. To your knowledge did some of these people whose names
8 I've mentioned to you, did these people act on behalf of the Golf Hotel?

9 A. [10:58:09] I'm telling you the truth and only the truth, nothing but the truth, I have
10 no idea. Me, I have no idea.

11 Q. [10:58:21] Very well.

12 MR ALTIT: [10:58:24] (Interpretation) Your Honour, I see that time is fleeting. I
13 have less than a quarter of an hour left. What shall we do?

14 PRESIDING JUDGE TARFUSSER: [10:58:35] We shall break and resume at 11.30, then
15 you have the quarter of an hour and then we have the other Defence team questioning.
16 So now we break for half an hour, you can have a rest and we come back at 11.30.

17 THE COURT USHER: [10:58:55] All rise.

18 (Recess taken at 10.58 a.m.)

19 (Upon resuming in open session at 11.34 a.m.)

20 THE COURT USHER: [11:34:10] All rise.

21 Please be seated.

22 PRESIDING JUDGE TARFUSSER: [11:34:27] Welcome back, Mr Witness. We
23 continue with the questioning of the Office of the Prosecutor -- of the Defence for
24 Mr Gbagbo and then we - sorry - and then we continue with the Defence of Mr Blé Goudé.
25 Maître Altit, you have the floor.

1 MR ALTIT: [11:34:51] (Interpretation) Thank you, Mr President.

2 Q. [11:35:03] Mr Witness, we heard that an element of the BASA obeying to the
3 Golf Hotel had recruited members of the BASA to give pro-Ouattara information within
4 BASA; do you know anything about that recruitment?

5 A. [11:35:35] I'm not aware of any such thing. I have told you I am a Christian, I
6 came here to tell you about what I saw, what I did and what I heard. I'm repeating this
7 one more time.

8 Those who were doing their work secretly, well, I do not know. During the 2002 crisis I
9 was in Bouaké, I walked to Abidjan. My village was in Katiola, 27 kilometres away. I
10 could have gone there, so why play -- why be dishonest? I cannot do that.

11 Q. [11:36:26] If I understand you correctly, is -- when the coup d'état of 2002 took
12 place you walked from Bouaké?

13 A. Bouaké to M'Bahiakro. And that is where I found a truck that took me to another
14 location. We were going to liberate the Daloa. I have a Bété wife there and I have two
15 children with her. I'm not a hypocrite, I'm telling you the truth, nothing but the truth.

16 Q. [11:37:07] Very well. Let us repeat what you have said so as to be clear on the
17 record. During the attack of 2002 you travelled to Abidjan on foot to join your unit.
18 You preferred to do that?

19 A. [11:37:32] I'm sorry I did not prefer to do that, it was the conditions that forced me
20 to do that. There were no vehicles or maybe monetary problems.

21 Q. [11:37:46] In any case, you preferred to rejoin your unit whatever the means rather
22 than join the rebels who were nearby; is that what you mean?

23 A. [11:37:59] Yes.

24 Q. [11:37:59] Very well.

25 MR ALTIT: [11:38:05] (Interpretation) Mr President, can we go into private session,

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1 please.

2 PRESIDING JUDGE TARFUSSER: [11:38:07] Yes, of course. Let's go into private
3 session, please.

4 (Private session at 11.38 a.m.)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

1 (Open session at 11.40 a.m.)

2 THE COURT OFFICER: [11:40:28] We are in open session, Mr President.

3 PRESIDING JUDGE TARFUSSER: [11:40:32] Maître Altit.

4 MR ALTIT: [11:40:33] (Interpretation) Thank you, Mr President.

5 Q. [11:40:40] Mr Witness, we also heard that all those people, including yourself, met
6 on several occasions during the crisis to discuss measures to counter the FDS activities,
7 that is that they also received money and means of communications from the Golf to carry
8 out their anti-FDS activities. We are in open session now. What can you tell us about
9 that?

10 A. [11:41:21] Myself, Minafe Joseph, I will repeat: I would like to see the person who
11 claims to have given me money right now. I did not receive anything from anyone.
12 People should not come and tell you all sorts of tall stories about people. I am an Ivorian,
13 I'm proud and I have my dignity which is very important to me.

14 Q. [11:41:57] Very well. Were you one of the people who spied on behalf of the
15 people at the Golf Hotel?

16 A. [11:42:09] No, nothing of that sort. I'm sorry, please listen. I was accused, and if
17 I had been guilty I would have -- I would have already been killed. I was already
18 suspected in Akakro, but I went to prison and I came out, I was at the BASA. If that is
19 what I had been doing I would be dead by now, I wouldn't be alive. Please, you should
20 understand that. Things were very tense during the crisis. If you did that kind of thing
21 and you were caught you would be killed.

22 Q. [11:42:52] Let me move on to something slightly different so as to be clear. I
23 asked you a question about the firing key of the orgues de Staline.

24 A. [11:43:12] Yes.

25 Q. [11:43:13] You are the one who took out that firing key at one point?

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- 1 A. [11:43:18] What does that mean?
- 2 Q. [11:43:20] You took out the firing key?
- 3 A. [11:43:26] (Speaks English) I'm sorry.
- 4 (Interpretation) After the shelling of the camp, everyone left, everyone was on their own.
- 5 Then they brought people to take out the shells from the RLMs. The keys were still there.
- 6 There were two RLMs. I worked on one. I removed the key and I threw it away. I
- 7 didn't want it to be operational. I did not work on the other weapon. I do not know
- 8 whether someone took the key from that.
- 9 Q. [11:44:17] Very well. That is my question. You took out that key and you threw
- 10 it away, you did not keep it?
- 11 A. [11:44:28] No, I did not want that key to -- that weapon to be operational.
- 12 Q. [11:44:35] You did not even keep it for a while?
- 13 A. [11:44:38] No, not even for a while.
- 14 Q. [11:44:42] Another question, Mr Witness: What is your position today, what is
- 15 your occupation today?
- 16 A. [11:44:55] I am in the groupement ministériel des moyens généraux, I am a
- 17 company warrant officer.
- 18 Q. [11:45:06] And where is this unit?
- 19 A. [11:45:09] I've told you in the ministry of defence.
- 20 Q. [11:45:14] Who is your commander?
- 21 A. [11:45:18] Colonel Boblé Lambert.
- 22 Q. [11:45:32] You're with Pegard?
- 23 A. [11:45:34] Yes, Pegard is there.
- 24 Q. [11:45:38] When was your first meeting with the representatives of the OTP?
- 25 A. [11:45:47] I beg your pardon?

1 Q. [11:45:49] When was your first meeting with the representatives of the OTP?

2 A. [11:45:56] I believe 2012 or 2013 if I remember correctly, but I think it was 2013.

3 Q. [11:46:05] Very well. Did you have many meetings with the investigators of the
4 OTP?

5 A. [11:46:17] What does that mean?

6 Q. [11:46:18] Did you meet with them many times?

7 A. [11:46:21] They came for the first time, I was surprised myself, they said that I was
8 summoned to the military tribunal.

9 Q. [11:46:34] Just one moment, maybe there is a misunderstanding. I'm talking to
10 you about the Office of the Prosecutor of the ICC.

11 A. [11:46:45] Yes, that is what I'm talking about.

12 Q. [11:46:49] Now, tell us, they told you you were summoned?

13 A. [11:46:56] I received a message that I was summoned to the military tribunal and
14 when I arrived there they introduced people to me who told me that they were from the
15 Court and that they wanted to know what had happened and whether I could help them
16 provide them with some information, and I said yes, I would tell them what I knew.

17 Q. [11:47:23] Very well. That was the first time?

18 A. [11:47:26] Yes. They left. We did not even discuss on that day. They returned
19 subsequently and another message was sent to me to summon me.

20 Q. [11:47:44] A message to who?

21 A. [11:47:46] To the unit commander to which I belonged. I was at the BASA, so
22 they sent the message to the BASA. I was summoned a second time and I told them
23 everything that you have heard.

24 Q. [11:48:05] And did you meet a third time?

25 A. [11:48:11] No, they didn't interview me a third time. Some called me to find out

1 how I was doing, whether I was still there, what I was doing, then they asked me whether
2 I was willing to come and testify about what I had said and I said if they asked me I
3 would come.

4 Q. [11:48:43] Very well. When they asked you whether you were willing to come
5 and speak, was it during a meeting or by phone?

6 A. [11:48:57] Another meeting.

7 Q. [11:48:58] So there were three meetings in all?

8 A. [11:49:02] Yes.

9 Q. [11:49:03] When was the last meeting?

10 A. [11:49:08] It was not three meetings. Recently, they wanted to find out whether I
11 had backtracked or withdrawn. I told them that I spoke with my father, he did not agree
12 and I talked to my uncle, because he is more familiar with these things, and my uncle
13 went and explained to my father. And I reported back to them, they said, well, you
14 should come. I discussed that with my wife and she said "You should have said no in
15 the beginning, but you did not say no, so why will you say no now?"

16 Q. [11:50:16] Very well. You said recently approximately when was the last contact?
17 Approximately one month ago, three days ago, two months ago?

18 A. [11:50:36] I think one month, two months. I really do not remember, but it was
19 not so long ago.

20 Q. [11:50:46] Very well. Did you inform your hierarchy that you were coming here?

21 A. [11:50:55] It was the minister of defence himself who signed my mission order.

22 Q. [11:51:00] Your mission order to travel here?

23 A. [11:51:03] Yes.

24 Q. [11:51:05] Very well. When you met with the investigators of the Prosecutor of
25 this Court, were there representatives of the military hierarchy, Ivorians?

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1 A. [11:51:19] No. When they sent me messages, these are things that are a bit
2 sensitive. Security issues in Côte d'Ivoire are sensitive, so I preferred that they shouldn't
3 send the messages, may it be known to others, because I thought my security might be
4 involved, so they should call me and I would be able to say yes or no.

5 Q. [11:51:57] Did they make you any promises to encourage you to cooperate with the
6 OTP?

7 A. [11:52:03] No, never.

8 Q. [11:52:07] No promises? They didn't promise you that you would not be
9 prosecuted?

10 A. [11:52:15] In any case, they told me I will not be prosecuted and that my security
11 would be guaranteed. I was thinking that you meant money or something of this sort,
12 but they talked about my security.

13 Q. [11:52:38] Very well. Do you know why you were not summoned in the Ivorian
14 proceedings which led to the acquittal of Kamanan?

15 A. [11:52:53] I do not know. I do not know.

16 Q. [11:52:57] Very well. Mr Witness, I would like to thank you for your cooperation.

17 MR ALTIT: (Interpretation) Mr President, your Honours, this concludes the questioning
18 of the witness by the Defence of Laurent Gbagbo.

19 PRESIDING JUDGE TARFUSSER: [11:53:19] Thank you very much.

20 Now I give the floor to the Defence for Mr Blé Goudé.

21 MR KNOOPS: [11:53:28] Mr President, Mr Zokou will conduct the examination on
22 behalf of our team. Thank you.

23 PRESIDING JUDGE TARFUSSER: [11:53:34] Thank you very much, Mr Knoops.

24 And I give the floor to Maître Zokou.

25 MR ZOKOU: [11:54:21] (Interpretation) Good morning, your Honours.

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1 QUESTIONED BY MR ZOKOU: (Interpretation)

2 Q. [11:54:35] Good morning, Mr Witness. I would like to introduce myself, I am
3 Maître Zokou Seri, lawyer in the Brussels Bar, I am a member of the Defence team of
4 Blé Goudé, I am Ivorian like yourself.

5 A. [11:54:51] Thank you.

6 Q. [11:54:51] Mr Witness, we would like some clarifications and I would like you to
7 be concise, just like myself, in that way we will end quickly.

8 A. [11:55:11] Thank you.

9 Q. [11:55:11] Mr Witness, yesterday during your questioning by the Prosecutor, they
10 asked you whether the staff awaited at BASA had arrived. And your answer was yes,
11 there were people. And I will quote you, it is the realtime transcript of yesterday, page
12 54, lines 1 to 7. And the question was this:

13 "Did this happen? Did the personnel go to BASA?"

14 And in your answer you said this:

15 "Yes, I think many, thousands."

16 Do we agree on that?

17 A. [11:56:14] I said hundreds.

18 Q. [11:56:20] Here we have thousands?

19 A. [11:56:22] I said hundreds. I said there were many. I did not know the number,
20 but I said there were hundreds.

21 MR MACDONALD: [11:56:33] Indeed, your Honour, the witness, if we go back, I think
22 it was a mistake in the transcript because that's what indeed what was said. It was not
23 thousands, but hundreds. And this can be checked by the --

24 PRESIDING JUDGE TARFUSSER: [11:56:45] Yes, but --

25 MR MACDONALD: [11:56:47] -- audio recording.

1 PRESIDING JUDGE TARFUSSER: [11:56:49] It will be checked by the audio recording.

2 Maître Zokou.

3 MR ZOKOU: [11:56:54] (Interpretation) I am referring to what I have in my transcript.

4 The witness talked about thousands and then later hundreds.

5 Q. Whatever the case, I would like to ask the witness to tell me whether these people,
6 and he says there were hundreds of them, were these people permanently in the camp, or
7 did they replace each other in the camp? Did they come and go?

8 A. [11:57:44] To begin with, I will say that I always talked about hundreds in my
9 testimony. Now, regarding whether these people who were recruited were coming and
10 going, no. When they came they were taught to shoot quickly and then they were
11 assigned to their duties.

12 Q. [11:58:17] These hundreds of people, let us say the hundreds of people, were you
13 able to count these people and, if so, by what means?

14 A. [11:58:33] You mean the number? I have told you that I cannot tell you a specific
15 number. There were hundreds, 200, 300. I cannot give you a specific number because I
16 was not in that kind of close contact with them.

17 Q. [11:58:59] Mr Witness, how many people were there at the BASA itself?

18 A. [11:59:11] I do not know the number, but there were many of us. I told you that I
19 came because of my specialisation, after the CA1 in 2006, otherwise I was a member of the
20 1st battalion, then I went on mission to Daloa, then I came for the training. And instead
21 of going to Daloa, I was sent to San Pédro. So I did not actually stay at the BASA for any
22 length of time. So I cannot give you those numbers. The commanders would know.

23 Q. [12:00:03] And the barracks in the BASA, how many people could they host?

24 A. [12:00:11] What do you mean?

25 Q. [12:00:12] The BASA premises themselves, dormitories and so on where people

1 like you would stay?

2 A. [12:00:22] At the BASA we have two buildings, and there was one under
3 construction, a storey building, otherwise those that were functional were two of them,
4 then the PC, there was the armoury, the garage, the refectory. And those were the
5 buildings that were there.

6 Q. [12:01:03] Now, in light of this description, this in proximate of terms, can you tell
7 us how many people went through that camp?

8 A. [12:01:13] Well, listen, I can't tell you how many people there were because
9 the -- well, the senior officers didn't sleep there. The rooms we had -- even the trainees,
10 like us, we were supposed to sleep there, but some went back home to sleep because the
11 training ended at a particular point and some people went back home. Myself, I was in
12 Daloa, I was there all the time. I told you that.

13 Q. [12:01:56] Well, contrary to those people who would go back home, unlike them,
14 these personnel, the several hundred people you mentioned, they were staying there; we
15 agree on that point?

16 A. [12:02:13] Oh, yes, yes. When they had to recruit those people they couldn't keep
17 on going. Well, you see, they were having their training. And they were being taught
18 how to shoot and they were having their training. But when you recruit you don't, you
19 don't really sleep, you sleep if you can. If you're not a soldier you can't really understand.
20 But when I was recruited, I was recruited and trained at the Bouaké school and I really
21 didn't -- I wouldn't be -- I couldn't tell you that I was sleeping in a bedroom. I believe
22 President Gbagbo was a soldier and he seem -- I think he knows what I'm talking about.

23 Q. [12:03:09] It is true that I am not a soldier myself, but I am honoured because I
24 come from a family where many men have worn a uniform.
25 I'd like to hark back for a moment to one point, the personnel, the people you mentioned.

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1 A. [12:03:37] Yes, go ahead.

2 Q. [12:03:38] Now, these people, the staff, the personnel, were you able to identify
3 some of them, were you able to do so, were you -- could you give me some names, at least
4 two names?

5 A. [12:04:07] Well, people that you're not in contact with that -- well, how can you
6 remember? But I know, I experienced the events. I can't tell you a lie. The truth has to
7 be told. And if there are mistakes that are made, we have to know. I've told you there
8 were recruits. And maybe some of my brothers were not there, but anyone will tell you
9 that there were people there, there were people from the west, from the north, the east, the
10 south. They will tell you that. If -- any soldier will tell you that, if they just say the
11 truth because they have to -- they have to do that.

12 Q. [12:05:01] So you are telling us that you don't have any contact with those people
13 and you're not able to give any names, not even one or two names? So how can you say
14 that you know where those recruits came from?

15 A. [12:05:20] Well, listen, I was there. I was there. So people who already -- well,
16 how -- and now you say how can you --

17 THE INTERPRETER: [12:05:34] Laughter from the witness.

18 MR ZOKOU: [12:05:37] (Interpretation)

19 Q. [12:05:39] I don't think we've understood one another, Mr Witness. These people,
20 where did they come from? How did it come to be that they ended up there?

21 A. [12:05:45] Well, I don't know where they came from, but I do think that after the
22 recruitment, what I do know, after the recruitment, after the gathering or the assembly at
23 the headquarters, where they were registered and sent to the various camps, that's -- that
24 happened at the headquarters.

25 Q. [12:06:20] Could you tell us the dates on which that happened at the military

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1 headquarters?

2 A. [12:06:28] March. In March, that is when those people started to arrive, but I can't
3 give you a specific date. But it was in March. It was in March.

4 (Counsel confers)

5 MR ZOKOU: [12:07:27] (Interpretation)

6 Q. [12:07:27] Now, if I've understood correctly, Mr Witness, you can't tell us the exact
7 date on which these people were enrolled or the conditions under which they were
8 enrolled?

9 A. [12:07:39] The date? I think that there -- Goudé made a statement on FR and I
10 think he said something on the television that people should go and enrol. I think it was
11 all on television. He's aware of that.

12 Q. [12:08:05] Well, I'm asking you the question, so it is up to you to tell me when he
13 allegedly issued that call. You don't have to say that you know.

14 A. [12:08:18] I don't know. Once again, I've said that several times.

15 Q. [12:08:21] Thank you. Thank you.

16 Mr Witness, I'd also like to ask you additional information about the amount of money
17 that you had on you.

18 A. [12:09:00] Thank you.

19 Q. [12:09:00] So I think we can agree that that money was stored away? Could you
20 tell the Chamber exactly what the amount was?

21 A. [12:09:17] I said 425,000 I had on me. 425,000. But the moto I sold for 400 and
22 something. And my wife had to pay some costs. And I still have -- I have the helmet.
23 I sold the motorcycle without the helmet, but I do have the helmet still.

24 THE INTERPRETER: [12:09:53] Interpreter correction: In the previous reply the
25 witness mentioned that the money was transferred by Orange Money.

1 MR ZOKOU: [12:10:11] (Interpretation)

2 Q. [12:10:12] So the 425,000 that came from the initial amount of money that you
3 received. So that was how much?

4 A. [12:10:23] 425,000.

5 Q. [12:10:33] Just to make everything very clear, could you explain to me and could
6 you explain to the learned Bench how this actually works, this particular mechanism?

7 A. [12:10:53] I've already mentioned that here. I think that I was in -- well, when the
8 mason sent my money, I didn't have any other way because, first of all, I should specify
9 here that -- well, I had an account and I at the end of each month I would put 50,000 aside
10 every month. And ultimately, I had saved up and then I bought a plot of land in Daloa.
11 And the guy sold me -- the head of the Lobia (phon) sold me the plot for a million. And
12 he said "Give me 600,000" and in four months he would do the paperwork and transfer.
13 So I gave him 800,000. And the plot of land, he showed me the papers. That was in
14 December.

15 I got there in March and I saw that the four months had gone by. And I said to the guy
16 whether he had done the paperwork and he said no. So I asked for my money back. He
17 wasn't able to give me the money back. So in San Pédro someone helped me get another
18 plot of land, in San Pédro, and we began. I withdrew the rest of the money and I started
19 the work until my training started. And I owed the mason some money. And with the
20 pressure that the head of the village was putting on me, well, I was told that I had
21 to -- well, ultimately I decided to sell my motorcycle to pay the money back. So that was
22 the time because I -- you know, the guy needed his money, so I decided to sell my
23 motorcycle. I should specify to you that the village chief -- well, even in 2013, when it
24 went in front of the prosecution, they said, "Oh, that's too delicate, I can't put a village
25 chief in prison."

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1 Q. [12:13:37] Thank you for the explanations, Mr Witness. Indeed, I'm not from
2 Daloa, you are.

3 A. [12:13:44] Well, you are also from Côte d'Ivoire, you're a lawyer, maybe you can
4 help me if you want justice to be done. And also why not help me, even though you're
5 not from Daloa.

6 Q. [12:14:09] Thank you. Don't worry.

7 A. [12:14:13] I'm worried.

8 Q. [12:14:17] I think we've got the message in Côte d'Ivoire. Don't we worried.
9 Everyone now knows and ...

10 Now, Mr Witness, if we could go back to this amount of money. If the Chamber through
11 the Defence, making use of its powers, were to ask you to provide certain information, for
12 example, the numbers used for the transaction --

13 PRESIDING JUDGE TARFUSSER: [12:14:51] Can we please finish the question because
14 I don't know what -- can you, Mr Zokou --

15 MR MACDONALD: [12:14:59] We object to the question.

16 PRESIDING JUDGE TARFUSSER: [12:15:00] Yes, but I don't know the question. So
17 you might know the question, but it's not on the record.

18 So please, Mr Zokou, could you put the question.

19 MR ZOKOU: [12:15:18] (Interpretation) Thank you, your Honour. I was asking the
20 witness whether if he were asked to provide the data having to do with that transaction,
21 namely the telephone numbers that were used for the transfer of the funds by way of
22 Orange Money, whether he would be in a position to do so. That was my question. I'm
23 not quite sure why the Prosecution is on its feet.

24 PRESIDING JUDGE TARFUSSER: [12:15:45] Mr MacDonald.

25 MR MACDONALD: [12:15:49] What is the relevance of this, number one?

1 And I will just add the following: Credibility is indeed an issue, but when it's on
2 peripheral matters it becomes irrelevant. What we're interested in is on the core issues.
3 There's no need to provide such information and, in any event, if the Chamber was to
4 allow I would -- whatever numbers or anything could be given should be in private
5 session on a civil matter, your Honours, it seems. So we're not talking a prior record,
6 we're not talking about prior convictions, it's very remote to the issues at stake. Thank
7 you.

8 PRESIDING JUDGE TARFUSSER: [12:16:36] So I think as well it is completely
9 irrelevant to the case and, therefore, I do not admit the question. Please go ahead.

10 MR ZOKOU: [12:16:52] (Interpretation) Your Honour, I understand, but I can explain
11 the relevance and I will conclude on one point that's important. If the witness could
12 leave the courtroom for a moment I can provide explanations. This is very important.

13 PRESIDING JUDGE TARFUSSER: [12:17:08] No, it's ruled on it. It's ruled on it. So
14 please go ahead with the questioning.

15 MR ZOKOU: [12:17:20] (Interpretation) Your Honour, I can explain in front of the
16 witness if you prefer.

17 MR N'DRY: [12:17:25] (Interpretation) Just a correction on the transcription before my
18 colleague resumes, if you don't mind.

19 PRESIDING JUDGE TARFUSSER: [12:17:33] Yes, please.

20 MR N'DRY: [12:17:35] (Interpretation) I just read the French and English transcripts
21 and page -- at page 60 of the French transcript in the response given by the witness, at line
22 12, we read, he said: "Well, I said 425,000" that he had. And then line 13, "But the
23 motorcycle itself, I sold it for 465,000."

24 And in the English transcript, today's transcript, page 56, line 10 and 11, we find "400 and
25 something." So I believe that means 400 and something, just -- he said "465,000." It's not

1 quite the same thing.

2 (Speaks English) 400 and something.

3 (Interpretation) The French version is more specific; it says 465,000.

4 PRESIDING JUDGE TARFUSSER: [12:19:06] So what is the right amount of money
5 which you sold the motorcycle?

6 THE WITNESS: [12:19:21](Interpretation) 465,000. 465,000, but the money I got,
7 because I asked the lady to send it by way of Orange, but there were some charges, you
8 see, so what I got in the final analysis, by the end of the day, was 425.

9 PRESIDING JUDGE TARFUSSER: [12:19:45] And when did this happen, from a
10 temporal point of view? When, which period?

11 THE WITNESS: [12:19:51](Interpretation) When I withdrew the money I was in Akakro.
12 And someone from the GMM did the withdrawal for me.

13 PRESIDING JUDGE TARFUSSER: [12:20:01] Yes, but can you tell us the month, the
14 year when this happened.

15 THE WITNESS: [12:20:13](Interpretation) I think -- well, it was November.

16 PRESIDING JUDGE TARFUSSER: [12:20:15] November? November which year?

17 THE WITNESS: [12:20:19](Interpretation) 2010. Oh, oh, yes, 2010. 2010.

18 PRESIDING JUDGE TARFUSSER: [12:20:24] Thank you very much.

19 Maître Zokou.

20 MR ZOKOU: [12:20:41] (Interpretation)

21 Q. Your Honour, I have understood your ruling and I won't dwell on the matter
22 unnecessarily, but in response to what you have pointed out, I need an answer. Perhaps
23 I've misunderstood something. But did the -- rather, the answer, but I believe the
24 witness said that it was in November that he received the money.

25 A. [12:21:08] Mm-hmm.

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1 Q. [12:21:10] Very well.

2 PRESIDING JUDGE TARFUSSER: [12:21:11] But the question was when did you sell it.

3 I don't know if he received it immediately. So the question and the answer was on

4 the -- the answer was on the question when did you sell the motorbike.

5 Did you receive the money immediately when you sold it, when you sold this motorcycle?

6 THE WITNESS: [12:21:35](Interpretation) Yes. I was at the what do you ma call it,

7 before the motorcycle. I didn't -- I got the money. I was in Akakro.

8 PRESIDING JUDGE TARFUSSER: Okay.

9 MR ZOKOU: [12:22:02] (Interpretation)

10 Q. [12:22:02] Mr Witness, in light of the response you have just provided us with, I

11 must remind you of the statement that you gave regarding this amount of money and the

12 time frame when you -- the moment when you received the money. I refer to page 6 of

13 your statement, in particular paragraph 25, and I quote:

14 "That day, 31 March, commanding officer Dadi had taken weapons and he had gone off to

15 the presidency. Captain Goué who was the second in command of the BASA said that

16 we had to stay put, but I decided to leave. On Saturday, 2 April in the evening, Colonel

17 Gouanou announced on television that all the Defence and Security Forces had to go back

18 to the barracks because the situation was under control. On Sunday, 3 April I went back

19 to the BASA with Sergeant Niankan. At the gate of the camp they wouldn't let us in.

20 We stayed at the entrance. Ten minutes later they called us and said that Niankan could

21 go in. Then five agents came and took my money (the amount of 425,000) and my mobile

22 phone."

23 Now, Mr Witness can you confirm this statement?

24 A. [12:23:56] Yes, I do confirm that I said this. I confirm that I said so, but during my

25 training, you see, Oré -- well, he is at the BAS now -- it was in 2015 when I went to -- I

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1 even said to him --

2 THE INTERPRETER: [12:24:15] Inaudible.

3 THE WITNESS: [12:24:17](Interpretation) -- I even said to him that I thought that -- well,
4 after the crisis I told my lead -- my chiefs at the BASA, Captain Kablan, and I said
5 commander, lieutenant Tagro and -- I told him everything that had happened. And we
6 did discuss it and he apologised.

7 Q. [12:24:57] Mr Witness, do you maintain before this Chamber and before all of us
8 here that the amount received in November remained in your possession up until 31
9 March and there was no change to the amount?

10 A. [12:25:14] Yes, I can confirm that. I'm a guy -- well, I -- I didn't go out in Akakro.
11 You know, they came and got me. You can ask for yourself, you can find out at the
12 BASA. When I was there I did not go out, I did not go into town.

13 Q. [12:25:44] Yes, thank you for your response. We'll move on to --

14 A. [12:25:49] Well, I wanted to provide some additional information. As I said -- oh,
15 okay, I'm good with money, I save a lot of money, I put a lot of money aside, and so, you
16 see, bit by bit I --

17 Q. [12:26:10] Thank you very much, Mr Witness.

18 A. And I would remind you as well that up until now, when I -- well, I was part of
19 Operation Sophia and they gave me two or three months ago that money and I kept it.
20 And my house, and -- I had an opportunity to do some work on my house, you see. So I
21 don't gamble. I don't steal. I'm proud. And I earn my money and I spend it wisely,
22 unlike other people who are spendthrifts.

23 PRESIDING JUDGE TARFUSSER: [12:26:52] Mr Witness, thank you for this but we
24 have to continue with the questioning.

25 Maître Zokou.

1 MR ZOKOU: [12:27:03] (Interpretation)

2 Q. [12:27:04] Thank you very much, Mr Witness. Could I ask for some additional
3 information about Abobo and so this mission during which you reported here that
4 apparently there was firing.

5 A. [12:27:28] Yes, go ahead.

6 Q. [12:27:31] And you were asked whether you remembered the number of
7 commanders, operational commanders there were that day and obviously you did not.
8 Now, does anything come back to you today?

9 A. [12:27:45] Um, no, I don't remember, but what I can say is that it's very easy to get
10 that information. It's very easy. Pegard and -- they know who gave the orders.
11 They'll tell you because they themselves were call --

12 Q. [12:28:13] It's just because -- considering -- well, in light of what we know, I was
13 going to put a name to you, Colonel Gnawa Dablé.

14 A. [12:28:24] I don't know him, that name. Well.

15 PRESIDING JUDGE TARFUSSER: [12:28:33] Hold on. Can you spell it, please?

16 THE WITNESS: [12:28:40](Interpretation) G-N-A-W-A then Dablé.

17 MR ZOKOU: [12:29:00] (Interpretation)

18 Q. [12:29:02] Now, Mr Witness, I wanted to gain some clarity, also once again in
19 relation to your discussions with the OTP.

20 Now, when you were looking for some spot to take shelter you mentioned a church and
21 you gave a name and I believe President Gbagbo suggested a name to you?

22 A. [12:29:32] Yes, yes, it was that, I know -- I didn't remember the name, but it's
23 saint -- Saint Francis-Xavier, because that's where the pharmacy -- and the pharmacy is
24 also called Saint Francis-Xavier. And the church is right beside it. And the lycée is not
25 far from there either. All of that. SOS is in that area as well.

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1 Q. [12:30:01] For the record, the witness has specified that he remembered that name
2 before the suggestion was made.

3 Mr Witness, let me hark back to the issue of weapons and your belonging to the unit. Do
4 you know the TTA? Do you know what that is?

5 A. [12:30:44] TTA.

6 Q. [12:30:45] No, I did not say it was a weapon. Do you know what is a TTA?

7 MR MACDONALD: [12:30:51] I'm not sure I understood correctly the answer of the
8 witness because it was said very quickly.

9 PRESIDING JUDGE TARFUSSER: [12:31:01] I think that's the problem of the
10 overlapping.

11 What did you, Mr Witness, Mr Witness, what did you say on the question of the counsel
12 on what a TTA is? Do you know that?

13 THE WITNESS: [12:31:24](Interpretation) Test toute arme. That is what is used in our
14 jargon there.

15 PRESIDING JUDGE TARFUSSER: [12:31:37] And can you explain your jargon because
16 we don't understand the jargon.

17 MR MACDONALD: [12:31:41] In French transcript I think it is clear now,
18 your Honour.

19 PRESIDING JUDGE TARFUSSER: [12:31:45] Yes, but I would also like it in English
20 clear, so thank you.

21 THE WITNESS: [12:31:59](Interpretation) Test toute arme. It is the rules of weapons.
22 Each weapon has its own rules and regulations.

23 MR ZOKOU: [12:32:27] (Interpretation)

24 Q. [12:32:28] Mr Witness, in the test toute arme, which includes the rules of the
25 weapons, is it possible for you to tell this Chamber and the rest of us the standards

1 relating to the use of mortars, particularly the 120 millimetre mortars, particularly when it
2 comes to orders that are issued for the firing of those mortars?

3 A. [12:33:12] I did not have the test toute arme. I have heard about it because
4 Captain Goué in the artillery unit was talking about that all the time, the TTA. I, myself,
5 I never touched it. I simply heard about it. It is the officers who were in possession of
6 that. They would talk about it, but I can't tell you anything about it. I simply have an
7 approximate idea.

8 Q. [12:34:01] If I have understood you correctly, Mr Witness, yesterday in this very
9 courtroom you testified that in order to fire a 120 millimetre mortar you needed a written
10 order from the president of the republic. Do you have any evidence for that?

11 A. [12:34:31] Thank you very much. When you go on training you go to learn.
12 Even if you are not given the equipment, those who learnt about it tell you what happens.
13 And I'm simply telling you what I was told. Even when I'm using my weapon, artillery
14 weapons such as the 12.7, that is what they told us, you need a written order. Even when
15 you are assigned to carry out operations the person who is there who is not a gunner they
16 have to give you those instructions because these are specific weapons and these are
17 weapons of mass destruction. And if you commit an error on the coordinates, on the
18 calculations, then you might have very serious consequences.

19 Q. [12:35:52] Mr Witness, I would like to thank you for your answers.
20 I have no further questions on behalf of our Defence team. Thank you for coming here
21 and telling us your version of the truth. And I wish you a safe return to our beautiful
22 country.

23 A. [12:36:20] Thank you. I am happy to have met you Mr Zokou and I hope that
24 justice will be done. For President Gbagbo to be retained here, this is not even something
25 that I hope, I really wish that we will live in calm and harmony and that we should refrain

1 from further disputes.

2 PRESIDING JUDGE TARFUSSER: [12:36:51] Thank you very much, Maître Zokou.

3 Mr Witness, I have a couple of questions before asking the Office of the

4 Prosecutor -- Mr Witness, look at me, please. Before asking the Office of the Prosecutor if
5 they need time to re-question I will have a couple of questions.

6 I'm going back to yesterday when -- and going to the shelling which you were questioned
7 about, at page 81, line 15 of the English transcript you were asked:

8 "Did you later hear what happened with those shells?"

9 And your response was:

10 "Yes, later." One of the chiefs was complaining - and I'm quoting you - "One of the chiefs
11 was complaining a lot at the camp saying that the shells hit apparently, allegedly hit one
12 of his brothers who -- well, they -- they had shot at the target and the shots did not go in
13 the direction of the target."

14 This person you referred to was Mr Kangouté, sergeant Kangouté. Okay. The
15 questions are two: When you say "later", you heard what happened, what does "later"
16 mean in terms of time? Later in the day, the day after, two days after? From whom did
17 you learn? Did you discuss with the colleagues? Did you go to the location and things
18 like this?

19 THE WITNESS: [12:38:48](Interpretation) Very well. On that day I spent 48 hours in
20 the field without being replaced. And when we returned, I think it was in the evening
21 after the 5 p.m. assembly, we were discussing and conversing and this the person who,
22 himself, said that the shell went in the wrong direction and hit one of his brothers, so he
23 talked about it publicly.

24 PRESIDING JUDGE TARFUSSER: [12:39:32] Yes, but the question is did you

25 further -- make further investigations, I mean investigations in the sense to speak with

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1 other colleagues? I mean, it's not something which happens daily the shooting of a 120
2 millimetre mortar, right? So was it discussed among you? Did you go to the location
3 where the shell has fallen?

4 THE WITNESS: [12:40:19](Interpretation) No one went to where the shell fell or where
5 the shell was fired. I spent 48 hours there and no one went to any of those locations. As
6 I have said, it was later. I tried to avoid speaking about such things because I, myself,
7 was under suspicion, so you had to stay calm in your own corner. That is all I did.

8 PRESIDING JUDGE TARFUSSER: [12:40:51] When you say that the shots did not go in
9 the direction of the target, which was the target?

10 THE WITNESS: [12:41:06](Interpretation) I think I was clear in my testimony, everything
11 is there. The target, we talked about it, it was the gendarmerie. We talked about it
12 earlier.

13 PRESIDING JUDGE TARFUSSER: [12:41:34] Can you please call up the document
14 which was shown to you yesterday, CIV-OTP-0037-0468 please. It is Google Earth of
15 Camp Commando.

16 Can you see them, can you see the picture?

17 THE WITNESS: [12:42:24](Interpretation) Yes.

18 PRESIDING JUDGE TARFUSSER: [12:42:27] Yesterday you said that the utilize, the
19 mortar 120 millimetre utilisé is the one which fired, and the non utilisé was not used. My
20 question is: On the utilisé, where, in which direction was the barrel pointed?

21 THE WITNESS: [12:43:10](Interpretation) It is the direction behind the building right
22 nearby, if I remember correctly. That is the direction indicated on the map.

23 PRESIDING JUDGE TARFUSSER: [12:43:33] Mr MacDonald.

24 MR MACDONALD: [12:43:35] I know the Chamber is asking questions, it is not to
25 interrupt the questioning but a suggestion only since you're -- we are on this topic.

- 1 Maybe a line can be drawn on this to indicate the direction or an arrow.
- 2 PRESIDING JUDGE TARFUSSER: [12:43:49] Yes, can be drawn but I think we can also,
- 3 each of us is good enough to say north, south, west, east, but let's draw an arrow.
- 4 The question is in which direction the mortar was oriented?
- 5 THE WITNESS: [12:44:28](Interpretation) Can you enlarge the picture a little bit?
- 6 THE INTERPRETER: [12:45:20] Witness speaking to himself.
- 7 PRESIDING JUDGE TARFUSSER: [12:45:22] Can you make a big arrow in one or the
- 8 other direction, in the direction the barrel was pointed.
- 9 So it was not repositioned somehow before? Or was it always in that direction, also the
- 10 days before? Was it always pointed in that direction since days before, or was it, as far as
- 11 you know, positioned in this direction in order to shoot on that day?
- 12 THE WITNESS: [12:46:29](Interpretation) I have said that when I arrived the mortar was
- 13 already placed in the battery in that direction. I do not know what it was directed at.
- 14 They fired the first shot, then they manipulated the equipment a little bit and then put in
- 15 the second shell.
- 16 PRESIDING JUDGE TARFUSSER: [12:46:56] Okay. Thank you very much.
- 17 Now I ask the Office of the Prosecutor if they need to re-question the witness?
- 18 MR DEMIRDJIAN: [12:47:08] Your Honours, Mr President, we have no questions.
- 19 PRESIDING JUDGE TARFUSSER: [12:47:10] Okay. So there is no re-questioning by
- 20 the Defence, I think, okay? Okay, thank you.
- 21 Both Defence counsel say that they have nothing, no request for re-questioning, therefore I
- 22 can tell you that your questioning is over, your testimony has finished, it has come to an
- 23 end, that you can now go back to your country. Thank you for having been here.
- 24 Thank you for having answered to the question which have been put to you. I wish you
- 25 all the best. And have a safe trip home. Thank you very much.

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- 1 Yes?
- 2 THE WITNESS: [12:48:08](Interpretation) Can I at least greet President Gbagbo and
3 shake his hand or is it not possible?
- 4 PRESIDING JUDGE TARFUSSER: [12:48:16] You can greet him from where you are
5 with your hand, you can -- of course.
- 6 THE WITNESS: [12:48:26](Interpretation) Okay, very well. Good afternoon. That's
7 okay.
- 8 PRESIDING JUDGE TARFUSSER: [12:48:30] Okay, thank you very much.
9 Now I ask the court usher to bring the witness out. Thank you very much.
- 10 (The witness is excused)
- 11 PRESIDING JUDGE TARFUSSER: [12:48:57] Mr MacDonald.
- 12 MR MACDONALD: [12:48:58] Logistical issue, your Honour. The last document the
13 Prosecution request orally that it be added on its list of material for the next witness.
- 14 PRESIDING JUDGE TARFUSSER: [12:49:12] Which one, the --
- 15 MR MACDONALD: [12:49:13] The drawing --
- 16 PRESIDING JUDGE TARFUSSER: [12:49:15] Yes, yes.
- 17 MR MACDONALD: [12:49:16] -- the arrow because obviously it's new --
- 18 PRESIDING JUDGE TARFUSSER: [12:49:19] Don't worry.
- 19 MR MACDONALD: [12:49:20] -- and we can -- but it will become very likely relevant --
- 20 PRESIDING JUDGE TARFUSSER: [12:49:23] Of course.
- 21 MR MACDONALD: [12:49:24] -- to the next witness.
- 22 PRESIDING JUDGE TARFUSSER: [12:49:25] Of course.
- 23 MR MACDONALD: Thank you.
- 24 PRESIDING JUDGE TARFUSSER: It's in the record of the case so it can always be used.
- 25 MR MACDONALD: [12:49:31] We would need as soon as possible a copy of it

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- 1 registered in eCourt --
- 2 PRESIDING JUDGE TARFUSSER: [12:49:36] Yes.
- 3 MR MACDONALD: [12:49:37] -- so that we can access it --
- 4 PRESIDING JUDGE TARFUSSER: [12:49:39] Okay.
- 5 MR MACDONALD: [12:49:40] -- before the witness starts. Thank you.
- 6 PRESIDING JUDGE TARFUSSER: [12:49:41] Okay. Thank you very much. Now we
- 7 make the lunch break. We come back at 2.30 and we start with Witness 411.
- 8 Thank you very much, the hearing is adjourned.
- 9 THE COURT USHER: [12:50:11] All rise.
- 10 (Recess taken at 12.50 p.m.)
- 11 (Upon resuming in open session at 2.36 p.m.)
- 12 THE COURT USHER: [14:36:56] All rise.
- 13 Please be seated.
- 14 PRESIDING JUDGE TARFUSSER: [14:37:13] Good afternoon. Good afternoon for this
- 15 third session. Let us please introduce Witness 411. I ask the court usher to introduce
- 16 the witness.
- 17 (The witness enters the courtroom)
- 18 PRESIDING JUDGE TARFUSSER: [14:38:48] This is the expertise, right?
- 19 WITNESS: CIV-OTP-P-0411
- 20 THE WITNESS: [14:38:53] Yes, sir.
- 21 PRESIDING JUDGE TARFUSSER: [14:38:54] Okay. Good afternoon, Mr Witness.
- 22 Before starting the questioning first by the Office of the Prosecutor and then by the two
- 23 Defence teams, I would like, we have to do some preliminaries. First of all, I would like,
- 24 I would ask you to give your full name, date, place of birth and nationality.
- 25 THE WITNESS: [14:39:22] Okay, sir. My name is Liam Charles FitzGerald-Finch. I

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1 was born on the 14th of the first 1975 in Glasgow. My nationality is British.

2 PRESIDING JUDGE TARFUSSER: [14:39:33] And your occupation?

3 THE WITNESS: [14:39:38] I'm essentially an engineering consultant and I work for a
4 military engineering company.

5 PRESIDING JUDGE TARFUSSER: [14:39:44] So you yourself, you're not a
6 military -- part of the army?

7 THE WITNESS: [14:39:49] I'm ex-military now, sir.

8 PRESIDING JUDGE TARFUSSER: [14:39:52] Yes, okay. I would now come to one very
9 delicate issue for this environment. This is the language issue. We are now speaking
10 English. You are proper, I'm not so much, but I try my best. But everything is also
11 translated into French and, therefore, we have to speak slowly in order to permit to the
12 interpreters, yes, there in this case, to properly translate what we are saying and to make it
13 understood also in French, and also the transcript is in French and in English and,
14 therefore, we have to speak slow in order to help the person, the persons up in the booth
15 to make the best work possible, especially, this becomes especially important when you
16 are questioned in English, because the overlapping is more likely to happen than in
17 French because you wait for the translation. In any case, if I give you a sign to slow
18 down, please do so.

19 You are obviously aware that this Chamber has been established to try the case of the
20 Prosecutor against Mr Gbagbo and Mr Blé Goudé. And you are here to assist us in the
21 search of the truth, especially in your case in your field of expertise, because you're an
22 expert witness. You will be asked questions by the Office of the Prosecutor first and
23 following by the Defence for Mr Gbagbo and Mr Blé Goudé in relation to your expertise.
24 Your only duty is to tell the truth and that's it. And to that effect, I would ask you to
25 read out the formula of the solemn undertaking following Rule 66(1) of the Rules of

1 Procedure and Evidence of our system. Please do so.

2 THE WITNESS: [14:42:24] I solemnly declare that I will speak the truth, the whole truth
3 and nothing but the truth.

4 PRESIDING JUDGE TARFUSSER: [14:42:29] Thank you very much.

5 You are also aware that not saying the truth is an offence against the Court. I have to tell
6 you this.

7 And last thing is that any problem you may have, please address them to me. If you are
8 tired, if there is any issue you want to raise, raise it with me and we will try to address it
9 properly.

10 So if you are ready, I give the floor to Mr Garcia from the Office of the Prosecutor. But I
11 see Maître Altit on his feet.

12 Maître Altit.

13 MR ALTIT: [14:43:11] (Interpretation) Thank you, your Honour. I apologise. Now,
14 before we begin, we wish to raise a procedural point and I believe my colleague, Professor
15 Jacobs will go into further detail.

16 PRESIDING JUDGE TARFUSSER: [14:43:28] Yes, please.

17 MR JACOBS: [14:43:29] (Interpretation) Your Honours, indeed, we do wish to raise a
18 jurisdictional matter. We do not accept the fact that this witness be accepted as expert
19 witness for these subjects that he has been asked to testify to. Nothing in his CV shows
20 that he is an expert when it comes to the use of 120 millimetre mortars in an urban area
21 and, thus, we ask the Chamber for a voir dire during which we will deal specifically with
22 the expertise and abilities of the witness in question with submissions by the Prosecution
23 and the Defence.

24 Afterwards, additional submissions will be required to convince the Chamber how this
25 witness can be deemed to be an expert in this particular area.

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1 And we wish to remind the Bench that is the burden is upon the Prosecution to determine
2 that an expert witness brought before the Chamber is indeed an expert. I thank you,
3 your Honour.

4 PRESIDING JUDGE TARFUSSER: [14:44:46] Mr Knoops.

5 MR KNOOPS: [14:44:49] Mr President, we support this request. We have several
6 questions on the CV of the witness. And in light of our questions, it might be practical to
7 raise them in potential voir dire. Thank you.

8 PRESIDING JUDGE TARFUSSER: [14:45:07] The Office of the Prosecutor.

9 MR GARCIA: [14:45:09] Good afternoon, your Honours. Yes, indeed. Well, after
10 having taken into consideration and noticing the comments of the Defence where they
11 object to the expertise of the witness, I think we should proceed in the same way that we
12 did with Witness 606, that is to have a voir dire, a short voir dire. In my opinion, the
13 expertise of this witness should not be in doubt given his experience and what is found in
14 his CV, starting obviously with the Prosecution asking questions. I'll not take that long.
15 Then obviously Defence counsel can have an opportunity to ask the questions they feel
16 are relevant for the question of this witness's expertise.

17 PRESIDING JUDGE TARFUSSER: [14:45:46] Well, I just remind that in the filing by the
18 Defence from December 2015, both Defence teams indicated that they would not
19 challenge the expertise of this witness, just for your knowledge, for the knowledge of the
20 Defence teams. This is the filings 353 and 356 and their annexes. So it's really
21 surprising to me that now in this, in the last moment the Defence comes to challenge this.
22 Let me briefly consult with colleagues, five minutes.

23 THE COURT USHER: [14:46:45] All rise.

24 (Recess taken at 2.46 p.m.)

25 (Upon resuming in open session at 2.52 p.m.)

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- 1 THE COURT USHER: [14:52:27] All rise.
- 2 Please be seated.
- 3 PRESIDING JUDGE TARFUSSER: [14:52:34] The Chamber, after having heard the
- 4 parties, decides, on the request of the Defence for Mr Gbagbo, rejects the request and asks
- 5 the parties to start with its questioning. Within these questioning, obviously questions
- 6 related to the expertise of the witness are allowed, therefore, there should be questions
- 7 from the Office of the Prosecutor if he thinks to put questions on the expertise and on the
- 8 merits, and the same thing is for the Defence, but it is not -- it is dealt with in one single
- 9 space and not in two different sub-proceedings.
- 10 So, Mr Garcia, yours the floors.
- 11 MR GARCIA: [14:53:57] First of all, your Honours, thank you, your Honours. I'd like to
- 12 have the court officer bring a binder to the witness of relevant documents. It might
- 13 facilitate his testimony. These are all documents from the witness himself, reports,
- 14 photos that he took during his mission.
- 15 PRESIDING JUDGE TARFUSSER: [14:54:29] But he has his report.
- 16 MR GARCIA: [14:54:32] I'm not sure exactly if he has all of his reports with him. There
- 17 are also photos in there as well. So just to be complete in that matter and so we don't
- 18 waste time in that regard. Should he wish to consult any documentary evidence, it will
- 19 be there and I can indicate the tab and the ERN for the Chamber.
- 20 PRESIDING JUDGE TARFUSSER: [14:54:49] Well, if we leave it there.
- 21 MR GARCIA: [14:54:53] Indeed, your Honour, if it's necessary.
- 22 PRESIDING JUDGE TARFUSSER: [14:54:55] Yes, yes, okay.
- 23 QUESTIONED BY MR GARCIA:
- 24 Q. [14:55:09] Good afternoon.
- 25 A. [14:55:10] Good afternoon, sir.

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1 Q. [14:55:11] Now, Mr FitzGerald-Finch we've met previously already, right?

2 A. [14:55:16] Yes, that's correct.

3 Q. [14:55:17] Now, we're both going to be speaking in English, so what's going to
4 happen is that basically so that the interpretation can be done and the transcription, I'd
5 ask you to, and I'm one the big offenders in this case, is that I often overlap with the
6 person who is speaking. So what I'd like for us to do is that when I do ask a question
7 take your time, 3, 4 seconds and then respond. In this manner we'll not overlap and
8 everyone else will be able to do their work; is that understood?

9 A. [14:55:42] Yes. I understand.

10 Q. [14:55:43] So I'd ask you, first of all, I'd ask you to look at tab 134 of the binder that
11 has been put before you, and that is ERN CIV-OTP-0098-1529 for the Court record.

12 PRESIDING JUDGE TARFUSSER: [14:56:16] Mr Garcia, these are all the documents
13 which are also listed in the list of documents submitted to the parties.

14 MR GARCIA: [14:56:24] That is correct, your Honour.

15 PRESIDING JUDGE TARFUSSER: Okay.

16 MR GARCIA: Indeed, there are also photos and there --

17 PRESIDING JUDGE TARFUSSER: Yes, yes, yes.

18 MR GARCIA: -- are a certain number of photos as well that are there just in case the
19 witness would like to consult them.

20 Q. [14:56:29] If you look at tab 34, Mr Witness, you'll find there a -- we see your name at
21 the top left-hand corner. It's a technical CV. Is that correct? This is something that
22 you forwarded to the Prosecution recently?

23 A. [14:56:41] Yes, sir, that is correct.

24 Q. [14:56:42] Now, before I do get into the substance of your reports, the reports that
25 you drafted for the Prosecution following the mission letter and the instructions that were

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1 forwarded to you, I would just like to take not much time, 10 to 15 minutes, to just canvas
2 with you your expertise, your experience, professional, scholar experience in the matter of
3 explosive devices, all right?

4 A. [14:57:12] Okay, sir.

5 Q. [14:57:12] Now, if we look at this technical CV, the first thing that I read here is that
6 you were a British army officer from 1999 to 2011. I understand from your responses to
7 the Bench that you are an ex-military officer now. What was your last rank within the
8 army?

9 A. [14:57:34] I was a captain.

10 Q. [14:57:38] Now, it says here as well that you were during this period, you were
11 trained in basic infantry tactics, techniques and procedures. And in parentheses we see
12 here Royal Military Academy Sandhurst commissioning course 992, from May 1999 to
13 April 2000.

14 And if I follow it says that you were "trained to be proficient in the planning for and" the
15 "use of infantry weapons."

16 Now, is that correct as well?

17 A. [14:58:06] Yes, sir, that is correct.

18 Q. [14:58:07] Now, am I correct in saying that in this planning for and the use of
19 infantry weapons, do the infantry weapons include indirect weapon systems such as
20 mortars?

21 A. [14:58:20] Yes, sir, they do. In the British army mortar systems are infantry
22 weapons systems.

23 Q. [14:58:25] And so I understand, correct me if I am wrong, that that's an ongoing
24 training in the British army when you were an officer?

25 A. [14:58:32] Yes, sir, that is correct.

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- 1 Q. [14:58:37] So we see that in the next paragraph it says that:
2 "During my time as an Army officer, I was trained and tested routinely in the employment
3 of indirect fire weapons."
4 PRESIDING JUDGE TARFUSSER: [14:58:45] Can we not, just to shorten it, can we not
5 just --
6 MR GARCIA: Yes.
7 PRESIDING JUDGE TARFUSSER: -- say did you write this and is that, I mean --
8 MR GARCIA: [14:58:51] I have certain questions, your Honour --
9 PRESIDING JUDGE TARFUSSER: [14:58:53] Yes.
10 MR GARCIA: [14:58:53] -- that I just want to specify.
11 PRESIDING JUDGE TARFUSSER: [14:58:55] Of course, but then make the questions.
12 MR GARCIA: Yes.
13 PRESIDING JUDGE TARFUSSER: But we have it in the file, in the record, so -- instead
14 of reading it out, otherwise --
15 MR GARCIA: [14:59:05] I can assure the Court that it will not take more than 10 to 15
16 minutes, your Honour.
17 Q. [14:59:09] Now, Mr Witness, in regards to indirect weapon system mortars, what
18 exactly did you learn during that time? What are the basics that you learned?
19 A. [14:59:18] We would focus on our planning for the use of mortar weapon systems
20 and their use in conjunction with other weapon systems. So we would use planning
21 tools to work out when the use of mortar systems is appropriate and then the correct
22 employment of mortar systems as indirect fire systems.
23 We were also trained in the use of mortars, so physically hands-on, operating the mortar
24 systems, handling the ammunition, handling the system itself and all of the physical use
25 of those types of systems.

1 Q. [15:00:01] Now, can you tell us what type of mortars are used? What calibre of
2 mortars are used within the British army or those that you trained on?

3 A. [15:00:09] In the British army, we use primarily two types, two calibres, so 51
4 millimetre mortar and 81 millimetre mortar.

5 Q. [15:00:22] Just so that we understand now, your training that you've done in these
6 sorts of mortars, 51 I understand and 81 millimetre, would that also be applicable to
7 training to mortars of a higher calibre?

8 A. [15:00:41] Sir, absolutely. It would -- that would be the case. The calibre is not
9 really relevant to how, to the physical use of the mortar. The calibre is more to do with
10 how the system is employed on the battlefield in conjunction with your military
11 operations. It just so happens that the British military do not use 120 millimetre mortar.
12 But the use -- the operation of 120 millimetre mortar is exactly the same as smaller and
13 larger calibre mortars.

14 Q. [15:01:15] So I'm correct in stating that what you learned in the training in respect to
15 these lower calibres is applicable as well to higher calibres such as the 120 millimetre
16 mortar?

17 A. [15:01:25] Absolutely, sir. That is the case.

18 Q. [15:01:33] I also here read in your technical CV that you were deployed on the jungle
19 warfare instructor course, and that's from October to December 2001. Can you explain to
20 us briefly what you did there and if you had any chance of working with any indirect
21 weapon systems?

22 A. [15:01:52] On the jungle warfare instructors course, it is what is known as an
23 advanced infantry training course. We employed the use of mortar systems as indirect
24 fire weapons on that course. We were trained and further trained in the use for close
25 support. We used mortar systems on that course routinely, or every week, to either call

1 in mortar fire on to positions that we were attacking. We would physically use those
2 mortar systems to support our own troops in the training while they were attacking
3 locations. So further to my previous training in the use of mortars, it was a lot more of
4 the practical application of mortar systems.

5 Q. [15:02:47] Now, if we continue onwards with your technical CV, I see here that
6 you're also a British army ATO, an ammunitions technical officer; is that correct?

7 A. [15:02:58] Yes, sir, that is correct.

8 Q. [15:03:01] And that was from July 2005 to October 2011. Can you tell us briefly
9 what exactly is encompassed by that, by that function, an ATO, if you will?

10 A. [15:03:16] An ammunition technical officer or ATO is a qualification in the use
11 of -- in all aspects of the land service ammunition and weapons systems.

12 So you learn to become and you become a subject matter expert in all of the British army's
13 ammunition systems. And that would include the design of ammunition, the use of
14 ammunition, the storage of ammunition, how ammunition is effectively employed by its
15 respective user groups. We're also experts in the disposal of, disposal of ammunition.
16 And then, importantly, we deal with incidents involving the use of ammunitions, whether
17 they be accidents or incidents where ammunition has been misused in some way.

18 Q. [15:04:15] Now just on that last point, it says here that you're a principal investigator,
19 team commander and technical lead in these investigations, is that correct?

20 A. [15:04:30] Yes, sir.

21 Q. [15:04:31] And just to give us an idea of what exactly is encompassed by this
22 investigation into incidents, what kind -- would you investigate, per se, incidents with
23 mortars?

24 A. [15:04:41] Yes, that would be a routine investigation.

25 Q. [15:04:48] And so what would you do during a mortar incident? What exactly

1 would be your function?

2 A. [15:04:53] I would be there to ascertain whether the incident was an accident,
3 whether it was the ammunition was being misused, whether -- I would ascertain whether
4 the ammunition functioned correctly as was intended and within its design mode. I
5 would ascertain the actions and locations of all the relevant parties, and I would look at
6 the procedure and the use of the mortar system as a whole in order to determine all of the
7 facts for the investigation.

8 Q. [15:05:37] Now, would that also include what I would term as a forensic analysis of
9 the place where there was an impact, a shell impact from a mortar?

10 A. [15:05:51] Yes, that would be a routine course of action, it would be important to
11 ascertain that the incident was caused by the ammunition, the item of ammunition in
12 question.

13 Q. [15:06:06] And now just in regards to your expertise in this, in this specific matter, I'll
14 let you have a glass.

15 Now, I've labelled it a forensic analysis. I'm not sure if that's a correct term. You can
16 correct me when you do respond. But what does that entail? Do you look at the
17 environment to see exactly if there are patterns, et cetera? What do you do in that regard
18 when you do an investigation for a mortar shell? And take the five seconds before
19 responding.

20 A. [15:06:40] I would definitely call it a forensic investigation. I would look to
21 ascertain the damage, the fragmentation pattern. I would look for the physical fragments,
22 if they still existed. I would look at the, as I said, the shape and the angles involved of
23 the fragmentation pattern, and I would cross-reference that with known patterns against
24 known ammunition types. I would look to see if it was, what I saw was consistent with
25 what would be expected from that ammunition type.

1 Q. [15:07:27] So just to be clear on this specific matter, your expertise into explosive
2 devices, such as mortars, also gives you a certain knowledge and understanding and
3 expertise into this forensic analysis that would follow; is that correct?

4 A. [15:07:44] Yes, that's correct, sir.

5 Q. [15:07:45] I know this might be a bit difficult, but do you know how many of these
6 investigations you've conducted into indirect firing systems mortars during your stay in
7 the British army as an ATO?

8 A. [15:08:05] That, sir, is a difficult question to be exact on. I've investigated many
9 incidents and accidents in the UK with British mortar systems.

10 I have been on operations in Iraq and Afghanistan where mortar systems have been used
11 and I've investigated post-blast in many different sets of circumstances either to ascertain
12 that the blast, that the blast and the fragmentation, the damage pattern was consistent
13 with our own coalition troops firing or whether it was part of enemy action.

14 One of my functions would have been to ascertain the difference between the two. I
15 have investigated probably in the hundreds of explosive events and of those, many, many
16 of them involved the use of indirect fire systems such as mortar systems.

17 Q. [15:09:11] And following those investigations, has it ever occurred that you've
18 written reports that have been subsequently used in court procedures?

19 A. [15:09:24] My reports, whilst I've not given evidence myself in court before, my
20 reports have been used in evidence in military investigations that have gone to court
21 martial and my reports have been used in many subsequent legal investigations.

22 Q. [15:09:41] Thank you. I'll just go through your technical CV. It says here from
23 June 2008 to May 2009 you were deployed once again as an ATO, and I think you've
24 mentioned this perhaps, in Afghanistan and in Iraq. And I understand that you also
25 conducted investigations there regarding indirect firing systems; is that correct?

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1 A. [15:10:13] That is correct, sir.

2 Q. [15:10:17] Now, just before we just go on further in your CV, I'd like you to look at
3 tab 135. It's the next tab. And that's ERN on that for the Court record is
4 CIV-OTP-0098-1531. Now, the document that we are looking at, Mr FitzGerald-Finch,
5 this is an ATO course certificate that you received from the Ministry of Defence from
6 19 -- for a course that you completed from 19 June 2006 to 16 May 2007; is that correct?

7 A. [15:11:03] That is correct, sir.

8 Q. [15:11:04] And this course, if I understand, is regarding the different weapons that
9 you've mentioned already until now, including indirect firing systems; is that correct?

10 A. [15:11:22] Yes, sir, that is correct.

11 May I just elaborate on that?

12 Q. [15:11:26] Please.

13 A. [15:11:27] This is the certificate that the British army would recognise for me being
14 the subject matter expert. So this certificate represents the culmination of all of the
15 ammunition technical officer training.

16 Q. [15:11:44] Just a couple of last points, Mr FitzGerald-Finch. I understand that
17 subsequent to your British army service, January 2012 to August 2012, you were United
18 Nations Chief of Weapons and Ammunition Management in Libya and you investigated
19 on events that included the use of mortar systems; is that correct?

20 A. [15:12:12] Yes, sir, that is correct.

21 Q. [15:12:14] And just to finish on this matter regarding your expertise and your
22 knowledge regarding indirect firing systems, I understand that you are also, you're also a
23 member of the Institute of Explosive Engineers; is that correct?

24 A. [15:12:37] Yes, sir. The Institute of Explosive Engineers; that is correct, sir.

25 Q. [15:12:46] Now, can you tell us briefly what is a membership based on? To be

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- 1 admitted as a member of this, of this institute, what are the qualifications that one needs?
- 2 A. [15:13:01] To be a full member, of which I am, you would need to demonstrate at
- 3 least five years vocational work, vocational service within the explosives industry, which I
- 4 clearly achieved with my service in the British army.
- 5 You would have to reach a certain educational level. So there are examination
- 6 requirements for entry into the Institute of Explosive Engineers. Those examinations
- 7 formed part of my ammunition technical officer training.
- 8 So the issuing of the certificate that you saw at tab 135 is essentially my academic
- 9 qualification to enter that institute.
- 10 Q. [15:13:48] Thank you, Mr Witness. So that completes the expertise, the questions
- 11 that I had to ask you regarding your expertise.
- 12 And I'd ask that the CV at 0098-1529 and the certificate 0098-1531 be submitted into
- 13 evidence.
- 14 Now, Mr Witness, now that we've passed through this first preliminary stage, I'd like to
- 15 get into the substance of the reports that you drafted, you wrote for the Prosecution and
- 16 transmitted to us.
- 17 Now, Mr FitzGerald-Finch, first document I'd like for us to look at together is the mission
- 18 letter that we commonly know as a letter of instruction to an expert witness. And that's
- 19 at tab number 2 of the binder that you have before you. The ERN for that for the Court
- 20 record is CIV-OTP-0049-0051.
- 21 Now, Mr Witness, I'll not go through every detail of this mission letter, because obviously
- 22 the Court is able to appreciate.
- 23 PRESIDING JUDGE TARFUSSER: [15:15:02] Yes, we are able to appreciate.
- 24 MR GARCIA: [15:15:04] Yes.
- 25 PRESIDING JUDGE TARFUSSER: [15:15:05] I would -- it's there, the letter. So we do

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1 appreciate.

2 MR GARCIA: [15:15:11]

3 Q. [15:15:12] Suffice to say, Mr Witness, that on 9 July 2013, the Prosecution did ask you
4 to undertake an expertise mission from 8 to 12 July in Abidjan, 8 to 12 July 2013; that's
5 correct, Mr Witness?

6 A. [15:15:29] Yes, sir, that is correct.

7 PRESIDING JUDGE TARFUSSER: [15:15:30] But don't ask always it's correct.

8 Obviously it's correct.

9 MR GARCIA: [15:15:37]

10 Q. [15:15:37] Mr Witness, I'll not go through the different objectives or the specific
11 instructions that were given to you by the Prosecution. They're clearly announced there.
12 What I will do is I will go to the first annex, this is one of the annexes that is annex to the
13 report.

14 Just to give a highlight to the Chamber as well, there are different annexes, annexes C, D
15 and E and then there is a report where Mr FitzGerald-Finch, I understand, you've
16 summarised all the conclusions in the previous annexes; is that correct?

17 A. [15:16:11] Yes, sir.

18 Q. [15:16:12] This is what I was attempting to establish.

19 Now, Annex C, if you'll look at tab number 4 of your binder, you might have actually
20 brought one with you, but just in case --

21 THE COURT OFFICER: [15:16:31] The interpreters are asking the Prosecution to slow
22 down a bit. Thank you very much.

23 PRESIDING JUDGE TARFUSSER: [15:16:34] And I would ask the Prosecution to put
24 questions to the witness. He is here to respond, not just to say yes and no, but to say
25 something substantive on what he did. So a question could be: What did you do there

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1 on the mission? And let the witness, the expert speak.

2 MR GARCIA: [15:17:00] Yes, your Honour. I'm guided by the Chamber's directions.

3 The thing is that I'm also mindful of the limited amount of time that I do have to question

4 this witness. There are certain questions -- obviously the report is before the Chamber,

5 and I'm going to ask for all the reports to be submitted. The conclusions are there. But

6 all I'm going to be asking for is certain clarifications, if necessary, certain things to specify.

7 The first part of my examination-in-chief was on questions of expertise, and that's why

8 obviously I was getting things on the record, if you will, to put it bluntly, but now

9 obviously we're going to fast track it a little bit. If I ask a question that's too open to the

10 witness, then --

11 PRESIDING JUDGE TARFUSSER: [15:17:35] Slow, please.

12 MR GARCIA: Yes.

13 PRESIDING JUDGE TARFUSSER: Please slow down, otherwise -- yes.

14 MR GARCIA: I'm trying to put closed questions so that we can get specific answers your

15 Honour. And I'll proceed within the time limit that I do have.

16 Q. [15:17:55] So Mr Witness, we are at Annex C. It's titled "Identification and

17 description of the impact zones identified during the mission."

18 And I just want to ask you certain questions regarding this. Now, this first Google map

19 that we see here at 0049-0056, this is a screenshot from Google that you made yourself; is

20 that correct?

21 A. [15:18:18] That is correct.

22 Q. [15:18:19] At the bottom of the page we also have a part that says "Approximate

23 distances." Are those distances that you, yourself, retrieved from Google map as well?

24 A. [15:18:37] Sir, those distances are approximate, but they were retrieved from

25 Google Maps; that is correct.

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1 Q. [15:18:46] And I understand that during your mission to Abidjan, you did have a
2 chance to visit Camp Commando, SOS village and Siaka Koné market; is that correct?

3 A. [15:19:01] Yes, that is correct.

4 Q. [15:19:02] So now we can move to the next page. It's 0049-0057. Now, I
5 understand that four subject areas are covered in this Annex C. This is the first one,
6 subject area number one. It's Siaka Koné market. And I see here that there is GPS
7 coordinates. Now, it's my understanding that you were accompanied by OTP personnel,
8 an investigator and also a lady who was taking photos, I'll not mention their names in
9 open session, but am I correct in stating that these -- that the investigator is a person who
10 pointed out to you the places of interest and this is how you obtained your GPS
11 coordinates?

12 PRESIDING JUDGE TARFUSSER: [15:19:47] I mean, you realise that this is the
13 questioning of the Office of the Prosecutor, not of the witness?

14 MR GARCIA: I do --

15 PRESIDING JUDGE TARFUSSER: You are saying, you are saying, you are giving the
16 answer and then you ask if this is correct.

17 MR GARCIA: [15:20:02] Your Honour, I am leading obviously on this part.

18 PRESIDING JUDGE TARFUSSER: [15:20:05] Yes, yes, very much leading.

19 MR GARCIA: [15:20:06] Your Honours, I can ask opening questions. I don't think that
20 this is the part of the report that is in litigation at this point, it's the conclusions of the
21 witness. But I can ask an open question if the Court desires.

22 PRESIDING JUDGE TARFUSSER: [15:20:18] No. But I think it's not you in the witness
23 stand, but the expert. So I would let the witness speak.

24 MR GARCIA: [15:20:34]

25 Q. [15:20:35] Mr Witness, if you can just tell us how did you get those GPS coordinates

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1 that you have here?

2 A. [15:20:41] Your Honours, when I was, when I was taken on to this mission by OTP
3 personnel, I was instructed that we would visit four separate locations. Those locations
4 were given to me. And when we arrived in the approximate area, I either took a GPS
5 reading myself or I was given a GPS reading by one of the OTP personnel.
6 The readings are approximate, but they'll be within a few tens of metres of each other.

7 Q. [15:21:25] And this is the case for the GPS coordinates that we see for the other areas
8 as well in your Annex C?

9 A. [15:21:32] Yes. The GPS coordinates are there to give us an indication of the
10 approximate area. And this is relevant to the type of weapon system that was used
11 because precise coordinates are almost irrelevant for indirect fire weapons systems
12 anyway.

13 Q. [15:21:56] All right. So let's proceed to page 0049-0059. And we can already go
14 into panorama 1. If we could please have the floor so we can use the panorama.

15 THE COURT OFFICER: [15:22:28] You have the floor, evidence channel 2.

16 MR GARCIA: [15:22:30]

17 Q. [15:22:31] Now, Mr Witness, while I'm asking you questions we are going to be
18 using a panorama constituted of photos that were taken during that very mission, and
19 obviously photos that also appear in your report and I'll ask you questions with that.
20 You'll be able to see it on your screen.

21 PRESIDING JUDGE TARFUSSER: [15:23:11] Yes, Mr Jacobs.

22 MR JACOBS: [15:23:12] (Interpretation) Yes. I wanted to raise an issue on a problem
23 between the French and English versions. On page 94, line 16, the witness says, and I
24 quote in English:

25 "The readings are approximate, but they be within a few tens of metres of each other."

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1 (Interpretation) And in French I understand about 10 metres, whereas the French
2 transcript says at some 10 metres. So it indicates 10 metres rather than about a dozen
3 metres.

4 PRESIDING JUDGE TARFUSSER: [15:24:06] Well, let us hear the real interpretation.
5 What did you mean?

6 THE WITNESS: [15:24:16] Your Honour, I meant that the GPS coordinates would be
7 close to each other, but they're unlikely to be exact. I used my GPS for some of the
8 readings, and we used an OTP GPS for some of the readings. And where we took
9 approximate locations, approximate readings, but in the same location, in the same street,
10 we will have different numbers on the GPS. But they will be very, very close to each
11 other.

12 PRESIDING JUDGE TARFUSSER: [15:24:52] A few tens of metres you intend? What
13 do you intend by a few tens of metres?

14 THE WITNESS: [15:25:00] If I was standing on one side or one end of a building, and I
15 took a reading, and one of the OTP personnel was standing at the other end of the
16 building when they took their reading, then we may be 10 or 20 or 30 metres apart, but the
17 readings on Google Earth or any vector map will show us being in the same street, in the
18 same area.

19 PRESIDING JUDGE TARFUSSER: [15:25:29] Okay. Thank you very much.
20 Mr Prosecutor.

21 MR GARCIA: [15:25:33]

22 Q. [15:25:37] Now, Mr Witness, just to situate, you were at 0049-0059 of your report of
23 Annex C.

24 And for the court record, we're showing a 360 presentation panorama of the location, and
25 the ERN for that is 0073-0862.

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1 So if you look on your screen, Mr Witness, now you look at the environment, slowly
2 circling around.

3 So we've done a full 360 degree actually. You see a door at the end of your screen. It's a
4 red, seems like a red metallic door. Is that a door that you did a forensic analysis of
5 following having been demonstrated a point of interest?

6 A. [15:26:50] Yes, sir. When I arrived on scene and I was brought into this location, I
7 was told that this was one of the sites, alleged sites where potentially mortar, 120
8 millimetre mortar bombs had functioned.
9 I was drawn to the door because of the obvious fragmentation pattern that to me is
10 evident on that door.

11 MR GARCIA: [15:27:20] Just for the record we are at panorama 1.

12 PRESIDING JUDGE TARFUSSER: [15:27:24] Can we know when this panorama was
13 taken?

14 MR GARCIA: [15:27:30] Your Honours, these photos, if I'm not mistaken, were taken at
15 the same time during the same mission as Mr FitzGerald-Finch was on taking these
16 photos.

17 PRESIDING JUDGE TARFUSSER: [15:27:39] All taken together?

18 MR GARCIA: [15:27:40] At the same time, yes.

19 PRESIDING JUDGE TARFUSSER: [15:27:42] The panorama photos and the photos
20 which are in the expertise?

21 MR GARCIA: [15:27:46] They might have -- I'd have to check, but I'm pretty sure they're
22 contemporaneous, your Honour.

23 PRESIDING JUDGE TARFUSSER: [15:27:55] Okay.

24 MR GARCIA: [15:28:06] So I have confirmation of that, your Honour. These photos
25 were taken contemporaneously during the same mission.

1 Q. [15:28:13] Now, Mr Witness, I don't need to get into your conclusions necessarily.
2 I'll just, I just would like certain explanations and I would like you to explain certain
3 things to the Court.

4 If we look at the top of that page at 0059, it says "Damage." And just to situate you, it says
5 "There is evidence of infrastructure damage that is consistent with high velocity, low
6 angle fragmentation."

7 Now, can you explain to us now in relation to what you've just stated regarding this door,
8 how is it that, how is it that a shell detonates from a mortar?

9 PRESIDING JUDGE TARFUSSER: [15:28:49] Can you explain us what you explain us.

10 MR GARCIA: [15:28:51]

11 Q. [15:28:51] Yes. How is this fragmentation pattern caused?

12 A. [15:29:00] Your Honours, if a mortar bomb functions, and that mortar bomb has a
13 heavy metal case, I will call it heavy cased ammunition, the fragmentation that comes off
14 that will move at very high speed, so in excess of maybe 2,000 metres a second or faster,
15 and it will penetrate almost everything that it comes into contact with that is within close
16 range.

17 Now, just the shape of the damage pattern that I can see, I see penetration of a steel door
18 where there are very definite puncture marks going through it. The energy required to
19 penetrate that steel door would be quite high. It would be very high.

20 The damage is in a band around waist height. So and that is where, that is where most of
21 the damage manifests. Higher up I see less damage and less penetration. And lower
22 down, where the door meets the concrete step, I see less damage.

23 So that spread of fragmentation is very consistent with a mortar bomb functioning at
24 ground level.

25 Q. [15:30:23] Now just on that last point, when you say it is consistent with a mortar

1 bomb following detonating at ground level if I understood correctly, could you explain to
2 us why it is that we find this band, that you see the puncture marks at a certain level and
3 then from what I understand less puncture marks at the top?

4 A. [15:30:41] The mortar bomb has, a high explosive mortar bomb has a curved shape.
5 So when the nose of it hits the ground, the nose being the fuse, the mortar bomb will
6 detonate or function. That fragmentation pattern is designed to be circumferential, i.e.,
7 radial and to fly in a region where it's going to cause the greatest lethality. This is a
8 fundamental of ammunition design.

9 The fragmentation would be wasted, i.e., it would not yield casualties if the angle was
10 higher. And so I'm afraid it's the sad reality of ammunition design, it is designed for
11 lethality or yield.

12 And so that band of fragmentation is very, very consistent with an antipersonnel,
13 anti-infantry piece, type of ammunition. It is consistent with a heavy cased item of
14 ammunition. And the height and shape is consistent with something that is designed to
15 function or detonate at ground level and give the highest yield.

16 PRESIDING JUDGE TARFUSSER: [15:32:09] Excuse me. Did you also check damage
17 like you have seen on this door, this red door in the range or out, I mean on the wall
18 beside and on the wood on the left and on the right? Because I don't think that they go
19 only to the door, I mean the fragmentation. So did you also look at the surroundings or
20 did you concentrate on the door?

21 THE WITNESS: [15:32:47] Yes, I did look at the surroundings, your Honour. The door
22 is what drew my eye. The door is what I would term technically as a witness screen, and
23 so that is where my eye was drawn. I found and you can see similar fragmentation
24 damage to the concrete wall to the right on the photo and on the left.

25 Because of the nature of the marketplace where this damage, where this scene is, a lot of

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1 repair had subsequently happened. But so a lot of wooden structures have been
2 replaced and the damage did not manifest anymore. Bear in mind this incident was, I
3 think, two and one-half years previous, prior to my investigation. So a lot of repair had
4 taken place subsequently. But the permanent witness screens, i.e., the door, the concrete
5 wall and just another couple of areas are where I could see that the damage had
6 manifested.

7 PRESIDING JUDGE TARFUSSER: [15:34:08] Excuse me. Can you exclude that these
8 damage in the door are not from bullets, normal gunshots, whatever, other types of
9 firearms, say?

10 THE WITNESS: [15:34:23] Your Honours, the fragmentation pattern is consistent with a
11 heavy cased item of ammunition. The holes, the penetrations are also consistent, the
12 reason being the shape and random nature of them. So to put it very simply, some are
13 large, some are small. They are asymmetric.

14 A bullet hole I would expect to have a lot more symmetry. Bullet holes I would expect
15 probably to find many the same size and that just was not the case.

16 I cannot exclude the possibility that it was a different piece of heavy cased ammunition or
17 it was an IED. It could be an improvised explosive device.

18 But in my report I'm quite clear, in my statement I'm quite clear that each of the four areas
19 that I investigated, not one of those could I 100 percent conclude that it was a 120
20 millimetre mortar heavy cased piece of ammunition. But my report taken as a whole, as
21 a collection, indicates that.

22 So in this one small area here, this is just a very small part of the picture that I try and
23 build in my report.

24 PRESIDING JUDGE TARFUSSER: [15:35:55] Mr Prosecutor.

25 MR GARCIA: [15:35:56] I'd ask the court officer if we can have CIV-OTP-0049-0090 put

1 on the screen, please.

2 THE COURT OFFICER: [15:36:18] It will be visible on evidence channel 1.

3 MR GARCIA: [15:36:21.

4 Q. Mr FitzGerald-Finch, what we have there on the screen before you is a close-up of
5 the door. And you were speaking about the asymmetrical size or nature of these holes.
6 Now, can you tell us what we are seeing on the screen there?

7 A. [15:36:54] Your Honours, this is a close-up of the door in question. And if we look
8 at the different holes and the different marks on the door, I think that indicates the
9 asymmetric nature of them. I think it indicates the variation in size and just the random
10 nature of the penetrations in that door. And that in my professional opinion is consistent
11 with the detonation of heavy cased ammunition.

12 Q. [15:37:37] Now, you also say that the damage is consistent, and you speak about a
13 high explosive ammunition item functioning within the immediate vicinity.
14 How do you arrive at that conclusion that it's in the immediate vicinity?

15 A. [15:37:54] The height and the narrow band of damage would indicate that whatever
16 had detonated was close. It is difficult to put an exact figure on that, and it would not be
17 scientific to do so. However, I explained earlier that when a mortar bomb functions, you
18 get a radial spread of fragmentation. That radial spread is as an angle. So the closer
19 you are, then the narrower, the narrower the band, and the further away you get, the
20 more deviation there is and, therefore, the wider the spread.

21 Q. [15:38:47] Now, one last question regarding to the damage. You say it is feasible
22 that the item of ammunition in question here could have been a heavy cased 120
23 millimetre mortar bomb with a high explosive filling.

24 Now, when you say "feasible," can you explain what you mean by that exactly so it will be
25 clear in the court record?

1 A. [15:39:10] Your Honours, what I'm saying when I say it's feasible is that it could well
2 be the 120 millimetre heavy cased mortar bomb that had caused that damage.

3 It could equally be something else. And so I'm not blind to the possibility that it was a
4 different item of ammunition or a different event. But I just commented on what was
5 presented to me on the day by the OTP personnel and what I was asked to report on.

6 Q. [15:39:44] Now, one final question. You say that it could have been a heavy cased
7 120 millimetre mortar bomb. Would your conclusion also extend to mortars that are of
8 Russian or Soviet fabrication, 120 millimetre mortar of Russian or Soviet fabrication?

9 A. [15:40:07] The assertion that it is potentially a piece of Russian ammunition comes
10 down to some technical detail. And when I look at the size and shape of the
11 fragmentation, it is consistent with a heavy cased ammunition item with a cast body and
12 not a forged body.

13 And so this is down to the type of manufacture. So if something is cast - and please
14 forgive me for being, I'm not trying to be patronising - if it is cast, it is where the metal is
15 melted and essentially formed in a mould; and if it is forged, that is where the metal is
16 worked while it's in its solid state.

17 Now, the reason that ammunition manufacturers and ammunition designers specify this
18 is one of cost, casting is much cheaper and, two, the fragmentation that they're trying to
19 achieve.

20 And so Russian ammunition, their doctrine meant that they produce a lot more
21 ammunition at a much lower cost. And as such, they accept fragmentation that is
22 inconsistent and smaller fragments.

23 Where ammunition is forged, where a heavy case is forged, then I would expect the
24 fragments to be much larger and much longer. So this to me is what I would expect from
25 a cast heavy metal cased item of ammunition which would be consistent with former

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1 Soviet or Russian ammunition types.

2 Q. [15:42:07] Now, Mr Witness, we've been looking at that door. Did you happen to
3 go through that door and see what was inside the inner courtyard and make some
4 forensic analysis there?

5 A. [15:42:22] Yes, we did go inside the door. And there are subsequent photographs
6 in the report showing the door open and potential damage pattern on the opposite wall.

7 Q. [15:42:41] All right.

8 We'd like to have the floor once again, please. And I will be showing panorama 2.

9 THE COURT OFFICER: [15:42:56] Back to evidence channel 2.

10 MR GARCIA: [15:42:59] Thank you. And the place where we're at in the
11 report is 0049-0060.

12 Q. [15:43:09] So can you tell us what we see there?

13 A. [15:43:19] We are now looking at the same door that on the back side, so the reverse
14 side of the same door, as if we have walked through and turned around and we are now
15 looking back to where we were just standing.

16 Q. [15:43:36] So we're just going to go around once again a 360 and show you the
17 environment, and we will stop on the wall that is opposite that door.

18 So now we're going to zoom in on the wall.

19 Now, did you conduct a forensic analysis of that wall?

20 A. [15:44:20] I can see puncture marks on the wall that are directly opposite the door.

21 The fact that they are directly opposite the door and when I look to their left and right
22 there are no puncture marks, it indicates that fragmentation could have punctured the
23 door, continued its flight and then punctured the wall opposite.

24 And the fact that I see puncture marks situated where they are, that nothing to the left or
25 right that is consistent suggests to me that they could be marks from fragmentation flying

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1 through that door and into the wall opposite.

2 Q. [15:45:10] Thank you, Mr Witness.

3 Now, before we move on to subject area number 2, I just want to clear up one matter.

4 Was there a second site of interest that was shown to you in the Siaka Koné market on that
5 particular day?

6 A. [15:45:34] Yes, there was. We were taken to a site where we were told that an
7 explosive item had functioned. I remember it being described to me as a mortar bomb
8 functioning.

9 What I found on the road within the marketplace, but on the tarmac surface, I could not
10 attribute to an explosive device functioning. It may have been a mark on the ground
11 where something had functioned, but it was not conclusive and it, to me, it did not tell a
12 story.

13 PRESIDING JUDGE TARFUSSER: [15:46:20] Excuse me, just one question. You say
14 "we were taken to a site where we were told." When you speak in plural, who are you
15 referring to? Yourself and?

16 THE WITNESS: [15:46:33] Pardon me, your Honours. When I speak in the plural, I'm
17 talking about myself and the OTP personnel that I was with. So I was -- I formed part of
18 their wider investigation group.

19 PRESIDING JUDGE TARFUSSER: [15:46:49] Yes, and taken by whom?

20 THE WITNESS: [15:46:55] Your Honour, am I allowed to name him, use his name?

21 PRESIDING JUDGE TARFUSSER: [15:46:59] No, no, no, no, not to name. Is there
22 somebody else? Because as I understand it, we - and you say "me and the OTP" - we
23 were taken by a third person. So this is my understanding. It's just the English
24 probably which is --

25 THE WITNESS: [15:47:20] Pardon me, your Honours, for using English colloquialisms.

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1 PRESIDING JUDGE TARFUSSER: [15:47:26] No, no, no, no. It's perfect. I mean, it's
2 probably better understood.

3 THE WITNESS: [15:47:29] When I use the term "we," I mean myself and the OTP
4 personnel.

5 PRESIDING JUDGE TARFUSSER: Okay.

6 THE WITNESS: So it was a collective group.

7 PRESIDING JUDGE TARFUSSER: [15:47:34] Okay, good. Thank you. But how many
8 people altogether?

9 THE WITNESS: [15:47:38] So I do not recall exactly, but I think maybe five.

10 PRESIDING JUDGE TARFUSSER: [15:47:43] And you were the only expert with other,
11 three or four people from the OTP?

12 THE WITNESS: [15:47:49] That is correct, sir, yes.

13 PRESIDING JUDGE TARFUSSER: [15:47:51] Okay. Thank you very much.

14 Mr Garcia.

15 MR GARCIA: [15:47:55] Your Honour, just for the Court record, there are two
16 documents which are related to this mission, one of them is 0073-0931, which was a
17 forensic mission, and the other document is 0073-0906. And this was submitted via
18 paragraph 43. So these are the two documents that detail some parts of this mission.

19 Q. [15:48:33] Now, Mr Witness, let's move on to page 0049-0062 -- actually 0061, I
20 apologise. That's the SOS village.

21 Now, the first image at 0049-0061, can you tell us who took that screenshot from Google
22 Earth?

23 A. [15:49:03] So that was, that would be my screenshot from Google Earth.

24 MR GARCIA: [15:49:20] I'd like to please have the floor.

25 THE COURT OFFICER: [15:49:22] You have the floor.

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1 MR GARCIA: [15:49:27] Now, for the court record we will be going to panorama 17
2 followed by panorama 19 for the moment.

3 Q. [15:49:41] Now, Mr Witness, you can see on your screen, my colleague is actually
4 doing a 360 of panorama 17.
5 Stop right there actually.

6 So can you tell us, Mr FitzGerald-Finch, where exactly that is from, that's taken from, what
7 we're seeing on the screen?

8 A. [15:50:25] Your Honours, we obtained permission from the custodian of the holy
9 mosque, and he kindly allowed us to go and stand on the roof and take our photographs
10 and panorama shots from up there in order to, for us to have a much better picture of the
11 ground in general of the area of the incident in question.

12 Q. [15:50:55] Now, if we go to -- now we see a street obviously below. And if we go to
13 panorama 19, we'll go to the street view.

14 All right. So we've stopped the 360 in front of -- it's on the street level, and you can see
15 two doors at the right and one door approximately straight in front.

16 Now, I understand that this is a point of interest that you proceeded and did, that you
17 looked at during your mission as well?

18 A. [15:51:56] Yes, sir, that's correct. We were taken into that location by the OTP
19 personnel. And where this photograph, this panorama here is taken from is the
20 approximate centre of the location in question.

21 Q. [15:52:14] Now, if we go to page 0049-0063, and that's the top of your report, we see
22 two pictures, pictures Y74A2748 and Y74A2747. I see that you have them now.
23 Now, I understand that those are photos that were provided to you for a forensic
24 examination?

25 A. [15:53:00] That is correct. We were handed, if I remember correctly, we were

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1 handed the photographs on the day by a witness from the time of the incident. But they
2 may have been photographs that were already in possession of the OTP personnel that I
3 don't recall the exact circumstances of them.

4 MR GARCIA: [15:53:26] I'd ask the court officer to please put on, display on the screen
5 CIV-OTP-0049-0135.

6 Q. And I believe this is your photo of that photo. Actually, we can have a larger view
7 of it so we can see it clearly on our screen and we'll focus on it.

8 So I'd ask the court officer if we can please put it, if we can please focus in on that so we
9 can see it bigger, if that's possible, zoom in. Thank you.

10 Now, Mr Witness, now we have a better photo actually, I can see there a larger size. Can
11 you tell us what it is that you saw when you did a forensic analysis of what we see in the
12 photo there?

13 A. [15:55:12] I looked at the apparent damage pattern, and I can see, consistent with
14 some of the other sites that we looked at, penetration of the metal door. I can see a
15 spread of fragmentation in a circumferential band, consistent with again the functioning
16 of a heavy cased item of ammunition in close proximity.

17 When I looked -- when you look at the photo, it is apparent that the fragmentation is again
18 asymmetric, asymmetric in shape, and you can see that it varies in size. This is consistent,
19 this is very consistent with an item of heavy cased ammunition functioning very close to
20 this door.

21 PRESIDING JUDGE TARFUSSER: [15:56:11] But just one question. Isn't it much lower
22 than the holes we have seen and the damage we have seen on the door, the red door
23 before, where you said it's at the height of the hip, and here I think it's at the height of the
24 legs?

25 THE WITNESS: [15:56:31] Your Honours, that's a very interesting point, and this is, this

1 slight variation in height can be caused and is probably caused by the angle that the item
2 of ammunition flew in at.

3 And so I would expect to see this if the mortar bomb, and permit me to speak with my
4 hands, if the mortar bomb comes vertically down, then we will have a nice radial
5 fragmentation spread at a consistent even height all the way around.

6 The reality is that mortar bombs fly on a ballistic trajectory. So they often land, they
7 often land and they're not vertical. So if it is pitched very slightly over, which is
8 completely normal, then the spread of fragmentation will be lower on one side and
9 potentially higher on the other.

10 Another way to look at it is if the ground, if the ground in general is on an angle, then the
11 mortar bomb may land absolutely vertically. But, of course, the ground surrounding it is
12 not level.

13 PRESIDING JUDGE TARFUSSER: [15:58:01] Mr Garcia.

14 MR GARCIA: [15:58:03]

15 Q. I understand, Mr witness, if we look back at page 0049-0062, just the previous page,
16 you have indicated in the middle there a probable seat of explosion, correct? How did
17 you arrive at that conclusion that it would have been situated approximately in that area?

18 A. [15:58:23] When I look at the pattern of damage that we can see in the photos, I can
19 see the fragmentation is, the strike marks are close together. I would expect the
20 fragmentation to spread out as with distance from the seat of the explosion.

21 There are marks on the ground which could be caused by many things, but the marks on
22 the ground shown are in such close proximity to the damage that manifests in those
23 photos, it is very, very likely that one of those depressions in the ground is the seat of the
24 explosion, i.e., something needed to cause those marks in the ground. And when I look
25 at that, and I look at the radial spread of damage on the wall, I see the metal door being

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1 penetrated, and I look at the pattern of the fragmentation and how close those fragments
2 have struck, how close together those strike marks are, that leads me to conclude that that
3 is a likely seat of the explosion.

4 MR GARCIA: [16:00:04] If we could have the floor again.

5 THE COURT OFFICER: [16:00:07] The Prosecution has the floor.

6 MR GARCIA: [16:00:09]

7 Q. [16:00:16] Now, Mr Witness, you have if you look at the screen right now, we're at
8 panorama, is that 17 -- panorama 19 for the record. We stop it right there.

9 Now, the door that we see in that historical photo, can you indicate which one of those
10 doors is it to your understanding while you were on the mission?

11 A. [16:00:36] So the door in the centre of the screen, the single door I believe is very
12 likely to be the door in the photograph.

13 Q. [16:00:52] All right. So now we'll pass to the inner courtyard. You can see the two
14 indications atop the two doors. And we'll go to panorama 21A.

15 And we're in the inner courtyard there; is that correct?

16 A. [16:01:28] That is correct.

17 Q. [16:01:29] Now we'll go to panorama 21B to look at the wall that is opposing the
18 single door that you just indicated.

19 Now, Mr Witness, we see the wall there that is apparently from what I understand
20 opposite from the single door. Did you proceed to do a forensic analysis of that wall?

21 A. [16:02:09] When I looked at the wall, I can see a damage pattern in a vertical stripe.
22 And over across the wall you can see small areas of damage, but those have been
23 repaired.

24 And I refer back to a few minutes ago when I said that this was maybe two and a half
25 years after the incident in question. But I see damage on the wall.

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1 Q. [16:02:43] Were you able to determine from your forensic analysis where the damage
2 had come from or how it had been caused?

3 And just before you answer that, I'll ask that CIV-OTP-0049-0160 be shown on the screen.

4 THE COURT OFFICER: [16:03:27] On evidence channel 1.

5 MR GARCIA: [16:03:31] If you could please also zoom in on the wall. Is that as much
6 as we can zoom in, or is it possible to zoom in just a little bit more? That is the
7 maximum?

8 Q. [16:04:08] Now, Mr Witness, the question was: Were you able to determine after
9 your forensic analysis of how those holes had been made that are covered in the picture?

10 A. [16:04:22] To answer your question precisely, no, I'm not able to determine how that
11 damage was caused. However, the damage there is consistent with fragmentation
12 penetrating the wall and the steel door and then striking the wall in this building beyond.

13 PRESIDING JUDGE TARFUSSER: [16:04:47] I think we have to close. Can I zoom out
14 just for a last question, a little bit, zoom out a little bit? More. So now like this.

15 How do you explain - this is the last question and then we adjourn to tomorrow - how do
16 you explain that the holes on the left side of the door and no holes on the right side?

17 And I understand an explosion, which then has a radius of things flying around and
18 damaging all around, not just one precise part and not the other one.

19 THE WITNESS: [16:05:44] Your Honour, when I look at these photos, but I look at them
20 in the wider context, so these photos are very -- they are in isolation. And so when you
21 look at the marks on that wall and then the damage pattern on the site of the -- out in the
22 street, you can see where potentially an item of heavy cased ammunition has detonated
23 and those, the fragmentation has flown in the radial pattern.

24 Some of it has been absorbed by the wall that is in between the seat of the explosion and
25 this building. So not every piece of, not every fragment will penetrate all the way

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- 1 through. Many will just be caught.
- 2 And what I see here is a vertical stripe of damage that is opposite a metal gate, a metal
- 3 door that has been penetrated. So it is very likely that the two damage patterns are
- 4 connected. I'm not going to say that they definitely are connected. It's just very likely.
- 5 PRESIDING JUDGE TARFUSSER: [16:07:06] Okay. Thank you very much. We close
- 6 here for today. We will come back tomorrow morning at 9.30 with the continuing of the
- 7 questioning by the Office of the Prosecutor and then in sequence the two Defence teams.
- 8 So have a good evening. The hearing is adjourned to tomorrow morning at 9.30.
- 9 THE COURT USHER: [16:07:30] All rise.
- 10 (The hearing ends in open session at 4.07 p.m.)