International Criminal Court
Trial Chamber 1
Situation: Republic of Côte d'Ivoire
In the case of The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé
ICC-02/11-01/15
Presiding Judge Cuno Tarfusser, Judge Olga Herrera Carbuccia and
Judge Geoffrey Henderson
Trial Hearing - Courtroom 1
Thursday, 7 December 2017
(The hearing starts in open session at 9.49 a.m.)
THE COURT USHER: [9:49:15] All rise.
The International Criminal Court is now in session.
Please be seated.
PRESIDING JUDGE TARFUSSER: [9:49:33] Good morning.
First of all, apologies for this short delay. Traffic problems are the cause of it.
So good morning, Mr Bonbled.
WITNESS: CIV-OTP-P-0410 (On former oath)
(The witness speaks French)
THE WITNESS: [9:50:01] (Interpretation) Good morning.
PRESIDING JUDGE TARFUSSER: [9:50:03] Yesterday we have concluded the
questioning by the office of Prosecutor.
Now I give the floor to the Legal Representative for Victims.
Madam Massidda, the floor is yours.
MS MASSIDDA: [9:50:18] Thank you very much, your Honour. Good morning,
your Honours.

Ms Vetruccio will question the witness on behalf of the victims that we represent. *We have a few follow-up questions after the questioning by the Office of the Prosecutor. Thank you, Mr President.

PRESIDING JUDGE TARFUSSER: [9:50:36] Yes, first time.

MS VETRUCCIO: [9:50:42] Good morning, your Honours.

PRESIDING JUDGE TARFUSSER: [9:50:46] Good morning. I do know that.

QUESTIONED BY MS VETRUCCIO: (Interpretation)

Q. [9:50:50] Good morning.

A. [9:50:51] Good morning.

Q. I just have a few very brief questions for you. My first question is general in nature. Yesterday when you were questioned by the Prosecution, you mentioned a number of tests used to assess, tests used to assess Post-Traumatic Stress Disorder. *And in your conclusions on these tests you noticed that for some people there was a tendency to downplay the effects of the stress or the traumatic effect, which tends to call the results of the test into question. *Could you be more specific regarding, broadly speaking, the way such a mechanism occurs; and whether it is a tendency that is very common throughout the victims of crimes?

A. Well, I will start with your last question. This is a tendency we've seen when we examine some victims of crime, in particular people who have been subjected to sexual abuse. So victims need to move on, so they tend to downplay what has happened to them. What is more, *this has to do with extremely intimate aspects of life. Some people are more willing to share details, others prefer to keep the details extremely private. So you can see there *is a difference in level. *And the only rational explanation in this difference between the spontaneous speech and the responses to already formatted tests, is the wish of not opening up completely, of playing down some things, somewhere.

Q. [9:52:53] Thank you. I'd like to ask you a question about one particular patient. I'd like to ask us to go into closed session. This is a witness who testified in private session.

PRESIDING JUDGE TARFUSSER: [9:53:11] Let's go into private session for these questions.

(Private session at 9.53 a.m.)

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(Open session at 9.56 a.m.)

THE COURT OFFICER: [9:56:05] We are back to open session, Mr President.

PRESIDING JUDGE TARFUSSER: [9:56:11] Thank you very much to the legal representative who have concluded the questioning.

Now I revert to the Defence for Mr Blé Goudé. As I'm informed, there is an agreement among the Defence teams that the Defence for Mr Blé Goudé is questioning first. And to that effect, I give the floor to Mr Knoops. The floor is yours.

MR KNOOPS: [9:56:45] Good morning, Mr President, your Honours.

QUESTIONED BY MR KNOOPS:

Q. [9:56:59] Dr Bonbled, my name is Alexander Knoops, I'm an attorney at law in The Netherlands, Defence counsel for Mr Charles Blé Goudé.

I have some questions on three topics for you this morning. My first question relates to your report concerning Witness P-129, that's item 53 on our list of materials, CIV-OTP-0059-0201, page 0213.

Mr Bonbled, I ask your attention for paragraph 1 of your report, where you say that you were able to retrieve the following comments from P-129. In short, he informed you that he was apparently a victim of an explosion, which was attributable to mortar fire stemming from artillery on 17 March 2011. You see this paragraph, sir?

A. [9:58:49] Are you referring to the part on anamnèse or are you referring to the conclusions?

Q. [9:59:01] No. It's chapter VII, commentaries and conclusion, paragraph 1, P-129

(Interpretation):

"States having been a victim of an explosion stemming from an explosion with projectiles ensuing from the dropping of a mortar."

A. [9:59:35] Yes, I can see that part.

Q. [9:59:41] My question to you, sir, were you able to examine any alternative scenarios which could have explained the injury you described in your report regarding P-129?

A. [10:00:10] Please, could you be more specific when you say scenario or alternative? I don't see what you are referring to.

Q. [10:00:31] Was your investigation or examination restricted to confirm or not to confirm this hypothesis, whether or not this person was subjected to an explosion, or did you inquire any other options which could explain the specific injuries you detected?

A. [10:01:06] Maybe we need to recall what the medical methodology is. It is usually reliant on what complaint the injured person brings to the doctor. Now, where there is a clear discrepancy between the injured person's complaint and the findings of the examination, I have no authorisation to highlight or underscore such matters, because I would be straying from what the injured person has related to me. So such would not be my role.

I have the role to deal with the information that the injured person has spontaneously revealed to me. So the specific answer to your question is that I did not find any specific inconsistencies between these scars that were observed and the x-rays, as well as the injured person's narrative.

Q. [10:02:27] So your examination was not expanded to any other possibilities or explanations than the one put forward by P-129; is that correct?

A. [10:02:58] I respected the mission that was given to me to examine these people, to describe their injury and to deal with other related matters.

Q. [10:03:15] I call up a document that's on our list, item 146, CIV-OTP-0102-0013, page 0018. It's an article published by the forensic examiners of the OTP, Mr Laroche and Mr Baccard, an article published in 2013, Encyclopedia of Forensic Sciences.

I quote from this article written by these two forensic experts of the OTP on page 0018. It's in the paragraph "Forensic Expertise for Both Prosecution and Defence":

"The prosecution expert builds the forensic action plan according to international scientific standards; he shall verify, confirm, or exclude investigation's working hypothesis while exploring all other possibilities or explanations than the one put forward by the prosecution, including any alternative theory consistent with the scientifically demonstrated facts."

Dr Bonbled, you just explained to us that you restricted in your opinion to the mission you were given, yet these two colleagues of you, forensic investigators of the Office of the Prosecution write in this article that the experts' obligation to verify, confirm, or exclude the working hypothesis while exploring any other possibilities.

Do you in general agree that a forensic expert has the obligation to *address or to consider any other alternative or hypothesis than the one put forward by the Prosecution?

A. [10:06:58] I think this principle applies to all scientific methodologies. But I told you a short while ago that I did not find any inconsistencies between the injured person's statement and my observations. So I did not receive an answer to the question, for example, as to what alternative hypotheses I would have *abandoned.

Q. [10:07:35] Thank you.

My second question relates to three of your reports, the first being the report written on P-105. That's item number 4 on our list of materials, CIV-OTP-0059-0121, and that's page number 0130.

Mr Bonbled, in this report, similar to the report on P-109 and P-129, you mention that the examination, the radiographical examination revealed a piece of metallic in the tissue. And on page 0130, we find the specific photograph.

What was the foundation to conclude that the fragments which are to be seen on the photograph were indeed of a metallic nature?

A. [10:09:27] The assessment is based on the x-ray density of the object. And I am not the only one who came to that conclusion. The x-ray expert who is used to these types of issues also came to the same conclusion. So it's a matter of density and opacity of the object, which is then assessed in relation to the bone material which appeared to be light or otherwise lighter on the x-ray.

Q. [10:10:19] Is it fair to say that this was a matter of interpretation of the density of the fragments while it was not possible to apparently retrieve those fragments to have a more intense or microscopical examination to examine the exact nature of those fragments?

A. [10:10:49] This question refers to radiography, and I think that a microscopic assessment will not add anything further to the determination of the metallic nature of the object.

Let me also recall that *this person underwent a surgical operation and we do not know what this surgery revealed. Did that surgery remove already part of the fragment? We don't know.

Q. [10:11:33] Indeed, Doctor, that was my next question. Why, despite apparently this surgery, these fragments were never kept or otherwise examined at that time?

You don't have an answer to this, I understood, from your previous answer?

A. [10:11:51] I have no documented answer from a surgeon's report. That's what I have said. But, however, in surgery, in matters of trauma, this is quite usual that foreign bodies would remain in the body following criminal or accidental activities. So these fragments remain in the body.

Why such fragments are not removed? It is probably because in surgery it is difficult to locate them and, furthermore, their extraction may further endanger the lives of the persons involved. *So regarding the pros and cons of removing foreign bodies, the surgeon may decide to leave the said foreign bodies in the body.

Q. [10:12:52] Doctor, would you please be so kind in this regard to go to report P-109, that is on our list item 41, CIV-OTP-0059-0148, page 0158.

With respect to the question why certain fragments which were allegedly of a metallic nature were not removed, you just mentioned that the reason therefore could be that it could endanger, for instance, the lives of the person in question.

Now, if you would be so kind, Doctor, to look at the photograph on page 0158 regarding Witness 129 -- sorry, 109. You see on the right foot two elements, one apparently close by the heel bone, and on the left side a very small portion.

What is your explanation that these two fragments, at the least the one on the left side of the foot, was not removed for further examination to detect whether indeed that fragment belonged to a metallic subject?

A. [10:14:56] So if the person who has the authority to remove some objects, being the surgeon, in any event this injured person did not receive any surgery. He may have received local treatment in various ways. But I do not know whether these fragments themselves were required to be dealt with through surgery. So it probably was not necessary for the injured person to be subjected to further injury

simply in an attempt to remove such fragments, except in cases where such fragments would give rise to infections and what have you.

In any event, if it were indicated that surgery should be the case and, as I said a short while ago, it might become extremely difficult to remove those fragments because some of them are so small in size, and therefore I do not know even from this x-ray whether this is the case because we don't know at what angle the x-ray was taken. *It is lodged in the soft tissues under the bones of the feet, but where exactly? This is not an easy surgical procedure.

Q. [10:16:36] But, Doctor, you would agree that the location of this fragment is such that it's not life threatening to remove it?

A. [10:16:46] Well, I cannot really say that. There is risk involved in any surgery. And you may also want to remember that this person has a chronic inflammation at the level of his foot. He complained about pain in the foot. So we're dealing here with an inflamed part of the body which can be subject to infection. And you know that when an infection occurs, you don't know how far it may spread.

Q. [10:17:38] Did you advise any of your colleagues to, at the least, try to remove one of those particles for further examination before writing your report and concluding that these are metallic fragments? Did you at all advise or consider the advice to your colleagues to at least try to have these fragments further examined, yes or no?

A. [10:18:11] Which colleagues? I don't understand your question.

Q. [10:18:16] The colleagues in Abidjan, the surgeons, the doctors you contacted with respect to making these photographs, et cetera.

Before writing your report, did you advise any of those physicians to at least try to extract one of those particles; for instance, with P-109, on the issue of the left foot, I

just mentioned as an example?

A. [10:18:59] My answer is that I am not a physician providing advice to others. And my task was to serve as an expert. And I kept that particular task.

Q. [10:19:16] Yes, but you write that you could establish that these were fragments of a metallic nature, so you could expect, as an expert, you would like to verify the opinion of your colleague, whether he's right or not. So my question is did you consider any further examination in this regard?

PRESIDING JUDGE TARFUSSER: [10:19:42] But he said already no. I mean ...

MR KNOOPS: [10:19:44] Okay.

PRESIDING JUDGE TARFUSSER: [10:19:46] And I -- well, I stop it here.

MR KNOOPS: [10:19:48]

Q. [10:19:49] Mr Bonbled, are you aware that any of the elements you detected on those photographs were further examined by forensic experts apart from making assessment on the basis of these photographs?

A. [10:20:22] Other than the x-rays and the tests that were requested in this particular case, I did not think it was necessary to ask for other opinions. There is no doubt that these fragments are metallic in nature.

Q. [10:20:44] Thank you, Doctor.

My last topic relates to four documents, the first being included with P-109. P-109 is on the list of materials of Defence, item number 41, CIV-OTP-0059-0148. And it's document item number 46, belonging to this report, CIV-OTP-0056-0020. Item number 46. Maybe the document could be called up for Mr Bonbled.

Mr Bonbled, would you be so kind to look at the right corner, at the top of the document. You see a reference "CRER/IMA.14. Date: 21 July 2008." Your request for this radiographic examination was issued in October 2013, and apparently this

physician has dated this document 21 July 2008. Do you have any explanation for the discrepancy between those two dates?

A. [10:23:02] No. I think that must be a reading mistake on your part. The date is clearly 25 October 2013. At the top we do see other information, that's information from the radiology department. And I believe that other date is a reference to -- I think this must be some kind of technical reference that is used by the radiology department itself. I think we have to go by the date just before the information relating to the patient. And what is more, there is a spelling error, my name is not spelled correctly.

Q. [10:23:59] Doctor, this date returns in three other documents, the first being P-107, that's item number 31 on our list. You see the same date, 21 July 2008. But the CRER/IMA number is now 14 instead of 16. 16 is the number relating to P-106. And then we have another document with regard to P-129, it's item number 58 on our list of materials. Also there we see the same reference, "CRER/IMA.14, 21 July 2008." And finally we have the same reference with respect to Witness P-106.

So there are four documents which all ...

(Counsel confer)

MR KNOOPS: [10:26:16]

Q. [10:26:30] So, Doctor, there are four documents relating to four witnesses which all bear the date of 21 July 2008 with different IMA numbers. My question is did you notice yourself the different date on those documents compared to your assessment in 2013?

A. [10:27:03] Yes, of course. I did take note of that. Those are references used by the radiologist. I don't see why I would be concerned about that particular date given that there is another date that is quite clearly shown just before the

identification of the patient.

Q. [10:27:27] And did you ask the radiologist why he used those dates of 21 July 2008?

A. [10:27:35] No.

Q. [10:27:39] Okay.

Mr President, I do not know whether the Court has the correct references. I was maybe too fast with the four documents.

PRESIDING JUDGE TARFUSSER: [10:28:28] Well, I think if we hadn't the right references, the court officer would have protested vigorously, I think.

MR KNOOPS: [10:28:39] Okay. Thank you.

PRESIDING JUDGE TARFUSSER: [10:28:40] Wouldn't you?

MR KNOOPS: [10:28:41] These were our questions, Mr President. Thank you very much. Thank you for your flexibility to change the order. Thank you.

PRESIDING JUDGE TARFUSSER: [10:28:47] No problem. No problem at all. Thank you very much.

And now I give the floor, Mr Bonbled, I give the floor to the Defence for Mr Gbagbo, and to that effect to Maître Altit.

MR ALTIT: [10:29:03] (Interpretation) Thank you, your Honour. Your Honours, on behalf of the Gbagbo Defence team, Professor Jacobs will be questioning this witness.

PRESIDING JUDGE TARFUSSER: [10:29:21] Thank you very much.

Mr Jacobs.

MR JACOBS: [10:29:50] (Interpretation) Thank you, your Honour.

QUESTIONED BY MR JACOBS: (Interpretation)

Q. [10:29:54] Good morning, Doctor.

A. [10:29:56] Good morning.

Q. [10:29:57] I am Dov Jacob, and today I will be asking you some questions on behalf of the Gbagbo Defence team.

I'll start off with some general questions and then we will proceed in the same manner as we did yesterday, as you did yesterday with the OTP, namely, we will turn our attention to individual reports.

Yesterday you told us that you had worked for the ICTY?

A. [10:30:33] Yes.

Q. [10:30:33] Which cases?

A. [10:30:35] *In cases where we had to examine the remains of victims of a number of events that occurred in that area. There were some post-mortem examinations that were carried out for one part in the mortuary installed in Visoko, close to Sarajevo, and the other part in the morgue installed in Kosovo under the leadership of Professor Eric Baccard.

Q. [10:31:11] But in which cases at the ICTY?

A. [10:31:22] I don't really remember which cases. Our job was not really to find out what had happened, but, rather, our job was to examine the bodies of the people who had died so as to identify them and to determine whether or not there was some way to link their deaths to the events that were of concern to the team of investigators.

Now, of course I was interested in the background, but I did not have access to the results of the previous investigations carried out.

Q. [10:32:11] Thank you. So if I've understood you correctly, you mentioned some investigators. And so those expert reports were prepared for the Prosecutors of the ICTY?

A. [10:32:23] Yes.

Q. [10:32:26] And did you later give testimony before that court?

A. [10:32:32] No. We were clearly told that we would not be required to give testimony. There were quite a few of us in actual fact, and every two or three weeks we would replace one another. There were a number of international experts doing this same work, one after another in shifts. So there was a coordinator, namely, professor John Clark à Visoko and Professor Baccard. They were coordinating the work of the various experts who later testified.

Q. [10:33:14] Thank you. Have you worked in Africa in the past?

A. [10:33:26] No. This is the first time.

Q. [10:33:32] What experience did you have before your mission in working with the victims of armed conflict?

A. [10:33:46] Victims of armed conflict. Well, the experience I acquired in the former Yugoslavia, I also -- I'm speaking from memory. I did examine for the Brussels Court of Assize the victims of violent acts in Rwanda, namely, survivors who had survived shootings and who had come to Brussels to testify at a trial held there. Off the top of my head, those are the main -- that is my expertise when it comes to this particular field.

Q. [10:34:34] Yesterday you told the Prosecution, French transcript, realtime, page 8, line 25, you said, "I refused to work in the private sector until I reached retirement age. But now I have reached that age and now I believe I am in the position to provide a contribution, to agree to review a number of cases for other parties, in particular if the matter was of intellectual interest."

Can you explain to us, now, you say that you refused to work for people in the private sector until retirement age?

A. [10:35:34] Yes. It was in response to the question that was put to me yesterday

by the Presiding Judge. You see, I had done sufficient work for various courts and *the Prosecution, so I thought it was better to make a choice and restrict myself to criminal matters and civil matters arising from criminal cases.

Now, I'm not necessarily in the position to turn down missions from various tribunals. I have accepted some work having to do with private matters. But for the most part, I work for tribunals and courts. Now, on the other hand --

Q. [10:36:35] Please go on.

A. [10:36:37] I've always been quite hesitant to accept work as a counter-expert in cases, and I've only accepted such work in districts where I usually don't work. As I just said, now that I am coming to a certain age, I think that with all the experience I have I can work in a number of areas.

Q. [10:37:13] So just to make this clear, you mentioned other parties, does that mean the defence?

A. [10:37:19] Yes. I did work for the defence twice, on two occasions.

Q. [10:37:30] Thank you. How long have you been working in cooperation with the OTP of the International Criminal Court?

A. [10:37:48] Ever since this particular case.

Q. [10:37:50] And other than the current case, have you done other missions for the OTP?

A. [10:37:55] Yes. More recently I was sent to Uganda.

Q. [10:38:01] Could you tell us about the nature of that mission without going into details, of course? Did you conduct autopsies as you did in Kosovo?

PRESIDING JUDGE TARFUSSER: [10:38:17] Let's go ahead. I mean, I think he should not testify about ongoing things which are ongoing probably.

First of all, question, is this still ongoing or not, the investigation on this topic?

THE WITNESS: [10:38:38] (Interpretation) To my knowledge, yes, but --

PRESIDING JUDGE TARFUSSER: [10:38:42] So we skip this and we go ahead. And it's not really very important to the case. Please go ahead.

MR JACOBS: [10:38:50] (Interpretation) Of course, your Honour.

Q. [10:39:01] Yesterday you told us that Mr Baccard had been your first contact for this mission that you carried out in this case. And you said a few moments ago that you knew him from Kosovo. Is that when you first met him?

A. [10:39:19] I think I had already had the pleasure of meeting him previous to that time, but our professional contacts were really quite distant, quite minor.

Q. [10:39:36] So the first time that you really worked with him was during that mission to Kosovo?

A. [10:39:43] Yes, that's correct.

Q. [10:39:48] And after that mission, did you stay in touch with him regularly?

A. [10:39:55] No, not at all. We did not see one another after Kosovo. And at one point he wanted to call upon me for my services, and that is when he made contact.

Q. [10:40:13] The representative from the OTP showed a document to you that showed us that you received preliminary instructions *23 July 2013, and you responded, page 16 of the real-time transcript dated 6 December, you said, quote, "I don't remember exactly," line 21, "I no longer recall exactly. There was a lot of information exchanged over the phone, and I can't tell you whether it was someone from the unit or an investigator. I couldn't tell you."

First of all, were you contacted before that initial date, *23 July 2013?

A. [10:41:22] Well, the first contact was from the forensic department here from -- it was Professor Baccard who called me. I was on vacation actually, and he asked me if I was available and if I could travel at a particular point in time to Côte d'Ivoire.

Q. [10:41:44] And the preliminary instructions of 23 July 2013, do you remember what they were?

A. [10:41:56] I told you, well, I said yesterday that I only had a very vague recollection of that document. So since it was one general document amongst others, I had no particular recollection of the document. I could look for it in my records, but I have no particular recollection of it.

Q. [10:42:21] Yes, indeed. You kept the document?

A. [10:42:24] Probably.

Q. [10:42:26] And you could disclose it to the Court and to the parties?

A. [10:42:31] Yes, of course. I'll try to find it, yes.

Q. [10:42:38] Now, you say that you received a great deal of information over the telephone. So you did not take any notes of these discussions over the phone?

A. [10:42:54] Counsel, you must realise that if the information comes in during a busy professional time, well, basically the information is traditionally sent by mail, and all the information that I needed to have is to be found in my mails. Of course, I don't think I kept all my correspondence from 2013. I don't think so.

Q. [10:43:34] Yesterday you were shown some copies of the mission letter you received, and we saw that they were dated 6 June 2014. I can show you an example, but I believe we all, we saw the letter, namely, seven months after your travel to Abidjan *in October 2013. So you did not receive a formal mission letter before you left for Abidjan or during the seven months after your return? Have I understood correctly?

A. [10:44:11] I no longer recall. And why, why did it happen that way? Well, it was the way I always operated for more than 30 years. As a forensic medical examiner working for a Prosecution service, we are usually contacted on an emergency basis. We have to respond on an emergency basis. And our job, well,

our tasks are given to us orally or confirmed temporarily by way of mail. But a written validation always comes later. *Be it in my home country, in Belgium or here at the International Criminal Court, I have noticed that it was the same thing, and, personally, I was not surprised by that.

Q. [10:45:11] So did the OTP tell you that the mission was urgent when they contacted you?

A. [10:45:21] Yes. The people who contacted me asked me if I could respond on an emergency basis and to see if I had the time in my day book, if I could set aside a period of time, if I could make arrangements. So there was a whole series of organisational decisions that had to be made on an emergency basis, yes. So yes, *I felt that I had to do it urgently.

Q. [10:45:51] Thank you. What information about the case was provided to you before you left for Abidjan?

A. [10:46:10] Very general information. So I was to examine a number of people, living people who had survived violent events that were part of disturbances during a certain period of time in Côte d'Ivoire. And the examinations were to be carried out in Abidjan with an investigator with me. That was basically the information provided to me.

Q. [10:46:49] And you were given no information about the events that occurred on *16 December 2010, or 17 March 2011, or 12 April 2011?

A. [10:47:03] No, absolutely not.

If I could add one comment, I remember that I was called again and I was asked if I thought I was capable of examining victims of sexual abuse, and I said yes, naturally. I said that was part of my normal work. That was all, nothing more than that.

Q. [10:47:32] If I've understood you well, prior to your departure for Abidjan, you were asked whether you were ready to go examine victims without any further

information? You didn't have any meeting with members of the OTP, with Mr Baccard or anyone else elsewhere or here in the Hague?

A. [10:47:58] No. This is the way things work for me normally and this is how it happened. And I wasn't surprised at that.

Q. [10:48:19] Did you conduct any independent investigation into the situation in Côte d'Ivoire during the crisis?

A. [10:48:23] No, counsel. I didn't have time to engage in such work. However, I read the newspapers and I was informed about what had happened, that there had been disorders in Côte d'Ivoire, but I didn't have all the details.

Q. [10:48:44] Before you left for Abidjan, were you provided with the medical records of the persons you were going to examine?

A. [10:48:54] No, not as far as I can recall.

Q. [10:49:00] Did you ask for them?

A. [10:49:05] I believe that as we examined the persons, as we conducted those examinations, it became necessary for us to look at some medical records. And that's why we started off by asking for the records from the patients following the ethics of our practice.

Every now and then they would bring some of the material that was mentioned in the reports. But we quickly realised that we were not likely to get any other information different from what was already available to us.

Q. [10:49:54] Is it your experience that you would have access to a person's medical records prior to conducting an examination, say, in your own home country in Belgium?

A. [10:50:10] No, no, except such material had been seized by the judicial authority. The normal practice is that it is the patient who notifies us. In fact, we notify the

patient upon appointment to bring whatever material is available so that it might be used in the expert examination. So we ask the expert -- rather, the patient to do so. Every now and then they would comply and in other cases they wouldn't, for reasons that we do not always understand.

But what happens quite generally is that the records are obtained either during the consultation, after the consultation or after the examination.

Q. [10:51:03] Is there an authority in Belgium which can authorise access to medical reports in Belgium prior to conducting your examinations?

A. [10:51:15] Yes. But we are not the ones who make that determination. When we are invited to deal with matters of injury, the onus is on the victim to prove their case. So they have to bring in the evidence as a matter of general practice. So it is only such material that can be looked into. But as a general rule, it is not for medical practice to collect such documentation.

Q. [10:51:59] Yesterday you said in transcript of yesterday, page 14, line 22, transcript 6 December, "If I recall properly, the investigation reports, some of the investigation reports were subsequently disclosed to me after I returned to Belgium." Now, what do you mean by "investigation reports"?

A. [10:52:34] If I am not mistaken, it is reports dealing with the violent acts involved in the cases where I had to examine the injured persons, so the circumstances surrounding the events. So I was looking at facts and circumstances in relation to what the injured person was informing me of and having to cross-check them and to determine whether my understanding of such narrative was correct.

Q. [10:53:17] Just to be specific, are you referring here to prior statements by witnesses, what the witnesses had told the investigators? Is that what you are referring to? Do you remember that?

A. [10:53:30] Yes, maybe. It was probably that.

Q. [10:53:35] Which ones did you receive and in relation to which witness?

A. [10:53:46] I think it was reports on all the persons whom we had to examine. But once again, these things happened a long time ago and I don't have a clear recollection.

Q. [10:54:00] In your report, you do not indicate that you used those reports, that you received and used those reports. Why? Why not?

A. [10:54:13] I did not use them. I simply read them. But I do not know why I did not. And in any event, it wasn't within my purview to use investigation reports in my expert medical report.

Q. [10:54:38] I have a few quick questions on your mission to Abidjan. When did you arrive in Abidjan for that mission?

A. [10:54:57] It must have been the day or the day before the first examination. I don't have a clear recollection.

Q. [10:55:10] Who organised your mission?

A. [10:55:15] The mission was organised by the forensic unit of the Court, one would say.

Q. [10:55:33] When you arrived in Abidjan, did you have any contacts with Ivorian authorities?

A. [10:55:41] No, absolutely not.

Q. [10:55:45] Did you meet any doctors who may have been working during the crisis or who would conduct additional examinations on the persons you were going to examine?

A. [10:56:04] No. I met no one other than the injured persons and the investigators. You must note that the circumstances at the time were such that we

were subjected to very serious security rules, and for that reason, we did not have much elbow room in light of the strict security measures.

Q. [10:56:33] Can you tell us a little more about the security measures?

A. [10:56:38] I think these were general measures taken by the organisation, namely, not to leave the building where we were residing without being accompanied or escorted by one of the members of the team.

Q. [10:57:02] Where did the medical examinations take place?

A. [10:57:12] I don't know whether I can answer that question.

PRESIDING JUDGE TARFUSSER: [10:57:17] I think there is no problem to say where these took place. I would suggest in a hospital structure.

THE WITNESS: [10:57:31] (Interpretation) No. For security reasons, the examinations were conducted in rooms made available to us by a hotel facility. And on two occasions we used -- or, rather, we had to change those facilities twice for security reasons.

MR JACOBS: [10:57:57] (Interpretation)

Q. [10:57:58] Thank you.

PRESIDING JUDGE TARFUSSER: [10:57:59] And who did decide on this change for the security reasons? Or were you just told they changed?

THE WITNESS: [10:58:12] (Interpretation) That's how things unfolded. The investigation team told me, "Today we are changing."

PRESIDING JUDGE TARFUSSER: [10:58:23] Okay.

MR JACOBS: [10:58:26] (Interpretation) Thank you, Mr President.

Q. [10:58:32] In that connection, yesterday in French transcript, 6 December, at line 15, page 12, line 16, you said that "the examination conditions were not *those that one could think of here."

Now you have told us that the examinations took place in a hotel facility. Does that explain that you did not have all the necessary facilities to conduct your examinations?

A. [10:59:15] I think that the sentence you've quoted was from a context different from the one we're dealing with now.

Q. [10:59:23] I could read out the entire paragraph if you wish?

A. [10:59:28] Please do.

Q. [10:59:31] The issue was discussing additional examinations which you had suggested.

Let me go then to line 9, page 12, "Following those examinations, did you ask for additional examinations or tests such as x-rays and lab tests for the patients?"

Your answer, "Yes. In some cases it appeared to be necessary or quite essential to ask for additional examinations. I did not do so in all cases, because the conditions for the exam or examinations or tests were not similar to what we have here. Therefore, we're not able to have access to lab analysis as one would have here."

Do you want me to continue?

A. [11:00:14] Well, this has nothing to do with the subject which we were dealing with previously.

In any event, I was referring here to a whole gamut of specialised tests that could have been requested and which may be available elsewhere. You can have thought of an imagery and resonance tests and things of that nature. So where we were, there were some properly equipped x-ray laboratories, but I could not expand my work to those facilities.

And we could not either proceed to a whole range of blood tests because of the circumstances. And you see, as experts, we don't always have to go down that road

because we have to be as targeted and as specific as possible when seeking to answer --

PRESIDING JUDGE TARFUSSER: We started later, so we -- okay. Sorry.

MR JACOBS: (Interpretation)

Q. [11:01:34] Mr Witness, please continue.

A. [11:01:36] So to answer the question specifically, what I was saying was that when it comes to clinical expert examination of these persons, that is not what I was referring to. For those purposes, those persons were tested or examined in excellent conditions. It was a hotel, but it was convenient for the victims. There was security and there was privacy for the victims.

We had an office in those hotel rooms and a doctor's office for clinical examinations. And, therefore, these tests and examinations were done in the absence of the investigators. So the basic conditions were met in the facility in which we had to conduct those examinations.

Q. [11:02:42] Thank you. When you say that the conditions for additional examinations were not ideal, if I understand you very well, did you visit any other hospitals or talk to any other doctors to explore those options?

A. [11:03:04] I think I have just said that I did not talk about the ideal conditions.

Q. [11:03:11] I'm sorry, I'm sorry, but *you are telling us that one should take into consideration the prevailing circumstances; that an MRI is not necessarily available, that all blood tests may not necessarily be available. How did you get to that conclusion? Did you go to any doctors? Did you visit any hospital to come to that conclusion?

A. [11:03:25] Well, we did not have much time. That's the first thing. Our scheduling was very tight. And I don't know whether you have ever had to do a scan or an MRI and things of that nature. *There are deadlines and these deadlines exist

everywhere, and that's why I referred to the technical and practical circumstances. But I did not say that any of the examinations of the patients was below standard. What had to be done was done. Everything that had to be done was done.

Q. [11:04:15] Thank you, Mr Witness.

I understand that we're going to quarter past?

PRESIDING JUDGE TARFUSSER: [11:04:21] Yes, yes. That's it, yes.

MR JACOBS: [11:04:23] (Interpretation) Thank you, your Honour.

Q. [11:04:31] Who provided security for you?

A. [11:04:36] The investigators services.

Q. [11:04:43] Thank you, Mr Witness.

Now let us look at the different reports. I believe that you have the reports with you, but we also provided a tab with the reports and various -- a binder, rather, with the reports in various tabs. These could be made available to the parties.

PRESIDING JUDGE TARFUSSER: [11:05:14] Yes, but if he has his reports, I don't think there is a big problem.

MR JACOBS: [11:05:19] (Interpretation) The binder is organised in the chronological order in which I will be dealing with the cases, Mr President.

Q. [11:05:37] Mr Witness, could you now turn to tab 1, please. Report CIV-OTP-0051-0121.

First question, yesterday when talking about the informed consent, French transcript, 6 December, when asked whether you played any role in obtaining informed consent, you answered at line 7, "No. As I mentioned before, this happens before I come into the picture. This task was to be done by the investigator." End of quote.

Now, if I understand from what you said yesterday, you were not present when the informed consent of the person you examined was sought?

A. [11:07:00] You are the one who understands things that way. I never said such a thing. I was present.

Q. [11:07:08] Now, when you say that it happens upstream and that it is handled by the investigator, are you saying that you were present and you didn't do anything?

A. [11:07:16] Yes, that is correct. I was in the same room, and I waited as that phase of the first contact with the patient took place before proceeding to my own examination.

Q. [11:07:33] In your capacity as a doctor who had to conduct the examination, was it not your role to tell the patient what the examination was about before the consent was sought?

A. [11:07:47] My presence was there for the purposes of providing clarification to the patient and to the investigator, but it was not necessary because the explanations were clear enough.

Q. [11:08:02] So you yourself prior to this examination, you did not explain to the investigator what the investigator had to explain to the patient; is that correct?

A. [11:08:14] I'm not sure I understand. But I think the investigator fully understood that we were proceeding to a medical examination, and he knew even before I did that for victims of sexual violence, there would be gynaecological examinations and so on and so forth. So there was nothing else to add. The investigator informed those people that there would be a gynaecological examination, and that's it.

Q. [11:08:45] A short while ago you told us that prior to your leaving for Abidjan, you did not receive any medical records. You also told us that you did not receive any medical records when you got to Abidjan before seeing the patients; is that correct?

A. [11:09:08] As far as I can recall, I did not.

Q. [11:09:17] In your report at page 0125, page 5 of the report, I just referred there to the official court number, you stated that x-rays were officially done and copies were forwarded to the investigators of the ICC.

Yesterday, 6 December, line 6, page 48, you said the following:

"I do not think that I made any comments on the x-rays, I believe. So it is possible that I did not have them with me. But this is of no significance for me, because new x-rays were made on 24 October 2013, it would seem."

Now, you did not ask for those x-rays to be sent to you?

A. [11:10:50] I did not note that. In any event it was our decision to do a new x-ray and so I was not concerned by that.

Q. [11:11:09] Wouldn't it have been useful for you to see previous x-rays in order to determine at what time the injury or scars may have appeared?

A. [11:11:25] That might have been useful. But as you know, the situation was that the circumstances were not always ideal, and the x-rays might have been of such poor quality that they wouldn't have added anything much. But it might have been a good thing to see them.

Q. [11:11:52] I would like to call up document CIV-OTP-0056-0040.

Now, we will go through this report, but not for others, in which you called for a comparative x-ray for the shoulder to be made.

Following that document, do you know whether an Ivorian doctor issued a prescription or a request for that x-ray to be done which you had asked for?

A. [11:12:53] As far as I know, I was asked to make that request, but I don't know whether there was need for an intermediary request for an x-ray. I don't know.

Q. [11:13:07] As far as you know, did any member of the OTP accompany the

patient to the x-ray?

A. [11:13:14] Yes, I think so. I think that's what happened. In any event, the patient had an appointment with a member of the team of investigators.

Q. [11:13:27] As far as you know, did any Ivorian official accompany the patient?

A. [11:13:33] I am not aware of that.

Q. [11:13:38] Do you know who paid for those medical tests?

A. [11:13:46] No.

Q. [11:13:49] Yesterday you told us that you received the results, apparently all the results after you returned to Belgium. Who sent those results to you?

A. [11:14:04] Once again, it must have been the forensic unit of the ICC.

Q. [11:14:17] Was it Eric Baccard?

A. [11:14:23] I don't think so. I think it was another member of the team.

Q. [11:14:30] When did he send them to you?

A. [11:14:45] Are you asking for a specific date? I'm sorry, I cannot give you the specific date, because I did not include it in my report. But I think you can find it here in the Court, because there must be a postmark from the Court showing when it was sent.

Q. [11:15:14] It is true that in most of the reports you do not mention a date. But on this report, at page 10, you indicate that the result of the x-ray was disclosed on 24 April 2014. You refer to the report, and I believe that you also received the x-rays at the same time on 24 April 2014.

A. [11:15:41] Yes, I believe that all those materials were communicated or disclosed at the same time.

Q. [11:15:47] Do you know why all those results were sent to you so long after they were conducted in *October 2013?

A. [11:15:58] I am not told everything, you know.

MR JACOBS: [11:16:06] (Interpretation) Mr President, I have two more questions on this point and then I'll be done on that point.

Q. [11:16:16] Did you send the results of the x-ray to your patient at the time?

A. [11:16:20] The expert does not directly communicate with the person who is being examined. And that's the rule, a matter of ethics when it comes to expert examination.

Q. [11:16:41] In any event, you are also a doctor and you have a patient-doctor relationship with that person. Does that not give you an obligation to disclose the medical reports to that person?

A. [11:16:53] No, counsel, unfortunately, I'm sorry.

PRESIDING JUDGE TARFUSSER: [11:16:55] Well, in no system this happens. In no system that would happen, I think. The point he is related to the person or to the entity who appointed him, so ...

MR JACOBS: [11:17:08] (Interpretation) Thank you, Mr President. I'll be going down another line of questioning, and this might be a good time to take the break, Mr President.

PRESIDING JUDGE TARFUSSER: [11:17:16] Okay. Thank you. We take the break.

We have a half an hour also for you, Mr Bonbled, to relax, and we be here back at 11.45.

Thank you very much. The hearing is adjourned.

THE COURT USHER: [11:17:33] All rise.

(Recess taken at 11.17 a.m.)

(Upon resuming in open session at 11.47 a.m.)

THE COURT USHER: [11:47:44] All rise.

Please be seated.

PRESIDING JUDGE TARFUSSER: [11:48:08] Sorry for this.

Good morning once again. Good morning, Mr Bonbled.

I give the floor back to Mr Jacobs.

MR JACOBS: [11:48:23] (Interpretation) Thank you, your Honour.

Q. [11:48:30] Good morning once again.

A. [11:48:47] Good morning.

Q. [11:48:48] We will continue with the report that we were dealing with just before the break.

Now, at page 0123 of the report, you said, page 3, "I carried out the examination of," and I won't say the name, "on 22 October 2013 *at 14:15 in the presence of an ICC investigator. The clinical examination itself was only in my presence."

Can you explain exactly what you mean by that last sentence?

A. [11:49:38] I'm referring to the physical examination of the victim.

Q. [11:49:44] So the investigator was present during the *anamnesis or the neuropsychological examination?

A. [11:49:52] Absolutely.

Q. [11:49:56] And wouldn't rules of confidentiality stipulate that the investigator should not have been present during all phases of the examination?

A. [11:50:11] In relation to whom? The investigator, I see the investigator as a representative of a judicial authority. So, well, no information would have been hidden from the person or the institution asking for my expertise.

PRESIDING JUDGE TARFUSSER: [11:50:40] And in any case this is an evaluation. The fact is that he was present. Then what the evaluation is is yours.

MR JACOBS: [11:50:49] (Interpretation) This is about assessing the approach taken by the expert during a psychological evaluation, a third person being present who is not a physician during -- it's not a matter of opinion, it's a matter of determining whether this practice is suitable or compliant.

PRESIDING JUDGE TARFUSSER: [11:51:17] Well, that's your evaluation if it is or is not. The question here, the fact, was he present, yes or no? He was present, then you draw your conclusions when appropriate. It's not the expert who takes these conclusions and expresses his opinion on this.

Please go ahead.

MR JACOBS: [11:51:38] (Interpretation) Yes, I shall continue, your Honour.

Q. [11:51:46] Page 0126, page 6 of your report, and this has to do with the person's prior medical history, you said that the person only mentioned one episode of malaria during childhood. She never had any other accident or fracture. She was in hospital only for five deliveries.

So you never saw the medical records of this person, so you never were able to verify this information independently?

A. [11:52:30] Well, this was information provided by the patient himself or herself. Nothing is more reliable than that.

Q. [11:52:41] Very well. 0133, paragraph 10, namely, your conclusions, page 13 of your report, you wrote that the person has major consequences, both physical and psychological consequences stemming from the event of 17 March 2011, and this justifies a finding of permanent disability. You speak of the events of 17 March 2011. So did your evaluation make it possible to assess the date of the injury, the date of the person's injuries?

A. [11:53:44] Of course not. That date was provided to me.

Q. [11:53:51] Thank you. And when you speak of permanent disability or inability to work, are you talking about a particular finding on a grid or something like that?

A. [11:54:09] I don't really understand what grid you're talking about. Could you be more specific?

Q. [11:54:15] I believe in France or in Belgium there are certain parameters to determine disability depending on the condition after someone has suffered an injury or had an accident. Did you make any reference to any particular scale?

A. [11:54:32] No, I did not refer to any reference or scale. And you mentioned France and Belgium, but, you see, you do not provide sort of a numerical score in the case of a permanent disability. You just say whether a permanent disability exists or does not exist.

Q. [11:55:00] Just to make sure I've understood, it is your opinion as a physician, and you are not referring to any sort of external source to determine the nature of the disability or its extent?

A. [11:55:20] No. This is not the opinion of a physician. This is the opinion of an expert in forensic medicine. That is on the basis, that's the basis on which I issued that opinion. I thought that the situation was such that one could justify a finding of permanent disability.

Q. [11:55:52] Thank you, Mr Witness.

I would like to move on to another point now. Now, you said in your report, page 0127, page 7 of your report, you wrote the following. You said that you carried out a neurological examination. Now, was that part of your mission?

A. [11:56:23] Yes, indeed. What is more, I was informed once again verbally, I was informed that I should consider assessing the possible -- a possible

post-traumatic stress disorder. That's part of any examination. And we do not -- well, we are not limited to looking at physical aftermath. We can go deeper.

Q. [11:57:02] CIV-OTP-0059-0118, tab 3 on our list of materials. That is the mission letter that you received so that you should examine this person.

Could the mission letter be placed on the screen.

Now, if we scroll down to the bottom of the page, page 0118, we see a list of the tasks you were asked to carry out. And at the top of this page, *0119, we see at the top of the page, 0119, the following page, please, if we look at this list, it seems to me that you were asked to assess the physical injuries and the consequences thereof, but nothing, no mention is made of a neurological or psychological examination.

A. [11:58:48] Well, no mention is made of ordering x-rays or having a blood sample taken. If you look at page 3 -- point 3, you will see quite clearly that I was asked to describe the injuries sustained *on March 17, 2011. But I don't think we can restrict ourselves to physical injuries. We also have to consider *mental wounds.

Q. [11:59:21] So are you telling us that when you were asked to describe injuries, that includes psychological injuries as part of an expert report?

A. [11:59:33] If they are present, one cannot not speak of them.

PRESIDING JUDGE TARFUSSER: [11:59:43] Can we blame an expert because he has done a bit more than what was strictly requested? This is just a rhetorical question.

MR JACOBS: [11:59:57] (Interpretation) I will not answer that one, your Honour.

Q. [12:00:05] Now, yesterday you told us, sir, and I'll give you the reference, 6 December, page 23, line 21, you said, I quote, "I'm not a psychiatrist. I am not a specialist when it comes to carrying out mental assessments, but I am used to carrying out such assessments as part of my profession."

Now, you are not an expert in this area. Shouldn't you have referred this person to

someone able to carry out such an assessment or to provide such a diagnosis if you saw such a problem?

A. [12:01:01] Yesterday I said that, yes, I was not a psychiatrist, and so I was not going to carry out an in-depth psychiatric assessment of the person, although I have seen many people with mental illness during my life. But when you take stock of the psychological after-effects or consequences and the person mentions typical symptoms that any physician would recognize, I had to include them in my report. But to be as objective as possible, I administered a test to these people, an objective test to assess the possibility of post-traumatic stress disorder. This is a tool that is available to any and all psychologists or physicians. And I didn't go beyond the parameters of that test. It is not a highly refined diagnosis test. It merely assesses the degree of suffering that a person may be having after a traumatic event.

In an ideal world, the person could have been referred to a psychiatrist familiar with post-traumatic stress disorders. But I think you are familiar with the conditions that we were working within, the time constraints. And what is more, I thought that the information I had gathered was relevant enough and specific enough for my mission. Now, if it was a matter of providing a percentage of disability, expressing that in percentage terms, I would have then asked for a psychiatric assessment.

Q. [12:03:17] Mr Witness, you just said that I would be familiar with the conditions you were working in, but I'm not. You didn't have all the time you needed to carry out your work?

A. [12:04:01] Well, I mentioned the conditions earlier. I said that we had set a particular schedule and we were spending practically half a day with each person examined and all the various procedures. And given that time frame or schedule, to find a psychiatrist who was an expert and who would fulfil those requirements, well,

and then to have to ask such a person to make time in his schedule, I didn't think that would be possible. But I did think it was necessary.

Q. [12:04:54] Could you briefly tell us about the test you administered to the person. I'll return to page *027 of your report.

A. [12:05:33] What page?

Q. [12:05:34] Page 6 -- no. I beg your pardon. Page 7. You said that the person was administered an IES-R test. Could you explain that test to us?

A. [12:05:53] I provided a brief explanation of this test. These are summary tests, short tests.

There are a series of questions are asked of the person, in this particular case 22 questions that have to do with difficulties, symptoms that a person may be experiencing after a stressful event. And you don't necessarily have to give a positive answer.

The scale here is from zero to four. So you ask the person to answer the question by situating him or herself on the scale. *If the person doesn't understand the question, we repeat it. Or, if need be, it is explained to her/him or it is reformulated in such a way to make sure that the question is well understood. And then a score is calculated which gives an idea of what the intensity of the complaint is.

For each particular test there is a cut-off value, that is to say a level, well, a level beyond borderline. And if you are rigorous when you use these tests, you determine that something that is a borderline result is not taken to -- is not considered. And so, you see, if the result is borderline, you determine that you're not really in a particular area.

Q. [12:07:54] Does this test take the context into account, for example, an armed conflict, no armed conflict?

A. [12:08:02] No. I said that it relates to any stressful event.

Q. [12:08:11] Does it take into account the person's geographical origin or culture?

A. [12:08:19] Well, the questions put are not particularly linked to cultural context. These are very simple questions, for example, heart rate, palpitations, quality of sleep, things like that. So my answer is no.

Q. [12:08:45] Thank you. And considering the time that went by between the alleged events and the administration of the test, can that affect the results?

A. [12:08:59] Yes, of course. *Most likely those post-traumatic syndromes would be higher if medical analysis and diagnosis were provided at an early stage; therefore, the earlier the better. The syndrome is particularly seen in the first six months following the stressful event. Afterwards, symptoms lessen or resolve spontaneously.

On the other hand, in these particular cases I think we can say that unfortunately the PTSD was significant and became chronic because treatment was not provided in a timely manner. The treatment and the psychological treatment, well, psychological treatment can shorten the period of suffering, but not make the suffering disappear.

Q. [12:10:12] A few moments ago you said that when the person doesn't understand the question, you rephrase or explain the question to the person.

Now, if you explain a question or rephrase it, won't that have an influence on the answers, on the results? This test is supposed to be a self-assessment tool that is given to the person and the person is supposed to fill out the form herself.

A. [12:10:38] Yes, of course, that is a risk. The understanding of the French language may not have been optimal. We were aware of that risk and we were very careful and we reformulated when necessary.

Q. [12:10:58] Now, you wrote, once again, same page, page 7 of your report, you said that "The total score was 61 out of 88, an average score for post-traumatic stress

syndrome, which can be diagnosed in this case." *When you say "this is an average score for a PTSD" do you have a particular source for this information?

A. [12:11:30] This was a personal comment in relation to the cut-off value that I mentioned a few moments ago. This was well beyond the cut-off value. We were not too far from the maximum score. It is quantitative, no more than, nothing more than that.

Q. [12:11:52] But you mention a cut-off value for this test, but you don't say that in the report.

A. [12:11:58] I don't think I always indicated that systematically. But you can find it in other reports.

Q. [12:12:07] Well, this is the only person that you used the test. All the other people used a different test. And you mentioned a cut-off value for the other tests. But we'll get back to that later. In this particular case we don't see any mention of a cut-off value. One last question about this test. Do you know whether it was initially designed to diagnose post-traumatic stress disorder?

A. [12:12:46] I don't know the history of this diagnostic test. This is one of the tests that one finds within a battery of possible tests to assess someone. But I don't know the background or the history of this particular test.

Q. [12:13:05] Thank you, Mr Witness.

Did you keep a copy of the responses provided by the person to the 22 questions?

A. [12:13:37] Probably it's in my records, yes. But the answers, well, those are, they're really just check marks in a little box.

Q. [12:13:52] But you don't have access to the report?

A. [12:13:54] No, no. That is a personal working document, I would say.

Q. [12:14:00] And that is the case for all the other people that you examined? You

administered a test, but you didn't append the results to the report?

A. [12:14:09] Yes.

Q. [12:14:09] Do you have them? Can you disclose them to the Chamber and the parties?

A. [12:14:14] Well, they are like my handwritten notes, they are working documents.

Q. [12:14:24] But you can provide them to --

A. [12:14:27] If I find them in my records.

PRESIDING JUDGE TARFUSSER: [12:14:32] And if the Chamber disposes so, I would say.

MR JACOBS: [12:14:49] (Interpretation) Yes, of course, your Honour. But we can ask the Chamber to ask the witness for the additional information, the documents having to do with the neurological tests of the person in question.

PRESIDING JUDGE TARFUSSER: [12:15:10] Of course you can. But it was not done yet, so we're not at this stage. But of course you can. But it's on the decision of the Chamber if the witness will provide or not these documents.

MR JACOBS: [12:15:31] (Interpretation)

Q. [12:15:35] After the medical examination of *October 2013, did you have other contacts with the people examined?

A. [12:15:41] No, not at all.

Q. [12:15:45] We are going to go to the next report, which is CIV-OTP-0059-0367. Did the medical examination take place at the same location as the previous person and perhaps on the same day?

A. [12:16:35] It is possible that it could have been on the same day.

Q. [12:16:42] Was there a waiting room for the next witness for the examination?

A. [12:16:50] No. Those were not the conditions. I have told you half a day was devoted to each person. So a person would be called in, and there was a sufficient margin so that people should not wait. So there was no waiting and there was no waiting room.

Q. [12:17:19] Thank you.

In your report, page 0378, and that is page 12 on the document, under "Additional information," you say, "Mr ... presented a file of medical documents, 'naturopathic scanner' with different systems carried out on 9 September 2013. And these elements which are out of the standards that are known cannot be taken into consideration in this expertise. On the other hand, the certificates of the contemporaneous documents of the events of 16 December 2010 were not presented to us." End of quote.

Can you tell us what is a naturopathic scanner?

A. [12:18:53] No.

Q. [12:18:54] And I suppose you did not keep a copy of that naturopathic scanner?

A. [12:19:08] No.

Q. [12:19:09] Apart from those documents, you did not see the full medical record of that person and any document linked to the 16 December 2010?

A. [12:19:22] Yes, that is what I wrote.

Q. [12:19:25] And just to confirm, regarding the additional x-ray that you commissioned, you said that you received it after your return to Belgium and that you did not send the results to the person examined?

A. [12:19:58] Yes, I confirm that.

Q. [12:20:00] And that is the case for all the reports that we are dealing with?

A. [12:20:07] All the examinations that I asked such as x-ray or others were sent to

me after my return to Belgium.

Q. [12:20:24] In your report on page 0372, and that is page 6 on your report, "By the way, there were chest pains that developed and they were treated by precise medication and there was hospital observation which appeared prohibitive because of its cost." End of quote. Now, apart from the x-rays, did you have a heart or lung examination of the person?

A. [12:21:42] There were no indications of heart problems. So after that post-traumatic period, that person no longer complained about the chest pains and there were no indications of heart problems. So there are things that seemed indispensable within the context of my mission. *So to put in place a major internal assessment of the heart conditions did not seem necessary to me, as far as my mission was concerned. This was even more so since he explained that there was another explanation to his chest pains. They seemed different from heart problems. I think that I had already explained yesterday that there is uncertainty in relation to this explanation considering the previous professional background of that man. I did not continue on this path because the x-ray did not indicate that there was any long problem. So looking at the chronology, we came back to the conclusion that these were the consequences of the explosion, which include impact on the ears, tinnitus, and then you have the lungs, the second most sensitive organs, which can be ruptured, and this can extend right up to the thorax and even to death. And the only symptoms that this person had were chest pains and spitting out blood. So you had the tinnitus and so on. So the conclusions that I had in my report are that all of that are likely related to the explosion. Fortunately, those symptoms mostly disappeared or were resolved.

Q. [12:24:22] Thank you. On the same page, and I quote, "Currently he says he is unable to run because he runs out of breath, and he has practically abandoned that activity, and that is football." Did you carry out a test of effort or strength?

A. [12:24:56] The strength test is usually a test carried out by the cardiologist. But for me, my test would be to have him go up and down quickly on a ladder or stairs. *But this test is in fact not necessary, because all you have to do is ask whether he is out of breath or not when climbing the stairs. Previously we had more elaborate tests, but people who are cardiologists and pneumologists have tests that are related to indoor cycling and so on, but that *it is rather from a cardiology angle than a pneumology one.

Q. So if I understand you correctly, you did not carry out an independent clinical assessment of these symptoms. You simply accepted what that person said as a reality?

A. [12:26:01] A medical examination begins with an interview as I have told you. *So the person said he was out of breath, but we did not notice that, so under certain circumstances like running. But we do not see him out of breath, arriving out breath at the practice. And that makes it possible for us to take certain conclusions. And within the context of the examination that I was able to do, there were no discrepancies. So if there was a precise doubt, it would have been necessary to determine the degree of disability of the person, but I was not at that stage yet. We were just about to establish, our job was to establish whether that person had symptoms that would amount to a disability. And that is a question that I tried to answer. I had enough information for that.

Q. [12:27:32] Thank you. In your conclusions, page 0381, paragraph 7, and that is page 15 of your report, you say, "In light of the history of the injuries, the long-lasting injuries and the possible nature of the evolution, consolidation can be considered as established. Given the usual delays of stabilisation of skin scars and the absence of psychological consultation, a delay of 18 months seems to correspond to the stabilisation of the injuries presented." End of quote.

Had the injuries been stabilized at the time that you examined that person?

A. [12:28:46] That is what I wrote in the report. Had we reached 18 months? Yes,

probably if you count 18 months as from the time of the events, yes.

Q. [12:29:07] Except that your clinical examination is done to establish whether the wound is stabilised or not, because the date of the facts is hypothetical?

A. [12:29:24] It is not hypothetical. We were there several years after the events, and so we examined people who had been consolidated over some time, and they were at a stabilisation stage. Here there were two elements that could have prolonged the injury because of the skin injuries and the psychological problems. Those after-effects could last for much longer. So we think that to assess a skin injury, there is a minimum of 18 months to establish that there will be no longer any changes. And for PTSD, without treatment, the prognosis is much more uncertain. But after a few years, it can be established that nothing would change unless there is psychological or psychiatric treatment, and that will also depend on the time that that treatment is given.

Q. [12:31:01] My question was simpler. When you examine a person and you examine injuries or wounds, can you establish whether the wounds are consolidated or stabilised?

A. [12:31:14] Yes, of course.

Q. [12:31:16] My question was whether at the time of the examination, *irrespective of the date, you were able to establish whether the injury had been stabilised or not?

A. [12:31:27] Yes. That is what I wrote.

Q. [12:31:34] If I understand well, if I understand well, 18 months was the date at the time you used. And these injuries could have been there any time more than 18 months. When you say that the time for stabilisation is 18 months, the only certainty that you have is that the injuries were at least 18 months before, that is *April 2012, so this could be 2011, 2010, 2007, 2005. Do we all agree?

A. [12:32:22] *No, I don't agree with you. That is not at all what I wrote. I said a stabilisation could have been suggested earlier. That is probably 18 months after the events.

Q. [12:32:36] Thank you. Now, if you go to page 0374 of your report, and that is page 8, the neuropsychological assessment, and you say that you proposed a PCL-S test to the person. And it is not the same test as the one we talked about a short while ago. So why did you propose a different test?

A. [12:33:39] You know, there are two types of tests. And a priori you wouldn't know which would be the most appropriate. So since I had not seen those people before, a test would be more appropriate sometimes because of the way it is formulated. That is the one that I used in the final analysis.

Q. [12:34:19] So after the first test of P-105, you changed the test, because you thought the test was not appropriate?

A. [12:34:30] *I don't remember if this happened that way, if I wanted to use them one after the other or not. But the choice was obviously based on a test, because it seemed more appropriate.

Q. [12:34:45] Are there different versions of this test, that is the PCL test?

A. [12:35:03] It has been amended and revised, but I cannot give you its history. This is the way it was at the time of the examination.

Q. [12:35:19] And what does the letter S mean in that expression, PCL-S?

A. [12:35:28] Well, I really do not remember. I cannot tell you the answer.

Q. [12:35:40] So let me ask you the same question as before, does it take into consideration contextual and cultural differences?

A. [12:35:59] My answer would be the same as the one I gave you a short while ago.

Q. [12:36:06] And for that test, just like the other, the fact that you had to explain or rephrase questions to the person, it could also have an influence on the results?

A. [12:36:22] I did not say that. I said that there might always be a risk, and we are aware of that, so we are very cautious the way that we deal with that, because there is a little repetition of questions, and depending on the understanding, they can possibly be rephrased in a different way.

Q. [12:36:54] Yes, I have understood that there is a risk of influencing results, and you're aware of that.

Now, still on the same page of your report, 0374, if you can scroll down to the bottom of the page. "The score obtained is 52. The average score in the PTSD presented is 61.21, standard deviation 8.18. For certain of them, the cut-off to be considered generally is supposed to be 50." End of quote.

And you refer to a footnote which relates to an article. Why do you refer to that article in particular?

A. [12:38:08] Specifically because that is one of the references that I came across, and I took the time to read it and familiarise myself with the limits of the objectivity of that test. *So you see that there is little consensus on the values of these scores. It is just an approach, because the first approach is clinical. So that has as much value or even more value than the test itself, which is just an establishment of the medical perception after the interview.

Q. [12:39:08] The article is dated 2003. Are there no more recent studies on the issue?

A. [12:39:17] Well, it is probable, it is likely, yes.

Q. [12:39:24] If you can display document CIV-D15-0004-2936, it is tab 145 on our list of material, and it is public. And that is the article in question. I have a hard copy for the witness.

And if you can go to page 2941, it is the last but one page of the document, if we scroll down to the bottom of the page, please. The last paragraph on the left hand column:

"Lastly, our overall results remain preliminary and it would be preferable in the future to research and reproduce other samples of control subjects and subjects that have experienced trauma." End of quote.

Now, the authors of this study themselves presented their conclusions as preliminary. Why did you not indicate that in your report?

A. [12:42:02] My report is not a work on PTSD. That was not the objective of that reference. I was simply referring to my sources. So the title does not indicate that it is a preliminary research. This is work that was carried out in a very different context, that is therapeutic follow-up of a group of people who were supposedly victims of PTSD. So the objective of the expert work was not to establish the relevance of those studies. These documents existed at the time of my work, and I used it to assist me in my work. So that was the literature that was available at the time.

Q. [12:43:19] So this made it possible for you to give your sources, and you said that for certain people the quota would be 50 per cent. What are you thinking about?

A. [12:43:36] I was referring to other works and other publications. But I did not include them in my references because that was not my objective. *The purpose was only to show the variable nature these cut off, from one study to another, and that one, therefore, had to be cautious about the borderline cases, as I mentioned earlier.

Q. [12:44:09] Thank you.

Mr President, now we are going to discuss the other three reports in private session, these reports that we referred to yesterday. Thank you.

PRESIDING JUDGE TARFUSSER: [12:44:26] Okay. So let's go into private session.

(Private session at 12.44 p.m.)

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(Recess taken at 1.23 p.m.)
(Upon resuming in open session at 3 p.m.)
THE COURT USHER: [15:00:27] All rise.
Please be seated.
PRESIDING JUDGE TARFUSSER: [15:00:57] Good afternoon. Good afternoon to you, Mr Bonbled.
Now this is the last rush, and I give the floor to the Defence for Mr Gbagbo.
MR JACOBS: [15:01:14] (Interpretation) Thank you, Mr President. Can we go to private session?
PRESIDING JUDGE TARFUSSER: [15:01:26] Yes, we can. Let's go into private session.
(Private session at 3.01 p.m.)
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(Open session at 3.11 p.m.)

THE COURT OFFICER: [15:11:17] We are in open session, Mr President.

PRESIDING JUDGE TARFUSSER: [15:11:24] Thank you.

Mr Jacobs.

MR JACOBS: [15:11:27] (Interpretation) Thank you, Mr President.

Q. [15:11:30] We will now move on directly to CIV-OTP-0059-0201, which is number 7 in your folder.

PRESIDING JUDGE TARFUSSER: [15:11:53] And which is witness?

MR JACOBS: [15:11:57] (Interpretation) P-129, Mr President.

Q. [15:12:17] In your report on page 0205, and that is page 5 on the document, the person explains that events occurred on, and I do not mention the date. And when questioned he said, and I don't mention the exact date, and this was to verify his own written statements.

What written statements are we talking about here?

A. [15:13:11] If they were not appended to my report, it means they were not given to me. I can see the phrasing by verifying. So the person who verified possibly would know. So I'm not aware.

Q. [15:13:41] So you did not ask to see them and to consult them?

A. [15:13:47] These are private documents, and if they are of no medical importance, I would not see the relevance.

Q. [15:13:58] On page 0209, and that is page 9 of your report, you note, "He says

that he had difficulties of concentration, but once again contemporaneously his main handicap at the present time is a problem of physical endurance."

In relation to that, I note in your report at page 0206 that that person currently works offloading bags that weigh 50 kilograms.

In your experience, would this type of activity be compatible with problems of physical endurance?

A. [15:15:12] Yes. Let us understand each other. Endurance relates to difficulty after trauma. And to establish the existence of permanent disability, this is necessary. He was working as a mason, if I remember correctly, but he lost that job after the events, and he found this other job because he did not have any choice. So I do not think that the symptoms that he had prevents him from working physically, but they prevent him from working as he worked earlier.

Q. [15:16:19] On page 0210, page 10 of your report, you say that "The examination shows several small scars on the palms of the two hands, particularly on the left, apparently of a professional nature. The only unpigmented scar is attributable to the events concerned. And it's at the level of the thénar, that is in the palm of left hand."

After so many years of the event, how can you determine that a scar would be attributable to the events in question?

(Redacted)

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THE WITNESS: [15:18:20] (Interpretation) I'm sorry. It's because I had the name in front of me.

Q. [15:18:24] Just to understand well, for this person and as for the other people, you based yourself exclusively on the information provided by this person to attribute the causal relationship of the scars without any other sources?

A. [15:18:46] I cannot say yes to the entire sentence that you have made. I do not think that it is the same thing for the other files. Here we do not have a medical certificate like in the other cases, but we have this photograph. We can see that there is a dressing on the hand. I do not have any more information than that, as well as the information provided to me. I simply say that it can be taken into consideration.

Q. [15:19:25] Just to understand you correctly, so when the person did not give you any specific medical documents, the statements that you make in your report are based only on what they say in this particular case?

A. [15:20:09] In this case we are talking about the injuries on the hand. But there are also injuries on the thigh. There are photographs and that also show the presence of a metallic splinter.

Q. [15:20:35] I'm sorry. Just answer my question. When there is no x-ray, when there are no other medical documents, in the absence of those medical documents, which are sometimes present, so you base yourself solely on the information provided by the witness?

A. [15:20:55] We work with what is available to us. And if there are documents, we will look at what we have been given and see whether it is consistent with what we are being told. But in this case, in fact, I continue to think that there is consistency between what I was told and what I could observe.

Q. [15:21:35] Thank you, Mr Witness.

PRESIDING JUDGE TARFUSSER: [15:21:38] I think the question was if this consistency was based only on what the witness told you, without any other medical document?

THE WITNESS: [15:21:58] (Interpretation) In this particular case there were no other documents.

PRESIDING JUDGE TARFUSSER: [15:22:03] Okay.

MR JACOBS: [15:22:04] (Interpretation)

Q. [15:22:32] We are going to go to CIV-OTP-0059-0230, and that is the last one, number 10 in your folder.

Mr President, I'm going to put a question that is identifying for the witness, so I do not know whether we should go to private session or not.

PRESIDING JUDGE TARFUSSER: [15:23:19] Well, if it's a witness who testified in closed session, yes. If it's not, I would say -- I don't know who you are talking about.

MS PACK: [15:23:32] It's P-230. There were no in-court protective measures. Thank you.

PRESIDING JUDGE TARFUSSER: [15:23:36] There were no in-court protective measures?

MS PACK: [15:23:39] For the one my friend is about to deal with, P-230, yes.

PRESIDING JUDGE TARFUSSER: [15:23:46] Yes, okay. So please go ahead.

MR JACOBS: [15:23:47] (Interpretation) Thank you.

Q. [15:23:51] Concerning the psychological evaluation, page 0237, you point out, I don't know whether it is the correct number, you say, "There are symptoms of avoidance and isolation and intolerance to political discourses."

Mr Witness, did you question the witness on the consistency of your observations and his political activities?

A. [15:24:45] What do you understand by an analysis that I would have done on *these political activities? I am a doctor, a specialised physician, what would you have expected from me?

Q. [15:24:55] Let me specify, Mr Witness. You carried out a psychological assessment, and you say there was a renewed intolerance to political discourses. This is part of your analysis. And if we look at page 0236, the person told you that he was secretary general of the rassemblement des grins de Côte d'Ivoire, which was a pro-Ouattara association.
So did you point out this discrepancy between intolerance to political activities and then his carrying out clear political activities?

A. [15:25:42] This is something that emerges spontaneously when the test is applied and when he's asked whether he has symptoms of avoidance, which is one of the parameters of the definition of PTSD. That is how he answered whether he was influenced by his involvement in political activities. That is possible. But I do not think that is the most relevant aspect of the examination. But what is most important is the death of his brother. And he *himself said spontaneously that he does not see very well what he is still suffering from mentally. Is it the consequences of what had happened to him or the consequences of the death of his brother to whom he was very much attached? He, therefore, spoke about those honestly. To me, this is in my analysis, as you put it, the most important point.

Q. [15:27:01] Thank you. Let me go on to a few last questions on the rest of your mission, the sites, the location of your mission. During the finalisation of your report, were you in contact with the members of the OTP?

A. [15:27:22] If you are talking of contacts by mail to submit the documents that we have talked about, the report of the mission, that is appeals to finalise my work, apart from that, there were no other contacts within the framework of this mission.

Q. [15:27:53] And to whom did you submit these final reports?

A. [15:28:02] The person, the people that commissioned me. And I think it passed once again through the forensic unit of the Court.

Q. [15:28:12] Did you have meetings with members of the OTP relating to this report before your testimony here?

A. [15:28:24] One or two times, the 24th or 25th of October, last October, if my memory is correct.

Q. [15:28:34] I would like document CIV-OTP-0104-0016 to be displayed. It is tab 142, and the document is confidential.

This is an email exchange between you and a person from the OTP dated 20 November. And at the beginning, you mentioned "my interview by the Prosecutor at The Hague on 25th October and by telephone on the 9th of November."

I would like to know what that questioning or interview was about?

A. [15:29:45] This is a single intervention and then the mail, it was within the framework of the meeting that I was invited to on 25 October. So the files were reviewed and clarifications were asked from the Prosecutor on certain points of my report, and it was on that occasion that I mentioned the article that was published in 2015 on gynaecological after-effects. The Prosecutor was interested in that and then I sent it to them.

Q. [15:30:37] If I understand you correctly, she asked you questions like she did yesterday?

A. [15:30:48] I cannot tell you that that is exactly how that happened, whether all those documents were reviewed.

Q. [15:30:59] During that interview, the person with whom you were, did they tell you about the scope of your examination here and which topics would be covered?

A. [15:31:15] No, not really. I did not have any more information than I had

before I even got here. I didn't know what was going to befall me once I got here. So that's all the information I had.

Q. [15:31:33] One last question for you. We have talked about several documents, your working documents and notes and what have you. Did you keep any manuscripts of what you did during the medical exams?

A. [15:31:51] I think you asked this question this morning already in another format, but I'm not, I'm not sure. My habit over the last few years has been to throw away a lot of material because my archives were expanding rather rapidly. But it's possible that I might have some material.

Furthermore, you'll want to note that we are increasingly working in electronic format, and so we have less and less paper, particularly when dealing with material that is covered in 2013.

Q. [15:32:32] Thank you, Mr Witness. That will be all by way of questioning.

MR ALTIT: [15:32:36] (Interpretation) Mr President, your Honours, this brings to an end the examination of this witness by Laurent Gbagbo's Defence team.

PRESIDING JUDGE TARFUSSER: [15:32:46] Thank you very much, Maître Altit. Now I ask the Office of the Prosecutor if there is a request for re-questioning?

MS PACK: [15:32:56] No, thank you, Mr President.

PRESIDING JUDGE TARFUSSER: [15:32:59] So thank you very much. Therefore this concludes now your testimony in front of the International Criminal Court. Do you want to say something? No, I just saw you going towards the microphone, so I thought you might want to say something.

THE WITNESS: [15:33:21] (Interpretation) No. I just wanted to greet you, Mr President, and to thank you.

PRESIDING JUDGE TARFUSSER: [15:33:26] So thank you. I want to thank you.

Thank you for having been here.

You can now leave the courtroom. Thank you very much. The court usher will escort you out.

THE WITNESS: [15:33:43] (Interpretation) Thank you.

(The witness is excused and exits the courtroom)

PRESIDING JUDGE TARFUSSER: [15:33:53] And what I have to do now, the only thing I have to do now is to adjourn the hearing to 17 January 2018 at 9.30 for the last Prosecution witness in courtroom 2, by the way, just for you to know, not here, and that's all. I wish you all the best. The hearing is adjourned. Thank you very much.

THE COURT OFFICER: [15:34:20] All rise.

(The hearing ends in open session at 3.34 p.m.)