

Trial Hearing
WITNESS: CIV-OTP-P-0010

(Open Session)

ICC-02/11-01/15

1 International Criminal Court
2 Trial Chamber I
3 Situation: Republic of Côte d'Ivoire
4 In the case of The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé
5 ICC-02/11-01/15
6 Presiding Judge Cuno Tarfusser, Judge Olga Herrera Carbuccion and
7 Judge Geoffrey Henderson
8 Trial Hearing - Courtroom 1
9 Tuesday, 28 March 2017
10 (The hearing starts in open session at 9.33 a.m.)
11 THE COURT USHER: [9:33:15] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE TARFUSSER: [9:33:38] Good morning.
15 Good morning to you, Mr Witness. This is the second day of your testimony.
16 It's also today the OTP questioning, the Office of the Prosecutor, and therefore I give
17 the floor to Madam Pack.
18 MS PACK: [9:34:17] Thank you, Mr President. Good morning, your Honours, Mr
19 President.
20 Good morning to you, Mr Witness.
21 One matter, Mr President. I note that Mr Knoops isn't here. There isn't a
22 co-counsel here representing Mr Blé Goudé. I just wanted to check if he was being
23 represented by Mr Gbougnon this morning or how that -- usually there is one, one of
24 the two co-counsel. Mr Knoops is usually present.
25 MR MACDONALD: [9:34:56] Just to clarify, your Honour, I understand maybe

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1 Mr Blé Goudé has no objection continuing the testimony of the witness without any
2 of his counsels present, either Mr Knoops or Mr N'Dry, who are the named co-counsel.
3 Once we have that confirmation, we can continue. It's not an issue for the
4 Prosecution.

5 PRESIDING JUDGE TARFUSSER: [9:35:22] I think he's well represented by Maître
6 Gbougnon and Maître Zokou. So I think we can continue. Otherwise I think
7 somebody would have said something.

8 MR MACDONALD: [9:35:38] According to the rules, your Honour, one of the
9 co-counsel has to be present. I'm just raising it, the issue. We're not -- it has
10 happened in the past in other cases where there is a permission sought for one of the
11 co-counsels not to be present or both of them are not available. It's not an issue. It's
12 just that Mr Blé Goudé can say, yes, it's fine. I don't want my co-counsel; they don't
13 need to be present.

14 PRESIDING JUDGE TARFUSSER: [9:36:10] I would say there is a -- I didn't get this,
15 but there is no -- I think there is no problem; otherwise it would have been arisen. I
16 think in case, in case Mr Blé Goudé does not agree, he would raise it.
17 (Trial Chamber confers)

18 PRESIDING JUDGE TARFUSSER: [9:36:38] Does the Defence for Mr Blé Goudé
19 want to intervene on this?

20 MR GBOUGNON: [9:36:49] (Interpretation) Thank you, Mr President. Good
21 morning, ladies and gentlemen of the Court.

22 I believe that, as you have well noted, Professor Knoops did indeed warn his client of
23 his absence today, and if you see that the client is not saying anything about it, it's
24 that he is in agreement with regard to the absence of his lead counsel. So we are able
25 to represent these individuals.

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1 PRESIDING JUDGE TARFUSSER: [9:37:27] Yes. This is a silent agreement. I
2 would have said the same and, therefore, I would like the Prosecutor to start with its
3 questioning. Thank you.

4 MS PACK: [9:37:39] Thank you, Mr President.

5 WITNESS: CIV-OTP-P-0010 (On former oath)

6 (The witness speaks French)

7 QUESTIONED BY MS PACK: (Continuing)

8 Q. [9:37:41] And good morning again to you, Mr Witness. I hope you rested well
9 last night.

10 A. [9:37:48] Very well. Thank you.

11 Q. [9:37:50] I'm glad to hear that. Now, we'll just start again with the last topic
12 that we left on yesterday. You had testified about a meeting with the generals
13 attended by Séka. And you had told us that that meeting took place in February
14 2011. I have a couple of follow-up questions about that meeting. You told us it was
15 a meeting of the generals at the état-major. You were there, General Mangou was
16 there. Can you name the other persons who were present at that meeting, please?

17 A. [9:38:36] It was the same general officers and the same senior officers who were
18 in the habit of attending such a meeting; that is to say all the general officers who are
19 within the major command, that is the national marine, the military, the land army,
20 the director general of the national police, the senior commander of the national
21 gendarmerie, myself and a certain number of senior officers who are of the general
22 staff and of the operational cell of the general staff.

23 Q. [9:39:21] And when you're talking about these generals, do you include within
24 their number the commander of the Garde Républicaine or is he not included within
25 the number you're describing, at this meeting, at least?

1 A. [9:39:40] He was not in attendance at said meeting.

2 Q. [9:39:44] Okay. What was Séka's rank at this time?

3 A. [9:39:54] He was chief of squadron; that is to say he was commander within the
4 gendarmerie.

5 Q. [9:40:01] Did you ever have anyone else of that rank or a similar rank come to
6 the état-major and propose measures or operations for the FDS to undertake?

7 A. [9:40:13] Previously we had not had such a request. But I would specify that he
8 did not come to take part in the meeting. He requested of the chief of general staff
9 that he intervene and the chief of general staff submitted this request to us. And we
10 gave him a few minutes to make his presentation. And all of the participants had a
11 discussion on that subject, and the chief of the état-major made the decision to
12 authorise him to make that presentation.

13 Q. [9:41:06] And did you, the generals, ever receive any similar request from anyone of
14 similar rank. *Had you already had this type of request made by somebody of that rank?

15 A. [9:41:30] Prior to that, no. But we were not closed to such a request or that type
16 of a request anyway.

17 Q. [9:41:39] Was it a request that you would expect to be made in the ordinary
18 course, a junior officer requesting to make representations at a meeting of the generals
19 of the FDS?

20 A. [9:42:01] I said that our meeting was not closed off to that type of request if any
21 senior officers, *because Seka was a senior officer.... - when you are a
22 commander, you are a senior officer after all - were there to be any senior officers who
23 had any particular information to impart to all of the generals, then the meeting was
24 not at all closed off to such a request.

25 Q. [9:42:48] I'd like to remind you of a statement in your interview, and I'm

1 referring here to the transcript at 0051-0392. And it's at page 0399, and it is from, it is
2 from line 249. I'll just get my copy in fact.

3 Now, let me just start with line 249, this is what you said in relation to that meeting
4 and the reception of Séka at that meeting. We'll come back to it in fact.

5 Now, I just want to ask you this: Was Séka involved in military actions, in operations?

6 A. [9:45:43] Séka was involved in military operations, but that's another issue. If
7 you want us to broach that, then let's talk about it now.

8 Q. Yes.

9 A. But if you want us to talk about it *subsequently...

10 Q. Yes, yes, yes, let's --

11 A. (Inaudible)

12 Q. [9:45:58] Stop, please. Yes, I would like you -- my question was: Was Séka
13 involved in operations? And if you could answer that question, I would like you to
14 deal with it now. Thank you.

15 A. [9:46:19] My response is not going to be yes and no. My answer is yes, but
16 there are other things that I would like to add, with your leave.

17 PRESIDING JUDGE TARFUSSER: [9:46:26] Do that, please, add what you think you
18 want to add.

19 THE WITNESS: [9:46:36] (Interpretation) He was involved in military operations,
20 but it wasn't that type of involvement that we wanted, and we had him know that on
21 a number of occasions.

22 We were of the opinion that military operations are operations that are extremely well
23 delimited. So it is a whole of collective action, if you like.

24 And in this instant case, the chief of general staff had put together a unified command
25 in keeping with the concept of unity of operations. And we thought that everything

1 had to be done within the context of this unified command. And what we held
2 against Commander Séka was that he would intervene on the ground, but his
3 interventions were not understood within the context or framework of the unified
4 command, and that is what we essentially held against him.

5 Q. [9:47:52] So can you help us with this then, understanding that his interventions
6 were not within the context of the framework of the unified command, how is it
7 possible that he was able to engage in operations on the ground in Abidjan? How is
8 that possible?

9 A. [9:48:24] Well, that's what I'm explaining to you. We were of the opinion that
10 when the chief of general staff in compliance with the regulations took command of
11 operations and when he put together a chain of operational command with general
12 officers in charge of that chain, then one can no longer, no other force can intervene
13 outside of that operational chain of command, which means that whether it be the
14 gendarmerie, the police, the three armies, the CECOS, everyone had to thenceforward
15 in compliance with the rules put at the disposal of the chief of general staff and at his
16 behest the troops that he is requesting and he will then deploy them there according
17 to what he has planned, there where he deems it necessary for them to be deployed.
18 So when the chief of general staff noted - and sometimes the Séka commander was
19 noted out on the ground in the field with a group of men who were also fighting
20 against the Commando Invisible - on that occasion he then reminded him at length,
21 he reminded him at length and vigorously that that type of practice could not go on
22 and that he also, if he is a good combatant and if he is courageous, then it is a good
23 idea for him to place everything at the disposal of the general staff and the
24 operational structure that has been put in place so that all actions be within a specific
25 framework, to be integrated within the operations so that the person in charge of the

1 operations knows that at any moment in time, when he intervenes, it is not at the
2 behest of Mr Séka, but that of the commander of operations.

3 Q. [9:51:02] So just to understand, if he is intervening outside the chain of
4 operational command that you describe, under whose command was Séka operating?

5 A. [9:51:31] If he intervenes outside of the chain of command as I mentioned, it
6 means that he is not under any command and that is specifically what was held
7 against him, that was the chief of general staff, held against him subsequent to his
8 intervention on that day. And that's what I've said on a number of occasions when I
9 spoke to your investigators.

10 Q. [9:51:52] I'm going to read you a part of your interview. I've cited the reference
11 before. I just couldn't find the line number. It's page 0399 of the interview,
12 0051-0392, and it's lines 225 and onwards. And let me just read this out. You were
13 describing your -- the meeting attended by Séka at the état-major, and you say this, I
14 pick it up at line 225: (Interpretation) "One day, during a meeting at the general staff,
15 the meeting of generals at the general staff, when the CEMA called us to conduct a
16 briefing or debriefing, he was there. We, the general officers, said 'What's he doing
17 here?' He has no place here. And we asked the senior commander, myself and other
18 officers, we asked for him to leave the room before we began, that he only has four
19 stripes, he cannot -- it is not his place, his place here. And in addition, he has
20 nothing to do here."

21 (Speaks English) Do you recall stating those words in your interview with the Office
22 of the Prosecutor?

23 A. [9:54:04] Yes.

24 Q. [9:54:09] And is that true? Is that the sentiment that you and the other generals
25 expressed when Séka turned up at this meeting in February 2011?

- 1 A. [9:54:19] Yes.
- 2 Q. [9:54:27] Now, you describe a unit that Séka was with. Did he have men under
3 his command?
- 4 A. [9:54:39] Yes.
- 5 Q. [9:54:45] Do you know from where these men came?
- 6 A. [9:54:53] I know that there were some gendarmes, but I don't know who the
7 others were. I know that there were some gendarmes.
- 8 Q. [9:55:02] Do you know what their number was, how many of them there were?
- 9 A. [9:55:08] I do not know.
- 10 Q. [9:55:12] What about the equipment they had at their disposal, do you know
11 anything about that?
- 12 A. [9:55:21] Well, they had vehicles. They had plain vehicles. They also had
13 AK-47s that I talked to you about yesterday. They had unmarked vehicles.
- 14 Q. [9:55:37] Do you recall any particular operations in which they were engaged,
15 Séka and his men?
- 16 A. [9:55:49] I'm not in a position to know because I myself was not out on the
17 ground.
- 18 Q. [9:56:01] Now, after you left service -- and before I ask the question, can you tell
19 us when did you leave service as commandant of CECOS, commander of CECOS and
20 commander of the école de la gendarmerie? Can you give us the date,
21 approximately if necessary?
- 22 A. [9:56:28] Officially in July 2011.
- 23 Q. [9:56:39] And during the crisis, when did you leave the école de la gendarmerie?
- 24 A. [9:56:47] On 31 March 2011.
- 25 Q. [9:56:58] And I'm asking you about Séka. When you left the école de la

1 gendarmerie, do you know what happened there afterwards? Who came to take
2 over the school?

3 A. [9:57:16] It was reported back to me that when I left the school, the commander,
4 Séka, came to the school a few days later and he set himself up more or less at the
5 school. When I say "he set himself up," I mean thereby that in a sense he took the
6 various people who had remained at the school under his command. That was what
7 was reported back to me.

8 Q. [9:58:02] And at this time, you've mentioned earlier two CECOS units that were
9 based at the school, you mentioned the BMO and you mentioned the groupe d'appui.
10 Were those units still there at the école de la gendarmerie when you left?

11 A. [9:58:19] When I left my post, all of the interns and students and officer students
12 were put on leave. We decided for their own safety that they be put on leave,
13 because we had specific information that the school was an objective, a target, and
14 that I myself was a target. So we had information to that effect. And we sent most
15 of them, the first and second year students and the officer students, we sent them
16 away.

17 We requested that a group of elements from CECOS, a very small group, remain at
18 the barracks to provide security. But were the rapport de force change, were there to
19 be any attack, then they could pull out. Those were the instructions that we left
20 behind.

21 Q. [9:59:40] Can you name any of the CECOS elements who remained?

22 A. [9:59:47] I cannot give you the names because I left instructions before I left. I
23 gave instructions to their chief during a meeting before I left, so it was implemented
24 after me. So as for those who remained, I cannot give you the details of their
25 identities.

1 Q. [10:00:26] And who was the chief to whom you are referring?

2 A. [10:00:29] It was Captain Fofana. It was to him that I gave instructions before I
3 left.

4 Q. [10:00:49] Now, we spoke about Zoh Loua earlier. Do you know if he
5 remained at the école de la gendarmerie after you left?

6 A. [10:01:06] To begin with, he was not in charge of any unit. Secondly, he lived
7 in the barracks. So whether he remained or not, I cannot tell you that today. But
8 what I know is that he was living in that barracks. He was also unwell for quite a
9 long time during the entire duration of the crisis; he was unwell and at home. Before
10 I left he was at home, so it is highly likely that he left because -- that he stayed back
11 because he was living there.

12 Q. [10:02:06] Do you know anything about the relationship between him,
13 professional relationship between him and Séka, Zoh Loua and Séka?

14 A. [10:02:16] I cannot prejudge what happened afterwards because it is another
15 issue altogether. But before that period that we are talking about, there was no
16 professional relationship because Commander Séka was not working within the
17 gendarmerie units. He had been seconded to the presidency of the republic.

18 Q. [10:02:58] Okay. You say you can't prejudge what happened afterwards. Did
19 you learn what happened after you left in relation to Zoh Loua and Séka?

20 A. [10:03:14] Well, this is information that I received afterwards. Yes, I did receive
21 some information subsequently.

22 Q. [10:03:36] Can you tell us what that information was, please?

23 A. [10:03:44] Commander Séka took Captain Zoh Loua under his authority. He
24 integrated him into his structure and they were now in the field.

25 Q. [10:04:05] And who was commander of the CECOS units at this time, at this

1 point when Séka took Zoh Loua under his authority?

2 A. [10:04:17] Well, I had left, so there was no longer any commander at CECOS. I
3 had left for security reasons *to put myself out of harm's way, so there was no longer
4 any command, *nor any commander at CECOS.

5 Q. [10:04:46] Okay. I'm going to refer to your interview again, and it's at
6 0051-0392, with the OTP prefix, and it is at page 0412, and it's line 714 and onwards to
7 line 719. And I'll just read it in advance of it coming up very slowly, quote:
8 (Interpretation) "I learned later on ...

9 Interviewer 1: Mm-mm.

10 Interviewee: ... that when Séka came and took over responsibility at the barracks, he
11 took under his command the CECOS units which had remained at the gendarmerie
12 school.

13 Interviewer 1: Very well.

14 Interviewee: And he designated Zoh Loua as the person responsible for those units."
15 (Speaks English) Do you recall stating that in your interview, those words?

16 A. [10:06:45] Yes, that was my statement.

17 Q. [10:06:48] And were the words stated there, were they true and accurate?

18 A. [10:06:54] That is what I was told. I had already left. But this is what I was
19 told. That is precisely what I said, and you can see how it begins: "I was told that."

20 Q. [10:07:16] And just to finish up on this, who told you this?

21 A. [10:07:22] I received a lot of information. I was with some members of my security
22 detail. They telephoned other people and they gave them that information *and then
23 they told me. And that is not all, as there was another episode that is in the document
24 that you have perhaps not seen. There was also Commissioner Robé, who was at home
25 for security reasons, and that is in another document that you may not have looked at.

1 When he heard that Séka was at the gendarmerie school and that he wanted to take over
2 control of the CECOS elements there, Commissioner Robé came to the gendarmerie
3 school to tell him that if the CECOS commander was not there, he as an operational
4 officer was coming to take under his responsibility the elements of the CECOS.

5 And in the army, there is a hierarchy *that reflects rank and stripes. Robé was a
6 lieutenant colonel and Séka was *a commander. But he refused that Robé should take
7 over command of his men. And since he was threatening, Robé returned home.

8 And when I heard about that, I told the supreme commander over the telephone. He
9 was not happy. But even though you have not specified this, it was between the 2
10 April and 10 April 2011, and there was widespread chaos in Abidjan. Even though
11 we did not agree, there was not much that anyone could do given the critical situation
12 in Abidjan. So we have to define the period of these events. This is something that
13 happened between the 1st and 2nd of April and the end of the crisis.

14 Q. [10:09:58] Thank you for that clarification, particularly on the dates. And in
15 that time frame, those dates, where were you physically situated?

16 A. [10:10:09] I had taken shelter. I had gone into hiding because I had received
17 information that I was a target and that the gendarmerie school was a target also. A
18 few days later the school was shelled *by helicopters on several occasions, and the
19 shells fell in the compound that I had been living in. And when I returned on the 13th,
20 14th April, I realised that some shells had fallen in that compound where I had been living.

21 Q. [10:10:55] And where did you take shelter in that period, in that interim period?

22 PRESIDING JUDGE TARFUSSER: [10:11:00] Is this important?

23 MS PACK: [10:11:02] It's all right, I can leave it.

24 PRESIDING JUDGE TARFUSSER: [10:11:03] No, because I think that's the reason
25 why he took shelter --

1 MS PACK: [10:11:07] Yes.

2 PRESIDING JUDGE TARFUSSER: [10:11:07] -- in order not to know. Thank you.

3 MS PACK: [10:11:09] Now we'll go on to another topic.

4 Q. [10:11:11] You were touching, we've been talking about meetings that you
5 attended with the CEMA, and we'll talk about more of those later. Did you know
6 whether the CEMA also himself reported to his superior?

7 A. [10:11:43] The chief of staff has to report to his superiors. But I was not present with
8 him. Logically, he has to report to his superiors. But I cannot tell you categorically that he
9 did so. But I suppose that in the hierarchy of the army, people always report to their
10 superiors. But these suppositions that I am making, he must have reported to his superiors.

11 Q. [10:12:15] Did he tell you ever in meetings whether or not he had received
12 information from, instructions from or whether he was reporting to his superior? Is
13 that information that you ever received from him directly?

14 A. [10:12:34] Ma'am, generals are very senior officials in any country. They're
15 very senior authorities. And as senior authorities, their missions are already defined
16 by the instruments in force. You can report, but you don't run after instructions
17 because the instructions are always already in the texts.

18 So when we had meetings, the chief of staff obviously reported, but I was not there.
19 So the instructions are in the texts. But which other instructions would you want to
20 be given when we were already in the crisis and we knew what had to be done in the
21 time of crisis or at a time of war?

22 Q. [10:13:49] Just before I refer you to your interview, who was it, when we're
23 talking about the superior to whom the chief of staff obviously reported, who
24 obviously was that?

25 A. [10:14:04] In our system, the chief of staff has as his superior the minister of

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1 defence and also the commander of the armies, who is the president of the republic.

2 Q. [10:14:32] And insofar as the president of the republic is concerned, did you
3 hear from the CEMA ever information about his contacts with the president, whether
4 or not he reported to him or received instructions from him?

5 A. [10:14:54] The chief of staff is in contact with his superiors regularly, just like we
6 are in regular contact with the chief of staff, because he is our superior. Whether it is
7 physical contact or phone contact, it happens regularly. That is what the situation is.

8 Q. [10:15:28] Okay. I'm just going to refer very briefly to your interview, one of
9 your interviews. This was actually the October 2011 interview. And the transcript
10 is OTP prefix and then it's 0016-0104, and the page is 120, and I'm going to be
11 referring to line 576 to line 583. And I'll start reading it slowly as it comes up, quote:
12 (Interpretation) "Person interviewed: On the other hand, the chief of staff reports
13 to the president, and he does that regularly, maybe even on a daily basis.

14 Investigator 1: But how do you know that, that the CEMA had direct contact with
15 the president? How is it that ...

16 Person interviewed: But he says so, he says it, and often, when we are in a meeting,
17 he receives a message that the president needs him and then he goes to ... he leaves us
18 there and he goes to speak with the president, and then after, he returns to where we
19 are. While we are waiting, he comes back to us. The daily contact meetings with
20 the president, those are certain."

21 (Speaks English) Can I ask the question before there's an objection?

22 PRESIDING JUDGE TARFUSSER: [10:18:10] Yes, I don't know to what you object
23 now.

24 MR GBOUGNON: [10:18:19] (Interpretation) Mr President, she can ask her
25 question, but in any case I would like to ask that the witness leave the courtroom

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1 before I make my intervention.

2 PRESIDING JUDGE TARFUSSER: [10:18:35] Please ask the question.

3 MS PACK: [10:18:37]

4 Q. [10:18:38] Now, just can you confirm that those are the words that you stated in
5 your interview?

6 A. [10:18:53] It is not only what I stated, but it is precisely the same thing that I'm
7 telling you right now.

8 Q. [10:19:00] Okay.

9 So, your Honour.

10 PRESIDING JUDGE TARFUSSER: [10:19:06] Mr Witness, Maître Gbougnon from
11 the Defence of Mr Blé Goudé wants to intervene, and I would ask you to leave the
12 courtroom for the time being. Thank you.

13 Can you please, court usher, accompany the witness outside.

14 (The witness stands down)

15 PRESIDING JUDGE TARFUSSER: [10:19:34] You can stay here.

16 MR GILISSEN: [10:19:36] Okay.

17 PRESIDING JUDGE TARFUSSER: [10:19:49] Maître Gbougnon.

18 MR GBOUGNON: [10:19:51] (Interpretation) Thank you, your Honour.

19 Mr President, I would like to make a contextual observation. The French language is
20 very precise. When the Prosecutor starts speaking, she talks about instructions that
21 the witness may have heard about the relationship between the chief of staff and his
22 superiors, page 18, as from line 4, or whether he received instructions from the
23 president. When he's confronted with his statement, they talked about contact.

24 Now, but is contact the same thing as instructions?

25 By using the two terms interchangeably, it can mislead the witness. The witness has

1 said they have regular contacts. That is what is said in his statement, which is being
2 read.

3 But when you look at the questioning, there is confusion between instructions and
4 contact. So the Prosecutor has to be very specific. I do not know whether it is the
5 interpretation that is not accurate, but in French, instructions and contacts are not the
6 same thing at all. That is what I wanted to say, Mr President.

7 PRESIDING JUDGE TARFUSSER: [10:21:35] Maître Altit.

8 MR ALTIT: [10:21:37] (Interpretation) Thank you, Mr President. Mr President, I
9 would like to seize this opportunity of this discussion to make my own observation
10 on the procedure used by my learned friend, my excellent friend. When she uses the
11 witness's statement, it is not to confront him with statements that are contrary to what
12 he is saying here. In reality, the Prosecution wants to have in the record the precise
13 details and the wording used when the statement was given. You can see the
14 problem. The problem is that she asks a question and he answers, but his answer is
15 not totally satisfactory to the Prosecutor, so she reads out part of his statement, and
16 that part of the statement is now on the record.

17 So this is a way of circumventing the logic of her questioning, because nothing
18 prevents her from asking the same question that the investigators asks. She can ask
19 that to the witness, but that is not the objective. The objective is to have the exact
20 wording used in the statement, which was taken under the circumstances that we all
21 know.

22 So I am putting my reservation on record. So the Prosecutor has to ask the questions
23 that she thinks are necessary, even if they are the same questions that were put to the
24 witness by the investigators of the OTP.

25 And it is being pointed out to me that you have confrontation and then refreshing

1 memory and then asking questions. These are three different things, and we will all
2 benefit if the questions are asked directly and even if the witness's memory is
3 refreshed.

4 Those were my observations, Mr President.

5 PRESIDING JUDGE TARFUSSER: [10:24:21] Thank you.

6 The OTP.

7 MS PACK: [10:24:26] I'm not, I'm not wholly clear what the objection is to which I'm
8 responding. But insofar as the comments are concerned --

9 PRESIDING JUDGE TARFUSSER: [10:24:34] Both.

10 MS PACK: [10:24:35] -- the broad gist is an objection to the use, I believe is an
11 objection to the use of the statement in this particular circumstance.

12 PRESIDING JUDGE TARFUSSER: [10:24:42] But first is the objection or the
13 intervention by Mr Gbournon --

14 MS PACK: [10:24:49] Well --

15 PRESIDING JUDGE TARFUSSER: [10:24:49] -- on the language and then on the
16 statement, the use of the statement.

17 MS PACK: [10:24:54] Quite frankly, I looked at my question again. It was a
18 compound question: Were you asked, did you hear about contacts, instructions or
19 reports from the president? And he responded as he did, and insofar as I was
20 concerned, I considered I had gone as far as I could go in terms of getting responses
21 viva voce, and so then took him to the statement to deal with what he had said
22 previously quite clearly to the investigators during his interview.

23 I considered I had gone as far as I could go, and that was -- and properly went to the
24 statement, your Honours. Really, I'm in your hands entirely, and if there is anything
25 ever objectionable about my use of the prior statements, of course I will refrain from

1 so using them. But I thought then that I had gone as far as I could go and then went
2 to the statement to take matters further.

3 PRESIDING JUDGE TARFUSSER: [10:25:51] Maître Gbougnon.

4 MR GBOUGNON: [10:25:55] (Interpretation) Mr President, in the last part of what
5 the Prosecutor has just said: "I will read out paragraph 27 of your directives, "The
6 parties are strongly urged to avoid long and complex questions that could disturb the
7 witness or mislead him." I think that is what we have to avoid, especially since we
8 have interpretations on both sides.

9 PRESIDING JUDGE TARFUSSER: [10:26:41] Yes. Let me answer briefly. I think it
10 is difficult to mislead this witness and to disturb this witness. I think this witness is
11 very, very strong in answering whatever he wants to answer. It's very difficult to
12 mislead this witness. Therefore, obviously, the language used in English, I'll read it
13 and hear it in English, so I cannot intervene on the precision on the wording used, but
14 I did not find very many mistakes in the way it was translated. I think we got it the
15 right way, the way it was intended by the witness himself.

16 On the other side, as to the use of the statement, well, I think it was correctly used
17 because the questions asked by Madam Pack were questions to which the witness
18 responded as he recalls now. And obviously it was more precise or more detailed in
19 the past. And by confronting him with this, with what he said in the past, it is then
20 the answer of the witness which solves the problems because he said "Yes, it's
21 exactly," twice I think he said, "Yes, it's exactly what I said and that's what I meant
22 and I said also here," only in a maybe less precise way.

23 So I think it was correctly used, and therefore I invite the Prosecutor to continue after
24 we have the witness in again.

25 So please, can the witness be brought in again.

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1 (The witness enters the courtroom)

2 PRESIDING JUDGE TARFUSSER: [10:29:21] Well, there must obviously be a
3 significant difference between what is said here and what was said there, of course.

4 MS PACK: [10:29:50] Of course. I don't use it --

5 PRESIDING JUDGE TARFUSSER: [10:29:52] Yes.

6 MS PACK: [10:29:54] -- to perfect evidence.

7 PRESIDING JUDGE TARFUSSER: [10:29:55] Well, if he said the same thing only in
8 other words, who cares? But there must be a significant difference in order to use
9 the prior statement.

10 MS PACK: [10:30:07] Understood.

11 PRESIDING JUDGE TARFUSSER: [10:30:08] So please, Madam Pack, go ahead.
12 Thank you.

13 MS PACK: [10:30:11] Thank you, Mr President.

14 Q. [10:30:12] Mr Witness, we're going to continue, moving on actually to another
15 topic. What I wanted to ask you about was your power to sanction CECOS elements
16 for misconduct, whether you had such a power. Were you able to sanction CECOS
17 elements for misconduct?

18 PRESIDING JUDGE TARFUSSER: [10:30:50] Maybe before asking if he sanctioned,
19 the prior, the first question would be if there was in his knowledge some misconduct
20 by CECOS people.

21 MS PACK: [10:31:05] Well, I thought I would leave that for a separate -- perhaps
22 need to go into private session for questions like that. But to keep the general
23 matters public for the moment, if your Honour -- with your Honour's permission.

24 PRESIDING JUDGE TARFUSSER: [10:31:17] Yes, of course. But I think this would
25 be logically -- whatever logic to start with asking this, I would suggest. But it's okay.

1 MS PACK: [10:31:32] No, I will go with your Honour's logic because I think your
2 Honour is, of course, right.

3 Q. [10:31:37] Let's just start with this. To your knowledge, did you become aware
4 at any time as commander of CECOS of misconduct on the part of CECOS elements?

5 A. [10:31:51] Before I answer your question, whilst I was out of the room, whilst I
6 was seated outside, I was thinking a little bit as to how it is unusual for the chief of
7 general staff, who conducts operations during a crisis, sees his chief, that is, the chief
8 of the armies and minister of defence, why is it unusual for him to see him on a
9 regular basis during a time of crisis? That's what I said earlier, and I maintain that
10 the chief of general staff reported to the president, and he saw him if possible, but he
11 reported back to him on the telephone. We were during a crisis. We were at war.
12 The chief of the general staff saw him on a regular basis, and I think there is nothing
13 unusual about that.

14 Now let me come back to your question.

15 Q. [10:32:51] Thank you. Please do go ahead with the question. I'll just remind
16 you, broadly, and this is a broad question, to your knowledge, did you become aware
17 of misconduct on the part of CECOS elements at any time as commander of CECOS?

18 A. [10:33:09] Yes.

19 Q. [10:33:14] And again a broad question, what was it that was the process that
20 then followed when you became aware of misconduct on the part of CECOS
21 elements?

22 A. [10:33:28] In the military system, whether it be in Côte d'Ivoire or any other
23 country of the world, the chief, whenever an element is behaving excellently,
24 whenever he does anything out of the ordinary, something exceptional, he is
25 recompensed. However, when he commits acts that are contrary to military ethics or

1 contrary to the regulations, then he is sanctioned.

2 And within the CECOS, we did not side step that rule. And during the discussion with
3 the investigators, I gave them a number of disciplinary sanctions that were given rise
4 subsequent to mistakes committed by CECOS elements. These were not only disciplinary
5 means, they were also prosecutions, *if it was a criminal offence, and I said that by giving
6 examples. And if that's what you are attempting to find out, then that's my answer.

7 Q. [10:34:47] Yes, this is what I am attempting to find out. And I'll show you one
8 of the documents that you gave the investigators, OTP investigators, in a moment.
9 But just to be clear, what was the process that was followed in the event that you were
10 informed -- that it came to your knowledge that CECOS elements had engaged in
11 misconduct? What was the process that you as commander would follow in those
12 circumstances?

13 A. [10:35:25] Are you talking about the means by which I am informed or are you
14 talking about the manner in which I dispense these sanctions?

15 Q. [10:35:44] Let's start with the means by which you are informed. So how are
16 you informed of misconduct by CECOS elements? And if it's necessary to
17 distinguish between those who are military or gendarme or police, then please do
18 also say.

19 A. [10:36:04] All means of communication, information, were used. Yesterday we
20 talked about the structure of CECOS, and the various chiefs that were under my
21 responsibility who have men under their command report back to me and take
22 measures at their level that they take if the mistake is deemed to be sufficiently
23 serious. And I would go on to add that the measures taken in allowing me to do so
24 as commander of the CECOS, so then the punishment is heavier. If the misconduct
25 is in keeping with the initial sanction meted out, then I will align to that as

1 commander.

2 Now, some people within the population, because we had given out numbers,
3 telephone numbers, throughout the population that we could be reached through, if
4 the population saw that there were shortcomings in the behaviour of our elements, so
5 the population could seize us of the matter and inform us of such and such a
6 shortcoming at their level.

7 Then we would lead investigations because we would not want to expose our men to
8 hearsay and rumours that are unfounded. So we would then lead investigations,
9 and if it is established that the alleged facts are true, then we would mete out
10 sanctions that are deemed necessary.

11 Q. [10:38:20] On the topic of investigations, who would carry out investigations
12 upon your receiving information of misconduct on the part of CECOS elements?

13 A. [10:38:40] We could request that the commander in charge *or the officer
14 responsible for the misconduct be asked to commit the investigation with regard to
15 the misconduct committed by his element.

16 We could also ask him -- and you saw yesterday that within the context of our central
17 instructions, there is an intelligence organ that is essentially judicial in nature, and we
18 could ask those elements to conduct investigations with regard to the facts that have
19 been reported back to us in order to ascertain whether they are true or not.

20 Q. [10:39:28] And when you are talking about the commander in charge, you're
21 talking about the sector commanders, are you, and also the commanders in charge of
22 the units, specific units you've mentioned in your testimony, the groupe d'appui and
23 the BMO?

24 A. [10:39:46] Yes.

25 Q. [10:39:46] Now, I'll ask you to look at a document. It's CIV-OTP-0048-1562.

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1 And it's item 28 on the list of material for my learned colleagues.

2 This document will come up on the screen. I believe it's a document that you
3 yourself gave to the OTP, but let's just wait for it to come up.

4 Now, just for the record it's dated 18 January 2009, this document. And it's headed
5 CECOS, in effect, and it's a report.

6 And a report, it says, quote (Interpretation) "From the Brigade General Guiai Bi Poin
7 Georges."

8 Question: Do you recognise the document, just looking at the front page?

9 A. [10:41:13] I do not have it before me.

10 Q. [10:41:17] You need to press evidence 1. If your learned counsel could perhaps
11 press evidence 1 for you, then it should come up.

12 I have it in hard copy as well. So perhaps while, Mr court officer, while he's up, then
13 perhaps we could just --

14 THE WITNESS: [10:41:35] (Interpretation) I have it now.

15 PRESIDING JUDGE TARFUSSER: [10:41:39] It's not a long document, so I think we
16 can go with it.

17 MS PACK: [10:41:43] Right. So there we are.

18 Q. [10:41:44] Do you recognise this document?

19 A. [10:41:46] Yes.

20 Q. [10:41:49] It's a document that was provided to the OTP by you?

21 A. [10:41:59] Yes.

22 Q. [10:42:02] Now, can you just broadly tell us to what it relates?

23 A. [10:42:08] This is a punishment report.

24 Q. [10:42:17] Of whom?

25 A. [10:42:21] It is a punishment report that the commander of the CECOS draws up

1 against one of his elements. So it is a sanction that I took and that I naturally sent to
2 the organic command of the element concerned.

3 Q. [10:42:51] And the organic command, of course, is the gendarmerie; is that
4 right?

5 A. [10:42:57] Not the organic command. The organic command of the element
6 concerned is the gendarmerie, yes.

7 Q. [10:43:10] So this gendarme -- let me just ask, if we can just go to page 1568 of
8 this document. In fact, sorry, can we go to page 1567 first and then we'll go to the
9 other one.

10 And just before I ask the question, these are disciplinary proceedings, are they?
11 They're not criminal proceedings? Are they disciplinary proceedings?

12 A. [10:43:49] This is a disciplinary proceeding.

13 Q. [10:44:01] And here we see you identified as the authority demanding sanction.
14 And just above that, we see the name of the individual concerned and his unit, the
15 CECOS groupe d'appui. Is that the unit that we've been speaking about earlier?

16 A. [10:44:27] Yes.

17 Q. [10:44:29] And if we look at the following page, at 1568, we see there in the
18 bottom right, if we could just look at the name and the signature there. Do you
19 recognise who that, the -- well, we see there Fofana Aboubacar, who was the chef of
20 the groupe d'appui. Is that the same individual you were talking about earlier?

21 A. [10:45:03] Yes, yes.

22 Q. [10:45:11] And was there a need, in this process, was there any need for a
23 decision on the part of the commandant superior of the gendarmerie to impose a
24 punishment on this element, CECOS element, or was it a decision that you were
25 simply able to make?

1 A. [10:45:28] In the system itself, the elements that are working within the CECOS
2 are placed at the disposal of the CECOS commander. And all of the administration
3 is the responsibility of their organic command. So if I have sanctions to take, I draw
4 up a report, I make proposals for sanctions with the reasoning, and I address this to
5 the senior commander of the gendarmerie, who, generally speaking, unless there are
6 any dysfunctioning in my report or any shortcomings in my report, then, generally
7 speaking, he will support the measures that I am suggesting.

8 Q. [10:46:41] And just to follow on from that, to whom then is this report
9 addressed?

10 A. [10:46:50] The page was up on the screen that you just took away. You should
11 look in the left, bottom left-hand corner thereof.

12 Q. [10:47:05] Okay. We'll look at that then, please. Page 1562, bottom left corner.

13 A. [10:47:21] That is the recipient.

14 Q. [10:47:26] So who was that then? What do those acronyms indicate?

15 A. [10:47:33] The senior commander of the national gendarmerie.

16 Q. [10:47:42] And finally on this document, at page 1569, if we could just turn to
17 that, and we can see there that there's a stamp bearing your name in the block reading,
18 quote, "Avis des chef hierarchiques." And then there's a block down below that says
19 7, if we go down the page, it says, "7 Decision du commandant superieur de la
20 gendarmerie," (Interpretation) decision of the senior commander of the gendarmerie.
21 (Speaks English) And understanding your evidence just now about how the process
22 worked, can you just tell us how these two blocks in this table relate to your
23 evidence?

24 A. [10:48:51] I do not understand your question.

25 Q. [10:48:53] I'll make it clearer. You have your advice there at the top, and then

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1 did your advice then await a decision at the bottom there from the commandant
2 superior de la gendarmerie?

3 A. [10:49:04] So in the document that was up on the screen earlier, you saw that it
4 was signed by the unit commander, Captain Fofana Aboubacar. That was at the first
5 level *that requests... proposes the sanction.

6 Then it comes to me. I confirm the sanction and I say that he should be suspended
7 for eight days * without deferment. And I sign and I commit to the senior, and I send it or
8 transmit it to the senior commander. Then it's up to him to confirm or to, if he's of the
9 opinion that the dossier that I have compiled is not in keeping with the opinion of
10 him being suspended for eight days, then *he can adjust, or cancel, or confirm or
11 make the sanction more serious. I cannot prejudge the sanction that will come from
12 the commander after my decision has been taken.

13 THE INTERPRETER: [10:50:19] Request from the interpreter: Could the witness
14 please be requested to slow down.

15 THE WITNESS: [10:50:24] (Interpretation) So it is not necessarily associated with
16 what I have written. He can re-examine the entire dossier. He can also confirm.

17 MS PACK: [10:50:39]

18 Q. [10:50:40] The interpreters have just asked, in fact, if you would slow down in
19 your responses. And I have to be aware of that, too. I pause before I continue with
20 a new question, and if you could also just keep the pace reasonably slow, as slow as
21 you can. Thank you.

22 A. [10:50:58] Thank you.

23 Q. [10:50:59] Now, the process you've described with reference to this document
24 related to a gendarme. Did a similar process apply in relation to soldiers or
25 policemen who are under your command as CECOS elements?

1 A. [10:51:23] With regard to soldiers, it is more or less identical to the procedure
2 applied for gendarmes, because it is virtually one and the same corps. We shouldn't
3 forget that we are called the soldiers of the gendarmerie. So the procedure is the
4 same.

5 For the police, it's a little bit different. I draft a report, a written report that I address
6 to the director general of the police, and then it's up to him to confirm the measures
7 that I have taken.

8 Q. [10:52:15] And was there an alternative process where there was evidence of a
9 criminal offence in relation to a CECOS element or was it the same process?

10 A. [10:52:41] No. In terms of a criminal offence, of course we call either upon a
11 police station or the national gendarmerie. We place our men at the disposal of the
12 gendarmerie brigade or the police station, and they work under the authority of the
13 national prosecutor, because there are two prosecutors in Abidjan, whether it be
14 Yopougon or the other communes of Abidjan.

15 Q. [10:53:30] Okay. We can move on to another topic. We could probably deal
16 with it briefly. We have a break in a few minutes, I think, because we usually have a
17 morning break at about 11. But let me just ask you about a different topic, which is
18 the wider legal framework of the FDS.

19 Now, are you aware of the 1967 law which regulated the conditions of participation of
20 the armed forces in public order in Côte d'Ivoire?

21 A. [10:54:23] Yes, I do have a certain knowledge, but I do not have a specialised
22 knowledge of it.

23 Q. [10:54:36] We'll take a quick look at it. It's item 34 on the list of material, and its
24 ERN is CIV-D15-0001-6219. And we're not going to spend too long on it, but let me
25 just ask you to help us with a couple of articles.

1 Perhaps with this one a hard copy, because it's very closed font, a small font, so
2 perhaps if the witness could be given a hard copy, we have one here, it might just be
3 easier on, easier for him to look at it. Thank you. And this document is public.
4 Now, if we can just look at Article 2.
5 Okay, I'll just read it, I'm not going to go through every single article like we did with
6 the CECOS decree, but just briefly I'll read, quote: (Interpretation) "This decree aims
7 to outline the conditions of the participation of armed forces in law enforcement."
8 THE INTERPRETER: [10:56:53] Message from the interpreter: This is not article 2.
9 We cannot see where you are reading from. Thank you.
10 MS PACK: [10:57:00] Okay. If we can just go down on the page, I'm sorry, I should
11 have told the court officer, if we can just go down a bit. There we are, Article
12 2 -- stop -- is there at the top. Thank you.
13 Actually, if we could go down a little further to Article 4, which is at the bottom of the
14 page, and it says, I'll read again, quote (Interpretation) "Law enforcement is normally
15 maintained by the police and the gendarmerie and in complement, if necessary, by
16 the units of the land forces, the navy and the air force."
17 (Speaks English) And just finally, Article 3, sorry, going up a bit, second paragraph of
18 Article 3, up a bit on the page, thank you, just the second paragraph of Article 3 so
19 you can follow, which is on the same page, page 6219 (Interpretation) "Military
20 authority cannot be put into action by civilian authority aside from a requisition
21 coming from authorities named in Article 11 hereunder."
22 (Speaks English) And so it goes on. Now, I've taken bits of the law, and obviously
23 the law needs to be read as a whole, but just looking at those sections and
24 understanding that you, as you've indicated you have -- you know the law, what is
25 the meaning and effect of broadly, very broadly, the meaning and effect of these

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1 provisions insofar as engaging the military in public order is concerned; what was the
2 point of these provisions?

3 A. [10:59:27] Shall we read through it again then?

4 Q. [10:59:40] Well, let me ask you this, because I think you can just read it, but was
5 it necessary to requisition the military, was it required, was a requisition required to
6 engage the military in public order in Côte d'Ivoire?

7 PRESIDING JUDGE TARFUSSER: [11:00:04] Maître Gbougnon.

8 MR GBOUGNON: [11:00:06] (Interpretation) Mr President, the witness is here, so I
9 don't really want to -- I don't think this is the right question to put.

10 PRESIDING JUDGE TARFUSSER: [11:00:20] But can the witness now intervene on a
11 law and criticising or giving his assessment? I mean, the law has stated this.

12 MS PACK: [11:00:32] No. I don't ask for his assessment of it, but simply he's a man
13 who is senior position in, a commander in CECOS, the général de division, this is a
14 law about public order and the use of the military in public order, just to know, is he
15 familiar with this, the effect of this law is to require a requisition to get the military
16 engaged in public order activities, something I think he can well answer and probably
17 tell your Honour if he can't answer that question.

18 PRESIDING JUDGE TARFUSSER: [11:01:02] Well, can you answer this question,
19 Mr Witness?

20 THE WITNESS: [11:01:05] (Interpretation) I wanted the question to be a bit more
21 specific, because so far I do not quite understand the substance of the question. I
22 really need further details for me to be able to provide the answers that I can provide,
23 because I cannot give you all the answers.

24 PRESIDING JUDGE TARFUSSER: [11:01:39] So I give half an hour to the Office of
25 the Prosecutor to think about the question and stop here for the break and come back

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1 at 11.30. The hearing is adjourned.

2 THE COURT USHER: [11:01:58] All rise.

3 (Recess taken at 11.02 a.m.)

4 (Upon resuming in open session at 11.35 a.m.)

5 THE COURT USHER: [11:35:30] All rise.

6 Please be seated.

7 PRESIDING JUDGE TARFUSSER: [11:35:59] Maître Gbougnon has requested to
8 intervene in the absence of the witness, and I give him the floor.

9 MR GBOUGNON: [11:36:20] (Interpretation) Thank you, Mr President. Mr
10 President, I wanted to make an observation on the last line of questioning of the
11 Prosecutor before the break.

12 I'm going to read out the first question the Prosecutor asked, page 36, line 21, and I
13 read:

14 "You know this law. What is the broad sense, the very broad meaning, and what are
15 the effects of that provision when it comes to having soldiers participate in the
16 maintenance of law and order? What are the stipulations of those provisions?"

17 And on line 26, the witness answers.

18 And then you yourself, Mr President, asked whether the witness could intervene in
19 the law and carry out a critical assessment.

20 Mr President, in Ivorian practice, which relies or is copied from the French practice,
21 there is what is referred to as an examination of reasons, of motives, which provides
22 the reasons that compelled the legislators or prompted the legislators to adopt such
23 and such an instrument, that is what is referred to as preparatory work.

24 Even though the witness is a general and even a major general, he's being asked to
25 evaluate or assess, because that is what the questions signify, to evaluate the

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1 applicability or the meaning of a law.

2 Mr President, I don't think we even need to ask the witness whether he can answer

3 the question. We should not even -- you should not even authorise the question,

4 because we know that a text can be interpreted in various ways, even beyond the

5 reasoning in writing that is given. We have our own interpretations as jurists.

6 So this is an exaggeration of his capacities. Even if he answers the question, at the

7 very best he can only give his opinion or his comment, which is not acceptable here.

8 So I do not know what the Prosecutor is looking for objectively by asking such a

9 question. I definitely do not agree with the procedure being followed.

10 Let me conclude by saying that we are told that the witness is a major general. He

11 was the commander of CECOS and he can answer the question. It is true that he is

12 interesting to listen to, that is true. But for that reason we are not going to allow all

13 sorts of questions to be put to the witness using the pretext that he was commander of

14 CECOS or a major general.

15 Those were the observations that I wanted to bring before your Chamber, Mr

16 President.

17 PRESIDING JUDGE TARFUSSER: [11:40:33] Thank you, Maître Gbougnon.

18 Maître Altit, do you want to say something?

19 MR ALTIT: [11:40:39] (Interpretation) Thank you, Mr President. I have no

20 particular remark, except that we are with the Defence team of Charles Blé Goudé on

21 this point.

22 PRESIDING JUDGE TARFUSSER: [11:40:57] Thank you.

23 OTP.

24 MS PACK: [11:41:02] Mr President, I wouldn't want to exaggerate the witness's

25 capacity, so I'll leave it at that. I'll leave it at that. I'm not going to ask any more

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1 questions about the law.

2 PRESIDING JUDGE TARFUSSER: [11:41:13] Well, let me just say that when Maître

3 Gbougnon said that I myself -- this is the translation -- asked whether the witness

4 could intervene in the law and carry out a critical assessment, this was a rhetorical

5 question. And I doubt that the witness can make an exegesis of the law and should

6 make an exegesis of the law. So it was not a question.

7 I'm glad you don't continue with this exegesis of the law, and I would now ask the

8 court usher to bring the witness in again and we continue with the questioning by the

9 office of Prosecutor.

10 (The witness enters the courtroom)

11 PRESIDING JUDGE TARFUSSER: [11:43:04] Good morning again, Mr Witness.

12 THE WITNESS: [11:43:06] (Interpretation) Good morning.

13 PRESIDING JUDGE TARFUSSER: [11:43:08] I give the floor again to the Office of

14 the Prosecutor for his questioning -- her questioning in this case.

15 MS PACK: [11:43:15] Thank you, Mr President, your Honours.

16 Q. [11:43:17] Mr Witness, again, to resume my questioning, we're going to change

17 topics completely now. Your appointment, your promotion in fact, in 2010. I'd like

18 to look, please, at CIV-OTP-0028-0004, and it's item 44 on the list of material. And if

19 we could go directly to the second page, 0005, very quickly on this. It's for the

20 record a decree of August 2010. And we look at that, can you just tell us, does this

21 relate to your promotion to, quote, "général de division"?

22 A. [11:44:31] Yes. It is the decree promoting me to the rank of major general.

23 Q. [11:44:46] Moving on, did you go to the presidential palace on 7 August 2010 for

24 the national holiday?

25 A. [11:44:57] Yes.

1 Q. [11:45:04] Now, just to be clear, you have been asked this in your interview
2 before, do you recall on that occasion the words used by Mr Gbagbo at the
3 presidential palace on 7 August?

4 A. [11:45:27] I cannot remember today, seven, eight years afterwards.

5 Q. [11:45:37] And briefly, what was the occasion? Why were you there? It may
6 be obvious to you.

7 A. [11:46:00] Yes, as you yourself have said, I'm a major general and I was
8 responsible for a major command. And the feast of 7 August, which is the
9 celebration of the independence of Côte d'Ivoire, an important day, and if the
10 president of the republic does me the honour of inviting me to that celebration, then I
11 practically go on my knees and I come running.

12 Q. [11:46:38] Right. We can go to item 45 on the list of material for my learned
13 friends, and it's CIV-OTP-0045-0322.

14 And just before we get to this document, it's a document that's been shown to the
15 witness in his interview.

16 So I'm bringing it up just in fairness so that your Honours are aware of that and
17 everyone in the room is aware of that.

18 The document is in front of you. Take your time. Just tell us, do you recall being
19 shown this in your interview with the Office of the Prosecutor, that is?

20 A. [11:47:51] Obviously they showed it to me, but they showed me so many
21 documents that I cannot remember all of them. But I think they showed it to me.

22 Q. [11:48:05] Have you seen it before otherwise? Let's just look at that document
23 for itself. Have you seen it before?

24 A. [11:48:17] I didn't see it before, because I'm not a recipient of those types of
25 document. It is an intelligence document of the national police and I'm not a

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1 recipient.

2 Q. [11:48:45] Okay. Well, I'm going to ask you just about the words that are noted
3 at the bottom of this document. It records some words that the document suggests
4 are used by the chef de l'état. And I'll just quote, it says, (Interpretation) "If I fall,
5 you will fall."

6 (Speaks English) And I just want to ask you this: Does that phrase mean anything to
7 you? Is it a phrase you'd heard before yourself?

8 A. [11:49:17] Oui.

9 Q. [11:49:18] Spoken by whom?

10 A. [11:49:22] By the president.

11 Q. [11:49:26] On what occasions, do you recall?

12 A. [11:49:31] You have said that it was during the national celebration of 7 August
13 2010. That's what you said. So that's where I heard it.

14 Q. [11:49:47] I'm asking you what you yourself recall. You recall those words.
15 Did you recall -- do you now recall those words being said on this particular
16 occasion?

17 A. [11:50:01] I remember that the president said those words, but I no longer
18 remember under which specific circumstances. But now that you have said that it
19 was during a speech of 7 August 2010, I suppose that it is true. But I remember that
20 expression very well, "If I fall, you will fall."

21 Q. [11:50:40] And what did that expression mean to you?

22 PRESIDING JUDGE TARFUSSER: [11:50:47] How did you, how did you understand
23 this expression? How did you understand it? How did you perceive it? How did
24 you interpret it?

25 THE WITNESS: [11:51:02] (Interpretation) As far as I'm concerned, a soldier has a

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1 duty of loyalty to the authorities, and for me, us soldiers were being urged to
2 continue being loyal soldiers to the authorities.

3 MS PACK: [11:52:02] Forgive me, I note that my recollection had been that this
4 document was shown in the interview, but I gather from my colleagues that it wasn't.
5 So it wasn't shown in the interview. They're checking now and perhaps I can
6 confirm later, but just so the record is clear.

7 PRESIDING JUDGE TARFUSSER: [11:52:22] Which makes quite a big difference.

8 MS PACK: [11:52:23] Yes, it does make quite a big -- I had understood it was. In
9 any event, this language was discussed in the interview, and I can take your Honours
10 to the pages if necessary. In fact, why don't we do that, just to be fair and fully
11 address this issue. It's not to perfect the evidence, but it's just to make sure that I've
12 been full and frank with the Chamber. It's 0051-0300 at page 0328. And just to
13 make sure that we deal with that fully, if we could just have that up.

14 PRESIDING JUDGE TARFUSSER: [11:53:22] Why are you bringing this up now, just
15 to --

16 MS PACK: [11:53:26] It's for your Honours just to be aware that it was raised in the
17 interview, this language, and so that your Honours are aware of that. It's at lines
18 1014 and following and the preceding page also.

19 PRESIDING JUDGE TARFUSSER: [11:53:36] But we do trust the parties.

20 MS PACK: [11:53:37] Thank you. Thank you. I leave it at that in that case, the
21 reference being pages 0327 and 0328.

22 Q. [11:53:53] Now, let's just go, please, to the -- I'd like to go to the period of the
23 elections in 2010. Before I go through with you, and I'm going to ask you to go
24 through in chronological order the events as you remember them, some of the events
25 as you remember them, let me ask you this. In that period, the period of the

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1 elections and the period that followed, to the time when you left service and you said
2 you went into hiding, did you have, and in brief, any meetings with the president,
3 Laurent Gbagbo?

4 A. [11:54:38] From which date to which date? Please give me the time period.

5 Q. [11:54:48] Well, let's just start with, let's say, the period before the first round of
6 the elections. So that was 31 October. The period before then, let's say, from that
7 date, all the way to when you left, which as I understand it was end of March.

8 PRESIDING JUDGE TARFUSSER: [11:55:07] 31 March. Well, in the six month from
9 October, say 1 October to 31 of March 2010-2011.

10 THE WITNESS: [11:55:30] (Interpretation) Very well. In October, November, I do
11 not remember having had a meeting with the president. However, in early
12 December all the general officers were notified by the chief of staff. We went to the
13 residence of the president because shortly before that, the constitutional council had
14 just declared or proclaimed the president as the winner of the elections.

15 After that, I remember that we had two meetings with the president, but this time
16 around at the palace of the republic at Plateau, one in February and one probably in
17 March. I do not remember the specific dates, but I remember the period.

18 So these were the various meetings that I recall with certainty. Maybe there were
19 others, but I no longer remember precisely.

20 MS PACK: [11:57:04]

21 Q. [11:57:05] So we have early December and we have the following year 2011, in
22 February, one in February and one in March. Is it possible that you had other
23 meetings with the president or are you fairly sure that you only met him on these
24 three occasions during the post-electoral crisis?

25 A. [11:57:39] That is what I have said. I recall those three meetings with certainty.

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1 But if there are others that I no longer remember, if it is possible for you to refresh my
2 memory, it is possible for me to remember.

3 Q. [11:57:59] Okay. I'll do that as we go through. Let's just start with the security
4 arrangements for the elections and in the run-up to the elections. So we have the
5 elections in October. Did you have any meetings that you recall with the chief of
6 staff in the period before the elections related to the security cover to be put in place
7 for that period, for the election period?

8 A. [11:58:48] Yes, we had meetings before the elections with the chief of staff.

9 Q. [11:59:00] And do you recall a meeting in September 2010 for the chief of staff, in
10 particular, to discuss the security cover for the elections?

11 A. [11:59:20] Certainly. But the dates are definitely going to be problematic for me,
12 because these events took place a long time ago. However, I have said that we had
13 several meetings during the preparatory period and during the crisis period with the
14 chief of staff.

15 Q. [12:00:00] And insofar as the security, securing the elections was concerned,
16 were you familiar with the CCI's mandate related to the elections in terms of security
17 arrangements?

18 A. [12:00:18] In general terms, the CCI had as a general mandate to provide
19 security operations in their totality to cover the elections. Given that the CCI was
20 placed under the joint command of the chief of general staff of the armies and the
21 chief of general staff of the FAFN, those two authorities also took responsibility for
22 the entire security operations prior to the operation -- to the elections, during the
23 elections and after the elections.

24 Q. [12:01:27] And was there a third entity involved as well apart from the FAFN
25 and the FDS?

1 A. [12:01:37] In our country we had what was referred to as the impartial forces
2 based in our country. Now, whether they were involved at the same levels as the
3 Côte d'Ivoire armed forces, FDS, or the Forces Nouvelles, I really do not know.

4 However, to my mind and what I am certain of is that the Forces Nouvelles and the
5 FDS troops were in charge of providing security during the entire electoral period.

6 Q. [12:02:39] And so far as the FDS was concerned and the arrangements that were
7 made at that level, at the CEMA, at the level of the CEMA, do you recall him giving
8 instructions to you and to other commanders regarding the security arrangements to
9 be put in place in Abidjan during the election period prior to the first round?

10 A. [12:03:10] There were two types of measures that could be observed by the
11 gendarmerie and the CECOS on the one hand when it comes to securing people and
12 their property. That is the daily kind of assignment that these entities undertake.
13 Then we also have special measures relating to making the polling stations and the
14 voting places safe and secure.

15 Q. [12:03:56] And did you, as commander of CECOS, did you put men at the
16 disposal of the CEMA for purposes of the security arrangements for the elections?

17 A. [12:04:09] As far as I know, CECOS was not involved in that process.

18 Q. [12:04:29] Were students of the école de gendarmerie, were they made available
19 for purposes of securing Abidjan during the elections?

20 A. [12:04:43] Well, if that was done, it would have been absolutely normal. But I
21 do not recall specifically having done that. In any event, it is a normal thing. I told
22 you yesterday that the gendarmerie school constitutes a pool of reserve men available
23 to the gendarmerie, and whenever the gendarmerie deem it necessary for their units
24 to be reinforced, it was entirely possible for him to give me instructions requesting
25 that I make available to him the troops that he may have needed.

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1 But in this specific case, I don't have a very clear recollection as to whether or not I
2 did that.

3 PRESIDING JUDGE TARFUSSER: [12:05:55] Excuse me. I just would like to go
4 back. And I refer to line 11, page 48 of the English transcript, where on answering
5 the question of the Prosecutor in English it's written, "As far as I know, CECOS was
6 not involved in that process." What do you mean by "as far as I know"? You being
7 the commander, you know or you don't know. What do you mean by "as far as I
8 know"?

9 THE WITNESS: [12:06:34] (Interpretation) Mr President, what I mean is that
10 CECOS was not involved in the process for providing security for the elections. That
11 is an assertion that I can make, Mr President.

12 PRESIDING JUDGE TARFUSSER: [12:06:51] That's your answer, your explanation,
13 because as far as I know it would leave the door open to part of you not knowing.
14 So do you exclude that CECOS has been involved in that period in the securing the
15 elections? Do you exclude this?

16 THE WITNESS: [12:07:13] (Interpretation) Let me repeat myself. When it came to
17 securing the elections between the first round and the second round, CECOS was not
18 involved in that process.

19 PRESIDING JUDGE TARFUSSER: [12:07:36] Okay. Thank you.
20 Madam Prosecutor.

21 MS PACK: [12:07:39] I'm actually going to ask the witness to refer to his interview
22 again. It's 0051-0300, and it's at page 0331. And it's line 1114 to 1120.

23 Q. [12:08:17] All right. So let me just read that out for you. It's your answer on
24 this topic, quote:

25 (Interpretation) "CEMA in its instructions asked each major command, the police, the

1 gendarmerie, the various troops of soldiers, as well as elements of the CECOS to
2 make men available to it. He would say, for example, 'Make available to me a
3 platoon.' A platoon has about 25 men or two platoons would be equal to about 50
4 men depending on the size of the unit. He and his general staff and his PC
5 operational would then manage these people on the ground thereafter depending on
6 the needs and the places to which they may be assigned."

7 Interviewer number 1: "Very well. So what period would they have been involved
8 in managing -- managing that?"

9 Person interviewed: "Well, it already started in September, October."

10 MR ALTIT: [12:10:34] (Interpretation) Monsieur le Président.

11 MS PACK: [12:10:38] I haven't asked a question yet.

12 PRESIDING JUDGE TARFUSSER: [12:10:40] I would like first the witness to answer
13 to this confrontation and then you have the floor.

14 MR ALTIT: [12:10:48] (Interpretation) That's the objection, Mr President, namely,
15 that this type of question illustrates what I was saying a short while ago. The
16 problem here is that the question is not put to the witness with a view to obtaining an
17 answer. Instead, a statement is picked up; the representative of the OTP gives the
18 impression that there is a contradiction between the statement and what the witness
19 has said, *but there is no contradiction.

20 It would, therefore, have been necessary for her to read all previous paragraphs of the
21 statement because there is no contradiction. So given that we're here dealing with
22 the testimony, she should directly put the question to the witness and then that
23 would elicit an answer which would amount to his testimony.

24 And if there is therefore a contradiction, then she can proceed accordingly. But she
25 cannot start by putting forward the statement which ends up guiding the witness

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1 somehow. So, once again, I raise my strongest reserves in relation to this manner of
2 proceeding. She should put the question and then subsequently if there is a
3 contradiction or a confrontation to be made or if there is need to jog the witness's
4 memory, then she can proceed accordingly. One moment, please.

5 MS PACK: [12:12:21] Can I stop, please, in fact, because the witness is here. And if
6 my friend is making comments about --

7 THE INTERPRETER: [12:12:25] Overlapping speakers.

8 MR ALTIT: [12:12:27] (Interpretation) Madam Pack, you are reading out his
9 statement to him. And what I would like to add, Mr President, is that the question
10 in the statement is exactly the same question which appears above the passage that
11 she has just read. There is a question which is exactly the same as the one which is
12 being raised in this testimony. And I have trouble reading, Mr President. But with
13 your leave, let me come closer and look at page 1109, rather, line 1109, interviewer
14 number 1, and I quote: "What were the activities of CECOS when it came to
15 providing security?" The same question.

16 Answer, person being interviewed: "CECOS continued to undertake its normal
17 activities of providing security for the people and property, and that is what it kept
18 doing." End of quote.

19 So, Mr President, now, *the fact that the question was not put during the testimony of
20 the witness and...

21 PRESIDING JUDGE TARFUSSER: [12:13:41] *Continue please.

22 MR ALTIT: [12:13:43] (Interpretation) She is now using excerpts of her statement and
23 *this therefore gives a different shade of meaning to the testimony -- to the statement,
24 rather, from what the witness may have said if one had not read the statement.

25 PRESIDING JUDGE TARFUSSER: [12:13:57] Madam Prosecutor.

1 MS PACK: [12:14:01] I'm very aware of course that the witness is here.

2 PRESIDING JUDGE TARFUSSER: Yes, yes.

3 MS PACK: So I do question whether or not these comments about his testimony and
4 inconsistencies and so forth should be made.

5 PRESIDING JUDGE TARFUSSER: [12:14:10] But this is very procedural, not in the
6 merit.

7 MS PACK: [12:14:12] Yes. Of course, your Honour asked the question very
8 specifically and clearly about CECOS before the elections. An answer was given,
9 and I think it was quite proper for me, in fact, given what your Honour has said about
10 use of statements to then refer the witness really quite properly to a prior statement,
11 as my learned friend said, in answer to a similar question, giving the answer that you
12 see.

13 And I think of course the witness should be given the opportunity at this point to
14 confirm the accuracy -- please, may I finish. I'm talking, please -- to confirm the
15 accuracy and then comment.

16 PRESIDING JUDGE TARFUSSER: [12:14:54] I'm stopping. Don't worry.

17 MS PACK: [12:14:56] Thank you.

18 PRESIDING JUDGE TARFUSSER: [12:14:57] I'm stopping.

19 No, but I think we stop here. I think this was a clear example of confrontation. It
20 was -- no, no, no. It was a clear example of confrontation. There was a question by
21 the Office of the Prosecutor with an answer by the witness. Then I -- but without
22 obviously knowing there was an answer by the Presiding Judge asking for
23 clarification of this answer and then the confrontation with the relevant statement.
24 Therefore, I think it was a correct confrontation and I ask the Prosecutor to continue
25 with its questioning.

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1 MS PACK: [12:15:45] Thank you, Mr President.

2 Q. [12:15:50] Now, we've had a bit of a break, but of course I read out a passage
3 from your statement. The words that you state there, do you confirm that those
4 were the words that you stated in your interview that I read out?

5 A. [12:16:03] Yes, that's what I said. But you must understand that I am
6 confirming that prior to the pre-electoral phase, CECOS continued to carry out its
7 daily activities and was not involved.

8 The instructions contained in the documents that were issued after our meetings were
9 issued to other troops which may have been involved in providing security coverage
10 for the elections.

11 Q. [12:16:53] I'll leave it at that.

12 Now, let me ask you about students. I was going to show you a document, and we
13 can deal with that now. We were talking about students and their involvement from
14 the école de gendarmerie. We look please at CIV-OTP-0043-0391.

15 That's item 52 for my learned friends.

16 Now, this document, take your time to look at it. Let me just read the top. Just for
17 the record it says, quote, (Interpretation) "Message from supreme commander of the
18 gendarmerie."

19 (Speaks English) There is a date: 26 October 2010.

20 I'll ask the question. Do you recognise this document?

21 A. [12:18:13] I must have received it since I am one of the addressees. I must have
22 received it.

23 Q. [12:18:29] Yes, you're one of the addressees. And let me just ask you, the first
24 acronym there, the first addressee or the acronym CDTs EGA, is that you as
25 commander the école de gendarmerie Abidjan?

1 A. [12:18:51] You have as addressees the commander of the Abidjan school, the
2 commander of the Toroguhé school, commander of the 1st departmental legion,
3 commander of the 1st mobile legion, and the commander of the 3rd legion of the
4 gendarmerie.

5 And then you have the chief of health services gendarmerie and then a number of
6 external units, namely, the command group, the l'escadron d'honneur, and then the
7 squadron for protection of dignitaries, as well as the armoured vehicles group.
8 So that's the entire list of addressees, including myself.

9 Q. [12:19:47] Can we go to the following page, 0392. And this will just be quick
10 just so you can see what this document is, what the attached order relates to. It's
11 headed (Interpretation) "Operations order. Presidential elections."
12 (Speaks English) And I would just ask that this just goes through and that we go to
13 the very last page at 394 just for the witness to see that page. Sorry, not the very last.
14 It's actually the last page of the order. So it's page 0394. So you've seen that. And
15 then just to the following page, please, at 0395, which is the annex.
16 And I don't -- I hope you can see, but let's look under "District Yopougon." We can
17 see there "EGA 50." Can you tell us what that stands for?

18 A. [12:21:04] That means that the supreme commander of the national gendarmerie
19 instructed me to make available to him 50 elements from the gendarmerie school
20 pursuant to the rule governing the intervention reserve units. He in the same decision
21 asked me to send them to the Yopougon district. *That is the Yopougon police district.

22 Q. [12:21:50] Okay. We'll leave that at that then.
23 Now, the security situation between the first and the second round of the elections,
24 can you tell us how that was, the security situation in Abidjan?

25 A. [12:22:32] In what capacity can I talk to you about security between the two

1 rounds? Am I an observer? Am I someone involved in conducting operations?

2 Now, if I were an observer, I might be able to express my views. But between the
3 two tours I was -- the two rounds, rather, I was not in charge of anything pertaining
4 to the elections.

5 Q. [12:22:59] Did you meet with the chief of staff before the second round of the
6 elections?

7 A. [12:23:09] We regularly had meetings with the chief of general staff during that
8 period. We held regular meetings during that period, that is, before the -- between
9 the first and the second round, there was a period of about three weeks, and clearly
10 we must have met and we had a number of meetings, yes.

11 Q. [12:23:48] Let me ask you to please look at document number
12 CIV-OTP-0018-0047.

13 And it's item 89 for my learned friends on the list of material. And I'd like to turn to
14 page 0048 of this document. And perhaps we could just then go to the decree on the
15 right-hand side, halfway down.

16 Very quickly with this, do you recall this decree of 14 November 2010 related to the
17 requisition of FANCI?

18 A. [12:25:33] Yes, I was informed of it, but I didn't have the decree in hand. I was
19 aware of its content.

20 Q. [12:25:46] You were made aware of its content by whom?

21 A. [12:26:03] At the meeting of the generals, the chief of general staff, to whom the
22 decree on requisition was destined, informed us of the situation. At the same time
23 he gave instructions relating to the content of the decree.

24 Q. [12:26:41] Were you told about the decree in advance of it being issued or was it
25 only upon the implementation?

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1 A. [12:26:53] Let me clarify something. This decree is intended for the armed
2 forces, the third category forces. I am a gendarme. Now, I do not need requisitions
3 for these types of operations. So the chief of general staff informed us of the content
4 of the decree, but he knew very well that those targeted in the decree were essentially
5 the third category forces, namely, himself and his troops.

6 Q. [12:27:48] Do you know why there was a need to requisition the armed forces at
7 this time?

8 MR GBOUGNON: [12:27:59] No, Monsieur le Président.

9 PRESIDING JUDGE TARFUSSER: [12:28:10] Excuse me. The witness can say no or
10 yes. I don't know what is the problem with it.

11 MR GBOUGNON: [12:28:16] (Interpretation) Mr President, this is the type of
12 comment we made a short time ago. It is not because the witness can answer or not
13 that we would allow these types of questions.

14 Mr President, what I'm saying is that, maybe without going into any further detail, I
15 explained to you a short while ago that it is not because the witness can say yes or no
16 that we would allow this question, which is not a good question, otherwise the
17 witness can say yes and then, if we continue doing this, what would be the end result?
18 What are we looking for? That's the problem, Mr President.

19 The witness is not the author of the decree, and I'll stop at that.

20 PRESIDING JUDGE TARFUSSER: [12:29:02] He's not the author of the decree, but
21 he can, he can make a comment on this decree. Where is the -- I don't understand
22 where the problem is to make a comment on this decree.

23 Please go ahead.

24 MS PACK: [12:29:27] Thank you.

25 Q. [12:29:27] So the question was: Do you know why there was a need to

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1 requisition the armed forces at this time?

2 A. [12:29:34] With all due respect, Mr President, I am a soldier, and a soldier does
3 not have command over the decisions of his bosses. He executes those decisions.

4 Q. [12:29:57] All right. Now, I asked you a question and I didn't hear the answer
5 or I didn't get an answer. I asked you: Were you told about the decree in advance
6 of it being issued?

7 PRESIDING JUDGE TARFUSSER: [12:30:10] But I don't understand the question.

8 MS PACK: [12:30:12] Before, before it was issued.

9 PRESIDING JUDGE TARFUSSER: [12:30:15] Yes, but what do you mean by "Were
10 you told in advance of the decree?"

11 MS PACK: [12:30:21]

12 Q. [12:30:21] Did you discuss the need to have a -- requisition the armed forces at
13 meetings with the chief of staff before this order came about, this decree came about?
14 Something you discussed with the chief of staff?

15 A. [12:30:43] If I'm not aware of the decree, how can I speak about it?

16 PRESIDING JUDGE TARFUSSER: [12:30:52] No. The question was, if I may, if in a
17 meeting ahead of this, of 14 November, there was a discussion in these meetings
18 among the commanders of the different armed forces that the requisition was needed.

19 THE WITNESS: [12:31:27] (Interpretation) I have no recollection of that, Mr
20 President.

21 MS PACK: [12:31:30]

22 Q. [12:31:31] So was it a surprise then when you had a meeting with the CEMA and
23 he said, "We've just had a decree dated 14 November requisitioning the armed forces
24 to become involved in maintenance of law and order in Abidjan"? Was that a
25 surprise to you? Did it come out of the blue?

1 PRESIDING JUDGE TARFUSSER: [12:31:53] Can you please speak in a more
2 respectful way with the witness, please.

3 MS PACK: [12:32:01] Of course. I apologise, your Honour.

4 PRESIDING JUDGE TARFUSSER: [12:32:03] Yes, not in this -- okay. Thank you
5 very much.

6 MS PACK: [12:32:09]

7 Q. [12:32:09] Was it a surprise to you, Mr Witness, that this order should be issued?

8 A. [12:32:18] The chief of army staff of Côte d'Ivoire is a very high-ranking
9 authority, a very high-ranking authority indeed. He assesses the situation and in
10 that regard at his level he makes proposals to his superiors. He's not compelled to
11 come and talk to it about -- to come and talk to us about it, because we are below him.
12 What I mean is that if after analysing the situation he felt that the staff strength of the
13 gendarmerie and the police was not enough for the CCI to provide adequate cover or
14 protection for the elections, for the electoral process, then he had the liberty of making
15 proposals to his superiors.

16 Q. [12:33:42] And just my last question on this topic. Were you yourself aware at
17 this time, so we're talking mid-November, after the first round, were you aware of a
18 deterioration of the security situation in Abidjan from just before the first round of the
19 election to this point? Had the security situation in Abidjan deteriorated?

20 A. [12:34:16] For those of us who were living in Abidjan, the first round of elections
21 took place under ideal circumstances. There were very few problems during that
22 first round. I cannot tell you that there were problems. There were no problems
23 during the first round of elections in Côte d'Ivoire.

24 Q. [12:34:54] And two weeks later then, by this time on the 14th, was the situation
25 about the same? Had it deteriorated? Can you describe the situation from a

1 security point of view in Abidjan at this time?

2 A. [12:35:15] In all electoral campaigns, there is always some friction between the
3 supporters of the various candidates. There were some frictions. But I cannot say
4 that there was a real deterioration of the security situation.

5 Q. [12:35:48] All right. Now, I want to ask you about another decree. And it's
6 the same document, actually. If we could just move to the following page, the same
7 page, page 0049. And it's a decree, and let me just read the title, (Interpretation)
8 "Decree 26 November 2010 creating or instituting a curfew."

9 PRESIDING JUDGE TARFUSSER: [12:36:46] Can we also know when this gazette
10 was published?

11 MS PACK: [12:36:52] Yes, of course. I can just tell your Honour that.

12 PRESIDING JUDGE TARFUSSER: [12:36:56] Tell me.

13 MS PACK: [12:36:56] On the first page, 0047, you can see the gazette, the date at the
14 top is 9 December 2010.

15 PRESIDING JUDGE TARFUSSER: [12:37:04] Okay.

16 MS PACK: [12:37:34]

17 Q. [12:37:38] Now, let me just ask you then about this document, the curfew.
18 Were you aware of this curfew being imposed on 26 November 2010?

19 A. [12:37:49] Yes.

20 Q. [12:37:51] And which forces were involved in its implementation?

21 A. [12:37:57] All the forces were responsible for the implementation of the curfew.

22 Q. [12:38:09] Did you have a meeting with the chief of staff to discuss the
23 implementation of the curfew by the forces?

24 A. [12:38:35] Yes.

25 Q. [12:38:39] Now, just because we just addressed the date very quickly, I just want

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1 to quickly reference another document. It's 62 in the list of material, and it's

2 CIV-OTP-0071-2452. We'll just be with this very quickly.

3 Okay. Now, there's the first page. And I would like you, you can see there, it says,
4 "Expéditeur: Le President de la Republique," (Interpretation) "Sender: President
5 of the Republic. Requisition and deployment of the FANCI throughout the national
6 territory."

7 (Speaks English) All right. That's one document. And I want then just to go
8 through to page 2455, please, which is, this is another document in this, and it says at
9 the top that it's from the CEMA/CPCO. You can see the addressee, CCI-CEM FAFN.
10 And then for info, one of the recipients there, is that CECOS, one of the recipients?

11 A. [12:40:51] For information, for information, not for implementation.

12 MS PACK: [12:41:02] That's 15 November, your Honours, the date there, and of
13 course, we see there that it's attaching, in quote, "pièces jointes," and then it says,
14 "Decret du" and goes on, 14 November and so on. I leave it at that.

15 Now, we go on, please.

16 Q. We talked about meetings with the president during the post-electoral crisis
17 earlier. Do you recall a meeting with the president on 19 November specifically?

18 A. [12:41:50] I have no recollection of that meeting. If you can assist me in telling
19 me what it was about?

20 Q. [12:41:54] Yes, I can. We have a visitors' logbook for the residence, the
21 presidential residence. And the ERN for that, and this is the transcribed version
22 because it's easier to read, is CIV-OTP-0088-0863.

23 And for my learned friends, it's item 242 on the list of material. And we'll go, please,
24 to page 0930.

25 Now, this is a transcribed version of another page of this document, which is difficult

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1 to read. We can look at that momentarily. But let me just show you here the
2 transcription for this logbook, 19 November 2010. And we see three entries there at
3 12, 13 and 14, Général Mangou, Général Kassaraté, and Général Bi Poin Guiai,
4 Général Guiai Bi Poin.

5 Do you recall -- now, I've shown you the transcribed page. Let me show you. I
6 don't know if it's possible to put the two pages side by side, but there's also the
7 original, which I think it would be in fairness for the witness to see that too, page 0929,
8 so at least the two are there in front of him.

9 I actually have a clean version of the book as a whole. Perhaps I can just have
10 that -- if Mr Court Officer can take that to the witness. It's clean. It hasn't been
11 highlighted or anything. Yes, so if we could just use that instead. It's the
12 spiral-bound version with both pages facing each other.

13 PRESIDING JUDGE TARFUSSER: [12:45:14] Now we have it.

14 MS PACK: [12:45:16] Now we have it. So there we are.

15 Q. [12:45:18] Now, you see the original on the left -- thank you to Mr Court
16 Officer -- and you can see the transcribed version. So just a quick question. You're
17 meeting the president on the 19th of November. Did you discuss then at that
18 meeting the 14 November decree requisitioning FANCI?

19 A. [12:45:44] I do not remember.

20 Q. [12:45:50] Do you recall meeting the president on 24 November 2010, a few days
21 later? Let me just ask again for that page in the logbook to be shown, the visitors'
22 logbook to the residence. It's page 0944. And if you look at 0944 at the bottom
23 there, entry 14, Général Mangou arrives at 8. You can see the arrival time, 20.21,
24 departure time, 22.23. You see at entry 15, Général Kassaraté and his arrival and
25 departure times.

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1 And then we go over to page 0946, please. And we see Général Guiai Bi Poin
2 arriving at 20.33, leaving at 22.33. I notice also just two down from that, there's the
3 Minister Bertin Kadet also leaving 22.23, arriving 20.59.

4 Okay. So this meeting, again, same three persons. Now, we know of course there
5 was a curfew.

6 PRESIDING JUDGE TARFUSSER: [12:48:03] Maître Altit.

7 MR ALTIT: [12:48:05] (Interpretation) Thank you, Mr President. On the wording by my
8 learned friend, it gives the impression that there was a meeting. She says "that meeting."
9 But that has not been established. We have to go stage by stage. *I don't want to say too
10 much. *Well the witness is here -- the name is *on the logbook, right? So we can go step
11 by step so as to be sure of where we are putting our feet. That's what I wanted to say.

12 PRESIDING JUDGE TARFUSSER: [12:48:47] I agree.

13 MS PACK: [12:48:48] All right. Thank you, your Honour.

14 Q. [12:48:52] Do you recall now, looking at the logbook, a meeting on this day,
15 which is 24 November 2010 at the presidential residence with --

16 PRESIDING JUDGE TARFUSSER: [12:49:06] Well, do you recall having
17 been -- having entered the presidential palace, first of all.

18 MS PACK: [12:49:14] No. It's the residence.

19 PRESIDING JUDGE TARFUSSER: [12:49:17] The residence, sorry, yes.

20 MS PACK: [12:49:18] Yes, of course, of course, yes.

21 Q. [12:49:18] Do you recall entering and leaving the presidential residence on 24
22 November 2010?

23 A. [12:49:26] A priori, if the logbook shows that I went there, it means I went there,
24 but I cannot remember what we discussed.

25 Q. [12:49:47] Thank you. Well, let me ask you, there was a curfew on 26

1 November. Did you discuss that? There you are, you've got the commander
2 superior of the gendarmerie, you've got the chief of staff, and you, commander of
3 CECOS; did you discuss the curfew that was about to be decreed?

4 A. [12:50:20] The meeting that we are talking about, was it before or after the
5 curfew?

6 Q. [12:50:34] It was before the curfew, 24th. The curfew is 26th of November.

7 A. [12:50:43] I do not remember having talked about the curfew. The only time
8 that I remember discussing the curfew with the other commanders, the other generals,
9 was at the presidential palace. And everyone was present there: All the political
10 authorities, the other candidates, the president of Burkina Faso at the time, everyone
11 met at the presidential palace. And those of us soldiers were asked to consult with
12 each other and give our opinion on the curfew.

13 And we discussed in a small corner in the office of the president, and the chief of staff
14 went and said that the curfew would make it possible to avoid bad incidents before
15 the elections, because this was before the elections. So he was proposing that the
16 curfew be maintained or be imposed. I remember that particular episode.

17 Q. [12:51:58] Okay. So let's just stay with this meeting. So we are talking here
18 about a meeting at the presidential palace. Before which curfew are you talking
19 about did this take place? Is this before the 26 November curfew or another curfew?

20 A. [12:52:21] In any case the curfew that was imposed before the elections. A
21 curfew was imposed on the eve of the elections, I believe, either on Friday evening or
22 Saturday evening. I no longer remember, because the election had to take place on
23 the Sunday.

24 So this was when the authorities that I was talking about, *the president of Burkina,
25 the facilitators, and then the various candidates and their staff met in the office of the

1 president. And we were asked to talk with each other, those of us soldiers, and give
2 our opinion. And after giving our opinion we left and the politicians continued with
3 the meeting.

4 Q. [12:53:21] So you are talking about a meeting then, second round, before the
5 second round of the elections, those that took place on the 28th November. Are you
6 talking about a meeting before those elections?

7 A. [12:53:37] Yes.

8 Q. [12:53:39] And about how many, how many days before the curfew was issued
9 on 26 November; can you recall how many days before that this meeting took place?

10 A. [12:53:53] I was talking about the days before the election, probably Friday or
11 Saturday, either Thursday afternoon or Friday afternoon.

12 Q. [12:54:15] And you tell us that you were asked to talk with each other, those of
13 you who were there, and give your opinion. Can you tell us what opinion did you
14 give then at this meeting to those present?

15 A. [12:54:31] The generals who were present felt that the curfew would be useful
16 because it would make it possible to control all movements during the night before
17 the day of the elections and to ensure that all the rumours circulating in Abidjan
18 would be suppressed because of the forces being deployed on the eve of the elections.
19 So we gave our agreement by saying that we thought it was good to maintain that
20 curfew measure.

21 Q. [12:55:30] And who proposed the curfew measure at this meeting?

22 A. [12:55:38] I think we are not understanding each other. The curfew had
23 already been imposed. The decree imposing the curfew had already been issued.

24 Q. [12:56:00] Okay. So this was before or after the television debate, the
25 presidential television debate with Ouattara and Mr Gbagbo? Do you recall?

1 A. [12:56:14] The curfew had already been published, I believe, before the
2 presidential debate, that is if I remember correctly.

3 Q. [12:56:28] So what you're telling us is then that this curfew had been issued and
4 it was then that you were asked to give your advice at this meeting at the presidential
5 palace in relation to the curfew. Is that what your evidence is?

6 A. [12:56:49] Yes, because there was one candidate who was not totally in
7 agreement with the curfew decision. So before the meeting of the politicians who
8 were present on that day, we were asked for our opinion on the maintenance of that
9 measure, and we gave our opinion.

10 Q. [12:57:18] So this was before. And we can look at that, before the extension on
11 the 1st of December of the initial curfew of 26 November, it was then extended after
12 that. Was this between those two times, between the date the first decree -- the
13 curfew was issued, and the date when it was extended?

14 A. [12:57:37] I really do not have the precise chronology of events in memory. But
15 let me repeat, the curfew was already in place before the presidential debate between
16 the two candidates. Then a few days before the elections, maybe one or two days
17 before the elections, we were at the presidential palace. We were asked for our
18 opinion, which we gave. But I do not remember the precise chronology of events.

19 Q. [12:58:33] And just one more on this and before the break. Why were you
20 asked your advice about the curfew if it was already instituted, in place? Why were
21 you asked your opinion about it after it had already been issued?

22 A. [12:59:04] A short while ago I said that one of the two candidates was not in
23 favour of the curfew decision. So before the meeting that they all had to have with
24 the president, who was also a candidate, we were called to give our opinion before
25 they could discuss it. So we gave our opinion and then we left.

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1 Q. [12:59:42] And just to clarify, which one of the two candidates objected? It's
2 fairly obvious, but --

3 PRESIDING JUDGE TARFUSSER: [12:59:49] Well, pretty obvious. Okay. Let's
4 pause now. Let's go for the lunch break and we come back at 2.30. The hearing is
5 adjourned.

6 THE COURT USHER: [13:00:01] All rise.

7 (Recess taken at 1 p.m.)

8 (Upon resuming in open session at 2.32 p.m.)

9 THE COURT USHER: [14:32:49] All rise.

10 Please be seated.

11 PRESIDING JUDGE TARFUSSER: [14:33:11] Good afternoon.

12 Good afternoon, Mr Witness.

13 We have again the Office of the Prosecutor for this sixth session. At the end of the
14 day I would ask you for an outlook for when you finish, for the benefit of the Defence.

15 The floor is yours.

16 MS PACK: [14:33:52] Thank you, Mr President.

17 Q. [14:33:53] Good afternoon, Mr Witness.

18 Now, I'm going to go back to the meeting that you were just discussing prior to the
19 lunch break, the meeting at the palace that you were describing, presidential palace.
20 Can you approximately recall what time of day it was that you met at the palace on
21 this occasion?

22 A. [14:34:30] If I remember correctly, it was in the afternoon. It was in the
23 afternoon if I recollect properly.

24 Q. [14:34:43] And I just wanted to establish with you who it was specifically who
25 had attended. Now, you spoke about the President of Burkina Faso who was there,

1 and then you said that
2 there were various candidates and their staff. Can you be more specific about who
3 was present at that meeting?

4 A. [14:35:12] I talked about the President of Burkina. He came with some of his
5 collaborators, including the facilitator, who was resident in Abidjan but who happens
6 to be an official from Burkina Faso.

7 Then there were the teams of the two candidates, the president's team, who was here,
8 who was there, and he came along with some of his collaborators.

9 Then President Alassane Ouattara was also present along with some of his
10 collaborators.

11 We, the generals, were invited in as well, and that's exactly what I told you before the
12 break. Now, I'm not going to mention specific names of all those dignitaries who
13 were there. There were several of them.

14 What I think one needs to remember is that the presidents came with their
15 collaborators, including the collaborators of the President of Burkina Faso.

16 Then there were the generals who subsequently withdrew.

17 Q. [14:36:33] And of the generals, of course, there is you. And who were the other
18 generals specifically who were present at this meeting?

19 A. [14:36:43] Once again, if memory doesn't fail me, there was the chief of general
20 staff, the supreme commander of the gendarmerie, the general director of the national
21 police, the commander of the armed forces, the air force and the navy, the national
22 navy.

23 Q. [14:37:17] And of the president's, Mr Gbagbo's collaborators, can you identify
24 any of those collaborators by name?

25 A. [14:37:29] Once again, I cannot remember all those who were present on that

1 day.

2 Q. [14:37:40] And do you recall anything that Mr Gbagbo said on that day in this
3 meeting?

4 A. [14:37:51] I did not participate in the meeting. None of the generals
5 participated in the meetings. We came in. We were told, "Gentleman, there is an
6 issue about the curfew." We were asked to confer at a corner, which we did, and we
7 came back and reported on the results of our consultations. Thereafter the
8 dignitaries continued their deliberations as we left, I think.

9 Q. [14:38:41] Were there any ministers there present at this meeting?

10 A. [14:38:52] There must have been some ministers there, because the various
11 collaborators of the two candidates were ministers. So some of the collaborators of
12 the two candidates were ministers, so there must have been government ministers in
13 attendance.

14 Q. [14:39:14] Are you able to recall any of the ministers' names? Is that not
15 something you recall?

16 A. [14:39:21] I am not able to provide any names.

17 Q. [14:39:26] Now, you told us earlier that one of the two candidates was not in
18 favour of the curfew decision. Can you tell us --

19 (Counsel confer)

20 MS PACK: [14:39:41]

21 Q. [14:39:41] You told us that one of the two candidates was not in favour of the
22 curfew decision. Did you yourself at this meeting, did you hear him, Mr Ouattara,
23 voice his concerns or objections in relation to the curfew? Did you hear what he said
24 at this meeting?

25 A. [14:40:08] No.

1 Q. [14:40:18] You talked about ministers present at this meeting. Was Mr Soro
2 one of those ministers who was present?

3 A. [14:40:27] He was the prime minister, therefore, obviously he was there. But I
4 think that he was there. He was the prime minister. He must have been there.

5 Q. [14:40:43] Okay. I'm going to ask you about another meeting. Again, this is
6 one of the meetings -- or this is with reference to the logbook that I showed you
7 earlier. And it's the same document that we looked at earlier, 0088-0863.

8 And it's item 242 for my learned friends. And the page reference is 0950.

9 All right. Now, we can see, and I'd just ask you then to look here, just if you can see
10 it. It's not very clear on the computer screen. So there is your name appearing at
11 item 13. It says the hour of entry, 22.00 something, and the hour of departure, 10
12 past midnight.

13 At item 11 we have Kassaraté arrives at 22.56, departs at 10 past midnight.

14 We have Mangou, item 10, arrives at 22.53, departs at 10 past midnight.

15 And then we have at item 8, we have premier ministre; we have arrival at 22.50. We
16 have departure at 10 past midnight.

17 Now, in relation to this particular entry, do you recall entering and leaving the
18 presidential residence on 26 November between these hours?

19 A. [14:42:56] I don't have a specific idea about that meeting or that visit, but I
20 believe that if the register or the logbook shows that I went there, then it must be
21 correct. But I no longer remember what was discussed during that visit.

22 *I can no longer remember the purpose of the visit in general.

23 Q. [14:43:42] Would you accept that on this occasion you were in a meeting then
24 with these individuals with whom you left at the same hour or from the presidential
25 residence?

1 A. [14:43:58] Things don't unfold exactly that way. People go there for specific
2 reasons, not necessarily for a meeting with all those whose names appear in the
3 logbook, madam. It doesn't happen that way.

4 Q. [14:44:20] The premier ministre at this time, who was that?

5 A. [14:44:30] I believe I already answered that question when I said it was Mr Soro.

6 Q. [14:44:36] Now, this meeting is 26 November. And we see it's a late-night
7 meeting, it's after 10 o'clock, and you leave after midnight. Was this, if you just try
8 and think to the best of your recollection, it says here vendredi. The day is Friday 26
9 November. Is it the meeting here at the residence? It's 10 or so at night.

10 MR ZOKOU: [14:45:03] Monsieur le Président, Monsieur le Président.

11 MS PACK: [14:45:07] I haven't asked a question, so can I --

12 PRESIDING JUDGE TARFUSSER: [14:45:10] Let the OTP finish and then you have
13 the floor.

14 MR ZOKOU: [14:45:16] (Interpretation) My objection is in relation to the question
15 she intends to raise, because she has provided some kind of an answer in the question.
16 And that's not the first time my colleague opposite is doing so. A little further up
17 she said we were going to talk of a second meeting. But prior to that the witness had
18 not mentioned a meeting.

19 Once again, she's referring to a meeting which took place late. And the witness did
20 not mention any meeting taking place at any time whatsoever. So we need to rely on
21 the comments of the logbook and not interpret it.

22 PRESIDING JUDGE TARFUSSER: [14:45:54] In relation to this meeting earlier on,
23 the witness in the English translation said, "I might remember the purpose of the visit
24 in general."

25 So the question is: What was the purpose of the visit in general?

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1 MS PACK: [14:46:23] It was a question from his Honour. In fact --

2 PRESIDING JUDGE TARFUSSER: [14:46:29] Do you contest the translation?

3 MR ALTIT: [14:46:32] (Interpretation) Mr President, with your leave, I think in

4 French at line 74 -- page 74, line 6, "I do not remember, I do not remember the purpose
5 of the visit," which is contrary to the English translation.

6 PRESIDING JUDGE TARFUSSER: [14:46:55] The English translation is, "But I no
7 longer remember what was discussed during the visit. I might remember the
8 purpose of the visit in general." That's what I read here.

9 MS PACK: [14:47:06] I think Mr Altit has it right, I think, from the French transcript,
10 as I read it now. In fact, it says, after the bit that your Honour had, it says, "Je ne
11 peux plus de rappeler de l'objet de la visite." So I think in fact that's correct.

12 PRESIDING JUDGE TARFUSSER: Yes. Well, it's once again the translation which
13 is not accurate.

14 MS PACK: [14:47:38] I think I'll ask the question again.

15 PRESIDING JUDGE TARFUSSER: [14:47:41] I withdraw my question, of course.

16 MS PACK: [14:47:44] Let me check, because sometimes the French transcript is not
17 accurate, so I'll check perhaps, your Honour.

18 PRESIDING JUDGE TARFUSSER: [14:47:48] Please do so.

19 MS PACK: [14:47:50]

20 Q. [14:47:50] Now, Do you now, thinking back at that, having seen the logbook
21 entries, do you now remember the broad purpose of that visit of 26 November?

22 A. [14:48:12] I do not remember the purpose of the visit. Now, if you have any
23 material that can help, please do. I'm ready to consider it.

24 Q. [14:48:26] Thinking about this date, the 26th, which is a Friday on this logbook,
25 we see that. Can you recall in reference to the meeting you've just been telling us

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1 about moments ago and before the lunch break, the meeting at the palace, was this
2 visit to the residence, this visit with Mangou, with Kassaraté, same time as those two,
3 same time as the premier ministre, was this visit on the same day, before the meeting
4 at the palace, after the meeting at the palace? Can you help us with that?

5 A. [14:49:03] Madam Prosecutor, a short while ago I specified that when it came to
6 the meeting at the presidency, that meeting at the presidency took place in the
7 afternoon, which we attended. Then the visit took place after the meeting at the
8 palace, quite naturally.

9 Q. [14:49:31] Okay. So now I understand. This meeting here at the residence is
10 the same day as the meeting at the palace, just later in the day. It's at nighttime.

11 A. [14:49:50] That's not what I said. That's not what I said. I did not talk about a
12 day. A short while ago I said that -- before the break, actually, I said that I did not
13 remember the exact day of the meeting you are talking about, Mr President.

14 Q. [14:50:03] Okay. So you're --

15 PRESIDING JUDGE TARFUSSER: [14:50:06] Just finally.

16 MS PACK: [14:50:07] Sorry.

17 PRESIDING JUDGE TARFUSSER: [14:50:09] There is an entry late night on the 26th,
18 I think, of November. Do you remember this meeting?

19 THE WITNESS: [14:50:27] (Interpretation) Let me repeat myself. If my name
20 appears on the logbook, it means that I went there. I have no problem with that.
21 But I don't remember the purpose of the visit.

22 PRESIDING JUDGE TARFUSSER: [14:50:40] Okay. Thank you.

23 MS PACK: [14:50:42]

24 Q. [14:50:44] Well, just perhaps I was being unclear, because we were talking about
25 a different meeting earlier at the palace. And so now I'm asking you a different

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1 question, which is --

2 PRESIDING JUDGE TARFUSSER: [14:50:52] But make dates, put dates.

3 MS PACK: [14:50:54]

4 Q. [14:50:55] This meeting is on -- whether the meeting at the palace was also on 26
5 November, same date as --

6 THE INTERPRETER: [14:51:01] Mr President, could counsel be advised to slow
7 down for the benefit of the interpreters.

8 PRESIDING JUDGE TARFUSSER: [14:51:05] Could counsel be advised to slow
9 down for the purpose of interpreters.

10 MS PACK: [14:51:12]

11 Q. [14:51:13] Was the meeting at the palace that you've spoken about, was it the
12 same day, 26 November, Friday, as the meeting -- as the visit that we see here
13 recorded in the logbook at the residence on the 26th?

14 PRESIDING JUDGE TARFUSSER: [14:51:35] But if he does not remember this
15 meeting, he can't answer, possibly answer this question.

16 MS PACK: [14:51:43] I asked the question, and if it would help him to try and
17 situate it, if he's thinking about the meeting at the palace, talking about the curfew,
18 the 26th --

19 PRESIDING JUDGE TARFUSSER: [14:51:53] Have you had, excuse me, have you
20 had two meetings on the same day, one in the residence and one at the palace, one,
21 the first one in the afternoon and the second one late in the evening?

22 THE WITNESS: [14:52:10] (Interpretation) Once again, Mr President, let me repeat
23 myself. Let me repeat myself once again, Mr President. Now, when it comes to the
24 meeting at the Presidency, and I said this before the break, I don't remember the day.
25 It might have been on a Thursday or on a Friday. In any event, that meeting took

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1 place before the second round of elections. That, I am certain about.

2 I also said that it took place in the afternoon, although I don't remember the day.

3 Now, there has been a superimposition of the meeting or the visit to the residence,

4 because we are dealing with the residence here, and the day has been -- is known, but

5 I don't remember that day and I don't remember the purpose of that visit. Let me

6 repeat, I don't remember the purpose of that visit.

7 PRESIDING JUDGE TARFUSSER: [14:53:07] Okay. I think it's clear now.

8 MS PACK: [14:53:12]

9 Q. [14:53:20] Thank you. And now that we have a day, because we have Friday,

10 26 November. Now, the presidential debate was on Thursday, 25 November.

11 That's when it took place. Right?

12 A. [14:53:39] Yes.

13 Q. [14:53:39] Okay. So then knowing that, that's when the presidential debate

14 took place, Thursday, the 25th, can you tell us in reference to that, what date the

15 meeting at the palace took place? Was it the day after, two days after?

16 PRESIDING JUDGE TARFUSSER: [14:54:13] But we have the logbook.

17 MS PACK: [14:54:14] The palace, the palace, your Honour.

18 THE WITNESS: [14:54:20] (Interpretation) The meeting at the palace, if I were able

19 to recall the exact date, I would have told you a long time ago. What stops me from

20 telling you that?

21 My problem is that these things happened a long time ago and I cannot remember.

22 Seven years ago, seven years ago since these events took place. Maybe this is even

23 the eighth year.

24 It's difficult.

25 MS PACK: [14:54:48]

1 Q. [14:54:49] We'll leave it there. We'll leave it there. Thank you.

2 Now, I wanted just to go back. There are some more meetings, and I'll go back with
3 you again in the logbook, if I may. Now, let's just -- I appreciate we've spoken about
4 the entry on the 19th already. And let me go back to that, because I want to just
5 make sure this has been dealt with fully. It's at page 0930, and we'll just deal with it
6 quickly again.

7 Now it's up on your screen. And I just want to, just again looking at this, it's 19
8 November and there are entries there of you at item 14, arriving 14.01, leaving 15.10.
9 Kassaraté at item 13, arriving 13.52, leaving 15.10. And Mangou arriving 13.40,
10 leaving 15.10.

11 My question: Do you recall yourself entering and leaving the residence on 19
12 November between those hours?

13 A. [14:56:27] Now, at the risk of repeating myself over and over again, let me say
14 that these types of details, it's not obvious that I would remember them eight years
15 after the events.

16 Q. [14:56:47] And do you have any recollection of a meeting with those three
17 individuals and what you -- with the president, and what you discussed?

18 A. [14:56:58] First of all, it is not a matter of course that whenever you go to the
19 residence you have a meeting. Furthermore, I do not recall the exact purpose of that
20 visit. Now, when you interviewed me some time ago, I was able to remember a
21 number of meetings we had, once at the residence, twice at the presidency, at the
22 presidential palace. But as for the other visits to the residence, I really do not have a
23 full recollection of what we may have discussed or what I went to do there at any
24 particular time.

25 Q. [14:57:55] That's fine. I just want to make sure I've asked you the question at

1 least so that at least you've had a chance to make your response.

2 So again, the same questions, because I realise I didn't put those questions to you in
3 relation to the next one, which was 24 November, and that's at page 0944.

4 MR ZOKOU: [14:58:17] (Interpretation) Mr President, I'm sorry, but whenever my
5 learned colleague uses the word "meeting," I'm going to rise, because we're playing
6 with words here. Let us rely on the dates. Let us stick to the dates and the dates
7 only.

8 PRESIDING JUDGE TARFUSSER: [14:58:37] And to the entry into the palace.

9 MS PACK: [14:58:42] Okay, entry, departures, yes.

10 PRESIDING JUDGE TARFUSSER: [14:58:44] Yes.

11 MS PACK: [14:58:44]

12 Q. [14:58:45] Page 0944, if we look at the entry and departures of you and others.

13 Well, let's start with 14. We have Mangou, arriving 20.21, leaving 22.23.

14 Item 15, we have Kassaraté, arriving 20.37, leaving 22.23.

15 Then we have you on the following page, if we can go to 0946, sorry, 0946, the next
16 but one, item 16 at the top there, arriving 20.33, departing 22.33.

17 And actually we have at 18, we have Mr Ministre Kadet Bertin, arrives at 20.59, leaves
18 at 22.23.

19 So just to give you a chance to address this, do you recall entering and leaving the
20 presidential residence on this date, which is 24 November, between these times, at
21 these times?

22 A. [15:00:00] No, madam.

23 Q. [15:00:06] And do you have -- again, just moving forward again in the logbook,
24 we'll go past the 26th, but just one question that I didn't follow up on on the 26th, the
25 meeting at the palace. You told us that Mr Ouattara was unhappy with the curfew.

1 Can you tell us -- not happy with the curfew. Can you tell us, please, why it was?
2 What were you told was the reason why he was not happy with the curfew, if you
3 remember that?

4 A. [15:00:50] I know absolutely nothing about it.

5 Q. [15:00:55] Now, let's go, please, to Wednesday, 1 December, which is at page
6 0964 of the logbook, the same document. And the date appears on that page, and
7 then if we go over to 0966, then there's a series of names. And if we just look then,
8 we can see at 29, we see the DG police arrives 15.38, leaves 16.40.

9 Then we see at 33, we see Mangou. He arrives 15.43, he leaves 16.40.

10 At 34, we see you, arrive 15.43, leaves 16.40.

11 35, we see Kassaraté, arrive 15.43, leave 16.40.

12 36, we have Général Dogbo, arrive 15.50, leave 16.40.

13 And 37, we have *COMTER, arrives 15.52, leaves 16.40.

14 Again, the same questions as previously, do you have any -- do you recall entering
15 and leaving the residence on 1 December, these hours, leaving at the same time as
16 these people?

17 A. [15:03:06] The hours are before me, so I know what the hours were. But as for
18 the purpose of the visit, I can't remember. I do not remember the purpose of the visit,
19 and I'd like to underscore that, that I do not remember the purpose of the visit.

20 Q. [15:03:23] All right. If you don't remember the purpose of the visit, do you
21 remember in fact visiting with these generals, the president at his residence on 1
22 December?

23 A. [15:03:43] Well, to be crystal clear, I do not remember the visit itself. To be
24 more clear, I do not remember the visit, and I do not remember why I went there on
25 that day.

1 Q. [15:04:07] Now, I want quite swiftly just to look at the two decrees that are
2 issued around this time. And again, we'll just identify those. They're at item 89 of
3 the list of material. And it's at CIV-OTP-0018-0047, and the page number would be
4 the same as before, 0049.

5 And just to deal with the first decree, it's just on the top right is the decree of the 1st of
6 December, quote, "Portant," (Speaks English) if we just go up a bit, (Interpretation)
7 "Extending the curfew."

8 (Speaks English) And then if we go down to the bottom of the page we have another
9 decree, this time of the 6th of December, and it's, quote (Interpretation) "Installing a
10 curfew."

11 Do you recall that these, the curfews were extended on the one hand and issued on
12 the other, on the 1st and 6th of December respectively?

13 A. [15:06:07] I had said that the curfew had been imposed a little before the
14 elections, that is to say the second round thereof; that's what I said earlier on.
15 Now, we were told to observe the measures instituted by the curfew. And the
16 question that you're putting to me, what are you asking me about, the decree or -- I
17 have it as to whether I was aware of the decree? What precisely are you after?

18 Q. [15:07:12] Yes. I'm not trying to trick you. We've seen the decree for the
19 curfew of the 26th November. And my question was whether you were aware that
20 that decree was then extended on the 1st of December and then a further decree
21 issued on the 6th of December for curfews.

22 A. [15:07:43] Well, it was possible that the decree was read out over the television
23 or the radio, but we can't remember all of those details. It is possible that it was read
24 out on the TV or the radio. And it is possible that during our various meetings the
25 chief of general staff informed us of these measures. It is possible.

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1 Q. [15:07:58] Well, let me ask you this, so as not to be confusing, not about the
2 decree itself. We'll move on. Were école de gendarmerie students, were they
3 involved in implementing the curfew, the curfew of the 26th November?

4 A. [15:08:18] Student participation of measures is always decided upon by the
5 senior commander of the gendarmerie. At the risk of repeating myself, the students
6 are the reservist intervention measure at the disposal of the gendarmerie. And if
7 they are -- he is of the opinion that they should take part in operations, he will give
8 instructions and these instructions will be followed.

9 THE INTERPRETER: [15:09:11] Message from the interpreter: Could counsel
10 please not move her papers around so much because I can't hear the witness. Thank
11 you.

12 MS PACK: [15:09:27]

13 Q. [15:09:28] I'd like to call up, please, CIV-OTP-0044-0073. Take your time to
14 look at it, please. This is the first page. And if we could just move to then the very
15 last page, just to see who is the signatory. And if we can just go back to the first page
16 again.

17 Let me just ask you this question: Do you recall as commander of the école de
18 gendarmerie Abidjan, do you recall receiving this document?

19 A. [15:10:56] At the time, yes. This is a document that was addressed to the
20 commander of the école de gendarmerie, so I must have seen it.

21 Q. [15:11:14] I'll show you another document, please. It's 0043-0420, same prefix.
22 This one, just for when we get to it, is dated the 25th of November, and it's from the
23 commandant première légion mobile, destinataire (Interpretation) Recipient: The
24 commander of the école de gendarmerie in Abidjan.
25 Subject: Request for reinforcements in manpower.

1 (Speaks English) And this is a document that you recall receiving as commandant of
2 école de gendarmerie -- de la gendarmerie?

3 A. [15:12:26] Yes.

4 Q. [15:12:30] Now, let me ask you, CECOS, was CECOS involved in implementing
5 the curfew, any of the curfews?

6 A. [15:12:37] We are talking about the école de gendarmerie here. I don't see what
7 gymnastics we have done to come back to the CECOS. We're talking here about a
8 document that concerns the école de gendarmerie. This document here concerns the
9 école de gendarmerie. Are we talking about that or are we talking about the
10 CECOS?

11 Q. [15:13:08] We'll move on from this document. So we can move on from that
12 document now.

13 I've asked you the question whether you recall receiving it, and now we're moving on,
14 changing topic to CECOS.

15 So CECOS, the other -- your other position. So was CECOS involved, CECOS, in the
16 implementation of the curfew, any of them?

17 A. [15:13:44] I told you before we took the break at lunch that the CECOS, all the
18 measures before the election, the CECOS was not directly concerned by those
19 measures. But at the same time CECOS was doing its everyday work. It has a
20 dissuasive presence out on the ground in order to provide security for people and
21 their possessions. That's its everyday undertaking in all the sectors and communes.
22 So when there is such a measure, then you can kill one bird with two stones. So
23 according to the times of the curfew, it can call upon members of the population to
24 say that: Be careful, at this specific moment in time the curfew is applicable, so you
25 need to go home. It can do that.

1 So what is CECOS? Well, these are gendarmes and policemen, nothing else.
2 Gendarmes and policemen. So it can do that, but it is not their primary mission.
3 And we were still in that phase.
4 Q. [15:15:10] All right. We'll just look please at one document quickly. It's
5 0071-0697, and it's item 72 in the list of material for my learned friends.
6 Now, this isn't a document that is addressed to you. It's a (Interpretation) Message
7 from the COMTER to the chief PC, election period.
8 (Speaks English) And it would appear to be dated 1st of December 2010. Now, I just
9 wanted to just take you to a passage and then ask you to comment. If we could go to
10 the following page, halfway down, and we can see it says under the heading
11 "Secundo," it says "Alpha," and then it says, quote (Interpretation) "Curfew
12 respected for the major part, however some incidents of aggression in Abobo."
13 (Speaks English) Then if we go back to page 0697, under "Bravo," we have, just going
14 down a little bit, we have, quote, "patrouille mixte," and then in brackets,
15 "gendarmerie, police, CECOS," et cetera.
16 (Speaks English) So just to check, does that reflect what you were telling us about
17 CECOS activities at this time?
18 A. [15:18:01] At that moment in time, CECOS was still undertaking its daily work
19 of being out on the ground, conducting patrols, and ensuring the safety or security of
20 people and their possessions.
21 Q. [15:18:18] Now, we'll move on from this. We're going in chronological order,
22 which is probably apparent to you. So I want to ask you about the 3rd of December
23 now. Now, you spoke to us earlier, in your testimony earlier today, you said -- you
24 talked about a meeting in early December, in fact, that you remembered and that you
25 discussed with the investigators in your interview with the Office of the Prosecutor,

1 an early December meeting with all the general officers when they were notified by
2 the chief of staff and you went to the residence. And this was today at page 45 of the
3 English, lines 12 to 14.

4 Now I want to take you to the logbook, which is the same, 0088-0863, and at page
5 0970, just simply for the record is the start of the entry dated the 3rd of December.

6 Then we go to the page 0974 and a series of entries from 51 and onwards.

7 Now, I'm not going to go through the process of reading those all out. You see there
8 there's a series of names of persons who are arriving at about the same time, similar
9 times, leaving at the same time, 20.50 hours.

10 This is from number 51 right the way down to 60, and you are number 52 there,
11 arriving, it says, at 19.46, leaving at 20.50.

12 Now, do you recall arriving and departing from the presidential residence on this
13 occasion?

14 A. [15:20:41] I'm not in a position to provide you with dates because I do not recall.
15 But I wanted to tell you that if this was the visit that all of the generals went to pay at
16 the residence of the head of state after the announcement of the results of the second
17 round, if that's the case, then I do remember that visit. On the occasion of that event,
18 I do remember that visit.

19 Q. [15:21:23] Okay. Well, just to remind you, 3 December, that's the day after the
20 2 December announcement of the results by the constitutional council, and it's the day
21 before the 4 December swearing-in ceremony of President Gbagbo.

22 A. [15:21:54] Yes, I did go to the residence, and all the generals, we all went to the
23 residence when the president was announced as having been re-elected. *The CEMA
24 convened us and we all went to the residence at the agreed hour. We went to the residence
25 in order to present our admiration to the head of state, who had just been re-elected.

1 We also went with a view to voicing or re-voicing our availability to the head of state.
2 I'm talking about the generals here. I'm not talking about the other people. And
3 that was the reason why we went to that meeting. This was -- I'm telling you the
4 motives or the purpose of that visit.

5 Q. [15:22:47] Was there anything that you recall the president saying to you on that
6 occasion that you visited?

7 A. [15:22:57] It wasn't a specific ceremony. It wasn't a meeting. It was a very
8 good atmosphere. Everyone was there. Everyone was happy. And the president
9 just didn't have only us to manage, he had many other personalities who had come to
10 congratulate him. So everyone in turn would greet him and then would step aside.
11 We would greet him and then we would step to one side. So there was no formal
12 ceremony, if you like, during which he would address all of those in attendance, no.

13 Q. [15:23:57] Okay. And you tell us that you were all called to go to the residence.
14 Who called you to go to the residence?

15 A. [15:24:12] The chief of general staff. He told us that he had the information
16 from Minister Kadet, if that's the information you're after. That's all of the
17 information.

18 Q. [15:24:31] All right. And the generals, you said the generals here attended that
19 meeting. Just to be clear, we have the DG police. We have you. We have the
20 CEMA. We have the commander of the air force. Just remind us who that is?

21 A. [15:24:48] Aka Kodjo, Aka Kodjo, *the Major General.

22 Q. [15:25:02] We have the commandant supérieur of the gendarmerie, Kassaraté,
23 yes? We have Admiral Vagba?

24 A. [15:25:14] Yes.

25 Q. [15:25:15] And the DG eaux et forêts? Who is that?

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1 A. [15:25:29] I no longer remember his name. I remember his face but I can't
2 remember his name.

3 Q. [15:25:33] And the COMTER?

4 A. [15:25:37] General Detoh.

5 Q. [15:25:40] So is there anyone else on this list who you would characterise as a
6 general who I've missed, who I haven't mentioned, just that you see here?

7 A. [15:25:50] To my knowledge, all of the military personalities that you have
8 mentioned were with us at that meeting.

9 Q. [15:26:09] Okay. We can leave that now.
10 Did you attend the swearing-in ceremony on the following day, on 4 December?

11 A. [15:26:23] No.

12 Q. [15:26:26] Now I'd like to ask you about an incident that is reported in a
13 document that I'm going to show you. It's 0045-0527.

14 And it's item 132 for my learned friends on the list of material. Forgive me, this is
15 for my learned friends. It's actually item 76 on the list of material.

16 So let me try that again. Can we go please to page 0532. I'd like you please to look
17 at the bottom, the entry at the bottom of the page. When you've read that entry, the
18 first three lines, then we can just go over to the following page, rather than me
19 reading it all out on this occasion. But it's referencing in brief an incident on 4
20 December 2010, and the time there is 11.30, place is Koumassi.

21 And if you look then at the following page, the completed entry is in that first box
22 there at the top.

23 Have you had a chance to --

24 A. [15:29:47] Yes.

25 Q. [15:29:51] Now, this allegation here of seven elements from the BMO launching

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1 tear gas and firing bullets at demonstrators, causing wounded, and one -- this
2 incident, is this something that you were aware of at the time?

3 A. [15:30:40] At the time I was not aware of that incident.

4 Q. [15:30:50] And just so we are clear, the BMO commander at this time, was that
5 still Ouidi, who you spoke about earlier?

6 A. [15:31:02] Yes.

7 Q. [15:31:06] And he at this time, he reported to whom at this time?

8 A. [15:31:12] To the CECOS commander, obviously.

9 MS PACK: [15:31:27] Can we go into private session?

10 PRESIDING JUDGE TARFUSSER: [15:31:32] Can we go into private session, please.

11 (Private session at 3.31 p.m.)

12 (Redacted)

13 (Redacted)

14 (Redacted)

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20 (Open session at 3.49 p.m.)

21 THE COURT OFFICER: [15:49:41] We are back to open session, Mr President.

22 PRESIDING JUDGE TARFUSSER: [15:49:45] We're in open session again. Yours
23 the floor.

24 MS PACK: [15:49:49]

25 Q. [15:49:53] Now I've asked to be brought up, please, the logbook, the visitors'

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1 logbook for the presidential residence. It's 0088-0863 again, and it's at page 0994.

2 And the particular date is Thursday, 9 December. And if we scroll down, we see
3 from entries 19 to 24 inclusive a number of names.

4 Now, rather than read them out, you can see they're all generals, and everyone leaves
5 at 15.21 hours. And we see your name at 21 entry, and we see the hour of arrival
6 as -- of entry, sorry, as 14.49 and the hour of departure as 15.21. That's you.

7 Now, do you recall entering and leaving the president's residence, leaving at the same
8 time as these people here, these persons, these generals on 9 December 2010?

9 A. [15:51:38] I might repeat myself again when I say that this is another issue of
10 dates. Now, when it comes to visits to the residence, there were several of them, but
11 one cannot always remember the dates and the purpose of the visit. It's not obvious
12 that one would always remember the purpose of the visit.

13 Q. [15:52:10] Let me just ask you this, and this is just to see if it will help with your
14 recollection. Do you recall that on 9 December there was a communiqué from the
15 AU Peace and Security Council on that day which was backing Mr Ouattara, do you
16 recall -- in the elections. Do you recall that communiqué? I'm not going to bring it
17 up, but do you recall it?

18 A. [15:52:40] Yes, yes.

19 Q. [15:52:46] So just to see again, does that help you at all? And of course if it
20 doesn't, then please say. Does that help you at all in situating that meeting in your
21 memory -- not, sorry, not that meeting, the entry and departure from the residence on
22 9 December 2010?

23 A. [15:53:07] My or our visit was not necessarily linked to that. It might have been
24 for other purposes, particularly given that the president never really discusses politics
25 with us.

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1 Q. [15:53:31] Right. I'm going to move on to another topic now. I'm going to
2 move on to the 16 December 2010 march, demonstration.

3 Now, your Honour, I wonder if it's best, well, I can start now and we'll see how we
4 go.

5 So if you can just think forward to 16 December.

6 PRESIDING JUDGE TARFUSSER: [15:53:59] Are you starting a new topic?

7 MS PACK: [15:54:01] Yes, I'm starting --

8 PRESIDING JUDGE TARFUSSER: [15:54:03] Which is a longer one, I suppose.

9 MS PACK: [15:54:05] Yes, it is, indeed.

10 PRESIDING JUDGE TARFUSSER: [15:54:06] Now, we have also to deal with the
11 outlook of your questioning for tomorrow. So I would say we stop here and we
12 leave the witness to his rest. I think it's a good time for him to go to have a rest.
13 And then we have five minutes to deal with what happens tomorrow without the
14 witness being here.

15 So can the witness be brought out.

16 We stop here with your testimony today. We see each other tomorrow morning at
17 9.30 once again. Thank you for having been here.

18 Please, court usher, could you escort the witness outside of the courtroom. Thank
19 you.

20 (The witness stands down)

21 MR GILISSEN: [15:55:11] (Interpretation) Mr President, I'm sorry. Mr President,
22 I'm wondering whether I am needed in the courtroom at this time when you're going
23 to have the kind of discussion you're intending to have now. I remain available to
24 the Court in any event.

25 PRESIDING JUDGE TARFUSSER: [15:55:29] Well, you should stay here, because we

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1 are talking about the calendar for tomorrow and the next days. It's just five minutes.

2 Then we all, we will all go and come back tomorrow morning at 9.30.

3 So I would ask now the Office of the Prosecutor what she thinks, how much time you
4 still need for this witness for your questioning.

5 MS PACK: [15:55:55] Well, I must crave your indulgence, Mr President, because I
6 think I will need another four sessions, that is until the end of the first session on
7 Thursday, the reason being it's taking -- it's moving slower than I thought. And I'm
8 going, as you can see, in chronological order, and we are but at 16 December, and we
9 have a few months more to go through. And there is evidence that I will need to
10 deal with in the months of January, February, March. I'll go as quick as I can, but --

11 PRESIDING JUDGE TARFUSSER: [15:56:27] I give you the whole day tomorrow.
12 That's it.

13 MS PACK: [15:56:30] Okay.

14 PRESIDING JUDGE TARFUSSER: [15:56:31] Okay. So because no, I think three
15 days, ten hours was prevented. I mean, how long did we -- how long did it last until
16 now?

17 THE COURT OFFICER: [15:56:47] 7 hours 23 minutes from the Prosecution so far.

18 PRESIDING JUDGE TARFUSSER: [15:56:52] Yes. I would say tomorrow we try to
19 finish. Three sessions, three full sessions should be, should be enough.

20 MS PACK: [15:57:04] I will do my very best.

21 PRESIDING JUDGE TARFUSSER: [15:57:06] Okay, good.

22 So therefore I don't need to tell you that you have to start tomorrow after the first
23 session.

24 So this concludes the hearing, today's hearing, and we adjourn to tomorrow morning
25 at 9.30. Thank you. The hearing is adjourned.

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- 1 THE COURT OFFICER: [15:57:29] All rise.
- 2 (The hearing ends in open session at 3.57 p.m.)