

Trial Hearing
WITNESS: CIV-OTP-P-0438

(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
5 Goudé - 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 Wednesday, 3 May 2017
10 (The hearing starts in open session at 10.32 a.m.)
11 THE COURT USHER: [10:32:46] All rise.
12 International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE TARFUSSER: [10:33:07] Good morning. Good morning,
15 Mr Witness, in the remote location.
16 WITNESS: CIV-OTP-P-0438 (On former oath)
17 (The witness speaks Dioula)
18 (The witness testifies via video link)
19 THE WITNESS: [10:33:27] (Interpretation) Good morning. Is everything fine with
20 you?
21 PRESIDING JUDGE TARFUSSER: [10:33:49] I think the Dioula booth is not ready,
22 can that be? Because the witness said something and it was not translated, so
23 therefore I think there is –
24 THE INTERPRETER: [10:34:06] Message from the interpreter from the English booth:
25 The witness said, "Good morning" and asked how everyone was.

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1 PRESIDING JUDGE TARFUSSER: [10:34:19] So can you hear me, Mr Witness?

2 THE WITNESS: [10:34:35] (Interpretation) Yes, I can hear you.

3 PRESIDING JUDGE TARFUSSER: [10:34:38] So I give back the floor to the Office of
4 the Prosecutor for his questioning. Yours is the floor.

5 THE WITNESS: [10:35:07] (Interpretation) Yes, I've understood. Yes, I completely
6 understand what you have said.

7 MR LEDDY: [10:35:34] Thank you, your Honour. If I could start with a
8 preliminary matter. We've been informed this morning that apparently there were
9 some translation issues yesterday with the Dioula interpretation. I believe a member
10 of the VWS present in court yesterday who is fluent in Dioula has identified a couple
11 of issues. We just wanted to alert the Chamber to that effect and that we'll be
12 keeping track today.

13 PRESIDING JUDGE TARFUSSER: [10:35:56] Okay. Thank you.

14 QUESTIONED BY MR LEDDY: (Continuing)

15 Q. [10:36:13] Good morning, Mr Witness. Did you sleep well last night?

16 PRESIDING JUDGE TARFUSSER: [10:36:17] Can we go to the questions without --

17 MR LEDDY: [10:36:19] Sure.

18 Q. [10:36:20] So, Mr Witness, I'm going to focus you on the crisis in Abidjan after
19 the voting took place for Gbagbo and Ouattara. I'm referring to the end of 2010 and
20 early 2011. I want to bring your attention to Yopougon and to Doukouré specifically.
21 Now, you've mentioned that you're Muslim. Do you know of any mosques in
22 Doukouré?

23 A. [10:37:01] I've understood. Indeed, yes, I am a Muslim person and there are
24 mosques in Doukouré.

25 Q. [10:37:28] Can you tell us the name of some of those mosques?

1 A. [10:37:36] There is the major mosque and then along the road there is the
2 Haoussa mosque, and a bit further down there is another mosque close to the main
3 market. Other than that, well, there is two main mosques alongside the road and
4 then there is the main mosque.

5 Q. [10:38:12] What is the name of the main mosque?

6 A. [10:38:26] The main mosque, the large one? Everyone calls it the large mosque
7 or the great mosque, the mosque, the Antenne mosque, Antenne de la -- correction:
8 Mosquée de l'Antenne in French.

9 Q. [10:38:50] And does it go by any other names, the Antenne mosque?

10 A. [10:38:55] Well, the name I know it by is mosquée de l'Antenne. I don't know
11 of any other name for that mosque.

12 Q. [10:39:24] And where exactly is it located in Doukouré?

13 A. [10:39:33] At the entrance into Doukouré to the left, and it faces the actual
14 antenna. The antenna is to the right and the mosque is to the left.

15 Q. [10:39:54] What is the name of the road where the mosque is located?

16 A. [10:40:12] The big road, the main road? It goes all the way to *Pales Viji (*phon.*).

17 Q. [10:40:27] Approximately how far is this mosque from the Saguidiba
18 roundabout?

19 A. [10:40:33] What do you mean? The distance between the mosque and that
20 place?

21 Q. [10:40:58] Yes. If you know it.

22 A. [10:41:05] I couldn't tell you the exact distance, but I do know that it's not far
23 from Saguidiba.

24 Q. [10:41:23] Did you attend this mosque during the time period I mentioned in
25 early 2011?

1 A. [10:41:30] We would go to the main mosque. We would go on Friday for the
2 Friday prayer. As for the other prayers, I would do those where I worked, and from
3 time to time during the main celebrations we would go to the main mosque and we
4 would pray there.

5 Q. [10:42:11] And what time were the prayers on Fridays at this mosque?

6 A. [10:42:22] The Friday prayer begins at 1300 hours, the first, that's the first call.
7 If you go very early, well, that's one thing. But some people go later on. But it's
8 from 1300 hours to 1300 hours 30.

9 Q. [10:43:00] And what did you see happen to the mosque during this time period?

10 A. [10:43:08] Well, what I saw in relation to the mosque in the day of the
11 disturbances, I saw what happened.

12 Q. [10:43:39] What did you see?

13 A. [10:43:46] The mosque, the mosque was burnt down right before me, before my
14 very eyes.

15 Q. [10:43:58] Do you remember the date on which the mosque burned down?

16 A. [10:44:07] I don't know the date.

17 Q. [10:44:28] Do you remember the day of the week?

18 A. [10:44:33] I believe it was 25 February, Friday, 25 February.

19 THE INTERPRETER: [10:44:53] *Interpreter correction: The English booth missed
20 a negation and indeed the witness did say that he remembered the date.

21 MR LEDDY: [10:45:08]

22 Q. [10:45:09] Now, we'll get to the details of what you saw at the mosque that day,
23 but first I'd like you to take us through what you saw that day in chronological order.
24 So what did you see and hear that morning of February 25, 2011?

25 A. [10:45:28] Well, that day I saw what happened. I'm not giving you hearsay, I'm

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1 just telling you about what I saw myself.

2 Q. [10:46:08] Thank you. And what did you see?

3 A. [10:46:14] The mosque was burnt down right in front of me. I saw it. I saw
4 the disturbances.

5 Q. [10:46:32] So you mentioned disturbances. Can you tell us in chronological
6 order what you saw happen as far as disturbances?

7 A. [10:46:46] I can tell you what I saw. I can tell you about it.

8 PRESIDING JUDGE TARFUSSER: [10:47:08] So please do tell us. Just start, tell us
9 what you saw. You can speak freely.

10 THE WITNESS: [10:47:36] (Interpretation) On 25 February in the morning, I went
11 out. I left the market and I stopped in front of Score at around 10 in the morning,
12 10.30 maybe. And we were told that there were some disturbances in the
13 neighbourhood. So I stopped in front of the Score and a gbaka was torched. I don't
14 know who burnt it, set it off aflame, but I did see that. I continued along my way to
15 go to my neighbourhood. In my neighbourhood there were many disturbances.
16 Many people were out in the street *on Saguidiba street and the people in my
17 neighbourhood also were in -- out in the street, and so that is how it unfolded. The
18 mosque was burnt down that day.

19 MR LEDDY: [10:48:48]

20 Q. [10:48:48] Going back to the gbakas for one second, where exactly did you see
21 the gbaka you mentioned that was burned?

22 A. [10:48:55] The gbaka was torched in front of Score. That is where it was set on
23 fire.

24 Q. [10:49:25] Could you see inside the gbaka?

25 A. [10:49:30] Yes. I saw it but I couldn't see inside. I saw the gbaka alight,

1 burning, but I don't know about inside, because when I got there, the gbaka had
2 already been set on fire. I don't know who set it on fire or the way that it was
3 actually torched or set on fire. I don't know exactly how they did that.

4 Q. [10:50:13] Do you know who owned the gbaka?

5 A. [10:50:16] No, I don't know the owner, nor do I know the driver. I just saw the
6 gbaka on fire and I went along my way.

7 Q. [10:50:42] And you mentioned disturbances and people in the street in
8 Doukouré. Please describe what you saw.

9 A. [10:50:53] In Doukouré, there were many people out in the street. Some of
10 them were in *Sideci, there was a group that stretched from the 16th all the way to the
11 Antenne area. There were many people. I don't know the people who were there.
12 The mosque was burnt down that day, but I couldn't say whether people I knew had
13 been there or not.

14 Q. [10:51:44] And can you describe what these people were doing?

15 A. [10:51:50] That's what I said, the mosque was burnt down, but the people who
16 were actually there, I didn't know them. There were many disturbances, many people
17 out in the street, and they came towards the people living in our neighbourhood and
18 the shops alongside the road were also hit. There were many disturbances.

19 THE INTERPRETER: [10:52:35] Interpreter correction: In the previous reply the
20 witness mentioned people being in front of the SIDECI, S-I-D-E-C-I.

21 MR LEDDY: [10:52:51]

22 Q. [10:52:52] Now, you said these individuals came towards the people from your
23 neighbourhood. What did you mean? What did you see happen?

24 A. [10:53:15] There were many disturbances that day, a lot of noise and clashes.
25 My friend --

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1 THE INTERPRETER: [10:53:27] Inaudible.

2 THE WITNESS: [10:53:29] (Interpretation) *My friend died that day.

3 MR LEDDY: [10:53:36]

4 Q. [10:53:37] How were these people dressed? What were they wearing?

5 A. [10:53:43] Well, there were many people. People were wearing all kinds of
6 clothing, but I couldn't tell you exactly how people were dressed. I really can't tell
7 you what kind of clothing they had on.

8 Q. [10:54:09] Now, you mentioned the clashes. Who were the clashes between?

9 A. [10:54:28] There were some people who were on the main road and the
10 inhabitants of my neighbourhood arrived and there were some clashes.

11 Q. [10:54:41] Do you know who the people from your neighbourhood were
12 clashing with?

13 A. [10:54:52] Those people, they came from a rally, and the clashes occurred, but I
14 wasn't there. Once I got there, the clashes had already begun. And the people who
15 had left the rally had arrived and they confronted the people living in our
16 neighbourhood. Those were the circumstances in which the mosque was burnt
17 down.

18 Q. [10:55:47] What rally are you speaking of?

19 A. [10:55:54] A political rally.

20 Q. [10:56:07] Do you know who held the rally?

21 A. [10:56:12] They said that they had been at the rally and that Blé Goudé had
22 taken part in the rally himself. Personally I didn't see him myself, I saw the crowd,
23 but I couldn't tell you that I saw Blé Goudé myself personally.

24 PRESIDING JUDGE TARFUSSER: [10:56:45] Excuse me. I just want to ask also
25 Wilfred in the field, the remote location, could you ask the witness to look a bit into

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1 the camera because we see his head, but --

2 THE COURT OFFICER: (Via video link) [10:57:04] The Judge has asked for the
3 witness to sit --

4 PRESIDING JUDGE TARFUSSER: [10:57:06] To sit a bit differently so that we ...
5 (Discussion off the record at the remote location)

6 PRESIDING JUDGE TARFUSSER: [10:57:42] Okay. Please go ahead.

7 MR LEDDY: [10:57:47]

8 Q. [10:57:47] Mr Witness, at the time of these clashes, do you remember whether
9 any politicians had signs displayed in Doukouré?

10 A. [10:57:58] What I saw in the Doukouré neighbourhood, I saw signs with the
11 faces of various politicians on them.

12 Q. [10:58:37] Which politicians?

13 A. [10:58:42] Alassane Ouattara and Bédié.

14 Q. [10:59:03] Do you remember approximately what time you first saw clashes in
15 your neighbourhood that morning?

16 A. [10:59:15] What person are you talking about?

17 Q. [10:59:34] I'm just asking what time you first saw the clashes starting in
18 Doukouré that morning?

19 A. [10:59:44] It was not yet 11 a.m., a few minutes before 11 a.m., but I wasn't
20 wearing a watch, so I couldn't tell you exactly what time it was.

21 Q. [11:00:23] And the individuals coming into your neighbourhood, can you
22 describe them? Were they men, women, children?

23 A. [11:00:34] There were some men, some young men. I didn't see any women.
24 Those whom I saw were young men as well as some more elderly persons.

25 Q. [11:01:07] And what, if anything, did you hear these men saying?

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1 A. [11:01:12] During the disturbances, I heard people say that the mosque had been
2 burnt down and then they wanted to burn down other buildings. So that is what I
3 heard. And I also heard that each person should have his or her own Dioula. So to
4 each person his Dioula.

5 Q. [11:01:56] And what did you understand that to mean, "chacun son Dioula"?

6 A. [11:02:16] What I understood by "to each person his Dioula" is that they were
7 saying and repeating "to each person his Dioula."

8 Q. [11:02:38] How did it make you feel to hear that?

9 A. [11:02:57] At the time the mosque had already been burnt and that is when I
10 heard that slogan being mentioned.

11 Q. [11:03:30] How did it make you feel?

12 A. [11:03:35] Well, under those circumstances and the events that were unfolding
13 in the neighbourhood, we were all forced out of the neighbourhood, and I personally
14 was not wounded, I wasn't hurt, I wasn't affected, but we were pushed out.

15 Q. [11:04:27] I understand you were pushed out of the neighbourhood, but my
16 question was about how it made you feel to hear those words, "chacun son Dioula."
17 What was their meaning to you specifically?

18 PRESIDING JUDGE TARFUSSER: [11:04:52] Maître Zokou.

19 MR ZOKOU: [11:04:56] (Interpretation) Mr President, dear colleague, I'm sorry to
20 interrupt. We have gone from what the witness felt -- we have gone from what the
21 witness saw to what he felt. We are not here to talk about what he felt because we're
22 not doing a psychoanalysis of the witness. Thank you.

23 PRESIDING JUDGE TARFUSSER: [11:05:24] I agree. I fully agree. I think we
24 should not ask feelings but facts. Thank you.

25 MR LEDDY: [11:05:31]

1 Q. [11:05:35] Mr Witness, did you recognise any of the men that were in this group
2 coming into your neighbourhood?

3 A. [11:05:46] I cannot tell you who was present there. I saw a crowd. I didn't
4 know everyone in the crowd. And I couldn't tell you whether I had any friends or
5 relatives in the crowd. But there were many, many people on the main road.

6 Q. [11:06:17] The people coming into your neighbourhood, could you see whether
7 they were armed?

8 A. [11:06:39] What I saw is some young people who were throwing stones in order
9 to get us out, and then the BAE troops *lobbed some tear gas while the youth were
10 throwing stones, although I didn't see *these things myself.

11 Q. [11:07:24] Focusing on what you did see, can you tell us whether any of these
12 men had weapons other than stones?

13 MR O'SHEA: [11:07:33] Stop there, Witness, for a moment, please.

14 PRESIDING JUDGE TARFUSSER: [11:07:40] Mr O'Shea.

15 MR O'SHEA: [11:07:42] Your Honour, the -- especially in the light of the previous
16 answer, the appropriate question would be whether these people were carrying
17 anything or not, not to go directly into the issue.

18 PRESIDING JUDGE TARFUSSER: [11:08:00] Yes, please, Maître Gbougnon.

19 MR GBOUGNON: [11:08:04] (Interpretation) Mr President, along the same lines as
20 my colleague, I would like to say that this morning the Prosecution itself indicated
21 that the interpretation is not exactly perfect, but we have not reacted so far, but I think
22 that about *90 per cent of the witness's thoughts are being captured.

23 Now, on the last question, the witness was a little more elaborate than the answer we
24 get in the transcript. He was a lot more explicit than that, but unfortunately it wasn't
25 captured.

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1 What I'm saying is that if the transcript would have been correct, I am not sure that
2 the Prosecutor would have put this question that he's putting to the witness again.

3 So I'm somewhat bothered by that. If it had been transcribed with all the details
4 provided by the witness in his answer, I don't think that the question from the
5 Prosecution would have arisen anymore because it would have been moot.

6 So what I'm saying, in one way or another, that this question doesn't really stand
7 because the witness has already provided an answer to it.

8 PRESIDING JUDGE TARFUSSER: [11:09:27] Yes, but this question stands as long as
9 the transcript is as it is. I mean, if we -- we have to follow the transcript. It cannot
10 follow what you personally, speaking probably Dioula, understand. I mean, you can
11 understand this, so. I cannot intervene to this, on this because I don't -- I'm not in a
12 position to say if the interpretation is good enough or correct. I don't know.

13 As far as Mr O'Shea's intervention is concerned, I think, and I read the English
14 transcript, the answer was, of the witness, which then triggered the question you
15 opposed was:

16 "What I saw is some young people who were throwing stones in order to get us
17 out ..." et cetera.

18 And then the question was: "Focusing on what you did see, can you tell us whether
19 any of these men had weapons other than stones?"

20 So I think it's absolutely correct, posed correctly.

21 Please, Mr Prosecutor, go ahead.

22 So the question is, or you saw these young people throwing stones. And the
23 question is did you see other things having -- these young people having in their
24 hands other than stones?

25 THE WITNESS: [11:11:09] (Interpretation) That is what I just said. I did not see

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1 what they were -- what they had. What I am saying is that I did not see. And I am
2 not here to talk about things that I did not see.

3 PRESIDING JUDGE TARFUSSER: [11:11:53] Yes, but did you see or did you not see
4 these young people throwing stones?

5 THE WITNESS: [11:12:05] (Interpretation) Yes, indeed, they were throwing stones.
6 They even used stones to chase us out. And we were in the middle of the
7 neighbourhood.

8 Now, whether they used other items, different from stones, on the main road, I do not
9 know because I did not see any such thing.

10 PRESIDING JUDGE TARFUSSER: [11:12:47] Mr Prosecutor.

11 MR LEDDY: [11:12:52]

12 Q. [11:12:52] Mr Witness, I'd like to direct your attention to your statement made to
13 OTP investigators.

14 MR LEDDY: For the Court record that's CIV-OTP-0057-1570. And at page 1581,
15 paragraph 60 --

16 MR O'SHEA: [11:13:16] There is an objection here, your Honour.

17 PRESIDING JUDGE TARFUSSER: [11:13:21] Yes, please. Yes, please. An
18 objection on what?

19 MR O'SHEA: [11:13:25] I'd like the witness to be cut off for a moment, if possible,
20 please.

21 PRESIDING JUDGE TARFUSSER: [11:14:09] Are we cut off? No.

22 Okay. They tell me that we can hear them but they cannot hear us.

23 MR O'SHEA: [11:14:43] Very well. Your Honour, of course -- and I can hear
24 myself.

25 The practice has developed in the light of your Honours' rulings to confront the

1 witness with his own statement in these particular proceedings. However, it's not an
2 absolute right to do that, it's a matter of discretion for the Chamber. And there are
3 certain concerns I have given the witness we have and what we know about the
4 witness.

5 We have not received, I don't know if one exists, but we have not received a statement
6 in Dioula. So at the moment I don't know whether this witness has read any
7 statement in Dioula before signing it.

8 We know from my learned friend's comment this morning that there have been some
9 difficulties in interpretation during these proceedings, and we suspect that there may
10 have been some difficulties in interpretation during the investigation as well.

11 In our submission, there are some inherent dangers in confronting this witness with
12 sentences in his statement which contradict what he said in the witness box by the
13 calling party.

14 This witness, as your Honours can see, you know, is not, and of course on the basis of
15 the evidence that we heard, is not a witness of a high level of education, he's relatively
16 simple in the way he comes across, and there is a great danger, in my submission, that
17 reading out a sentence from this statement to the witness might receive a simple
18 positive answer from this witness, and that could give the impression that he has said
19 things to the investigators which he in fact has not.

20 So based on who the witness is, based on the difficulties and potential difficulties in
21 interpretation, based on the fact that notwithstanding the simplicity of this witness, he
22 has articulated what he has seen and what he has not seen. In my submission, there
23 are sufficient dangers in the exercise which is about to be conducted that the Chamber
24 would be justified in reverting into the practice in other Chambers, which is that the
25 calling party may not confront the witness with lines in his own statement. This is

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1 not inconsistent with your Honours' rulings because your Honours' rulings are on the
2 premise that the Chamber has a discretion to allow the calling party to confront the
3 witness with a prior statement.

4 PRESIDING JUDGE TARFUSSER: [11:18:30] Mr Knoops.

5 MR KNOOPS: [11:18:34] Mr President, we support this objection. In addition to
6 this objection, we, in this specific situation, refer also to directive 41 because the
7 Prosecution did not lay the foundation for one of the two criteria mentioned to
8 confront the witness with an earlier statement. Thank you.

9 PRESIDING JUDGE TARFUSSER: [11:18:55] Legal Representatives.

10 MR CARNERO ROJO: [11:18:58] Thank you, your Honour. I think that the first
11 concern raised by my colleague from the Defence has been addressed by the
12 interpreters, who collected this statement, who were present during the collection of
13 the statement because as you can see in the evidence, in the statement itself, at the end
14 of the statement there is a declaration by the interpreter that he read the statement
15 back in Dioula to the witness and that he said that it was fine and before he signed it.
16 So I don't see the problem, your Honour.

17 PRESIDING JUDGE TARFUSSER: [11:19:42] Prosecutor.

18 MR LEDDY: [11:19:42] Your Honour, the Prosecution would agree with the
19 statement just made by VWU and, in addition, remind the Court that the witness has
20 been quite clear in differentiating between what he could see and what he didn't see.
21 So we don't have concerns about this fact as the Defence has suggested.

22 PRESIDING JUDGE TARFUSSER: [11:20:04] The hearing is suspended. The
23 hearing is suspended 10 minutes to decide on this.

24 THE COURT USHER: [11:20:12] All rise.

25 (Recess taken at 11.20 a.m.)

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

2 THE COURT USHER: [11:31:24] All rise.

3 Please be seated.

4 PRESIDING JUDGE TARFUSSER: [11:31:29] On this opposition by the Defence for
5 Mr Gbagbo and then followed also by Mr Knoops for the Defence for Mr Blé Goudé,
6 the Chamber decided to reject the opposition, to allow the Prosecutor to confront the
7 witness with his previous statement, but in the following way:

8 First, for the record, the part which the Prosecutor wants to confront the witness with
9 is read out for the record of the case in -- is read out for the record.

10 Then, on the basis of the psychological assessment, this part read out should be
11 broken down in small pieces and put simple questions to the witness following this
12 part which he is confronted with, and this also on the basis of the fact that in taking
13 this statement, all the rules were followed. There was an interpreter. It was read
14 back to the witness what he said, and he confirmed and signed the statement.
15 Therefore, I would really ask the Prosecutor to follow this procedure, and therefore I
16 give back the floor to you.

17 MR LEDDY: [11:33:24] Thank you, your Honour.

18 Q. [11:33:30] Now, Mr Witness, before the break I was referring to your statement
19 to investigators of the Office of the Prosecutor. And for the record that's ERN
20 CIV-OTP-0057-1570 at page 1581, paragraph 60.

21 I'd like to read one sentence, the first sentence of that paragraph for the record.

22 (Interpretation) "The militia members had machetes and knives, and what is more, the
23 BAE threw canisters of tear gas."

24 (Speaks English) Now, Mr Witness, do you remember making that statement to the
25 Office of the Prosecutors?

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1 PRESIDING JUDGE TARFUSSER: [11:34:49] I think we should just use more simple
2 words: "Having said this to," you know --

3 MR LEDDY: [11:34:56] Okay.

4 PRESIDING JUDGE TARFUSSER: [11:34:57] -- just using more simple words in
5 order for --

6 Mr Witness. Can you hear me, Mr Witness?

7 THE WITNESS: [11:35:05] (Interpretation) Yes, I can hear you. I didn't come
8 here -- well, I didn't get to that part. *When we get there, I will answer. I haven't
9 forgotten anything. I'll start at the beginning and then I'll tell you about the whole
10 period of time.

11 PRESIDING JUDGE TARFUSSER: [11:35:31] Okay. Try to speak freely. Just tell
12 us your story.

13 THE WITNESS: [11:35:54] (Interpretation) All right. As I was saying, the BAE
14 threw the grenades, otherwise, well, they threw canisters of tear gas that actually
15 injured one person. We got out of there. And that person was evacuated,
16 Chemogokoro was his name. And the civilians, they began and they were moving
17 forward slowly. But I haven't forgotten anything that I saw, and I'll get, I'll get to
18 those points when the time is right, you know, when we get there.

19 PRESIDING JUDGE TARFUSSER: [11:36:57] But you can get there what you -- you
20 can get there at any time. You just speak, speak freely about your experience of
21 those days and then if we need or if the parties need to say -- some explanations,
22 some further explanation, they will ask you. But I would suggest that you just speak
23 freely about your experience of those days.

24 THE WITNESS: [11:37:34] (Interpretation) Fine. I've understood. I -- well, given
25 perhaps if -- if I could mention names, you tell me if I can say the day on which that

1 person was killed. There was *Juma on 25 February. It was a Friday. Got up in
2 the morning. *He got up in the morning. He visited his friend Bakari who used to
3 sell charcoal around Sidéci. He went to see Bakari that the morning. And as usual,
4 after Friday prayers, we shared a meal. His wife was *at home. That noon, after
5 prayers, since I couldn't come very early, I told them to go ahead and eat and they ate
6 and that is when I was told me about the disturbances in the neighbourhood. It was
7 his wife who *had warned him and told him not to return to the neighbourhood. He
8 had called his wife and then went to prayer -- pray at the mosque along with his
9 friend, Bakari.

10 After prayers, he ... he moved ... he wanted to go to the major intersection where
11 there was a phone booth. He wanted to make a phone call. And there was a
12 woman selling charcoal there. I don't remember her name. She was a Baoulé
13 woman. *And that woman gave the time at which he was killed. He called a
14 teacher. Then they asked for his documents. He said he did not have any ID. So
15 at that place where they sold charcoal, he left his documents there. People didn't want
16 to travel around with their documents, their ID, because that could lead to trouble.
17 So the Baoulé woman, well, I'm telling you what she told me, the words of the Baoulé
18 woman. A group of people took this person, beat him up and burnt him alive.
19 And the Baoulé woman wanted -- well, she said that he tried to get up. *They
20 stoned him and set him on fire. It was along the road leading towards Bul zéro
21 (*phon*), that is where he was burnt. Two other people as well were torched. Those
22 two people I saw myself, I saw. I went out by way of the back entrance of the
23 mosque, *I passed in front of the pharmacy and I found myself on the main street
24 since -- you see -- the places were not far from each other. It's called Abba, that place.
25 And I saw the bodies. And as I said, well, it's difficult to talk about those events. I

1 saw the body, and I didn't look again. I looked at the body just once. I went back
2 and at one point I cried and I became frightened. And I will give you more details in
3 my answers. Have you understood what I've told you?

4 MR LEDDY: [11:42:49]

5 Q. [11:42:49] Thank you, Mr Witness. Who was it that was burned at the
6 roundabout you mentioned?

7 A. [11:42:57] His name was *Mamadou Niakaté.

8 Q. [11:43:18] Can you give us his full name?

9 A. [11:43:21] I beg your pardon? His name was Mamadou, Mamadou Niakaté.
10 That was his name.

11 Q. [11:43:48] Did he go by any nicknames?

12 A. [11:43:53] No. In actual fact, that was his nickname when we were young.
13 We used to call him Diao-Diao. And why Diao? Well, he was given that nickname
14 after Salif Diao, the Senegalese player. Other than that, he didn't have a nickname.

15 Q. [11:44:37] Where were you when you learned of his death?

16 A. [11:44:44] I was in the Doukouré neighbourhood. So there were these
17 disturbances and the Baoulé woman came and told me about the situation. She got
18 there and she said, she said, "Mamadou, there is a problem with him." And I said,
19 "Oh."

20 THE INTERPRETER: [11:45:23] Correction: She said, "Oh, they killed Mamadou."

21 THE WITNESS: [11:45:27] (Interpretation) That day the situation was hot, volatile.
22 She told me these things and I know that many other people -- so, you see, the women
23 were taken elsewhere, moved away. And I learned, well, this information from the
24 Baoulé woman. I don't know what her name was. Actually, she's moved away.
25 *She used to live in a storey building.

1 THE INTERPRETER: [11:46:14] Inaudible.

2 MR LEDDY: [11:46:19]

3 Q. [11:46:19] What was your relationship with Mamadou Niakaté?

4 A. [11:46:29] The link between us, well, you see, he is the son of the cousin of my
5 mother, and his father and my mother are related to each other.

6 Q. [11:47:00] How long have you known him for?

7 A. [11:47:05] For a long time, a very long time. When I got to Abidjan, he was
8 already there. So when I got to Abidjan, I was in Yopougon morning, noon and
9 night. We would always be together. We would eat together. Actually, when I
10 was away, he would refuse to eat. So even -- I didn't even have such a relationship
11 with my actual biological brothers, my blood brothers.

12 Q. [11:48:09] Was Mamadou Niakaté married in 2011 at this time?

13 A. [11:48:17] Yes, he was married. He got married.

14 Q. [11:48:40] Did he have any children?

15 A. [11:48:45] He got married, but he didn't have the children right away. And
16 when he died, his wife was six or seven months pregnant.

17 Q. [11:49:07] Do you know if she reported his death to any authorities?

18 A. [11:49:22] I couldn't tell you.

19 Q. [11:49:37] Did you report his death to any organisations besides the Office of the
20 Prosecutor?

21 A. [11:49:50] No, I didn't report his death. His elder brother could have done so
22 as well, but he died *on 25 February. On Saturday, I went out. We headed towards
23 the new tarred road. We took a taxi to drop off his wife at Adjamé where *the uncle
24 was living. So I dropped her off there and then they took her. I myself, I did not
25 make a report or anything like that. We didn't go there to do so. So I dropped off

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1 his wife and then we sent the information, the information that you send for someone
2 who has died. I prepared a document, I wrote my name, my telephone number, and
3 I left it.

4 Q. [11:51:18] Do you know somebody by the name of Sambou Niakaté?

5 A. [11:51:31] Yes, I know that person.

6 Q. [11:51:36] Who is he?

7 A. [11:51:40] He is his uncle.

8 Q. [11:51:56] Whose uncle?

9 A. [11:52:00] Mamadou Niakaté. He's the uncle of *Mamadou Niakaté. He is the
10 younger brother; the younger brother of his uncle, of the uncle of Mamadou Niakaté.

11 THE INTERPRETER: [11:52:25] Inaudible.

12 MR LEDDY: [11:52:29]

13 Q. [11:52:30] And I believe you said Mamadou Niakaté's brother also died that day;
14 is that correct?

15 A. [11:52:43] Which one of his brothers?

16 PRESIDING JUDGE TARFUSSER: [11:52:57] Maître Zokou.

17 MR ZOKOU: [11:52:59] (Interpretation) I thank you. Now, could my learned
18 friend be so kind as to refer to the passage in which the witness said that his brother
19 died that day. I'm not so sure about this point.

20 PRESIDING JUDGE TARFUSSER: [11:53:18] Mr Prosecutor.

21 MR LEDDY: [11:53:20] Yes. One second please, your Honour.

22 THE WITNESS: [11:53:40] (Interpretation) Yes, I've understood.

23 MR LEDDY: [11:53:43] It might have been my misunderstanding, your Honour, but
24 I'll direct your attention to the realtime English transcript, page 24, starting at line 4,
25 question: "Did you report his death to any other -- to any organisations besides the

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1 Office of the Prosecutor?"

2 Answer: "No, I didn't report his death. His elder brother could have done so as
3 well, but he died on 25 February."

4 PRESIDING JUDGE TARFUSSER: [11:54:08] Okay. I don't know, it's always a
5 problem then with the French transcript because I learned in this period that they not
6 overlap always a hundred per cent, but yes, please, go ahead and ask.

7 THE WITNESS: [11:54:38] (Interpretation) Yes, I've understood the question.

8 MR LEDDY: [11:54:44]

9 Q. [11:54:45] Can you please clarify then? Did the brother of Mamadou Niakaté
10 die the same day?

11 A. [11:55:07] His younger brother -- we had another brother, they left, but I didn't
12 issue any papers about him. The papers I handled, it was one of our younger
13 brothers who had died. I didn't take care of the documents. I heard that he had
14 died, but I didn't see him and I didn't prepare any documents about him. Then his
15 body, they didn't kill him in the neighbourhood, but I didn't see his actual corpse.
16 What I saw is what I mentioned. He died but I didn't take care of those documents,
17 those papers that had to do with him.

18 Q. [11:56:04] What was his name?

19 A. [11:56:09] His name was Modibo (phon). That's what we called him.

20 Q. [11:56:28] Do you know his family name?

21 A. [11:56:33] Kamara, Modibo Kamara.

22 Q. [11:56:47] Now, I want to ask you about what this Baoulé woman told you that
23 day. Where exactly did she say Mamadou could be located?

24 A. [11:57:10] The place where he died was at the major *intersection, the Saguidiba
25 intersection. When you get there you turn and you get to Bul zéro. There is a ditch

1 and that is where they killed him.

2 The Baoulé woman was living in an apartment building. She got there and she said
3 to me, she said to me, they -- she informed me of Mamadou's death. She said that
4 the situation was hot, volatile, that there were many injured people in the
5 neighbourhood. I also saw people in the streets and they were saying that other
6 people had been injured. I was only thinking of Mamadou. But I didn't think
7 about the other people. So we left.

8 We got to the pharmacy and I said to her, I looked just once, but the two bodies that
9 were along, that were beside, I didn't know them. And the Baoulé woman said that
10 they tore up his jeans and that he was beside other bodies.

11 I went to the place and *then I went back to Saguidiba. There were women who
12 were selling. There were a few people there. I sat down ... then I went back. And
13 if I had stayed -- well, I couldn't, I couldn't take it anymore, so I went back and I cried.
14 And I said to myself, as the Baoulé woman said, this is true, it's been confirmed, he is
15 indeed dead.

16 She said not to tell his wife, that it would not be good for her. She was sent to
17 Adjamé. And once she was in Adjamé, the uncle was there and the uncle could
18 break the news of the death to her.

19 The next day we took a taxi and we dropped her off in Adjamé. And then the
20 documents, the identity papers -- Bakari had given his identity card, he had handed it
21 over. She was afraid to move about with the identity card which was expired.

22 MR GBOUGNON: [12:00:25] (Interpretation) Your Honour.

23 PRESIDING JUDGE TARFUSSER: [12:00:31] Can we go after lunch?

24 MR GBOUGNON: [12:00:35] (Interpretation) We let some things go by, but I think
25 we have a serious interpretation problem. I'm sorry, but the place mentioned by the

1 witness in the circumstances described are certainly not at all what was transcribed.
2 But it's far from what was. Unfortunately, I can't -- but quite frankly, what -- if we
3 look at what the witness is saying and what is being transcribed, there is a lot of
4 differences. I don't see how we are going to deal with this. I can say that some
5 things, some things we let go by because we can see from the general thrust.
6 Well, a transcript, a translation is never perfect. I think we can say that the general
7 idea was there, but the actual location mentioned in the testimony and the
8 transcription and the circumstances, frankly, there is a problem, your Honour. I'd
9 like to raise this point and I really don't know how we are going to deal with the
10 problem.

11 PRESIDING JUDGE TARFUSSER: [12:01:54] Well, thank you very much, Mr
12 Gbougnon.

13 I don't think that you, Mr O'Shea, now have, you know --

14 MR O'SHEA: [12:02:03] It's important, your Honour.

15 PRESIDING JUDGE TARFUSSER: [12:02:05] No, of course it's important.

16 MR O'SHEA: [12:02:06] No, what I have to say is important.

17 PRESIDING JUDGE TARFUSSER: [12:02:09] Okay. No, I thought that you were
18 confirming that the Dioula is not --

19 MR O'SHEA: [12:02:14] No. It's a related issue, but it's an important issue, I have to
20 raise it now.

21 PRESIDING JUDGE TARFUSSER: [12:02:18] Yes, please.

22 Let me just let the witness go. I'm calling the field, Wilfred.

23 THE COURT OFFICER: (Via video link) [12:02:25] Yes.

24 PRESIDING JUDGE TARFUSSER: [12:02:27] Can you please bring the witness for
25 lunch and we see each other in one hour and a half.

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- 1 THE COURT OFFICER: [12:02:33] (Via video link) Not a problem.
- 2 PRESIDING JUDGE TARFUSSER: [12:02:42] So we can disconnect and continue
- 3 here in The Hague. Thank you very much.
- 4 THE COURT OFFICER: (Via video link) Understood.
- 5 PRESIDING JUDGE TARFUSSER: Thank you.
- 6 Are we disconnected?
- 7 Okay. Mr O'Shea.
- 8 MR O'SHEA: [12:02:54] Your Honour, yes. The reason why it's so important for me
- 9 to delay our lunch is because obviously there is a strong chance I may begin my
- 10 cross-examination -- or, my examination as the non-calling party today, and it's in
- 11 that context that I make this request now so that it can be dealt with in time.
- 12 Your Honour will see, I don't know the history behind this, but your Honour will see
- 13 that where the attestation of the interpreter or the declaration of the interpreter is on
- 14 the last page, the name of the interpreter is redacted.
- 15 Now, without going into the rights or the wrongs of that, my request to the Chamber
- 16 is that the Defence be provided with a name of that interpreter. That's the first
- 17 request.
- 18 The second request is that we be provided with the qualifications of that interpreter.
- 19 And thirdly, the recording in Dioula.
- 20 Following up from what my learned friend has just raised, it would perhaps be useful
- 21 if the Blé Goudé team could highlight some examples of the problems and provide
- 22 them so that we can see just how deep this problem is in the absence of the witness.
- 23 PRESIDING JUDGE TARFUSSER: [12:04:34] Yes. And the VWU --
- 24 MR O'SHEA: [12:04:36] Yes.
- 25 PRESIDING JUDGE TARFUSSER: [12:04:37] -- because I think it's not only

1 one-sided.

2 MR O'SHEA: [12:04:38] Yes.

3 PRESIDING JUDGE TARFUSSER: [12:04:39] We have in the VWU a Dioula speaker
4 as well, so this could be for balancing reasons asked also to the Dioula.

5 MR CARNERO ROJO: [12:04:52] Yes, Mr President, just to clarify the record, we are
6 LRV, not VWU.

7 PRESIDING JUDGE TARFUSSER: [12:04:56] Sorry. Well, LRV, yes. That was my
8 mistake.

9 But we do this after lunch, okay.

10 MR O'SHEA: [12:05:09] Your Honour, yes. But my request is on the table --

11 PRESIDING JUDGE TARFUSSER: [12:05:12] Of course, of course.

12 MR O'SHEA: [12:05:13] -- so the Prosecution can deal with it over lunch hopefully.

13 PRESIDING JUDGE TARFUSSER: [12:05:17] Yes.

14 MR O'SHEA: Yeah.

15 PRESIDING JUDGE TARFUSSER: And we will decide after when we come back.

16 MR O'SHEA: [12:05:19] All right.

17 PRESIDING JUDGE TARFUSSER: Okay.

18 MR KNOOPS: [12:05:22] Mr President, may I just -- may I just add?

19 PRESIDING JUDGE TARFUSSER: [12:05:24] Yes.

20 MR KNOOPS: [12:05:25] As I fourth suggestion, but that's not I think for the Court
21 maybe to decide today, but we're speaking about suggestions to the Chamber on this
22 interpretation issue.

23 We as Defence, we would have requested the Chamber at the end of the examination
24 of this witness that the Chamber proprio motu takes note of the tape, of the Dioula
25 tape.

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1 So now that Mr O'Shea raised the issue of the interpretation in general we, as the
2 Defence team of Mr Blé Goudé, suggest the Chamber in any event to, proprio motu,
3 take note of the tape after the examination has been concluded in its totality. Thank
4 you.

5 MR LEDDY: [12:06:05] Your Honour, the Prosecution would submit that this is a
6 standard redaction done in every such kind of statement, that the interpreters' names
7 are routinely redacted and, as such, the name and qualifications of the interpreter
8 aren't relevant at this point. The question is really about the live interpretation in the
9 field.

10 PRESIDING JUDGE TARFUSSER: [12:06:23] Okay. Thank you very much. The
11 hearing is adjourned now. Mr O'Shea you have said --

12 MR O'SHEA: (Microphone not activated)

13 PRESIDING JUDGE TARFUSSER: No, it's -- the hearing is adjourned at 1.35, or
14 something like this.

15 THE COURT USHER: [12:06:36] All rise.

16 (Recess taken at 12.06 p.m.)

17 (Upon resuming in open session at 1.48 p.m.)

18 THE COURT USHER: [13:48:43] All rise.

19 Please be seated.

20 PRESIDING JUDGE TARFUSSER: [13:49:06] Good afternoon. There is no
21 connection with the remote location because the OTP asked to have the floor, and you
22 have it in order to address the Chamber.

23 MR LEDDY: [13:49:23] Thank you, your Honour. The OTP would like to clarify
24 that the interpreters we hire for field interviews are completely separate from the
25 interpreters that CMS hires for purposes of live translation in the courtroom. There

1 are different screening procedures and different vetting procedures. And nothing on
2 the record today has called into question the accuracy of the translation from this
3 witness's statement in 2014.

4 Now, the name of interpreters hired by the OTP are redacted pursuant to the Court's
5 redaction regime, and that's a redaction A3 from the Chamber's protocol that I'm
6 specifically referring to. Now, pursuant to that protocol, the Defence has to show
7 good cause as to why these redactions should be lifted. And in this case, your
8 Honour, no such cause has been shown. There is nothing on the record that's called
9 into question the accuracy of the interpretation in 2014.

10 Now, as your Honour is likely aware, we've raised these Dioula interpretation
11 concerns previously with CMS for witnesses such as P-180 and P-547. The OTP is
12 also opposed to the lifting of these redactions of the names of the interpreters for
13 security reasons.

14 Now, to switch to the real concerns about today's live translation, we'd like to point
15 out two significant discrepancies that we identified in this morning's transcripts, and
16 I'll just quote the first one here, and that is in the French transcript, I believe it's page 8,
17 starting at line 8, we believe the witness said in French, it's written as (Interpretation)
18 "My friend died on that day."

19 (Speaks English) And we were informed that in Dioula he said that his brother had
20 died that day, which is obviously a difference.

21 In English it's read as "inaudible," and that's on page 8, line 10.

22 Secondly, your Honour, the second material difference that we identified we believe
23 was on page 21 of the English transcript, and that's on line 1 through line 4, where it's
24 indicated in English that the witness said, "She was a Baoulé woman and that woman
25 said that when he was killed, called a teacher, and they asked for documents and at

1 that place where they sold charcoal he had left his documents there."

2 The French transcript on page 21, lines 15 through 16, indicates (Interpretation) "So
3 that woman indicated the time at which he was killed. He was called -- he was
4 calling a teacher."

5 (Speaks English) It's our understanding that the word used should be "assailant"
6 and not "enseignant."

7 So those are the two material differences, your Honour. We're in your hands as to
8 how to proceed with the interpretation in the field. We're hoping that we can keep a
9 record with the help of the LRVs on the future material differences in any
10 translations.

11 PRESIDING JUDGE TARFUSSER: [13:52:46] Thank you. The Legal
12 Representatives on this?

13 MR CARNERO ROJO: [13:52:49] Yes, your Honour. Thank you very much.
14 While we have also gone through the transcript during the lunch break, and we agree
15 with the submissions of the Prosecution, but we submit in general that they're small
16 details -- well, not small details, but maybe that the content of the testimony
17 considered altogether has been properly captured and that, as such, there is no, there
18 are no special measures to be taken, especially because, your Honours, we have read
19 the follow-up questions made to the witness and the answers that he gave clarified
20 sufficiently the record.

21 In this regard, your Honours, the situation of this witness is similar to the differences
22 between the original and the translated transcript that we faced with other witnesses
23 in the past, such as Witness P -- sorry, Witness P-625. There were significant
24 discrepancies between the French and the English transcript then and your Honours
25 directed the parties and participants to meet with the Registry to come up with a

1 procedure to identify and correct the errors. So we think that the same procedure
2 could be applied in this particular case, in this particular witness, taking into account,
3 as my colleague from the Defence said before the lunch break, the tape in Dioula is
4 available through the Registry. So we could make use of the original recording in
5 Dioula to eventually make suggestions for corrections in the transcripts in English
6 and French.

7 So in summary, your Honour, we don't think that they are -- that the interpretation is
8 of a quality that merits major measures to be adopted, and of course we'll keep the
9 parties and your Honours informed of any significant and material discrepancies
10 between the original and the translated version of the testimony. Thank you very
11 much.

12 PRESIDING JUDGE TARFUSSER: [13:55:24] Thank you very much.

13 The Defence for Mr Gbagbo.

14 MR O'SHEA: [13:55:27] Your Honours, first of all, the only reason cited for the
15 Prosecution for holding back the identity and the qualifications of the interpreter is
16 security. We as Defence counsel, we have a duty to the Court, we can be trusted.
17 That's my answer to that point.

18 If there is an issue over the interpreter working in the field, that's something which
19 can be dealt with through the mechanisms of this Court, such as going into private
20 session if I ask questions in relation to that.

21 In the case of this particular witness, we don't have a verbatim transcript of the
22 interview. We don't even have a statement in Dioula. All we have is a statement in
23 French. So we as the Defence, on the side of the Defence, we don't have the tools to
24 explore the accuracy of this statement because we don't have the transcript, as we do
25 in the case of some witnesses.

1 And so this is where it becomes relevant for us to know the qualifications and identity
2 of the interpreter. So it cannot be said that because we haven't demonstrated
3 something that, therefore, there is not an issue to explore, because, as I say, we don't
4 have those tools.

5 But it's also inaccurate to submit that there is nothing to put into question the
6 interpretation in the field. We've all read the statement and we've all heard what the
7 witness has been saying, and it certainly cannot be said that there is such convergence
8 between the statement and the live testimony that the question is moot. But indeed,
9 contrary to what my learned friend for the Prosecution has stated, he himself
10 provided the evidence as to the fact that there may be a problem with the
11 interpretation in the field.

12 Your Honours will remember that I objected to him referring to the statement. Your
13 Honours ruled that he could refer to the statement. He then referred to a line in the
14 statement where this witness is specifically saying that the people that he saw were
15 carrying weapons, but weapons in the real sense rather than just stones. And that
16 was after the snippet of live testimony where the witness had said he saw throwing of
17 stones.

18 You, Mr President, put the specific question to the witness: Were they carrying
19 anything else other than stones, any other kind of weapons other than stones?

20 And the witness said that he didn't see them carrying any items. So there you have
21 on its face a contradiction between the statement and what the witness has said in live
22 testimony and one which has been brought out by the Prosecution themselves, not by
23 us.

24 So there is a basis for being concerned about the interpretation. If there have been
25 interpretation problems during these proceedings, it compounds any problems that

1 there may have been at the time that the statement was taken and so it is indeed
2 highly relevant for the Defence to explore the issue of interpretation in relation to this
3 particular witness. And for those purposes, if we know the qualifications and the
4 identity of the interpreter, we can explore whether this interpreter was from the area
5 or outside the area, we can explore as to whether there were any connections between
6 this witness and the interpreter, and we can explore the extent to which it was this
7 interpreter who went through the statement with the witness or this interpreter and
8 someone else.

9 And of course, if the qualifications are questionable, and we don't know whether they
10 are or not, then we have an immediate problem. So if the only reason preventing us
11 from having that information is for the security of the interpreters, let me assure the
12 Prosecution, as I would not need to do, and of course the Chamber, that as counsel,
13 we can be trusted.

14 Just one moment. I've been passed a note.

15 Sorry, just one second, please.

16 (Defence counsel confer)

17 MR O'SHEA: [14:01:20] It's been rightly brought to my attention that --

18 PRESIDING JUDGE TARFUSSER: [14:01:24] Just a moment, please.

19 Please go ahead.

20 MR O'SHEA: [14:01:50] It's been correctly brought to my attention that of course,
21 from the point of view of Defence preparation and dealing with this case, we're not
22 just dealing with this isolated instance, this isolated witness. From our perspective,
23 this is a problem which has occurred in relation to other witnesses and may occur in
24 relation to further witnesses, and so there may be a cumulative picture at the end of
25 the case. So we would invite the Chamber not to look at this in an isolated way

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1 either. This is part of our right to have the adequate facilities to mount our Defence.

2 PRESIDING JUDGE TARFUSSER: [14:02:32] I would have thought so, yes, that it's

3 not isolated issue, yes.

4 That's why we take it serious and we ask the opinion of all parties on this, on this

5 which is a bigger issue than not an issue related to this witness alone.

6 Mr Knoops.

7 MR KNOOPS: [14:02:54] Mr President, just two remarks. First, good cause in this

8 situation relates as we submit to also the application of directive 41. Without

9 verification, we cannot just accept a confrontation with the statement of the witness

10 saying that that statement contradicts what the witness is going to say during the

11 hearing if we don't know exactly if the underlying statement indeed contradicts what

12 the witness is saying at trial.

13 So that's the reason why a verification of the translation directly affects rulings of the

14 Chamber on directive 41. And this is a problem because, if the Prosecution is going

15 to say we detect a discrepancy between what the witness is saying today and what's

16 in his statement, while the statement is not correctly taken down through a correct

17 interpretation, Prosecution is not able to rely on directive 41 and the Chamber is not

18 able to identify whether indeed there is a potential contradiction.

19 So this goes directly to the good cause for the Defence to have access to this

20 information.

21 Now, this will be difficult, I submit, during the hearing today. The Chamber, of

22 course, has the statement of this witness not before it. It's not a statement under

23 68(3). The Chamber could therefore defer its decision till the end of the testimony

24 whether to see if, indeed, there are further discrepancies to be detected between what

25 the witness is saying here today and tomorrow and his statement. That could be a

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1 practical solution and that's why I said before the break that the Chamber is at liberty
2 to proprio motu take notice of the Dioula interpretation.

3 But when we speak about good cause, I think it's paramount to acknowledge that we
4 have now a problem with the invocation of directive 41 and, therefore, this in itself
5 constitutes a legitimate argument for the Defence to have access to this information.
6 Thank you.

7 PRESIDING JUDGE TARFUSSER: [14:05:45] The hearing is suspended.

8 THE COURT USHER: [14:05:49] All rise.

9 (Recess taken at 2.05 p.m.)

10 (Upon resuming in open session at 2.44 p.m.)

11 THE COURT USHER: [14:44:23] All rise.

12 Please be seated.

13 PRESIDING JUDGE TARFUSSER: [14:44:39] The Chamber, on the request by the
14 Defence teams to lift the redactions of the name of the interpreter who assisted the
15 investigators of the OTP in questioning Witness P-438 and to be given the
16 qualification of the interpreter, so as audio recordings of the questioning, having
17 heard the parties, decides as follows:

18 According to the redaction protocol agreed by all parties under category A.3. related
19 to translators and interpreters, inter alia, the names are redacted unless relevant for
20 the preparation of the other party. In this case the Chamber finds that the Defence
21 has not demonstrated the relevance of the requested information.

22 Accordingly, the request for lifting the redactions of the identity of the interpreter and
23 to provide his qualification is rejected.

24 As to the audio recording of the interview, the Chamber was informed that it does not
25 exist.

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1 Now we will continue with the questioning of the witness by the Office of the
2 Prosecutor. I just want to say that we have 15 minutes left, then we have the break
3 and we'll come back at 3.30 for the third session.

4 Mr Prosecutor.

5 MR LEDDY: [14:47:08] Thank you, your Honour.

6 Q. [14:47:15] Mr Witness, before the break we were discussing the death of your
7 friend Mamadou Niakaté. Could you please give us a physical description of him?

8 A. [14:47:39] He's my friend. He was my relative.

9 Q. [14:48:00] How tall was he?

10 A. [14:48:05] Well, I don't -- well, he was slightly taller than myself.

11 Q. [14:48:24] How tall are you?

12 A. [14:48:29] I am 1 metre 80 -- 90 tall.

13 Q. [14:48:51] What was Mr Niakaté's job at the time of his death?

14 Shall I repeat the question?

15 A. [14:49:43] He used to sell charcoal.

16 Q. [14:49:48] You mentioned a Baoulé woman who told you where to find him.

17 Where exactly in the Saguidiba roundabout did she say you could find him?

18 A. [14:50:13] That woman is in Doukouré neighbourhood at Golf Saguidiba and
19 she lives in a storey building there. She left that area.

20 Q. [14:51:07] Mr Witness, my question was where did she say exactly that you
21 could find Mr Niakaté in the Saguidiba roundabout that day?

22 A. [14:51:23] She mentioned a place, and she said that there is a place there where
23 you can play bowling some sort of a gutter where you could play bowling and the
24 body was found near the parking, not far from that area. There were also two other
25 bodies next to Ahmedi's body.

1 Q. [14:52:25] You mentioned a phone booth earlier. What did she say happened
2 to him at that phone booth?

3 A. [14:52:43] The lady was going to call or, rather, the person who managed the
4 phone booth after, in fact, she said that Ahmedi had called from a phone booth and
5 that he died after that call, and that the manager of the phone booth had told her that
6 he had been attacked -- or, rather, that the manager of the phone booth had said that
7 he was an assailant.

8 Q. [14:54:04] Where were you when the Baoulé woman first told you of his death?

9 A. [14:54:19] I was at the Doukouré neighbourhood parking, and this is in the
10 Doukouré neighbourhood. There was still some disturbances going on at the time.

11 Q. [14:54:52] Where is that in relation to the mosque? Where is the parking in
12 relation to the mosque?

13 A. [14:55:01] On the main road, well, the parking and the main road of Doukouré,
14 well, the parking is to the left and the mosque is to the right, and the parking is
15 opposite the mosque. It's facing the mosque. And then there is also a cemetery
16 nearby where the dead were buried.

17 Q. [14:55:46] And we'll get to that, but for now, can you tell us the route you took
18 to get to Saguidiba from the parking lot at that point?

19 A. [14:56:00] I took the road behind the mosque and went towards the pharmacy.
20 I went past the pharmacy behind and then I went onto the main road. That area is
21 quite close to Saguidiba, so I used the same corridor to move on.

22 Q. [14:56:41] Why did you not take the main road?

23 A. [14:56:47] I was in the neighbourhood and I didn't use the main road. At the
24 roundabout of the mosque there were disturbances, so I avoided that road to use a
25 corridor. There were two of us, myself and a friend, and we then went back using

1 the same road later on.

2 Q. [14:57:22] What was the name of the pharmacy you passed?

3 A. [14:57:29] The pharmacy is opposite the antenna. I don't know how to read,
4 but I know that the name of the pharmacy is pharmacie de l'Antenne. Maybe it
5 bears another name, but the name I'm familiar with is pharmacie de l'Antenne.

6 Q. [14:58:04] How long did it take you to get to the Saguidiba roundabout?

7 A. [14:58:09] You see, people do not walk at the same speed. Some people may
8 have taken 4 minutes, others 5 minutes because the distance was not that great.
9 Now, within about 5 minutes maximum, one can reach the Saguidiba roundabout, or
10 maybe in 4 minutes.

11 Q. [14:58:51] Please describe what you saw when you got there to the Saguidiba
12 roundabout.

13 A. [14:59:09] At the Carrefour Saguidiba I saw my brother's corpse and two other
14 corpses. I saw a roadblock at the junction there. There were people there. And I
15 do not know how many people were there, but there were many people there. I was
16 concerned about my brother's fate. And I also saw the roadblock as well as the two
17 bodies lying next to my brother's body.

18 Q. [14:59:50] And how did you know it was your brother's body?

19 A. [14:59:56] Well, my wife had broken the news to me, and I went to the location.
20 I saw the body. I saw its size or height. And I -- I was able to recognise the body.
21 I had gone to the place where I was told he had been burnt. And I saw it. It was
22 different from the two other bodies. And I simply broke down.

23 MR LEDDY: [15:00:57] Now perhaps this is a good place to break, your Honour.
24 I'm aware of the time.

25 PRESIDING JUDGE TARFUSSER: [15:01:02] Okay. Let's take the break. Half an

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1 hour.

2 Mr Witness, we are now breaking for half an hour and then we come back at 1.30 for
3 you, 3.30 for us, and we'll continue for a third session. Thank you very much.

4 The hearing is adjourned until 3.30.

5 THE COURT USHER: [15:01:30] All rise.

6 (Recess taken at 3.01 p.m.)

7 (Upon resuming in open session at 3.32 p.m.)

8 THE COURT USHER: [15:32:17] All rise.

9 Please be seated.

10 PRESIDING JUDGE TARFUSSER: [15:32:44] So good afternoon again.

11 The floor is immediately to the Office of the Prosecutor, who will go, according to
12 their own schedule, should finish by the end of this session, I would say.

13 MR LEDDY: [15:33:07] I expect so, your Honour. I might have five or ten minutes
14 in the morning but we should finish in due course.

15 Q. [15:33:26] Now, Mr Witness, in your testimony, in your testimony earlier
16 today you mentioned the Baoulé woman told you that they tore up Mamadou's jeans.

17 MR O'SHEA: [15:33:53] Can I have the transcript reference for that?

18 MR LEDDY: [15:33:58] Sure. On the English, in the English transcript it's page 27,
19 line 7 through 8.

20 PRESIDING JUDGE TARFUSSER: [15:34:07] Line?

21 MR LEDDY: [15:34:09] Line 7 and 8.

22 PRESIDING JUDGE TARFUSSER: [15:34:11] Okay.

23 MR LEDDY: [15:34:15] And the Baoulé --

24 PRESIDING JUDGE TARFUSSER: [15:34:20] Okay.

25 MR LEDDY: [15:34:24]

1 Q. [15:34:24] So my question, Mr Witness, is what, if anything, did you notice
2 about the condition of Mamadou's jeans?

3 A. [15:34:50] The jeans he was wearing?

4 Q. [15:34:56] Yes.

5 A. [15:35:04] The jeans he was wearing, well, the lady told me that they tore the
6 jeans and cut off part of it. Then they beat him and removed the jean and put it on
7 the side. It was -- right next to it there was blood on it. And that is in that state that
8 I saw the jean he was wearing.

9 Q. [15:36:02] Now, you mentioned there were two others burned next to him.
10 Can you describe their condition, please?

11 A. [15:36:30] They were next to him, but I really did not pay attention to the state
12 in which they were in. I saw the dead body of my brother, and I really was no
13 longer interested in the two other bodies.

14 Q. [15:37:00] You also mentioned a roadblock at this particular roundabout. Can
15 you tell us who you saw controlling that roadblock?

16 MR O'SHEA: [15:37:20] Did the witness use the word "roadblock"?

17 THE WITNESS: [15:37:33](Interpretation) I saw two roadblocks. One of those was
18 located at the Selmer, the roundabout near the town hall. I passed by there in the
19 morning at about 6 a.m. There were people armed with machetes and knives. And
20 fortunately they did not do anything to me at that roadblock. They asked me
21 whether I had 100 francs or 50 francs. They told me that they had spent the night
22 there. They did not compel me to do anything.

23 The second roadblock was in the direction of Sicogi. They asked for my identity
24 card. I was with -- there was a man there, I was with a man there. They told me to
25 step aside. And I rest -- I stayed there. And then there was someone called Eric

1 who came by. He is a Bété and we used to play football together. He asked me
2 what I was doing there. I told him they had taken my identity card. So he told me
3 to wait. He went and retrieved my identity card and returned it to me. He told
4 them that I knew him and so he was the one who got me out of that situation.

5 MR LEDDY:

6 Q. [15:39:32] When in relation to Mamadou's death were you stopped at this
7 roundabout at Sicogi? Was it before or after?

8 A. [15:39:58] It was after the death of Mamadou.

9 Q. [15:40:14] And please tell us what happened when you arrived at that
10 roadblock.

11 MR GBOUGNON: [15:40:26] Mr President.

12 PRESIDING JUDGE TARFUSSER: [15:40:27] Maître Gbougnon.

13 MR GBOUGNON: [15:40:31] (Interpretation) Mr President, it is for the record,
14 even though we don't have the solution, there is a serious contradiction. This
15 witness said he passed by there at 6 a.m. in the morning, that was correctly translated.
16 But later on it is said that it was afterwards and that is not correct at all.

17 Maybe subsequently the parties can cross-check with the booths, but it is absolutely
18 not what was said.

19 THE WITNESS: [15:41:24](Interpretation) There is a difference between what I
20 explained. The two roadblocks were not at the same location.

21 MR GBOUGNON: [15:41:35] (Interpretation) The witness continues speaking.

22 He probably heard what I said, so he's probably correcting himself, but I do not know,
23 since I'm not testifying in his place. It is just an intervention for the record. Maybe
24 a solution was -- will be found later, because the difference that the Prosecutor wants
25 to establish is not what the witness said.

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1 THE WITNESS: [15:42:06](Interpretation) I said that there were two roadblocks
2 which were at two different locations. There was one roadblock towards the Selmer
3 roundabout near the town hall. They were asking me for 50 francs or 100 francs.
4 They were armed. But while I was there, they did not stop anyone, they did not
5 attack me.

6 The second roadblock, it was not the same day. That is where I met Eric, who helped
7 me, and he retrieved my identity card and handed it back to me.

8 PRESIDING JUDGE TARFUSSER: [15:42:52] Well, Maître Gbougnon, you have
9 raised the problem. I think when revising the transcript, we will get hold of this
10 problem. Okay, thank you very much.
11 Please, Mr Prosecutor, go ahead.

12 MR LEDDY: [15:43:20]

13 Q. [15:43:20] So, Mr Witness, I'd like to ask you about your experience at the
14 Sicogi roadblock. Tell us what you saw when you got there.

15 A. [15:43:47] At the Sicogi roadblock, I arrived there in the morning, they asked
16 me for my identity papers and I gave it to them. They took the papers and put them
17 aside and they told me "You are the ones killing people."

18 And then they asked me to sit by the side. There was another young person in front
19 of me and who was complaining. I did not know why he was complaining, but I
20 was sitting nearby. It was at that time that my friend came by. He found me seated
21 there. And I'm referring to Eric, he is a Bété, we usually played football together and
22 so he said he knew me.

23 Q. [15:44:49] And the identity card that was taken from you at that point, did it
24 indicate whether you were Dioula?

25 MR GBOUGNON: [15:45:07] (Interpretation) Mr President.

- 1 PRESIDING JUDGE TARFUSSER: [15:45:11] Yes, please, Maître Gbougnon.
- 2 MR GBOUGNON: [15:45:14] (Interpretation) The question is leading, because
- 3 the witness has never said that he was a Dioula, so he cannot be asked whether his ID
- 4 card indicates he is Dioula. So at the beginning of his testimony he himself never
- 5 said that he was a Dioula, so that question cannot be put to him.
- 6 PRESIDING JUDGE TARFUSSER: [15:45:38] Can you please rephrase, and it is
- 7 easy to rephrase.
- 8 THE WITNESS: [15:45:50](Interpretation) I did not hear what he said.
- 9 PRESIDING JUDGE TARFUSSER: What did the identity card indicate?
- 10 THE WITNESS: Well, I did understand what you say.
- 11 MR LEDDY: [15:46:01] Respectfully, your Honour, I would disagree with Defence
- 12 counsel's --
- 13 PRESIDING JUDGE TARFUSSER: [15:46:05] No. Please rephrase, please
- 14 rephrase the question.
- 15 MR LEDDY: [15:46:08] Sure.
- 16 PRESIDING JUDGE TARFUSSER: [15:46:09] Thank you.
- 17 MR LEDDY: [15:46:11]
- 18 Q. [15:46:11] Mr Witness, what was indicated on your identity card?
- 19 A. [15:46:30] What is mentioned on my ID card is my date of birth and the place.
- 20 I had a foreigner's ID card which would suggest that I am Dioula.
- 21 Q. [15:46:57] Did they tell you why you were being asked to step aside?
- 22 A. [15:47:18] No. They told me to step aside and I did not ask them any
- 23 questions. They told me nothing. I stepped aside, I sat down, I did not say
- 24 anything. And it was at that point that my friend arrived, retrieved my ID card and
- 25 I was able to cross, otherwise I did not say any other thing.

1 Q. [15:47:44] And how many people were manning this roadblock? Could you
2 describe them, please?

3 A. [15:48:07] I cannot be precise about that. I cannot tell you how many people
4 were there. Well, I swear, in the name of God.

5 Q. [15:48:29] Can you tell us whether they were men, women or children?

6 A. [15:48:53] The -- men, yes, there were young people, but there were no old
7 people there.

8 Q. [15:49:24] Now, Mr Witness, I want to ask you about your experience at the
9 other roadblock you mentioned, at the Selmer roundabout. Can you tell us when
10 that happened to you, was that before or after the death of Mamadou Niakaté, at the
11 Selmer roundabout?

12 A. [15:50:06] It was after the death of Mamadou. At that roadblock, as I have
13 said, I was passing by and they asked me for money. I gave them 100 francs and
14 they said, they told me that they had spent the night there. That's what they told me.
15 And then they allowed me to pass. They had charcoal painted on their faces.

16 Q. [15:51:09] Were they wearing uniforms or regular civilian clothes?

17 A. [15:51:28] They were in civilian clothing. They were young people, young
18 civilian -- young people dressed in civilian clothes.

19 Q. [15:51:41] Did you see them carrying anything in their hands?

20 A. [15:51:58] That is what I was saying. It happened early in the morning.
21 Some had machetes, while others had knives, but I did not see them use any of those
22 weapons against anyone. They allowed me to pass and I went on my way.

23 Q. [15:52:38] Mr Witness, I want to take you back to the mosque you mentioned
24 earlier. In your testimony earlier you mentioned you saw some of the BAE there.
25 Can you please tell us where you first saw the BAE?

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1 A. [15:53:22] I didn't quite understand your question.

2 PRESIDING JUDGE TARFUSSER: [15:53:26] Mr Witness, may I pose you a
3 question: What is a BAE? What means BAE?

4 THE WITNESS: [15:53:50] (Interpretation) The BAE, well, there was a BAE vehicle
5 parked *at the intersection, they had tear gas grenades and they lobbed grenades and
6 even injured people Up to this day, one of the injured limps. And so it was tear
7 gas. The person who was injured was injured by a grenade. *We assisted him and
8 my wife and I took him to a house. The others were probably injured also. But
9 what I can say relates to the injured person that we assisted. Maybe there were other
10 people injured, I do not know.

11 PRESIDING JUDGE TARFUSSER: [15:54:51] Yes, but I repeat my question: What
12 is the BAE, to your knowledge?

13 THE WITNESS: [15:55:10] (Interpretation) The BAE, these are policemen. They
14 were wearing police uniforms.

15 PRESIDING JUDGE TARFUSSER: [15:55:21] Mr Prosecutor.

16 MR LEDDY: [15:55:23]

17 Q. [15:55:23] Can you describe the uniforms you saw?

18 A. [15:55:44] They were wearing black uniforms.

19 Q. [15:55:56] And how many of them did you see?

20 A. [15:56:15] There were places where there were many of them, that is where
21 they threw tear gas, but I cannot tell you precisely how many BAE elements were
22 present at any location.

23 Q. [15:56:41] And did they -- how did they throw the tear gas? What did you
24 see?

25 A. [15:57:09] That is what I told you. They threw the tear gas grenades with

1 their hands. Some of them landed in the courtyard of the mosque. We were in the
2 parking lot and that is where I saw the injured person *Chemogo. Chemogo was
3 injured. I saw him and *we rescued him and took him to shelter in a house.

4 Q. [15:57:53] Can you please describe his injury in more detail?

5 A. [15:58:16] He was wounded in the leg.

6 MR LEDDY: [15:58:25] Your Honour, we'd request private session for just one
7 question.

8 PRESIDING JUDGE TARFUSSER: [15:58:29] Let's please go into private session
9 briefly.

10 (Private session at 3.58 p.m.)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Open session at 3.59 p.m.)

23 THE COURT OFFICER: [16:00:00] We are back in open session, Mr President.

24 PRESIDING JUDGE TARFUSSER: [16:00:03] The floor is to the Prosecutor.

25 Maître Zokou.

1 MR ZOKOU: [16:00:17] (Interpretation) It is a procedural matter. Could this
2 excerpt be reclassified? And I believe it should appear as in open session because
3 really there was nothing.

4 PRESIDING JUDGE TARFUSSER: [16:00:32] We will deal with this. Thank you.

5 MR LEDDY: [16:00:44]

6 Q. [16:00:44] What else did you see the BAE do at that time?

7 A. [16:01:09] What I saw and what I -- and about the BAE, that's what I've told
8 you.

9 Q. [16:01:33] Mr Witness, you mentioned the mosque burning that day. Who
10 did you see burn the mosque?

11 A. [16:02:00] There were many people, so you really couldn't estimate how many
12 there were. We were driven away. I couldn't tell you exactly how many people
13 torched the mosque. I just saw the fire, but I really couldn't tell you exactly how
14 many people took part in the torching of the mosque.

15 Q. [16:02:40] Could you hear anything that they were saying, the people who
16 burned the mosque?

17 A. [16:03:02] I've told you what I heard. The people were saying, "The mosque
18 must be burnt to the ground." And in the morning, what I said is -- well, what
19 happened in the morning, that is what I stand by. Other than that, I did not hear any
20 other remarks other than "Burn down the mosque."

21 Q. [16:03:44] Can you describe the damage to the mosque that you saw yourself?

22 A. [16:04:01] What I saw, the place where the women would pray and the office
23 of the imam were burnt, but I didn't go into the mosque to determine exactly what
24 had been burnt, but I believe that some pieces of equipment, materials had been burnt.
25 I didn't go in to see exactly what had been burnt, but I saw that the imam's office had

1 been burnt and part of the mosque, in particular the part where women used to pray.

2 Q. [16:04:40] And the part where women used to pray, where is that in relation to
3 the entrance of the mosque?

4 A. [16:05:05] The mosque, the main mosque and, you see, the part that is set aside
5 for the women, these two buildings are joined together. The office of the imam is
6 beside that as well. It's not directly attached to the mosque.

7 Q. [16:05:33] And what, if anything, did you see the BAE doing while the mosque
8 was burning?

9 A. [16:06:05] I told you. What I've said I stand by in this regard. It all
10 happened during the same period of time: The tear gas, the torching of the mosque.
11 I'm not changing anything. I can't add anything at all to what I've told you. So
12 everything that I've said I stand by.

13 Q. [16:06:38] So, Mr Witness, I want to take a moment to show you some images
14 in the screen in front of you and ask you if you recognise the locations that they
15 depict.

16 MR LEDDY: And, your Honours, for this purpose we're requesting permission to
17 control the evidence channel and that's to show ERN OTP-CIV-0078-0085, which is a
18 public document.

19 THE COURT OFFICER: [16:07:12] You do have the floor. And for the parties and
20 participants, the document will be published on the evidence 2 channel.

21 MR LEDDY: [16:07:37]

22 Q. [16:07:37] And for your reference, Mr Witness, these pictures were taken
23 in 2014. And there might be a slight delay in what happens here and what you see at
24 your location.

25 So can you confirm now that you can see the image on the screen in front of you?

- 1 A. [16:08:06] Yes, I can see it.
- 2 Q. [16:08:08] And for the record, this is at pano 014. And what do you see here,
- 3 Mr Witness?
- 4 A. [16:08:34] This is a photograph of the mosque.
- 5 Q. [16:08:42] And the same mosque you've been describing today, correct?
- 6 A. [16:08:56] Yes, exactly. It's that mosque.
- 7 Q. [16:09:02] And can you tell us where the parking area is located in relation to
- 8 this point, the parking lot where you said you were located?
- 9 A. [16:09:24] At the entrance to the neighbourhood, the parking spot is there, to
- 10 the left as one enters the neighbourhood.
- 11 Q. [16:09:40] So I'd like to go to pano 01 and ask you if you recognise the image
- 12 that's depicted here.
- 13 A. [16:10:08] Yes. That is the main street. It's the main street. To the left of
- 14 the street you have the mosque, and to the right you have the antenna.
- 15 Q. [16:10:46] And the green door as you see displayed in front of you, what are
- 16 those doors to?
- 17 A. [16:11:13] When you come from the street, the door that -- well, this is the door
- 18 that gives way to the street. It's the door of the mosque.
- 19 Q. [16:11:34] And I'd like to take you to pano, I'd like to move a few up to pano 2
- 20 and ask you if you recognise this location here, and I'll direct your attention to the
- 21 upper-left corner of the screen where the cursor is. Do you recognise that structure?
- 22 A. [16:12:26] Yes. The mosque is at the intersection and faces the pharmacy.
- 23 Q. [16:12:41] And is that the pharmacy depicted on the screen in front of you?
- 24 A. [16:13:01] Yes, this is indeed the pharmacy called pharmacie l'Antenne.
- 25 Q. [16:13:09] Now, I'd like to take you to pano number 9. Do you recognise

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1 what's depicted here?

2 A. [16:13:41] This is the courtyard of the mosque. If -- when you come in by way
3 of the main door, this is where you find yourself, this is the courtyard of the mosque.

4 Q. [16:13:53] And I'll direct you to pano number 22 and ask you if you recognise
5 this area.

6 A. [16:14:14] That is the part that is set aside for the women.

7 Q. [16:14:19] Is this the area that you mentioned earlier that was burned?

8 A. [16:14:35] Yes, that's the part that is for the women.

9 Q. [16:14:59] I'll direct your attention to pano number 7 and ask you what you see
10 here. Do you recognise that area?

11 A. [16:15:38] Yes, indeed, I recognise this place. It's the door that leads to the
12 parking area.

13 Q. [16:15:57] Is this the parking area where you were situated on February
14 25, 2011?

15 A. [16:16:25] Could you kindly repeat your question, I haven't quite understood
16 it.

17 Q. [16:16:32] Can you guide us to where the parking area where you were located
18 on the time you saw the mosque burning?

19 A. [16:16:45] That's the mosque. The parking area is a little bit more in front.

20 Q. [16:16:56] Is it closer to the main street or further away from the main street?

21 A. [16:17:13] It's not far from the main road. When you go through the door of
22 the main -- the main door, you go forward and you have these places, one to the left,
23 one to the right, the parking spot to the left and the mosque to the right.

24 Q. [16:18:08] So I'd like to show you what's depicted at pano 6 and ask you if you
25 recognise this area? Do you recognise these images, Mr Witness?

1 A. [16:19:12] I recognise this place. This is the place that I mentioned, namely
2 the parking area. And at this particular spot, there are people who sell charcoal.

3 Q. [16:19:37] Where exactly in this area were you when you saw the mosque
4 burning?

5 A. [16:19:58] We were at the parking area, the parking area close to the place
6 where charcoal is sold. That is where we were. Then we went down and found
7 ourselves at the shop that is at the intersection. And we went past that spot. We
8 were at the parking area, in the middle of the parking lot, and so there you have it,
9 where the -- where people sell charcoal, that place.

10 Q. [16:20:46] Did there come a time after you witnessed these events that you left
11 Abidjan?

12 A. [16:21:23] *When the troops came in, everyone was trying to seek shelter, find
13 a place to take shelter. We all left.

14 Q. [16:21:53] How long after Mamadou's death did you leave Abidjan?

15 A. [16:22:20] I left Abidjan.

16 THE INTERPRETER: [16:22:35] Message from the interpreters: Could the witness
17 be asked to repeat his reply.

18 PRESIDING JUDGE TARFUSSER: [16:22:42] Can you please repeat what you said,
19 what you just said.

20 THE WITNESS: [16:23:01](Interpretation) What do you want me to repeat?

21 PRESIDING JUDGE TARFUSSER: [16:23:08] Mr Prosecutor, can you put the
22 question again so -- I think it's easier.

23 MR LEDDY: [16:23:14]

24 Q. [16:23:14] Mr Witness, when did you leave Abidjan after Mamadou's death?
25 How long after Mamadou's death was it that you left Abidjan?

1 A. [16:23:37] After the disturbances, we all left. And after the murders everyone
2 got out of there, they left the neighbourhood.

3 Q. [16:24:04] And approximately when did you return to Abidjan?

4 A. [16:24:24] About a month after. About a month.

5 Q. [16:24:32] And did you have a chance to go back to the area around that
6 mosque in Doukouré?

7 A. [16:24:55] Yes, I was in Doukouré. And there was no longer any disturbances.
8 Then I spent a month at home. Then I went back when there were some people in
9 the neighbourhood.

10 Q. [16:25:21] And what, if anything, did you see in the parking lot area of the
11 mosque when you returned?

12 A. [16:25:48] In the parking lot of the main mosque there was --

13 THE INTERPRETER: [16:26:03] Message from the interpreters: If the witness
14 could kindly repeat his reply.

15 THE WITNESS: [16:26:15](Interpretation) There were bodies. There were many
16 people I knew. I don't know exactly how many there were.

17 MR LEDDY: [16:26:46]

18 Q. [16:26:46] Can you give us the names of the people who you knew personally
19 that were buried there?

20 A. [16:27:11] I knew some of those people who died there. There was *one
21 Adama with Moustapha, Baba, Karim, and one or two others whom I didn't know.
22 The ones I knew I've given their names. That is it.

23 Q. [16:27:38] Do you know how they died?

24 A. [16:27:59] After -- well, I don't know how they were killed after the
25 death -- after the arrest of Gbagbo, I really don't know how they were killed.

1 Q. [16:28:08] So I'd like to take you back to pano number 6, those images we saw,
2 and ask you to locate, if you know, these graves, the location of these graves?

3 A. [16:28:48] Yes. Where the taxis are, there's a large hole, right beside where
4 the taxis are parked. So between the window of the mosque there was, you see, a
5 large hole, then there was another small one beside that, and that gave on to the other.
6 So they were buried in a mass grave. There were other bodies, 70 bodies in all in
7 that spot, 70. Where the taxis are parked, there was a big hole right by the windows.
8 And in front, just before the -- you get to the -- there were some holes there. So that
9 is where we buried them in a mass grave.

10 Q. [16:30:08] Just to clarify, Mr Witness, did you bury these bodies yourself?

11 A. [16:30:38] Well, we dug graves here and there. People transported bodies
12 and brought them there. People came from all sides. But when the others fled, I
13 also fled with them. I did not know precisely what had to be done, but I was not
14 present at the end of the operations. So I talk about when I was there, but what
15 happened afterwards, I do not know.

16 Q. [16:31:48] Mr Witness, who buried these bodies?

17 A. [16:32:11] It is the young people of the neighbourhood who buried them.

18 MR LEDDY: [16:32:27] Okay, I think we can remove that 360 from the evidence
19 channel. Thank you.

20 Q. Mr Witness, I want to take your attention back to your earlier testimony where
21 you mentioned a BAE vehicle at a roundabout. Can you please describe what kind
22 of vehicle you saw?

23 A. [16:33:15] There was a BAE truck. There were other pickups. Two others
24 had passed by. So when they threw the tear gas, it was no longer possible for me to
25 say how many vehicles were there. So if I'm asked questions about that, I wouldn't

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1 know what to answer.

2 Q. [16:33:56] Can you describe these vehicles in more detail?

3 A. [16:34:23] These were BAE vehicles. I cannot add anything to what I have
4 already said before. So there shouldn't be any difference between what I said and
5 what I'm saying now, no.

6 Q. [16:34:44] I'm not suggesting that, Mr Witness. I'm merely asking how did
7 you know these were BAE vehicles?

8 A. [16:35:12] I know that those vehicles -- almost everyone knows them. I
9 cannot observe every single detail. I know what a BAE vehicle is. There's a way
10 that a vehicle, the BAE vehicle looks. And so we saw the vehicles, and then there
11 was the tear gas, and then nobody could even take down the licence plate numbers.
12 I saw those vehicles and I know they are BAE vehicles.

13 PRESIDING JUDGE TARFUSSER: [16:36:00] What colour had those vehicles?

14 THE WITNESS: [16:36:14](Interpretation) They were black vehicles. They were
15 black in colour.

16 PRESIDING JUDGE TARFUSSER: [16:36:21] Had they some writing on the vehicle,
17 some letters?

18 THE WITNESS: [16:36:47](Interpretation) Well, very frankly, I cannot say that I saw
19 what was written there. I cannot tell you that there was any writing on the vehicles.
20 But they were BAE vehicles.

21 PRESIDING JUDGE TARFUSSER: [16:37:06] Mr Prosecutor.

22 MR LEDDY: [16:37:09]

23 Q. [16:37:13] Could you describe the wheels of these vehicles?

24 A. [16:37:34] Which vehicles?

25 Q. [16:37:37] The BAE vehicles you mentioned, the truck and the pickups.

1 PRESIDING JUDGE TARFUSSER: [16:37:49] How would you describe the wheels,
2 black and round, or -- No, I ask the Prosecutor. I don't know. How could you
3 describe wheels?

4 MR LEDDY: [16:38:03] Some -- your Honour, I'm asking for clarity about whether
5 there were chains around the wheels. Some armoured vehicles have such chains.

6 PRESIDING JUDGE TARFUSSER: [16:38:13] Okay.

7 MR LEDDY: [16:38:15]

8 Q. [16:38:15] Did you see any chains on the wheels of these vehicles, Mr Witness?

9 MR ZOKOU: Monsieur le Président.

10 THE WITNESS: [16:38:31] (Interpretation) I did not see. I really cannot tell you
11 that that's how the feet were.

12 PRESIDING JUDGE TARFUSSER: [16:38:42] Mr Zokou, now just wait for the
13 translation.

14 MR ZOKOU: [16:38:45] Sorry, sorry, sorry.

15 PRESIDING JUDGE TARFUSSER: [16:38:48] Maître Zokou.

16 MR ZOKOU: [16:38:51] (Interpretation) Mr President, I am on my feet because
17 we really cannot continue in this way. You actually assisted the Prosecutor, but it
18 did not help him because on page 62 the witness was categoric in his description.

19 When he was asked to describe the vehicles, he said "These were BAE vehicles.

20 What I said, I cannot add anything to that," so that it should not change. There were
21 additional questions and I think it is time to put an end to this point. Thank you.

22 PRESIDING JUDGE TARFUSSER: [16:39:27] I think that if there is something to
23 confront him with on what he said in the statement, please do it the way it was
24 explained this morning, but do it.

25 THE WITNESS: [16:40:05](Interpretation) What are we really talking about

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1 precisely?

2 PRESIDING JUDGE TARFUSSER: [16:40:10] No, I'm waiting for the prosecutor,
3 who is consulting, in order to put you another question. Just wait a second.

4 MR LEDDY: [16:40:28]

5 Q. [16:40:28] Mr Witness, you mentioned the entrance and exit of Doukouré.
6 Where exactly was that located?

7 A. [16:41:06] *There is no.... door ... There is a large... it is a main road that passes
8 in front there -- there is not only one access entrance. One can say that there is an
9 entrance on this side and another entrance on the other side. That is what one can say.

10 Q. [16:41:33] And the main entrance to Doukouré, was it open to circulation on
11 the day the mosque burned?

12 A. [16:42:07] On the day that the mosque was burnt down, on that day there was
13 nothing on the main road. But afterwards, on Saturday, I was accompanying my
14 brother's wife from the Adjamé carrefour right up to the shop where they were selling
15 wood. There were houses that had been broken down, so there were the young
16 people of the neighbourhood there. But I was not there at that time.

17 The main entrance into that neighbourhood, well, I really do not know, so I can only
18 talk about the single main entrance, but I cannot talk about the other ones, because I
19 would be lying if I say that there is just one main entrance because there are other
20 smaller entrances through which people can go in.

21 Q. [16:43:41] Mr Witness, in relation to the main entrance of Doukouré, where did
22 you see the BAE vehicles?

23 MR GBOUGNON: [16:43:56] Monsieur le Président.

24 PRESIDING JUDGE TARFUSSER: [16:44:00] Maître Gbougnon.

25 MR GBOUGNON: [16:44:02] (Interpretation) Mr President, I hesitated to get on

1 my feet, because I thought that the answers of the witness were going to assist the
2 Prosecutor. The witness is not talking about main entrances. Why is he putting
3 words in his mouth, something that he has never said? The witness is there, he's
4 saying something totally different. He should be listened. He never talked about
5 the main entrance door, so the Prosecutor should not talk about what he did not say.

6 PRESIDING JUDGE TARFUSSER: [16:45:00] Well, the witness knows only one
7 entrance and that's the entrance he's referring to, of course. If it's main or not main,
8 it's something else. He repeated the words "main entrance" according to the English
9 transcript only because it was said by you as a main entrance, by the Prosecutor as a
10 main entrance. But he said also he was referring to one particular entrance and there
11 were --

12 MR LEDDY: [16:45:37]

13 Q. [16:45:38] Mr Witness, could you tell us where in relation to this one entrance
14 and exit were the BAE vehicles that day?

15 A. [16:46:04] I talked about the BAE vehicles, that is at the entrance of the -- the
16 main entrance. I was put that question and I answered it. I answered it. I believe
17 this is the fourth time that I'm being asked that question. So what I'm saying, I don't
18 think it is too necessary.

19 MR GBOUGNON: [16:47:00] (Interpretation) Mr President.

20 PRESIDING JUDGE TARFUSSER: [16:47:04] Maître Gbougnon, but there was no
21 question though.

22 MR GBOUGNON: [16:47:08] (Interpretation) I'm sorry, I'm reacting because the
23 transcript -- you know that there is a lag between the French transcript and what the
24 witness is saying. But what I am seeing on my screen is really far off from what the
25 witness is saying. I never heard him say "main entrance." I'm --

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1 PRESIDING JUDGE TARFUSSER: [16:47:47] That's what I said before, he is not
2 referring to a main entrance, but he's referring to the entrance, only one entrance,
3 which then

4 has taken somehow the name of main entrance, but we are always talking about one
5 entrance.

6 MR GBOUGNON: [16:48:13] (Interpretation) Let me explain, Mr President. It is
7 written here, answer, page 67, line 17:

8 "I started by talking about BAE vehicles. It was at the entrance of the part of the
9 main door."

10 That is the answer that the witness is alleged to have given a short time ago, which is
11 very far away from what he actually said, that is why I reacted.

12 PRESIDING JUDGE TARFUSSER: [16:48:59] Mr Witness --

13 MR CARNERO ROJO: [16:49:02] If I may?

14 PRESIDING JUDGE TARFUSSER: [16:49:03] Yes, please.

15 MR CARNERO ROJO: [16:49:05] One of my colleagues here, Mr Sako, Mr Sako can
16 speak Dioula, and he has just told me that the witness said "main entrance," so I don't
17 see the point of the Defence.

18 PRESIDING JUDGE TARFUSSER: [16:49:17] No, no. Okay.

19 Mr Witness, where did you see this BAE vehicles?

20 THE WITNESS: [16:49:45](Interpretation) At the entrance of the large market there
21 is a main road, that is the road that goes to the parking lot. So when you talk of the
22 main entrance road, that is the road we are referring to, because you can enter there
23 and turn around however you want to arrive at the mosque intersection. People
24 describe the intersection, the mosque intersection by referring to the main entrance.

25 PRESIDING JUDGE TARFUSSER: [16:50:37] Is it clear now?

1 MR GBOUGNON: [16:50:40] (Interpretation) Mr President, it is clear to me,
2 especially since I know the location, but there seems to be confusion. It is clear in my
3 head because I know the location. There is some confusion. Maybe we will bring
4 this out when we question the witness, but it is clear in my mind.

5 PRESIDING JUDGE TARFUSSER: [16:51:09] Yes.

6 MR GBOUGNON: [16:51:10] (Interpretation) I understand based on the
7 photographs that have been shown and from the last transcription, the last transcript
8 things are clear. In any case I know what the witness wants to say, but there is
9 maybe a contradiction between my understanding and the understanding of the OTP.

10 PRESIDING JUDGE TARFUSSER: [16:51:38] I can understand that you
11 understand. And I think also it is useless to submit to the witness a map. Okay.
12 So please, Mr Prosecutor, please let's continue.

13 MR LEDDY: [16:52:07]

14 Q. [16:52:07] Mr Witness, did any of the BAE vehicles that you saw have weapons
15 mounted on them?

16 A. [16:52:42] I did not really understand your question.

17 Q. [16:52:50] Did you see any weapons on top of these BAE vehicles?

18 A. [16:53:22] What I'm saying, and I will repeat, I cannot mention what I did not
19 see, I cannot say what was on that vehicle, I cannot say anything about that today. I
20 did not see any such thing. So we can continue.

21 Q. [16:53:58] At any point on February 25th, did you hear any gunshots?

22 A. [16:54:33] Gunshots? We have talked about that. We heard the explosions
23 of grenades, but not gunshots as such.

24 Q. [16:55:32] Mr Witness, you mentioned the word "assailant" earlier when
25 describing Mamadou's death. Can you tell us what that word means?

1 A. [16:46:01] Can you kindly repeat your question? I'm not sure I quite
2 understood it.

3 Q. [16:56:19] Sure. You mentioned the term "assailant" when describing the
4 circumstances under which Mamadou was killed. What does that term mean?

5 A. [16:56:57] Well, this expression is beyond my understanding. I don't know
6 whether these are people who are fighting or the ones who are attacking or what the
7 difference is, I really cannot say.

8 Q. [16:58:16] We'll come back to that, Mr Witness.

9 You mentioned a location of certain signs of Mr Ouattara and Mr Bédié. Where were
10 these signs located in Doukouré?

11 A. [16:58:58] The billboards in the effigies of Bédié and Ouattara were at the
12 location before the intersection of the mosque, so there was a poster with those two
13 photographs or effigies at that time.

14 Q. [16:59:24] And, Mr Witness, you also mentioned a location called Score, can
15 you tell us where that is located more precisely?

16 A. [16:59:53] After the 16th, the intersection, that is called Score, Score, that is
17 going towards the pharmacy. I no longer remember the name, whether it is
18 Wakouboué or Wakouboué. The area is called Score. There is a Score shop there
19 and a filling station. And when you go there and you turn, you find yourself at
20 Terminus 47 -- I beg your pardon, it is actually 27.

21 MR LEDDY: [17:01:02] Your Honour, I'm mindful of the time.

22 PRESIDING JUDGE TARFUSSER: [17:01:03] Yes. One question I have to you:
23 How long do you think we will have to continue?

24 MR LEDDY: [17:01:12] I don't expect --

25 PRESIDING JUDGE TARFUSSER: [17:01:13] We are now over three hours.

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- 1 MR LEDDY: [17:01:15] Your Honour, if we could just have 10 minutes in the
2 morning for a few clarifying points.
- 3 PRESIDING JUDGE TARFUSSER: [17:01:21] Okay, 10 minutes in the morning
4 tomorrow. We close here.
- 5 But first I have a last question to the witness: Do you know when Mr Gbagbo was
6 arrested, I mean the day, the month and the year?
- 7 THE WITNESS: [17:02:03] (Interpretation) I don't really know.
- 8 PRESIDING JUDGE TARFUSSER: [17:02:07] Okay. Thank you.
- 9 THE WITNESS: [17:02:07](Interpretation) It was on a Monday. As for the month, I
10 couldn't tell you.
- 11 PRESIDING JUDGE TARFUSSER: [17:02:12] Okay. Thank you very much.
- 12 The hearing is adjourned to tomorrow, same time as today, meaning 10.30 in The
13 Hague and 8.30 in the remote location. You have another 10 minutes tomorrow and
14 then the floor goes to the Legal Representative and then to the Defence.
- 15 Thank you very much, Mr Witness. See you tomorrow morning.
- 16 The hearing is adjourned.
- 17 THE COURT USHER: [17:02:40] All rise.
- 18 THE WITNESS: [17:02:54](Interpretation) I have understood. Thank you.
- 19 (The hearing ends in open session at 5.03 p.m.)