

Trial Hearing
WITNESS: CIV-OTP-P-0048

(Open Session)

ICC-02/11-01/15

1 International Criminal Court
2 Trial Chamber I
3 Situation: Republic of Côte d'Ivoire
4 In the case of The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé
5 ICC-02/11-01/15
6 Presiding Judge Cuno Tarfusser, Judge Olga Herrera Carbuccion and
7 Judge Geoffrey Henderson
8 Trial Hearing - Courtroom 1
9 Thursday, 30 June 2016
10 (The hearing starts in open session at 9.35 a.m.)
11 THE COURT USHER: [9:35:10] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE TARFUSSER: [9:35:39] Good morning. Good morning
15 everybody. I see Maître Altit is missing, but it's okay I think.
16 Good morning, Mr Witness
17 WITNESS: CIV-OTP-P-0048 (On former oath)
18 (The witness speaks French)
19 THE WITNESS: [9:36:18] (Interpretation) Good morning.
20 PRESIDING JUDGE TARFUSSER: [9:36:20] I've been informed by the VWU
21 that the witness would have liked to have the book he has written and we
22 referred to many times, both parts yesterday, in the last days. He would like
23 to have it with him. So we have also a copy here and we'll see if it is need be
24 to -- there is a need to consult it or whatever, to work with it.
25 I give the floor immediately to Mr O'Shea. Did you want to say something

1 on this?

2 MR O'SHEA: [9:36:52] Yes. On that particular point, your Honours, that's
3 not necessary at this point in time for my purposes. And I'd also like to just
4 clarify that Maître Altit has asked me to tell you that he has to be at an
5 important lawyers' congress within the confines of this Court at the moment.
6 But he's well covered.

7 PRESIDING JUDGE TARFUSSER: [9:37:16] Yes, yes. I just noticed it.

8 MR O'SHEA: [9:37:19] Yes.

9 PRESIDING JUDGE TARFUSSER: [9:37:20] I didn't want to say anything
10 about it. And I can imagine where he is.

11 MR O'SHEA: [9:37:25] Yes.

12 PRESIDING JUDGE TARFUSSER: [9:37:26] So I give the floor to you for the
13 continuing of the examination of the witness.

14 MR O'SHEA: [9:37:31] Yes. Thank you very much.

15 QUESTIONED BY MR O'SHEA: (Continuing)

16 Q. [9:37:34] Yes, good morning, sir.

17 A. [9:38:11] Good morning.

18 Q. [9:38:19] In the years 2001, 2002, 2003, who was the president of
19 Burkina Faso at that time?

20 A. [9:38:51] Mr Blaise Compaoré.

21 Q. [9:38:58] And we understand what you've been saying repeatedly
22 during the course of yesterday about what you have on the basis of your
23 personal knowledge and what you've heard through other sources. What
24 did you hear about the relationship between Blaise Compaoré and the
25 government of France and Jacques Chirac?

1 A. [9:39:37] Well, I wasn't Blaise Compaoré, nor was I president of
2 Burkina Faso. How would you expect me to know what kind of relationship
3 Burkina Faso had with France.

4 Q. [9:39:59] Perhaps through discussions that were taking place among
5 politicians in Ivory Coast?

6 A. [9:40:06] Blaise Compaoré was not amongst my friends.

7 Q. [9:40:18] Did you have any discussions with your friends and the
8 politicians with which you worked about the relationship between Burkina
9 Faso and France?

10 A. [9:40:38] Never. Sir, I would like to point out that I am an Ivorian
11 politician and my main concern is Côte d'Ivoire. I don't have to cogitate or
12 discuss about the relationship between Burkina Faso and France. And I
13 would like to remind you that we're talking here about Côte d'Ivoire, not
14 Burkina Faso.

15 Q. [9:41:08] Indeed. Let's come to that. Whether through discussions
16 with your friends and politicians at the time or through media sources, what
17 did you hear about the relationship between Burkina Faso and the rebellion
18 movement in Ivory Coast?

19 A. [9:41:38] It's not what I heard. It's what we all knew, which was that
20 the rebellion started in Burkina Faso. And everyone knows that, it's not a
21 secret.

22 Q. [9:41:57] And please explain that in a bit more detail. Help the
23 Chamber understand what you mean by that, please.

24 A. [9:42:22] Let me repeat that it's public knowledge that the rebellion had
25 its base to attack Côte d'Ivoire in Burkina Faso. And whether it's today or

1 tomorrow, no one in Côte d'Ivoire will deny that.

2 Q. [9:42:41] And based upon what you heard at the time or knew
3 personally at the time, what did you hear about any assistance which the
4 rebels may have been receiving from the government of Burkina Faso?

5 A. [9:43:11] I never heard about assistance received from the rebel
6 movements from Burkina Faso, other than the fact that the movement started
7 in Burkina Faso. It came from Burkina Faso, if you will.

8 Q. [9:43:33] Did you never hear that weapons were coming from Burkina
9 Faso for the assistance of the rebels?

10 A. [9:43:51] I may have heard that, but I can't accord any particular
11 importance to that kind of comment.

12 Q. [9:44:08] Why would you add that comment?

13 A. [9:44:17] It's not a comment.

14 Q. [9:44:23] Whatever it is, why did you add it?

15 A. [9:44:26] What do you mean, "why did you add it"?

16 Q. [9:44:55] I'll move on, Mr Witness. What role, if any, did Blaise
17 Compaoré play at Linas-Marcoussis and Kléber?

18 A. [9:45:12] I never saw Blaise Compaoré in Linas-Marcoussis. And since
19 I wasn't in Kléber, I have nothing to say about that.

20 Q. [9:45:26] So is it your position that today before this Chamber, you
21 know nothing based upon what you heard at the time or afterwards about the
22 role played by Blaise Compaoré during those negotiations?

23 A. [9:45:58] You're saying that he had a role. I was in Marcoussis. He
24 wasn't in the room. So don't ask me to say that he was in the room and that
25 he played a role.

1 Q. [9:46:10] Can you please answer the question.

2 A. [9:46:16] I did answer your question, and I was very clear and precise.

3 Blaise Compaoré is not my friend. He was not in Marcoussis. So don't ask
4 me to tell you what role he played.

5 Q. [9:46:29] I will put the question again. Listen carefully. Is it your
6 position that today in front of this Chamber, so your basis of knowledge
7 today, whatever the sources of that knowledge, you know nothing about the
8 role played by Blaise Compaoré in those negotiations; is that your position,
9 yes or no?

10 A. [9:47:04] Well, I repeat that in Marcoussis, Blaise Compaoré was not
11 there. He was not present. So how -- it would be impossible for him to play
12 a role when he wasn't even in the room.

13 Q. [9:47:18] What about Kléber?

14 A. [9:47:20] I wasn't in Kléber, so I cannot answer.

15 MR DEMIRDJIAN: [9:47:23] Asked and answered.

16 MR O'SHEA: [9:47:25] Well, I will --

17 PRESIDING JUDGE TARFUSSER: [9:47:30] I would really like to know what
18 the basis of this questioning is, because you are triggering hearsay
19 from -- while always saying that hearsay evidence shouldn't be a base for the
20 witness to question. He said he's not there. He does not know. That's it.
21 I mean, then what the comment can be on that, that's another thing.

22 MR O'SHEA: [9:47:53] Yes. Your Honours may have -- not quite
23 understand what I'm doing. At the moment I'm dealing with the credibility
24 of this witness, and that will, if it's not clear immediately, it will become clear.

25 Q. [9:48:44] I'm going to read you something which you said in your

1 unpublished compilation at page 57 and 58. I'll read it in French and then I'll
2 allow you to respond: (Interpretation)
3 "Blaise Compaoré was walking through the crowds and that betrayed the
4 nature of what was occurring in Côte d'Ivoire, other than the advantages, the
5 dividends that Ouaga hoped to gain from it. His proximity with Jacques
6 Chirac enabled him to distract the attention of the international community
7 on the influence, the exterior influence that he was having on the country and
8 the fact that he was appointed king of Faso ..."

9 Would you like to explain that? Does that refresh your memory?

10 A. [9:50:07] I'm very pleased that once again you're coming back to my
11 book. Counsel, in the drafting and publication and editing of my book, there
12 are several phases, three phases. First of all, the drafting. And when it's
13 handwritten, it's a manuscript. And then you can also have a computer
14 printed book, and then it becomes edited and it's given a number.
15 And the reason I wanted the edited versions be here in the courtroom was
16 because I wanted to be absolutely certain that we were saying exactly the
17 same thing. And please, I would like to ask that we take a look at page 57
18 and 58 in the book "Rebellion" to be absolutely certain that the text read out
19 is the same as the text in the book, because yesterday at 15.07 I noticed that
20 when I was asked a question about the Lomé conference, referring to page
21 54, and when I went back last night, I checked in the edited version, which is
22 the only version that is authenticated by the fact that I wrote it, there was no
23 mention of the Lomé conference on page 54. And that's why I asked that
24 the edited version of my book, the unpublished edited version be here in the
25 courtroom today.

1 I would like to tell you that the edited version bears the *code SACD216126
2 under copyright law in France. Is that the version that you have? Is that
3 the text that you are using and that you are quoting from as a basis to ask
4 your questions? Can you please tell me that?

5 Q. [9:52:17] Well, the beauty of these proceedings, Mr Witness, is that
6 there is a man on the other side of this room who can come back to things
7 later if he chooses it appropriate. We have certain documents which have
8 been disclosed to us. And if it's contested by the Prosecution that what I'm
9 reading out is either inaccurate or is something which you did not write or is
10 something which you did not compile or is not part of your research, the
11 Prosecution will, I know, rectify that. In fact, he will jump to his feet.

12 So don't worry about the proceedings, and please just answer my questions.

13 PRESIDING JUDGE TARFUSSER: [9:53:11] And here he jumps on his feet.

14 MR DEMIRDJIAN: [9:53:13] You triggered it. Your Honours, I understand
15 that my learned friend has a strategy in examining the witness. I understand
16 that he wants to ask questions the way that he sees fit, and I do not want to
17 intervene in any way; however, if the witness is making a request to see the
18 copy of the book, if he feels that he was somehow misled yesterday, I don't
19 see why we shouldn't be able to. Basically, what we're doing is we're
20 wasting time right now, right? We're asking questions to the witness and
21 he's not sure if that's what was said in the book, and we're expecting me to
22 come during my further questioning with a copy of the book to have him go
23 through it again. Why don't we do it directly? Put the book in front of him.
24 And my learned friend just read a portion of his book without the beginning
25 of the sentence, which situates the time frame. So again, I think it would be

1 useful and good practice in your truth-seeking mission to have the

2 document, the book in front of him, and say: Here is what you wrote.

3 Again, I don't want to impose, but I feel like it would be also a timesaving

4 operation. And we have a clean copy of the book here.

5 PRESIDING JUDGE TARFUSSER: [9:54:17] Yes. I think we should not go

6 back to what was said yesterday. You can do it as suggested by the counsel.

7 But from now on, if we go to this book, and I must say we should do it in an

8 appropriate way and make the quotation and saying the right page and say

9 which version of this book it is so that we all know that everything comes on
10 the record.

11 MR O'SHEA: [9:54:51] Your Honour's approach is quite correct. It is for me

12 to conduct my examination-in-chief. I'm not going to be unfair to the

13 witness.

14 If the witness tells -- if the witness contests that he said something, then we'll

15 put it on the screen.

16 The compilation which I am referring to is the same one that I referred to

17 yesterday, CIV-OTP-0083-0392. The page that I'm about to refer to is

18 CIV-OTP -- sorry, I got it the wrong way around. The document is

19 CIV-OTP-0083-0332. The page is CIV-OTP-0083-0392. If I misrepresent

20 what's here, my learned friend is welcome to intervene. This is on page 61.

21 Q. [9:56:10] Here, Mr Witness, you said the following. You are at liberty

22 to contest that you said this, if you want: (Interpretation)

23 "The rebellion in Côte d'Ivoire, as we know, is a proxy rebellion. The origin

24 goes back to Burkina Faso."

25 So, I suppose in the light of what you have been saying I should first of all

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1 ask you: Do you accept that that's something that you have written in the
2 past?

3 A. [9:57:03] I'd like to come back to something that is important, because
4 your reference is a problem for me.

5 Q. [9:57:15] No, answer the question, Mr Witness.

6 PRESIDING JUDGE TARFUSSER: [9:57:18] Excuse me, excuse me.

7 MR O'SHEA: [9:57:20] Please.

8 PRESIDING JUDGE TARFUSSER: [9:57:21] Excuse me, Mr Witness. The
9 first question which was put from the counsel to you is have you written --

10 THE WITNESS: [9:57:35] Oui.

11 PRESIDING JUDGE TARFUSSER: [9:57:36] Well, if you have written
12 this -- what --

13 THE WITNESS: [9:57:38] (Interpretation) Yes, I recognize having written
14 that. And I even said earlier a moment ago that the rebellion started from
15 Burkina Faso. What do you want me to add in addition?

16 PRESIDING JUDGE TARFUSSER: [9:57:49] No, I just want to ask you to first
17 reply, answer to the precise question, and then make a comment. Not make
18 first a comment on and then maybe reply.

19 THE WITNESS: [9:58:04] (Interpretation) I did answer. I did answer. I
20 answered yes, I wrote that. But what I said earlier, the references that
21 counsel is quoting from, I'm surprised to -- I must say that that is not in the
22 edited version that I sent in this morning.

23 MR O'SHEA:

24 Q. [9:58:32] Yes, Mr Witness, others may be interested in your edited
25 version. I'm just interested in things you said in the past.

1 Now, what did you mean by "une rébellion par procuration" (Interpretation)

2 "a proxy rebellion"?

3 A. [9:58:55] Could you repeat your question, please?

4 Q. [9:59:00] I'll read the sentence to you once more and then I'll repeat the
5 question. The sentence is: (Interpretation)

6 "The Ivorian rebellion, as we know, is a proxy rebellion. The tentacles, if you
7 will, reach all the way back to Burkina Faso."

8 A. [9:59:30] Yes.

9 Q. [9:59:30] (Speaks English) The question is: What did you mean by
10 "par procuration"?

11 A. [9:59:40] Well, what's meant is that when you give a proxy to someone
12 to do something you give them a mandate, if you will.

13 Q. [9:59:46] Thank you very much. Based upon what you heard, either at
14 the time or subsequently, what, if anything, can you tell us about the armed
15 confrontation between the Ivorian army and French soldiers on 24 November
16 2002?

17 A. [10:01:05] I really don't have a clear enough recollection of that event.
18 Now, when the French soldiers -- well, I don't remember. What I do
19 remember is what happened in November 2004.

20 Q. [10:01:50] In your unpublished compilation at CIV-OTP-0083-0389, you
21 expressed yourself as follows: (Interpretation)

22 "Well, if Marcoussis is a form of coercion by France, the policeman enforcing
23 it is the UN."

24 Do you accept that you wrote that?

25 A. [10:02:25] Yes, I did write that. France dreamt up Marcoussis and

1 then UN had the mandate to implement it and so was the policeman, if you
2 will.

3 Q. [10:02:41] Do you have knowledge of confrontations between French
4 soldiers and the Ivorian army on 29 November 2003?

5 A. [10:03:33] 29 November 2003, frankly I have no recollection. I can tell
6 you about the major events that we remember and basically the high point or
7 the highlight was November 2004. There may have been such incidents in
8 2003 that people may not -- may have seen, but in our case we really didn't
9 take any particular notice.

10 Q. [10:04:11] And this incident where the French army attacked the
11 aircraft of the Ivorian government, is it right that there were planes which
12 were destroyed and also helicopters; is that something within your
13 knowledge?

14 A. [10:05:04] Yes, we were informed that the helicopters of the Côte
15 d'Ivoire army had been destroyed by the French army. That was in
16 November 2004.

17 Q. [10:05:25] And did you hear that that included a transport helicopter?

18 A. [10:05:32] I'm not in a position to know whether they were transport
19 helicopters or not. But I do know that the Côte d'Ivoire aircraft were
20 destroyed.

21 Q. [10:05:46] Was there anything left of the Ivorian air force?

22 A. [10:05:54] To my knowledge, they destroyed everything.

23 PRESIDING JUDGE TARFUSSER: [10:06:08] I think -- sorry, may I? I think
24 we are making more history than something else. I mean, we are still in the
25 beginning of the year 2000, far away from the charges. So as I said also to the

1 Prosecutor sometime that we should just go closer to the charges, otherwise I
2 think we are here trying to make history and I think it's not the right way, the
3 right place to do it.

4 So if we could move a little bit, I would be very happy.

5 MR O'SHEA: [10:06:42] Well, I will comply with that, your Honours. I'll
6 only say that the role of the French and the role of Burkina Faso is actually
7 essential to the explanation of our Defence, which I hope you understand by
8 now.

9 PRESIDING JUDGE TARFUSSER: [10:07:01] We understand and we know.

10 MR O'SHEA:

11 Q. [10:07:29] Is it right, according to your knowledge, that in June 2004
12 there was infighting within the rebel movements themselves?

13 A. [10:08:00] Yes. I can't give you an exact date, but it is true that there
14 was infighting.

15 Q. [10:08:17] And did this ultimately lead to armed conflict between two
16 portions of the rebel movement?

17 A. [10:08:26] When we returned from Marcoussis, there was the Forces
18 Nouvelles. So it wasn't a matter of two camps or a clash between two
19 bodies. But, you see, there was a new leader, Soro Guillaume. So what
20 happened was between them, amongst them. On the one hand there was IB,
21 Kass, and they, they fought amongst themselves.

22 Q. [10:10:14] I'd like to, if I may, ask you some questions about this
23 unfortunate incident which you described. Now, you explained that there
24 were four individuals who were with you and who were killed. Franck
25 N'Douba, this was your chief of security, was it?

- 1 A. [10:10:58] Yes.
- 2 Q. [10:10:59] Youssef Zié Traoré, this was also security; is that right?
- 3 A. [10:11:12] Yes.
- 4 Q. [10:11:15] Arsène Yapo who was also security, correct?
- 5 A. [10:11:24] He was my aide de camp.
- 6 Q. [10:11:32] What does that mean?
- 7 A. [10:11:34] Usually they are the people who accompany you and carry
- 8 your documents.
- 9 Q. [10:11:39] Have you previously described him as your bodyguard?
- 10 A. [10:11:44] I beg your pardon?
- 11 Q. [10:11:54] Have you previously described Arsène Yapo as your
- 12 bodyguard?
- 13 A. [10:12:00] Yes, indeed. Well, invariably when you mention aide de
- 14 camp or bodyguard, invariably you use such expressions.
- 15 Q. [10:12:10] And these three individuals which I've just mentioned, on
- 16 the day in question were each of them carrying a firearm?
- 17 A. [10:12:29] They did not have any firearms. Mr Traoré Zié, he had a
- 18 firearm.
- 19 Q. [10:12:46] And the fourth gentleman is Yacouba Koné and he was your
- 20 driver.
- 21 A. [10:12:54] Driver. He was a driver. But I'd like to point out to you
- 22 that Franck N'Douba on that day was my driver on that day.
- 23 Q. [10:13:06] What was Yacouba Koné doing?
- 24 A. [10:13:27] He was the driver of the other vehicle. He was in the other
- 25 vehicle with Mr Traoré.

1 Q. [10:13:36] Now when Mr Zié Traoré was killed, where were you in
2 relation to him?

3 A. [10:14:12] I was down on the ground.

4 Q. [10:14:14] And what was he doing?

5 A. [10:14:17] You're asking me what he was doing? Nothing.

6 Q. [10:14:24] Was he also lying on the floor?

7 A. [10:14:26] Yes, he was also lying on the ground. I'd like to point out to
8 you that when we came across this unit they brought us out of the vehicles
9 and ordered us to immediately get down on -- lie down on the ground.

10 Q. [10:14:44] And after Zié Traoré was shot, was that when the firing
11 between the two armed groups started to take place?

12 A. [10:15:31] When Traoré was shot dead, we heard some shooting from
13 higher up in the direction of the unit.

14 Q. [10:15:51] So there was an exchange between the group that you were
15 with and another armed group?

16 A. [10:16:04] Not my group. That is to say, we were lying down on the
17 ground and there were the trucks and the four-by-fours of the unit led by
18 Séka Séka. They were off on the side, the paved area, and that's when there
19 was the exchange of gunfire. But not us, we were not in a combat position.

20 Q. [10:16:40] Yes, that's well understood.

21 And this exchange of fire, during this exchange of fire, the attention of these
22 soldiers who were with you was taken away from you and towards these
23 other -- this other armed group; is that right?

24 A. [10:17:01] I beg your pardon?

25 Q. [10:17:10] The soldiers that pulled you out of the vehicle, when they

1 started having an exchange of fire with the other armed group, their attention
2 was momentarily taken away from you; is that right?

3 A. [10:17:26] That is correct.

4 Q. [10:17:34] And how long did this exchange of fire take place?

5 A. [10:17:42] I must tell you that when you experience such a thing every
6 second seems like a lifetime, I can't tell you. Even today I really can't even
7 determine how long it took, how long it was when they were killed. The
8 trauma is very deep. You have the impression that it was 2 minutes, 3
9 minutes, 1 hour. I wouldn't wish such a thing on you at all at any time in
10 your life. I would not want any -- I would not want you to experience such a
11 thing.

12 Q. [10:18:24] Yes. I'm deeply sympathetic at the trauma that that kind of
13 situation could create. But this exchange of fire between these two armed
14 groups, was it a quick few seconds or was it something that lasted for
15 minutes?

16 A. [10:18:59] Let me repeat what I've told you already. When you are in
17 such a traumatic situation you have no time to count the minutes. You
18 might be able to give an idea, but you aren't counting the minutes.

19 Q. [10:19:26] So you don't know how long it took between the killing of
20 Zié and the killing of Koné, Yapo, and Franck?

21 A. [10:19:45] Listen, I can tell you that it wouldn't have been more than 15
22 minutes. That's all I can tell you. But is it 15 minutes, 30 minutes? I'm
23 saying I wouldn't wish such a thing on you, because even today, even now, I
24 still experience the trauma of that event. And it's not like in Europe when
25 you can go see a psychologist or someone to help you. I myself personally

1 had to go to the place to do my own psychoanalysis on myself to heal myself,
2 to leave the trauma behind, and even better, so that it doesn't become a
3 constant tragedy in my life. I set up my private office right beside the site so
4 each time I go there I remember. And with time the trauma leaves me,
5 gradually. I repeat, I would not wish such a thing on even my worst enemy.

6 Q. [10:21:12] Yes, Mr N'Guessan, I understand.

7 Now, when Koné was shot, what were you doing at that particular instant?

8 A. [10:21:39] I was lying down on the ground in the grass.

9 Q. [10:21:54] At that point when Koné was shot and you were hidden in
10 the bushes -- or, sorry, you didn't say "hidden."

11 PRESIDING JUDGE TARFUSSER: [10:22:28] He was lying on the floor. He
12 was lying on the floor --

13 MR O'SHEA: [10:22:30] Yes.

14 PRESIDING JUDGE TARFUSSER: [10:22:31] -- in the grass, not hidden in
15 the bushes.

16 MR O'SHEA: [10:22:32] Oh, in the grass.

17 PRESIDING JUDGE TARFUSSER: [10:22:33] In the grass.

18 MR O'SHEA: [10:22:35] It was the grass, okay.

19 PRESIDING JUDGE TARFUSSER: [10:22:36] That is the translation, at least.

20 MR O'SHEA: [10:22:37] Right.

21 Q. [10:22:38] Was it bushes or grass, Mr Witness?

22 A. [10:22:50] Grass. It was alongside a paved road with some grass.

23 And when Koné -- well, when Traoré was shot, Arsène -- when the shooting
24 began, I was down on the ground and Arsène lifted me up and said: "Uncle,
25 take shelter." He lifted me up and he set me down in the grass, the grass that

1 was beside the paved road. But it wasn't bush. It wasn't bushes.

2 Q. [10:23:27] And is that because you didn't have your crutches at that
3 moment?

4 A. [10:23:31] I had my crutches but I didn't have them right beside me.
5 So he lifted me up and put me off to the side.

6 Q. [10:23:46] So you had your crutches when you were taken out of the
7 car?

8 A. [10:23:50] I didn't have them. I didn't have them. They pulled me
9 out of the car and put me down on the paved --

10 Q. [10:24:02] So how did you get your crutches or how did your crutches
11 get to you?

12 A. [10:24:11] It was Arsène who brought them.

13 Q. [10:24:18] And where did he take them from?

14 A. [10:24:28] He got them out of the car. He held me on one side and he
15 grabbed the crutches with the other. I remember that very clearly. He even
16 asked me, he said to me, "Uncle, grab my neck. Put your hand around my
17 neck. Otherwise, I won't be able to carry you." I remember exactly what
18 happened. I remember it.

19 Q. [10:24:50] You're lying in the grass and you have your crushes near you
20 at the moment that Koné is shot?

21 A. [10:25:04] Yes, yes.

22 Q. [10:25:34] When Zié was shot, you've explained that you were lying
23 down.

24 A. [10:25:53] That's right.

25 Q. [10:25:53] Was anybody speaking to you at that time?

1 A. [10:25:56] Well, what I have told you and what I have given an account
2 of, well, I've said, in particular, I said, "Who is you?" That was the question
3 that Mr Séka Séka asked, "Who are you?" And I was down on the ground,
4 and I heard, "Who are you?"
5 In the meantime Franck, who was also down on the ground and who
6 recognized Séka Séka, said to me, "Uncle, we're screwed. This is
7 Commander Séka Séka." And this man had earned a reputation for himself,
8 true or not, as the head of the death squad.
9 When he asked me "Who are you" I said to him, "I am the Minister Joël
10 N'Guessan, former minister of human rights of the Republic of Côte
11 d'Ivoire."
12 "Where are you going?"
13 "I went to see my mother and my sister, my sister being the mother of
14 Mr Stéphane Kipré. And I'm going back home now."
15 "You know Stéphane Kipré?"
16 Answer: "Yes, I'm his uncle," that's what I said to him.
17 "Stéphane Kipré is in a car close by. We're going to go get him and we're
18 going to check whether indeed you are his uncle."
19 That was the conversation that occurred. And so that is how it came to be
20 that Stéphane was called on the telephone. And he said to Séka Séka, he
21 said to him to spare me. That was the conversation.
22 But I am telling you, to have to go through the exact chronology of such a
23 traumatic event, to have to do that today, that's not an easy thing. But I
24 remember exactly what I experienced. I remember exactly what I had to
25 say. So I am not going to have to repeat what I experienced and what I had

1 to say before this Court, and it's not before this Court that I'm going to say
2 that the four were not killed. I'm not going to say that.
3 They were killed. And I'm here for them, for the nine children they left
4 behind, the four widows. That's why I came to the ICC, so that finally
5 people will know what we experienced.
6 Me personally, I am giving testimony to what I experienced, and my wish
7 would have been that many people who experienced such trauma could
8 come here and give testimony. It's important for me to say that. I'm here
9 for the nine orphans who were left behind and the four -- do you see? Ever
10 since I began I have been telling you Stéphane Kipré is my nephew.
11 Stéphane Kipré is the son-in-law of Mr Gbagbo.
12 But you will see that I came not to give testimony because of a family
13 relationship. I'm here to give testimony about what I experienced because
14 justice must prevail over family ties. That is a very important principle for
15 me.
16 Q. [10:29:59] Yes. Thank you, Mr Witness. I understand it is difficult,
17 and I understand the way you may feel. However, clearly you do have a
18 recollection of these events, so let me ask you: At the time that Zié was shot,
19 was anybody speaking to you at that time?
20 A. [10:30:44] Sir, it was after he had been shot that Commander Séka Séka
21 came towards me.
22 MR O'SHEA: [10:31:48] Can the witness please be shown the front page of
23 his statement.
24 Yes, good question, your Honour. The first statement,
25 CIV-OTP-0004-0002_R02.

1 PRESIDING JUDGE TARFUSSER: [10:33:14] We have it on the screen.

2 MR O'SHEA: [10:33:16]

3 Q. [10:33:17] Mr Witness, can you see the signatures clearly at the bottom?

4 A. [10:33:23] Yes. I can see "Joël Kouadio N'Guessan."

5 Q. [10:33:30] And is that your signature?

6 A. [10:33:35] That is one of my signatures. I have signatures that I use for
7 my bank account and signatures that I use for other types of documents.

8 MR O'SHEA: [10:34:09] And can the witness -- Your Honour, can I go into
9 private session for just half a minute?

10 PRESIDING JUDGE TARFUSSER: [10:34:15] Can we go into private session,
11 please.

12 MR O'SHEA: [10:34:27] I just want to be sure --
13 (Private session at 10.34 a.m.)

14 THE COURT OFFICER: [10:34:35] (Interpretation) Mr President, we are in
15 private session.

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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WITNESS: CIV-OTP-P-0048

(Private Session)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Open session at 10.37 a.m.)

22 THE COURT OFFICER: [10:37:57] Mr President, we are in open session.

23 And the document can only be viewed inside the courtroom.

24 PRESIDING JUDGE TARFUSSER: [10:38:02] Mr O'Shea.

25 MR O'SHEA:

1 Q. [10:38:11] So if the witness can be shown now the second page of the
2 same document. And, Mr Witness, are those your initials in the left-hand
3 corner of the second page?

4 A. [10:38:37] Yes.

5 Q. [10:38:44] And after this statement was prepared, was the contents of
6 the statement read back to you by the Prosecutor's office?

7 A. [10:39:04] That is what they usually do. That was the case.

8 Q. [10:39:08] Thank you. And at paragraph 73 of your statement, which
9 is on page 12 of this document, you say the following, you say:

10 (Interpretation) "At the end of the gunfire, Arsène brought my crutches to
11 me. Then we left the bushes and came back to the paved road. At that
12 moment the man who had shot Zié dead approached us and he said: 'My
13 name is Commander Séka Séka. Do you know me? Have you heard of
14 me?' I told him: 'I do not know you. But my nephew Stéphane Kipré has
15 already told me about Commander Séka Séka Anselme.' He told me:
16 'Does this mean you are Stéphane Kipré's uncle? We are going to
17 cross-check that.'"

18 (Speaks English) Do you accept that you said this to the Prosecution?

19 A. [10:41:22] Yes, I believe that I said that. But I would like to point out
20 something that is crucial. When you experience such a situation, you need
21 time to give an account of the chronology. I took an oath during the trial of
22 Séka Séka. And since you have my statement, when I was interviewed by
23 Judge Cissé, I said precisely what I have said here in the Court. So it is
24 possible that events are chronologically correct or inconsistent. But Séka
25 Séka did not come towards me. That is what I said.

1 Q. [10:42:28] Is it right that this conversation took place: (Interpretation)

2 "I told him: 'I do not know you, but my nephew Stéphane Kipré have told
3 me -- has told me about Commander Séka Séka'?"

4 A. [10:42:54] I deny that. This is not how it happened. I would like to
5 tell you, if I remember correctly, it was in September 2011 that I had my first
6 contact with the ICC. I needed time to reconstitute the events. And since I
7 relied on my memory to reconstitute the events the way they happened so as
8 not to say anything that did not happen. So I'm telling you once again, I am
9 not in agreement with the manner in which this was drafted.

10 THE INTERPRETER: Correction. Earlier on the witness said: "Séka Séka
11 did not introduce himself to me."

12 MR O'SHEA: [10:44:22]

13 Q. [10:44:39] On page 79 of your statement -- sorry, on paragraph 79 of
14 your statement, page 13, you stated this: (Interpretation)

15 "And then I saw another person shoot Franck in the back. They killed
16 Yacouba Koné, Arsène Yapo, and Franck N'Douba in less than one minute.
17 That was the time that I was walking to the car in which Stéphane Kipré
18 was ..."

19 (Speaks English) Do you accept that you said this to the Prosecution?

20 A. [10:45:48] I said that. But let me come back to something. The
21 chronology can vary, 1 minute, 5 minutes. When you are experiencing such
22 trauma, you don't know whether it was 1 minute or an eternity.

23 Q. [10:46:09] So that's with respect to the comment on less than a minute.
24 What about the fact that you are walking towards the car when Yacouba
25 Koné is killed?

1 A. [10:46:21] Yes.

2 Q. [10:46:29] That part is correct, is it?

3 A. [10:46:34] That is correct, because I had my crutches and Séka Séka
4 asked me to stand up.

5 Q. [10:46:49] So you are walking towards the car and then Koné is -- and
6 then you hear the shots while you're walking; is that the position?

7 A. [10:47:09] I did not quite understand your question.

8 Q. [10:47:13] So while you are in the process of walking towards the car,
9 you hear --

10 A. [10:47:19] (No interpretation)

11 Q. [10:47:20] -- you hear Koné being shot?

12 A. [10:47:23] Yes, that is correct.

13 Q. [10:47:34] So what you said earlier this morning, that you were lying in
14 the grass when Koné was shot, is not right?

15 A. [10:47:59] Counsel, let me remind you that what I remember is the
16 chronology of the killings, the chronology of the killings. Zié, Koné
17 Yacouba, Arsène and then Franck. So that was the chronology of the
18 killings. There were times when it happened almost simultaneously. So it
19 is good for you to remember that when you experience such a situation, it is
20 not easy at all. I needed time to be able to reconstitute the chronology of the
21 killings.

22 Q. [10:48:54] According to you, what were the reasons why you left the
23 house that day?

24 PRESIDING JUDGE TARFUSSER: [10:49:18] Mr Prosecutor.

25 MR DEMIRDJIAN: [10:49:19] I apologise for interrupting my learned friend.

1 This question was asked in-chief. And from memory, I believe that Mr Altit

2 may have asked it himself. I would have to check. So this is repetitive

3 questioning at this stage. He's answered twice why he left that day.

4 MR O'SHEA: [10:49:37] Well, a small degree of repetition is permitted, in my

5 submission, when I'm doing the exercise that I'm doing.

6 PRESIDING JUDGE TARFUSSER: [10:49:44] (Microphone not activated)

7 MR O'SHEA: [10:49:47] Yes. Your Honours do understand the exercise I'm

8 going through, yes.

9 THE INTERPRETER: [10:49:51] Microphone, your Honour.

10 PRESIDING JUDGE TARFUSSER: [10:49:53] Sorry, I do understand the

11 exercise you are going through. Although, I think we should also come to an

12 end of this exercise. But I do understand. No, slowly I mean. I don't want

13 to curtail anything, but they're very, very short steps you're going.

14 MR O'SHEA: [10:50:15] Yes, short and careful steps.

15 PRESIDING JUDGE TARFUSSER: [10:50:27] Yes, please go ahead.

16 MR O'SHEA:

17 Q. [10:50:31] So according to you, Mr Witness, what were the reasons why

18 you left the house that day?

19 A. [10:50:42] The first reason was to go and charge our mobile phones

20 because there was no power in our neighbourhood for some days, and the

21 second reason was to visit my family members to see how they were faring.

22 Q. [10:50:59] And were those the only reasons you left the house that day?

23 A. [10:51:06] There was another reason. I wanted to meet my nephew

24 Stéphane Kipré, who the day before -- in fact, at least I was informed that he

25 had been arrested by Commander IB, who was in Abobo. So I decided to go

1 out. And if it was possible, we would meet somewhere so that he would tell
2 me what had happened. That was one of the reasons.

3 MR O'SHEA: [10:51:43] I wonder if I can seek the indulgence of the Chamber
4 to take an early break, because I'm going to put another document to the
5 witness and I'd like to prepare it.

6 PRESIDING JUDGE TARFUSSER: [10:52:11] Okay. I think that's okay for
7 the Chamber. So we have the break now and we resume at 11.30.

8 THE COURT USHER: [10:52:21] All rise.

9 (Recess taken at 10.52 a.m.)

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

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

12 Please be seated.

13 PRESIDING JUDGE TARFUSSER: [11:34:40] Good morning again.

14 Mr O'Shea, just before you start, could I ask you what the outlook is?

15 MR O'SHEA: [11:34:52] The outlook is looking good from, well, the
16 temporal perspective.

17 PRESIDING JUDGE TARFUSSER: [11:34:57] And this doesn't say anything.

18 MR O'SHEA: [11:34:59] I mean, obviously, you understand the exercise I am
19 going through is a bit difficult to calculate, but I do think that I will be
20 finished in this session for sure.

21 PRESIDING JUDGE TARFUSSER: [11:35:08] Okay.

22 MR O'SHEA: [11:35:09] Yes.

23 PRESIDING JUDGE TARFUSSER: [11:35:10] In the afternoon, the Defence
24 for Mr Blé Goudé can start?

25 MR O'SHEA: [11:35:14] Undoubtedly, yes.

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1 PRESIDING JUDGE TARFUSSER: [11:35:16] So be prepared, so that's the
2 message from my side.

3 So please go ahead. Thank you.

4 MR O'SHEA: [11:35:22] Your Honours, thank you.

5 Q. [11:35:24] Yes, Mr Witness, I just want to ask you this: Do you belong
6 to the same clan as Mr Ouattara?

7 A. [11:35:40] What do you mean by the word "clan."

8 PRESIDING JUDGE TARFUSSER: [11:35:51] This would have been also
9 my question.

10 MR O'SHEA:

11 Q. [11:35:56] Well, without going into too much semantics about
12 definitions, is there any tribal connection, loosely or narrowly, between you
13 and Mr Ouattara?

14 A. [11:36:16] I am a member of the Akan group and he, Mr Ouattara, is
15 from the Mandé north group. For those of you who are familiar with
16 Côte d'Ivoire, you have the Senoufo, the Malinké amongst the Mandé-nord;
17 whereas, the Akan are Baoulé, Agni, *and the Ébrié, and that's basically it.
18 No, we're not from the same ethnic group. I'm assuming that was your question.

19 Q. [11:36:51] So from an ethnic point of view, you're totally unconnected,
20 are you?

21 A. [11:36:57] No link.

22 Q. [11:37:10] I'm now going to show you another document, and its
23 reference is CIV-OTP-0083-0215.

24 MR O'SHEA: [11:37:44] It's a confidential document, so it can be shown to
25 the witness, the Chamber, and the parties, but not to the public. Am I wrong

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1 about that, Felipe, is it not a confidential document? I'm instructed that it is.

2 Surprised that it was, actually.

3 THE COURT OFFICER: [11:38:14] (Interpretation) Your Honour, if I may, I

4 cannot find the document with the reference given, that is 0083-0215; is that

5 the page number? But, indeed, documents may be shown within the

6 courtroom without being shown to the public. That is of course possible.

7 MR O'SHEA: [11:38:47] I'm told it can't be found on the system. It's

8 Prosecution disclosure. I don't know if the Prosecution is able to help on

9 this.

10 MR DEMIRDJIAN: [11:39:01] Which number is it on your list? That might

11 help us.

12 MR O'SHEA: [11:39:08] We're looking into that. Yes, your Honours, it's

13 number 19 on the Prosecutor's list of documents.

14 MR DEMIRDJIAN: [11:39:41] It can be displayed in the courtroom but not

15 broadcast. I have the same information that it was obtained from

16 confidential --

17 MR O'SHEA: [11:39:49] Yes, but the problem we have now is the Court can't

18 find the document.

19 MR DEMIRDJIAN: [11:39:53] Ah, it was disclosed pursuant to Rule 77, so

20 it's not in eCourt I understand. Have you uploaded the version yourselves,

21 perhaps?

22 MR O'SHEA: [11:40:27] Your Honour, these things happen. What I propose

23 is, I've got a copy of the document here, we do it the old-fashioned way. I'll

24 show it to the witness, then I'll show it to the judges.

25 PRESIDING JUDGE TARFUSSER: [11:40:38] That's a very good idea.

- 1 MR O'SHEA: [11:40:40] Yes.
- 2 PRESIDING JUDGE TARFUSSER: [11:40:41] Old-fashioned is always good.
- 3 You mean you show the whole document, all the -- something which is --
- 4 MR O'SHEA: [11:41:12] (Microphone not activated) ... show the first page to
- 5 the witness, just so that he knows what document I'm talking about.
- 6 MR DEMIRDJIAN: [11:41:24] Your Honours, if it helps, I believe that we
- 7 have the technology to display it on everyone's screen, if that could help.
- 8 MR O'SHEA: [11:41:32] Well, tremendously, yes.
- 9 MR DEMIRDJIAN: [11:41:35] Do we need the floor for that? Yes, we would
- 10 need the floor for that.
- 11 MR O'SHEA: [11:41:40] I'll direct my learned friend then.
- 12 Oh, we can take the floor I'm told. So we will take the floor.
- 13 Could you just stay by the witness and just show him the first page only,
- 14 please, at this stage.
- 15 Q. [11:42:20] Yes, Mr Witness, just look at the first page, please, at this
- 16 stage. Do you recognize that document?
- 17 A. [11:42:29] Yes, I recognize the document. This was a document which
- 18 was established when I testified before Judge Cissé.
- 19 Q. [11:42:41] And do you recognize your signature on the document?
- 20 A. [11:42:44] Yes, I recognize my signature.
- 21 Q. [11:42:48] Can the document be brought back to me, please. I think
- 22 the Prosecution knows what I'm talking about.
- 23 So these were legal proceedings in Ivory Coast, is that correct?
- 24 A. [11:43:30] It wasn't a trial.
- 25 Q. [11:43:31] What would you call it?

1 A. [11:43:32] It wasn't a trial. It was a hearing.

2 Q. [11:43:33] So it's -- yes. It's an audition in preparation for legal
3 proceedings, would you accept that?

4 A. [11:43:45] But there was no trial in French. A trial is what we are
5 doing here, but a hearing is when the investigating magistrate questions a
6 potential witness.

7 Q. [11:44:00] Thank you very much. That's fine.

8 PRESIDING JUDGE TARFUSSER: [11:44:01] Yes, we should not hear talk
9 about technicalities.

10 MR O'SHEA: [11:44:04] Yes.

11 PRESIDING JUDGE TARFUSSER: [11:44:05] We know what you are talking
12 about.

13 MR O'SHEA: [11:44:07] Good. Thank you, your Honour.

14 Q. [11:44:10] Right. Now, you were interviewed by the juge
15 d'instruction, and you gave your version of this incident to the juge
16 d'instruction in Ivory Coast. Now on page 3 of that document, you talk
17 about Séka Séka, and then you say this, you say:

18 (Interpretation) "He asked me where I was from and where I was going.

19 Before I could answer his question, I heard gunshots. One of the armed
20 men shot down one of my bodyguards. His name was Traoré Zié that we
21 used to call 'soldat'."

22 (Speaks English) Is it right that this is what you said to the juge
23 d'instruction?

24 A. [11:45:35] Yes, that's what I said, and I would like to go back over that,
25 because if I remember correctly that's exactly the same thing I said to the

1 Court. What exactly happened? I came upon this unit, and the first
2 question that was put to me was "Who are you?" They asked Arsène the
3 question, soldat, in other words. They said: "Who are you?" And Arsène
4 got out of the vehicle, and he said: "I'm with the spokesman and the advisor
5 to Mr Alassane Ouattara." And that's when they said, "Ah, we've got him."
6 And I've already told this to the Court. And that's when I heard that Traoré
7 was shot.

8 And you know, when you go through this kind of traumatic event, it takes
9 time to think through the chronology. And here I'm repeating myself, but
10 the chronology was Traoré Zié, Yacouba, and almost at the same time Franck
11 and Arsène. This is an event that I lived through and I have nothing to
12 change. I'm not going to remove a comma or anything, simply because
13 those are true facts.

14 How were they shot? What time were they shot? I beg your pardon, but
15 I'm afraid I cannot answer those questions. If that's what you're trying to
16 manoeuvre, the truth is all of those men have been buried, and I can't say
17 before this Court that they're still alive. They were killed.

18 To describe the traumatic events that occurred may lead to there being
19 certain omissions, but reality is reality. The truth is they were killed, and
20 just because you would like me to suggest that they weren't will not make it
21 true.

22 Q. [11:48:02] I haven't said that to you, sir, and so you don't need to make
23 assumptions about my objectives at this stage.

24 On the previous page, you say: (Interpretation)

25 "Commander Séka Séka who stopped us, and at a given point in time the

1 gunshots stopped and I saw Commander Séka Séka come toward me himself
2 and he asked me if I was the Minister Joël N'Guessan and where I was
3 going."

4 (Speaks English) Okay. And then on the following page, you say:

5 (Interpretation) "He asked me where I was coming from and where I was
6 going."

7 (Speaks English) So Commander Séka Séka asked you where you're going
8 and where you're coming from; is that correct?

9 A. [11:49:15] That's correct. But I'd like to add something --

10 Q. [11:49:21] No, please, just answer my questions for the time being.

11 And as I say, the Prosecutor will come back if he wishes and allow you to
12 make further clarifications if you wish. But for the time being, I'd ask you
13 respectfully to answer the questions I put and only the questions I put.

14 A. [11:49:41] That's exactly what I've been doing from the beginning.

15 Q. [11:49:46] And then -- so he puts that question to you, then Traoré Zié
16 is shot, and that's before you have a chance to answer the question. That's
17 what it says here.

18 Now I'm going to remind you what you said earlier this morning to my
19 questions. At page 21, line 24 to 22 -- sorry, no, page -- line -- page 21, line
20 24, to page 22, line 5. The question that I put to you was this:

21 "Yes. Thank you, Mr Witness. I understand it is difficult, and I understand
22 the way you may feel. However, clearly you have a recollection of those
23 events, so let me ask you: At the time that Zié was shot, was anybody
24 speaking to you at this time?"

25 And you replied:

1 "It was after he was shot that Commander Séka Séka came towards me."

2 So, Mr Witness, which version is the correct one?

3 A. [11:51:21] I'm not going to change anything from what I said this
4 morning.

5 Q. [11:51:29] Right. Now, on this same document at page 3, it says the
6 following: (Interpretation)

7 "He took Arsène Yapo's chest in his hands and he pushed him against me so
8 that I would go to a military vehicle demanding explanations about the fact
9 that I was a member of the Ouattara clan, whereas Stéphane Kipré was with
10 President Gbagbo."

11 (Speaks English) Was there such a conversation about you belonging to
12 Ouattara's clan?

13 A. [11:52:42] I think we need to clarify the vocabulary we use here; "clan"
14 is not the same as "ethnic group." This conversation did take place.
15 Séka Séka said to me -- well, he just realised that I was Stéphane Kipré's uncle,
16 and he said: "Fine. He's right here Stéphane Kipré. He's in the vehicle.
17 Come with me. And you're going to tell me how it can be that your nephew
18 is a follower of Gbagbo and you're with Ouattara."
19 That conversation did take place.

20 Q. [11:53:28] Earlier today I asked you if you were from the clan Ouattara
21 and you asked me what I meant by "clan." Now you're saying that "clan"
22 means something different. What does "clan" mean?

23 MR DEMIRDJIAN: [11:53:50] Just a second. When my learned friend
24 clarified his question, he asked whether there was any tribal affiliation. So
25 when the question of clan was asked this morning, it was not about political,

1 it was about tribal. Let's be clear about that.

2 MR O'SHEA: [11:54:10] Well, no, my learned friend is wrong on this one. I
3 specifically put to him the question "Do you belong to Ouattara's clan?" and
4 he replied "What does 'clan' mean?"

5 PRESIDING JUDGE TARFUSSER: [11:54:25] Yes, so -- but it wasn't said
6 politically. Otherwise, we can go back. I did not know what clan meant,
7 what you understand among "clan," because "clan" can mean many things.
8 And then the witness said -- or it was the exchange about the tribe, "the clan"
9 meaning "tribe." But this is what I understood.

10 MR O'SHEA: [11:54:48] Yes. My point is that I asked the specific question
11 as to whether he belonged to Ouattara's clan, and he asked me "What does
12 'clan' mean?" Now he's saying clan means something different.

13 Q. [11:55:00] So I'm highlighting this and I'm asking you, Mr Witness,
14 what does "clan" mean?

15 A. [11:55:12] I think there is a linguistic issue here. In your mind "clan"
16 refers to ethnic group.

17 Q. [11.55.19] No, what does it mean?

18 A. [11.55.21] It means that you're in the same political group. In other
19 words, you're in the same political group. You have the FPI clan, the RDR
20 clan. And maybe it's difficult to understand, but it has nothing to do with an
21 ethnic clan, if you will, an ethnic group. Here it refers to a political group.

22 Q. [11:55:54] Yes. Well, as I say, don't make assumptions about what I
23 am thinking. It's just questions and answers for the time being.

24 So I just want to ask you, you explained earlier in these proceedings that
25 these bodies remained at the scene but that they had been burnt. Now at

1 some point, at some point does someone with medical training go to those
2 burnt bodies?

3 A. [11:56:37] After the fall of President Gbagbo, INTERFU, which is an
4 undertaking -- an undertaker's company, INTERFU indeed removed the
5 remains afterwards. There were a number of medical certificates that were
6 drawn up by Professor Ette, who was probably the only person in Côte
7 d'Ivoire who was authorised to provide forensic certificates of that type.

8 Q. [11:57:38] So this doctor who is qualified to give these medical
9 certificates, does he see the bodies? Does he examine them?

10 A. [11:57:51] I'm not able to say that because I did not participate in that.
11 She's a forensic doctor and the bodies were taken to the morgue in Anyama.
12 And I can tell you that those corpses were never given back to the families
13 until the forensic procedures had been completed. And it took several
14 months. And it was only then that the families could retrieve the bodies and
15 bury them.

16 Now, for your information, during the trial that took place in Abidjan, the
17 lawyers required that *the body of one of the bodyguards who was killed be
18 exhumed. And an autopsy was carried out.

19 Q. [11:58:59] So is it the case that it's only at the time of the trial of
20 Séka Séka that the question of an autopsy arises for the first time?

21 A. [11:59:10] Yes. I can confirm that because there were thousands of
22 bodies and they were not all involved in that particular trial.

23 Q. [11:59:33] And when these bodies were exhumed, was it still possible
24 to identify the bodies?

25 A. [11:59:50] I'm not able to tell you because I didn't read the autopsy

1 report.

2 Q. [11:59:57] Do you know whether there was any finding at the end of
3 the trial as to the cause of death or as to the inability to find the cause of
4 death?

5 A. [12:00:17] I can't tell you anything about that because, as I said, I did
6 not receive the autopsy report.

7 Q. [12:00:32] When you say "trial," you're talking about the trial of
8 Commander Séka Séka, right?

9 A. [12:00:40] Yes, of course.

10 Q. [12:00:43] And you gave evidence in that trial, did you?

11 A. [12:01:00] Of course.

12 Q. [12:01:06] And did you come to court to hear the verdict of the judges
13 or the judge?

14 A. [12:01:23] No, I was not present.

15 Q. [12:01:28] Were the reasons of the verdict published?

16 A. [12:01:35] Once I finished giving testimony, I did not go back to the
17 military tribunal because, you see, it was a military tribunal that sat in
18 judgment of Séka Séka. It was not a civil tribunal.

19 Q. [12:01:58] Was this case well known in Ivory Coast?

20 A. [12:02:03] People were well aware of it. It received a great deal of
21 media attention. And the people of Côte d'Ivoire know about that trial, that
22 there was a trial of Séka Séka in relation to the death of the people who were
23 with me.

24 Q. [12:02:27] Was the trial followed by the media?

25 A. [12:02:30] No.

1 Q. [12:02:39] Were the findings of the tribunal spoken about in the media
2 or published in the media?

3 A. [12:02:50] Certainly. But what you must realise is that the military
4 tribunal in Côte d'Ivoire set a sentence of 20 years for Mr Séka Séka.

5 Q. [12:03:17] Let me show you a document, it's CIV-D75 -- sorry,
6 D15-0004-74 --

7 MR JACOBS: [12:03:46] 14. It's my French. It's 1477.

8 MR O'SHEA: [12:03:52] Yes, we're a multilingual team here and we even
9 have a different way of writing numbers. So it's D15-0004-1477. Number
10 204 on the Defence list and it's public, so could it -- all right. Very well.
11 Could it be enlarged a bit so we can read it?

12 Can your Honours still hear me?

13 PRESIDING JUDGE TARFUSSER: [12:05:22] (Microphone not activated)

14 MR O'SHEA: [12:05:25] Yes, the transcript. Okay.

15 Q. [12:05:33] This is an article in Jeune Afrique, 22 July 2015. And it
16 states "expertise" -- can you move it up a bit?

17 I'm sorry, can the Registry move it down a bit. Thank you.

18 "Expertise médico-légale": (Interpretation)

19 "The hearing which lasted less than an hour was spent or focused on the
20 reading out of the forensic report of the body of the bodyguard of Joël
21 N'Guessan. However, external examination of the body, which was burnt,
22 of Yapo Akaffou Lèon Arsène age 33 years did not allow for determination of
23 the exact cause of death, according to the report."

24 (Speaks English) Is that something that you read or heard in the media?

25 A. [12:07:05] I did hear about that. And I would like to tell you that since

1 I am not a forensic expert responsible for autopsy, frankly, I really can't say
2 anything about a report that I did not see, about a technique used to conduct
3 an autopsy that I don't know anything about. I am really at a loss. It was
4 the judges in Côte d'Ivoire who did their work. I trust their abilities. And if
5 they say that it was not possible to determine the cause; that is what they said.
6 Well, if, perhaps if other technology had been used, that might have been
7 possible. But if you exhume a number of corpses and conduct autopsies
8 yourself, perhaps you might be able to say something.

9 Q. [12:07:57] Did you or were you at any time asked to look at the bodies
10 and try to identify them?

11 A. [12:08:12] Well what has happened ever since I have been in touch with
12 the International Criminal Court: First of all, the day on which my spouse
13 left with the people from INTERFU to have the remains removed, she took a
14 number of photographs. And I said that in a particular document. Once
15 she got to that place, she did that. But before that, she was hiding at
16 Mr Banny's – *I was hiding at Mr Banny's residence. And then when you get
17 there, you will see, a bit further back you will see Traoré Zié, a bit further
18 ahead you will see Koné Yacouba, and then virtually next to one another you
19 will see Arsène and Franck. So she took photographs. And while I was
20 providing that information to the ICC, I made a sketch of the site and the way
21 the bodies were lying. After that during the trial the government
22 commissioner *Ange Kessi, I provided him with the photographs showing the
23 exact location where the corpses were, where they were removed, the burnt
24 bodies. And thus, he was able to show those photographs during the trial.
25 And on the photographs you could clearly see the INTERFU staff, who did

1 not realise that they were being photographed. The government
2 commissioner even asked one of them, one of the people from INTERFU:
3 "Do you recognize this on the photograph?"
4 And that staff member went up to the screen and confirmed. And he was
5 extremely surprised. He didn't realise. But he said, "Yes, that was me. I
6 removed the bodies from that place." So that is all I remember.
7 But as I have said -- well, the bodies were burnt, and I have specified that.
8 This was at a time -- after a few days the rotting bodies were being burnt by
9 the population.

10 Now, would that allow for determination of the exact causes of death using
11 state-of-the-art technology? I don't know. I'm not a doctor. I'm not a
12 forensic expert. I do not conduct autopsies.

13 Q. [12:11:02] I'm going to show you the copies of the death certificates. If
14 we could please see CIV-OTP-0004-0037. That's the certificate for Arsène
15 Yapo. Confidential. Do you recognize this document?

16 A. [12:12:12] Yes. I provided them to the Court, the death certificates.

17 Q. [12:12:18] Can you explain how this document came into being?

18 A. [12:12:34] I have no idea. I'm not a forensic expert or doctor.

19 Q. [12:12:40] Can you explain -- sorry, can you explain how it came into
20 your possession?

21 A. [12:12:44] Because we asked for a photocopy so that the burial could
22 take place, because in Côte d'Ivoire if you do not have such a certificate you
23 cannot bury a body.

24 MR O'SHEA: [12:13:05] Mr Registrar, can it just be expanded a little, please.

25 Q. [12:13:22] And why is the date 15 April on this document?

1 A. [12:13:29] The forensic expert made a mistake. They were killed on
2 8 April. And since I did not prepare this document myself, I really cannot
3 answer your question.

4 MR O'SHEA: [12:13:48] Yes. Just don't help the witness, please, whatever
5 you are going to say.

6 MR DEMIRDJIAN: [12:13:52] Well, I'm not going to help the witness at all.
7 But to be fair to the witness, we need to show him the upper part of the page,
8 which explains why there is a date there, because now it's very misleading.

9 MR O'SHEA: [12:14:04] He knows the document. But fine. Show him the
10 upper part of the page please, Mr Registrar.

11 MR DEMIRDJIAN: [12:14:13] Not that part.

12 PRESIDING JUDGE TARFUSSER: [12:14:24] What do you mean by "upper
13 part"? This?

14 MR DEMIRDJIAN: [12:14:27] Because earlier we didn't see the first three
15 lines of the sentence.

16 MR O'SHEA: [12:14:37] Do I understand my learned friend's point? But
17 there we go.

18 Q. [12:14:46] So do you know how that error came about?

19 PRESIDING JUDGE TARFUSSER: [12:14:57] But I do not understand, why
20 don't we ask the Professor Hélène Yapo Ette? I do not understand why we
21 should ask a person who didn't create this how the error came about.
22 Sometimes I -- the best way would be to ask the doctor, I would say. But if
23 he didn't produce the document, if he didn't produce the document, and there
24 is an error, it wasn't him to make the error, I think, if he didn't produce it, so.

25 MR O'SHEA: [12:16:07]

Trial Hearing
WITNESS: CIV-OTP-P-0048

(Open Session)

ICC-02/11-01/15

1 Q. [12:16:07] None of these certificates have a cause of death marked on
2 them, do they?

3 A. [12:16:16] You have it right in front of you. Reread it. I'm not going
4 to reread it for you.

5 Q. [12:16:50] Yes. Thank you very much. So we can take that document
6 away.

7 MR O'SHEA: [12:17:15] Mr President, your Honours, thank you very much
8 for your patience. Those are all of my questions.

9 And thank you very much, Mr N'Guessan, for your cooperation.

10 THE WITNESS: [12:17:27] Thank you.

11 PRESIDING JUDGE TARFUSSER: [12:17:30] Thank you, Mr O'Shea.

12 I now look to the Defence of Mr Gbagbo. We have 40 minutes, so at least
13 we could start.

14 MR O'SHEA: [12:17:50] Not the Defence for Gbagbo, just for the record.

15 PRESIDING JUDGE TARFUSSER: [12:17:53] Yes, sorry. Of course. Thank
16 you.

17 MR N'DRY: [12:17:59] (Interpretation) We shall now begin. Within our
18 team it's Mr Gbougnon who will begin examination of this witness, and then
19 afterwards I will be taking over.

20 PRESIDING JUDGE TARFUSSER: [12:18:14] Thank you very much.

21 Mr Gbougnon, yours the floor.

22 MR GBOUGNON: [12:18:57] (Interpretation) Good morning, your
23 Honours.

24 QUESTIONED MR GBOUGNON: (Interpretation)

25 Q. [12:19:01] Good morning, Mr Minister.

1 A. [12:19:05] Good morning.

2 Q. [12:19:08] During my questioning I will refer to you as Mr Minister
3 because as you know in our part of the world, following our traditions, even
4 if a person has been a minister only for a while, that title remains, and the
5 person is always referred to as Mr Minister. And so that is why I will be
6 addressing you as Mr Minister.

7 PRESIDING JUDGE TARFUSSER: [12:19:36] Maître Gbougnon, you know
8 that you triggered my intervention, of course, because I would like you to call
9 the witness with his name or with "Mr Witness," but not with a title because
10 we don't use the titles in here, as you know. Not for the witnesses, not for
11 the accused. So I would not want that this leads then to something else in
12 the future. So please, stick to the name or to the pseudonym or to
13 Mr Witness, but not to the title. Thank you.

14 And I'm sure that also the witness agrees on this. It's not as a matter of
15 respect or disrespect, but just to have the same pattern, the same behaviour
16 for everybody here. Thank you.

17 MR GBOUGNON: [12:20:46] (Interpretation) I agree, your Honour. I
18 agree with the position you have taken. Thank you very much. We shall
19 comply with your instructions.

20 Q. [12:20:57] Mr N'Guessan, when did the RDR, your political party, last
21 have a conference or a convention, rather?

22 A. [12:21:17] At a time when I was not yet a member of the RDR, so I can't
23 really give you the date.

24 Q. [12:21:28] Sir --

25 A. [12:21:36] Yes, counsel?

1 Q. [12:21:37] -- first of all, please avoid speaking while I am speaking
2 because of the work being done by the court reporters, and please respect the
3 5 second rule.

4 I'll ask my question again: When was the last convention of the RDR, your
5 political party?

6 A. [12:21:57] I don't know.

7 Q. [12:22:01] You say that you joined that party in 2008?

8 A. [12:22:08] October 2008.

9 Q. [12:22:13] And since 2008, well, that was a time you said you joined the
10 RDR. Since that time there has been no convention; is that correct?

11 A. [12:22:24] That is correct. We had a convention, but not a congress.

12 Q. [12:22:36] And within the RDR, how is the party leader designated?

13 A. [12:22:41] The president of the party is elected by the congress.

14 Q. [12:22:56] Before 2008, thus in 2008, since you don't have the exact date,
15 there was a congress at which time a leader was -- a president was elected; is
16 that correct?

17 A. [12:23:07] Correct.

18 Q. [12:23:08] His name?

19 A. [12:23:10] President Alassane Ouattara.

20 Q. [12:23:12] Thus, since 2008 there has been no congress to choose a new
21 president; is that correct?

22 A. [12:23:38] Correct.

23 Q. [12:23:39] You said here in previous days that at Marcoussis, Mr Affi
24 N'Guessan went, Mr Affi N'Guessan, the president of the FPI, went because
25 the constitution says that the president of the republic cannot be president of

1 a political party; is that correct?

2 A. [12:24:09] Yes, correct.

3 Q. [12:24:10] Thus today Mr Ouattara is serving as the president of the
4 RDR and the president of Côte d'Ivoire?

5 A. [12:24:23] Wrong.

6 Q. [12:24:24] Thank you. On 8 April 2011, when your nephew -- the man
7 you describe as your nephew, Stéphane Kipré --

8 A. [12:24:49] He is my nephew.

9 Q. [12:24:50] Please. Please. For the purposes of the transcription, allow
10 me to finish. Once I've finished, wait 5 seconds and then you speak. It's just
11 for the recording.

12 A. [12:25:08] Thank you.

13 Q. [12:25:08] On 8 April 2011, Mr Stéphane Kipré, your nephew, when he
14 took you to the presidential residence, it was to save you or to harm you?

15 A. [12:25:28] To save me.

16 Q. [12:25:29] Thank you. And thus can it be said that your nephew and
17 the first lady of the day saved your life?

18 A. [12:25:48] I have said many times, and I have reiterated, yes, without
19 them I may not be alive today.

20 Q. [12:25:58] Now, do you remember your residence card in
21 Côte d'Ivoire?

22 A. [12:26:13] I never had a residency card or anything like that for
23 Côte d'Ivoire.

24 Q. [12:26:20] I'm not asking whether you held a residency card in
25 Côte d'Ivoire. Rather, I asked you whether the residency card in

1 Côte d'Ivoire and that debate, does that ring a bell?

2 A. [12:26:36] Yes, I do.

3 Q. [12:26:40] And do you remember the period, approximately?

4 A. [12:26:51] 1989-1990, around then.

5 Q. [12:27:05] At that time, who was the prime minister?

6 A. [12:27:08] The prime minister was President Alassane Ouattara.

7 Q. [12:27:15] If you remember, of course, at that time were there any
8 incidents between police officers and people who held these -- certain
9 residency cards?

10 A. [12:27:44] I don't remember.

11 Q. [12:27:50] At that time do you remember what the media was reporting
12 on in relation to foreigners who were being checked, their residency cards
13 were being checked?

14 A. [12:28:24] I can't think of a specific media outlet, but I do know at one
15 point the defence and security forces would stop people, look at their IDs,
16 and then tear them up if there was a name, if the name sounded like the name
17 of a person from the north.

18 Q. [12:28:48] Mr N'Guessan, I was talking about residency cards. Please
19 answer my question. I asked you whether at that time you yourself -- would
20 you -- now, the defence and security forces as you refer to them; did the
21 media give any reports about events having to do with the checking of people
22 who held these residency cards?

23 A. [12:29:23] I have no recollection.

24 Q. [12:29:25] Have you any recollection of the checks that were reported
25 upon by the media around mosques, for example?

1 A. [12:29:45] I have said ever since the first day the defence and security
2 forces even went to the mosques in that area, the area of the mosque of -- in
3 order to check the papers of people who were on their way to prayer or
4 coming out of prayer.

5 Q. [12:30:04] So you can confirm that in 1991 when Mr Alassane Ouattara,
6 prime minister of Côte d'Ivoire, during that time the defence and security
7 forces were checking the identity cards of people in and around mosques?

8 A. [12:30:24] I didn't say "residency cards." I said the papers of people
9 coming out of mosques. I think we need to be precise here.

10 Q. [12:30:35] Thank you, Mr N'Guessan. I'll be very precise.
11 So this phenomenon is not new in Côte d'Ivoire?

12 A. [12:30:56] It was new during the period in question.

13 Q. [12:31:03] Thank you. It was new at that time.
14 Regarding the people who were accompanying you, I know this was a very
15 traumatic event for you, but I will ask just a couple of questions. I'm sorry
16 to have to come back to this. Now, you talked about your aide de camp and
17 then bodyguards. Were there -- were they members of the police force or
18 the gendarmerie? Were they policemen or gendarmes? I believe you
19 understand what I mean.

20 A. [12:32:17] They were with me after receiving training at the
21 gendarmerie. Franck was a former policeman, Arsène was a former soldier,
22 Traoré Zié was a former member of the New Forces, and the last one was a
23 driver. But in order to serve with a public figure, they received training at
24 the gendarmerie, and they would be seconded by the general staff using a
25 letter signed by Mr Kassaraté, who was the boss at that time.

1 Q. [12:33:10] So during that time on 8 April 2011, he was neither a
2 policeman nor a gendarme; is that correct?

3 A. [12:33:22] Yes, that is correct.

4 Q. [12:33:25] Did they have any police armbands?

5 A. [12:33:40] Yes, they had police armbands, which they used during political
6 events or demonstrations so as to guard the population. *These weren't police
7 armbands, rather they were armbands which were marked "police." So in all
8 political events, they were there with red or green armbands. People would wear
9 that to identify themselves as providing security for the event.

10 Q. [12:34:19] On 8 April 2011, were you going to a political event?

11 A. [12:34:31] No, I was not going to a political event. I was visiting
12 family.

13 Q. [12:34:40] Your bodyguards were neither policemen nor gendarmes or
14 even soldiers, so they did not belong to any corps of the defence and security
15 forces at that time?

16 A. [12:35:01] Yes.

17 Q. [12:35:04] But they had armbands on which were written "police"?

18 A. [12:35:09] It was only one, that is, Arsène Yapo, who had an armband
19 on which was written the word "police."

20 Q. [12:35:18] Can you tell us how he got that armband?

21 A. [12:35:23] I cannot tell you. But during political rallies, he provided
22 security, first for myself and then for the entire population. That was when
23 they were given those armbands. And generally, he was there without
24 carrying any weapon. And that this was in order for those people providing
25 security for the event to be identifiable.

1 Q. [12:36:02] You have said it was Mr Arsène Yapo who had the
2 armband?

3 A. [12:36:17] Yes, Arsène Yapo. I still have the image in my mind
4 because his armband remained at the place where he was murdered.

5 Q. [12:36:27] Mr N'Guessan, you are telling me that Mr Arsène Yapo, your
6 bodyguard, was neither from the police or the FDS, but he had an armband.
7 And I just asked you whether you knew how he got it. You told me that you
8 did not know. Are you telling me that you were never curious enough to
9 ask someone who was close to you who was a member of your entourage and
10 who wore an armband, so you never had the curiosity to ask him how he got
11 that armband?

12 A. [12:37:21] I would like to clarify something.

13 Q. [12:37:26] Please wait for 5 seconds.

14 A. [12:37:31] Thank you. I would like to clarify something. It was not a police
15 armband. It was a simple armband on which the word "police" was written.

16 *During the demonstrations, what was done? Firstly, there are people who are
17 responsible for receiving people for the reception. *They have armbands on which
18 the word "reception" was written. *Then there were those who were responsible for
19 security, with armbands on which the word "security" was written. But these were
20 not police armbands, may this be clear. So those armbands were distributed by the
21 organising committee. So you also had armbands marked "organising committee",
22 others marked "hospitality unit", and so on. It is not a police armband.

23 Q. [12:38:23] Thank you, Mr N'Guessan. I have understood the
24 difference. On 8 April 2011, when you were taken to the residence at Cocody, you
25 have stated that at one point you prayed with a pastor and Madam Bro Grébé?

1 A. [12:39:06] Yes, the pastor was -- his name was Adjé Nzi.

2 Q. [12:39:15] Madam Bro Grébé actually commissioned you to do
3 something; is that correct?

4 A. [12:39:22] Yes.

5 Q. [12:39:23] From that time until after the crisis were you able to convey
6 the message to the person for whom it was intended?

7 A. [12:39:36] Yes, I was able to do it.

8 Q. [12:39:40] You were able to do it?

9 A. [12:39:48] Yes. I had two messages for President Ouattara. The first
10 was what Bro Grébé told me. She said:

11 "Mr Minister, when you meet with Mr Alassane Ouattara, you can tell him
12 that it is necessary for him to sit down with Mr Gbagbo because the situation
13 was not good."

14 I conveyed that message after the crisis.

15 The second message was from Séka Séka. He told me to tell Mr Ouattara
16 that:

17 "You saw me and I'm still alive."

18 I conveyed those two messages. And this was already on 8 April, that is,
19 three days before the end of the crisis.

20 Q. [12:40:41] Thank you, Mr N'Guessan. I simply wanted to seek a
21 clarification. I will now hand over to my colleague, Maître N'Dry, who will
22 continue with the questioning. Thank you.

23 A. [12:41:07] Thank you, counsel.

24 QUESTIONED BY MR N'DRY:

25 Q. [12:41:52] (Interpretation) Good morning, Mr Joël N'Guessan.

1 A. [12:41:55] Good morning.

2 Q. [12:41:56] My name is N'Dry Claver Kouadio, as it appears on my
3 certificate. I am a member of the Defence team of Mr Charles Blé Goudé.
4 I am the co-counsel. And I'm going to put to you the bulk of the questions so
5 as to complete the questioning.

6 As you may be aware, I'm a Baoulé, specifically from Diabo, and I would like
7 to exchange with you. I am aware of the pain that the president felt
8 following the exchanges between witnesses and counsel, so we are going to
9 proceed slowly. We are not going to be in a hurry. So I will proceed very
10 slowly with you and I would wish that you do the same.

11 The purpose is very simple and it is to assist the interpreters.

12 Let us hark back to Marcoussis. And this is because I realise that amongst
13 all the issues that have been discussed with you here, there were two
14 incidents at which you were an eyewitness; that is, the incident of 8 April
15 and then in Marcoussis, where you actively participated in the negotiations.
16 Now, during the roundtable conference at Linas-Marcoussis, what were the
17 main demands of the three rebel movements that would later be known as
18 the Forces Nouvelles?

19 A. [12:45:01] If I remember correctly, the main movements which
20 launched the rebellion wanted the elections to take place again in Côte
21 d'Ivoire, to be organised anew.

22 Q. [12:45:37] I talked about their main grievances, their demands. Was
23 that their main or their only demand?

24 A. [12:45:46] It was the main one and the most important one. We
25 unanimously refused because we knew that elections had been organised in

1 2000. The government in place was there even though Côte d'Ivoire had
2 been split. Even the political parties which were present systematically
3 rejected that proposal.

4 Q. [12:46:30] And the secondary grievances or demands, what were they?

5 A. [12:46:40] I really cannot tell you because I do not remember them right
6 now.

7 Q. [12:46:44] After the meeting, there was major resolutions adopted; is
8 that correct?

9 A. [12:47:16] That is correct. The roundtable meeting ended with an
10 agreement made up of several points and with a series of measures to be
11 implemented in order to restore peace in Côte d'Ivoire.

12 Q. [12:47:45] I would like to show you a document which you have
13 already seen. It was shown to you by the Prosecutor on Monday. And the
14 number is CIV-OTP-0051-2135.

15 MR DEMIRDJIAN: [12:48:35] (Interpretation) Can we have the number on
16 the list?

17 MR N'DRY: [12:48:43] (Interpretation) My learned friend, I believe it is a
18 document that you yourself presented on Monday the 27th, and it is the
19 resolutions taken at the Marcoussis meeting. I think you displayed it both in
20 French and English.

21 MR DEMIRDJIAN: [12:49:17] (Interpretation) Yes, I simply wanted to be
22 sure that we had the right version because there was a more official version,
23 which is 0091-2999, but there was another less official version.

24 MR N'DRY: [12:49:45] (Interpretation) So I would like to ask the Registry to
25 display the official version. So I would like to ask my learned friend to

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1 repeat the references.

2 MR DEMIRDJIAN: [12:50:03] (Interpretation) And we are talking about the
3 Linas-Marcoussis accord. It is CIV-OTP-0091-2999, and it was number 35 on
4 our list.

5 MR N'DRY: [12:50:24] (Interpretation) In order for the judges to follow, can
6 we also have the English version, if possible, please.

7 MR DEMIRDJIAN: [12:50:50] (Interpretation) The version that I gave you
8 is actually the English version. The French version is CIV-OTP-0091-3011,
9 and it is number 34 on our list of evidence.

10 MR N'DRY: [12:51:19] (Interpretation) So I would like the French version to
11 be shown to the witness. The court officer will tell us.

12 THE WITNESS: [12:52:32] (Interpretation) Yes, I can see it.

13 MR N'DRY: [12:52:36] (Interpretation)

14 Q. [12:52:37] Do you see that document on the screen?

15 A. [12:52:39] Yes.

16 MR N'DRY: [12:52:43] (Interpretation) Can we zoom in on the document,
17 please.

18 Q. [12:52:53] Mr Witness, in paragraph 1, what can you read?

19 A. [12:53:12] "At the invitation of the president of the republic of France, a
20 round table of political forces of Côte d'Ivoire met in Linas-Marcoussis from
21 15 to 23 January 2003. This round table adopted a reconciliation agreement,
22 and I'm sending you a copy."

23 And it was signed by Jean-Marc de La Sablière, who is permanent
24 representative of France to the United Nations.

25 Q. [12:53:50] Very well. As a political figure, are you familiar with such

1 documents adopted at the end of political discussions or negotiations?

2 A. [12:54:13] This was the first time that I saw this type of documents.

3 Q. [12:54:28] In the paragraph that you have just read, do we agree on the
4 fact that it's based on the document? Can we agree that the person who
5 initiated or the initiators of the round table were indeed France?

6 A. [12:54:55] Yes, I so do confirm. In fact, I said that yesterday.

7 Q. [12:55:02] Can you also confirm that immediately after your return at
8 the end of these negotiations, according to you, you went to the French
9 embassy to have the cost of your air ticket refunded to you? Can you
10 confirm that?

11 A. [12:55:28] Yes, that is correct.

12 Q. [12:55:30] Now let us go to the resolutions. I believe that document is
13 still displayed on your screen.

14 MR N'DRY: [12:16:02] I would like to ask the court officer to display the
15 following page or the next page. Can you zoom in further please and scroll
16 down.

17 Q. [12:56:28] Mr Witness, can you read as from point 2?

18 A. [12:56:40] I really do not want to read. If you can read it out, I can see
19 it.

20 PRESIDING JUDGE TARFUSSER: [12:56:46] This is not a reading lesson
21 here. I think we can all read. Thank you.

22 MR N'DRY: [12:56:52] (Interpretation) Very well. I will read it out.

23 THE WITNESS: [12:56:58] (Interpretation) Thank you.

24 MR N'DRY: [12:57:00] (Interpretation)

25 Q. [12:57:01] This was simply to be sure that you can see it:

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1 "The roundtable is satisfied with the cessation of hostilities made possible and
2 guaranteed by the deployment of ECOWAS forces supported by French
3 forces, and the roundtable requires strict respect of that cessation of
4 hostilities. It appeals to all the parties to immediately cease all acts of
5 violence and resort to peace. They ask for the immediate liberation of all
6 political prisoners."

7 Point 3:

8 "The round table reaffirms the necessity to preserve the territorial integrity."

9 And now I move to point A:

10 "A national reconciliation government shall be formed immediately after the
11 end of the Paris conference in order to ensure the restoration of peace and
12 stability."

13 Mr Witness, in relation to the national reconciliation government, now,
14 amongst all the political parties which were present at Marcoussis, which
15 were the parties that were already included in the government of
16 President Laurent Gbagbo?

17 A. [12:59:13] The government that was appointed by Mr Laurent Gbagbo
18 already included the Rassemblement des républicains. And if I remember
19 correctly, there was a minister *Zémogo whom I believe was part of the
20 government, who was an RDR executive.

21 THE INTERPRETER: [12:59:34] The interpreter didn't quite catch the name.

22 THE WITNESS: [12:59:38] (Interpretation) There was a minister from the RDR.

23 MR N'DRY: [12:59:43] (No interpretation)

24 PRESIDING JUDGE TARFUSSER: [12:59:45] No. There was only the
25 minister of the RDR the interpreter didn't catch the name of. The witness

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- 1 mentioned a name of a minister.
- 2 THE WITNESS: [13:00:03] (Interpretation) Zémogo Fofana.
- 3 PRESIDING JUDGE TARFUSSER: [13:00:11] Okay, thank you.
- 4 I think we should stop here and have our lunch break and resume at 2.30.
- 5 Thank you very much.
- 6 (Recess taken at 1 p.m.)
- 7 (Upon resuming in open session at 2.33 p.m.)
- 8 THE COURT USHER: [14:33:56] All rise.
- 9 Please be seated.
- 10 PRESIDING JUDGE TARFUSSER: [14:34:21] Good afternoon.
- 11 I would give immediately the floor to Maître N'Dry.
- 12 Good afternoon, Mr Witness.
- 13 Maître N'Dry.
- 14 THE WITNESS: [14:34:33] (Interpretation) Good afternoon.
- 15 PRESIDING JUDGE TARFUSSER: [14:34:46] (Interpretation) You have the
- 16 floor, sir.
- 17 MR N'DRY: [14:34:50] (Interpretation)
- 18 Q. [14:34:54] Good afternoon, Witness.
- 19 A. [14:34:56] Good afternoon.
- 20 Q. [14:34:57] We are going to continue where we left off. Before the
- 21 break, I was asking you a question. My question: was the government set
- 22 up by Laurent Gbagbo, did it include already the RDR, in other words, before
- 23 the Marcoussis meeting? And you answered saying that, you mentioned
- 24 Mr Zémogo Fofana; is that correct?
- 25 A. [14:35:48] Yes, that's correct. And I also would like to add that there

1 was Mr Amon Tanoh Lambert, who was minister of transportation. No,
2 excuse me, correction, it was minister of tourism. Amon Tanoh Marcel. So
3 there were at least two ministers from the RDR in that government, that is,
4 the government set up by President Gbagbo before Marcoussis.

5 Q. [14:36:16] Now, if you recall, of course, do you remember Mr Amadou
6 Soumahoro, a member of the RDR?

7 A. [14:36:36] Yes.

8 Q. [14:36:39] *Mr Gnohité Roger?

9 A. [14:36:45] I know he was in the government, but I don't remember
10 whether or not he was a member of the RDR. Don't forget, I joined in 2008.
11 I joined the RDR in 2008.

12 Q. [14:36:56] Thank you. Other than the RDR, were there any other
13 political groups that were part of the government set up by Mr Gbagbo before
14 the events that took place 19 September 2002?

15 A. [14:37:17] I could mention *other political groups such as the PDCI, RDR.

16 Q. [14:37:29] And what if I were to quote the Parti ivoirienne des
17 travailleurs?

18 A. [14:37:37] Yes. Madam Wodié was a member of that party, and she
19 was minister for human rights.

20 Q. [14:37:45] And what about Mr Kabran Appiah?

21 A. [14:37:50] Yes, he was a member of that government as minister in
22 charge of transportation.

23 Q. [14:37:56] Mr Bobi, né Assa -- madam, sorry. It was Madam Bobi
24 Assa?

25 A. [14:38:13] Yes, she was a member -- a militant of the PDCI.

1 Q. [14:38:18] What about *the UDPCI and Mr Bleu-Lainé, the name?

2 A. [14:38:26] Yes, he was in the government.

3 Q. [14:38:32] Mr Kahé Éric?

4 A. [14:38:38] Mr Kahé Éric was in the government.

5 Q. [14:38:41] Fine. We're just trying to clarify. This is before the events
6 of 19 September 2002?

7 THE INTERPRETER: [14:38:56] The witness interjected:

8 THE WITNESS: [14:39:00] (Interpretation) Before Marcoussis. Yes, before
9 19 September 2002.

10 MR N'DRY: (Interpretation)

11 Q. [14:39:06] Fine. You mentioned here Mr Seydou Elimane Diarra, who
12 was the president of the national reconciliation forum.

13 A. [14:39:21] Yes, that's correct.

14 Q. [14:39:32] Could you come back to that question of the national
15 reconciliation forum, at least as far as you know?

16 A. [14:39:40] Yes, thank you. This forum was launched by
17 President Gbagbo in order to bring together all of the different layers of
18 society in order to deal with the crisis and to propose solutions, solutions
19 because we had just gone through a coup d'état and we needed to come
20 together to reflect upon what led us to the coup d'état, why there had been
21 such a deep-rooted social crisis. As far as I know, the resolutions adopted by
22 the forum were quite relevant. They were in fact quite courageous.
23 The idea was to recreate the social fabric which had fallen apart. And the
24 forum was referred to as the meeting of the four big minds,
25 President Gbagbo, President Ouattara, President Bédié and the late President

1 Guéï Robert. They came together and they decided to -- as to how the
2 conclusions of the forum should be implemented. That's what I can tell you.
3 I can't go into the details.

4 But let me just say that when the Linas-Marcoussis conference took place, the
5 conclusions of that forum as well as the nine or 12 resolutions adopted by
6 President Gbagbo, Bédié, Alassane Ouattara, and General Guéï, all of those
7 conclusions were presented as a basic document and starting point for the
8 debate.

9 Q. [14:41:32] Before the national reconciliation forum, where was
10 Mr Alassane Dramane Ouattara and Mr Henri Konan Bédié? As far as you
11 know, of course.

12 A. [14:42:09] If I remember correctly, they were in exile in France.

13 Q. [14:42:20] These two high-ranking individuals of the Republic of Côte
14 d'Ivoire, did they return to their country because of this forum which was
15 launched by Mr Laurent Gbagbo?

16 A. [14:42:47] Yes, that's correct.

17 Q. [14:42:49] After the forum, do you remember the government that was
18 set up in the aftermath of the national reconciliation forum?

19 A. [14:43:20] It was the very same government that remained in place up
20 until Marcoussis.

21 Q. [14:43:39] Do you know approximately when the forum came to an
22 end?

23 A. [14:43:43] It ended in January of 2002. Because, if I remember
24 correctly, it began in November of 2001 and it finished a month later.

25 Q. [14:44:03] Well, if you're saying it started in November, a month later

1 would be December?

2 A. [14:44:11] Oh, no, it started in December 2001 and finished in January
3 2002.

4 Q. [14:44:23] Thank you. You referred to the meeting of the four great
5 minds in Yamoussoukro, and you mentioned Mr Laurent Gbagbo,
6 Mr Robert Guéï, may he rest in peace as we say, Mr Alassane Dramane
7 Ouattara, and Mr Henri Konan Bédié.

8 Following the major crisis that you mentioned, that is, the coup d'état and
9 the deep-seated causes that led to the setting up of this forum, what exactly
10 was the impact on the social fabric of this meeting of these four great men in
11 Yamoussoukro?

12 A. [14:45:26] From a social point of view, we were very pleased that the
13 main leaders sat down together to talk to each other and that they had
14 integrated -- or, rather, that they had decided to integrate in their political
15 approach the results of the forum.

16 Q. [14:45:48] Fine. Mr Witness, it's true that you yourself were not a
17 member of the forum?

18 A. [14:46:04] That's correct.

19 Q. [14:46:07] But you did say that Mr Seydou Diarra, who was in
20 Marcoussis at the same time as you were, did give you some booklets that
21 contain the major resolutions that resulted from that forum. Can you
22 confirm that?

23 A. [14:46:24] Yes, I can confirm. It was -- it was a brochure.

24 Q. [14:46:32] So he shared these brochures with you; is that correct?

25 A. [14:46:37] Yes, thank you.

1 Q. [14:46:39] I know that time has gone by. It's not all that easy. I'd like
2 to refer to certain themes and ask you whether or not those themes were in
3 the brochure. If that was the case, say yes. If you don't remember, just say
4 that; that you don't remember. Is that okay, are you ready?

5 A. [14:47:11] Yes, go ahead.

6 Q. [14:47:14] Thank you. As part of the resolutions of the national
7 reconciliation forum that we've discussed, and the brochure in particular that
8 was given to you, did that brochure mention the proposal of the directorate to
9 set up a committee of legal experts to harmonise certain paragraphs of the
10 Ivorian constitution adopted in July of the year 2000?

11 A. [14:48:02] Yes, that's correct.

12 Q. [14:48:07] Did that brochure, including the main resolutions of the
13 national reconciliation forum, make mention of the concern on the part of the
14 state regarding the property, land prop -- property issue, in particular, rural
15 land ownership?

16 A. [14:48:43] That's correct.

17 Q. [14:48:44] Did that brochure refer to the setting up of a commission to
18 redo the investigation on the Yopougon mass grave, as it's called?

19 A. [14:49:31] I don't remember.

20 Q. [14:49:32] We're going to travel elsewhere for a moment to go back to
21 where we started in Marcoussis.

22 In light of the brochure that Mr Seydou Elimane Diarra shared with you, that
23 is, the president of the directorate, and in light of the major issues that were
24 discussed in Marcoussis, what was novel aside from the main demand made
25 by the Forces Nouvelles, which was to ask Laurent Gbagbo to leave?

1 A. [14:50:33] Well, fundamentally there wasn't a major difference. And I
2 must say that because, you see, we could only take note of the fact that some
3 of the resolutions adopted during the forum, including the resolutions made
4 by the four great men, had never really been implemented; in particular, the
5 setting up of a group of legal experts, that never occurred. And after the
6 meeting of the four great men, we waited and we waited and we waited and
7 nothing happened.

8 Q. [14:51:42] Mr Witness, you dated the end of the forum as -- that is, the
9 national reconciliation forum, you said it finished in January 2002.

10 A. [14:51:52] Yes.

11 Q. [14:51:56] The beginning of the crisis, the coup d'état in Côte d'Ivoire,
12 we all agree that that occurred on 19 September in 2002?

13 A. [14:52:11] That's correct.

14 Q. [14:52:12] Well, we could say that's about eight months later, would
15 you agree with that?

16 A. [14:52:33] Yes. Given the dates you've mentioned, that seems quite
17 logical.

18 Q. [14:52:39] Fine. Mr Witness, you were a member of a government, I
19 believe it was from September 2006 until April of 2007. You are therefore
20 familiar with governing and power?

21 A. [14:53:13] Yes, of course.

22 Q. [14:53:15] When you take a look at the resolutions adopted by the
23 national reconciliation forum, are these questions that can be freely discussed
24 in a council of ministers meeting?

25 A. [14:53:48] Yes, of course.

1 Q. [14:53:49] Earlier when I asked you a question regarding the
2 government set up before the crisis that took place in September of 2002, we
3 had the FPI, the PDCI, the RDR, the PIT, and the UDPC. When you were in
4 Marcoussis, amongst the resolutions adopted there is reference to the setting
5 up of a national reconciliation government. Now, according to the
6 participants, that is, the participants in the forum, including the MFA, what
7 was the content of that? In other words, compared to what already existed.

8 A. [14:55:25] Well, in reference to what already existed, what already
9 existed was a government of a union. It wasn't a reconciliation government.
10 In fact, even better than that, there were three players that invited themselves:
11 The MPIGO, the MPG, and the MPCCI who were new players. They were not
12 present in the national reconciliation forum. They were not present at the
13 meeting of the four great men. So these were three new players who were
14 invited and they were incorporated into the conference, and that was
15 perfectly normal given the deep-seated crisis, and it was normal that there be
16 a national reconciliation government. The context was totally different.

17 Q. [14:56:27] Mr Minister -- oh, I beg your pardon, your Honour.
18 Mr Witness, should I say.

19 PRESIDING JUDGE TARFUSSER: [14:56:43] Thank you, yes.

20 MR N'DRY: [14:56:45] (Interpretation)

21 Q. [14:56:47] Mr Witness, the positions announced, if you will, by the
22 Forces Nouvelles, to use the word that you prefer, the expression that you
23 prefer, and the ideas brought up by the national reconciliation forum, you
24 said earlier that there wasn't that much difference. Could we take a closer
25 look as regards the deep-seated causes.

1 You were there and the Forces Nouvelles, they must have said something
2 new because it's as if they were repeating identically the very causes that had
3 led to the setting up of the national reconciliation forum and the causes,
4 according to the Forces Nouvelles, that led to the crisis that took place
5 September 19, 2002. What was new? What had changed?

6 A. [14:58:11] I've already said that in Marcoussis there were *three new
7 players. And I'd like to say something here that's of capital importance.
8 Unfortunately for us, during the national reconciliation forum, the very
9 individuals who organised the coup d'état in 1999 were not invited. They
10 did not have an opportunity to speak. During the national reconciliation
11 forum, *the soldiers, the mutineers, the zinzins, the Bayifouet (*phon.*) and
12 other individuals who perpetrated the 99 coup d'état, they were not invited to
13 participate. *Which means that personally, during his time, as I was assisting
14 M. Anaki, I wrote and said: *you have to emphasise the fact that there was an
15 important component that was missing, that was lacking in order to reach
16 reconciliation. *And he stated it during the forum that it was unfortunate
17 that those individuals not be present. So the idea was not to justify what had
18 happened, but the truth is, the reality was that those individuals did not
19 participate in the forum. And therefore, when we were in Marcoussis, there
20 were only the seven political parties that have already been mentioned and
21 the three rebel movements that had been invited. And their demands, even
22 though it was similar to what had been said, it was their own initiative, and
23 that had nothing to do with the proposals that resulted from the national
24 reconciliation forum. We can all agree to say, yes, indeed, we must have
25 union. But, yes, we can say that that's what we want. We want unity,

1 union. But it's a completely different thing.

2 Q. [15:00:21] Witness, now did Mr Robert Guéï, may his soul rest in peace,
3 was he at Linas-Marcoussis?

4 A. [15:00:38] He was already dead.

5 Q. [15:00:39] He wasn't. And at the forum of national reconciliation?

6 A. [15:00:45] Yes, he was there.

7 Q. [15:00:46] Tell me, who led the 1999 attempted coup d'état?

8 A. [15:01:01] Officially it was General Guéï, but a general can't overthrow
9 a government if he doesn't have troops. There was General Palenfo,
10 General Coulibaly, General Doué Mathias, and alongside Moassi Grena, the
11 guy from Sassandra, I forget his name. But the military junta of five people,
12 as you can imagine, even if they were very powerful, they never were going
13 to be able to conduct a coup d'état. They base themselves -- they had to rely
14 on soldiers, but those soldiers, none of those soldiers had an opportunity to
15 give testimony during the national reconciliation forum. Only General Guéï
16 was able to come and set out his position as the head of the military junta.

17 Q. [15:02:08] Very well. We shall move forward. According to the
18 Linas-Marcoussis Agreement, which was decided upon by all the participants
19 in the MLF, provision was made for a prime minister, a consensus prime
20 minister.

21 THE INTERPRETER: [15:02:53] Interpreter correction: The last acronym
22 was MFA.

23 MR N'DRY: [15:02:58] (Interpretation)

24 Q. [15:02:59] Thus, a prime minister who represented a consensus who
25 would lead the reconciliation government. Now, what did the participants

1 in that conference mean by that expression?

2 A. [15:03:11] Well, the expression "consensus" is well known; a prime
3 minister that everyone can agree upon. That's what consensus means. We
4 were in agreement that the prime minister to be appointed would be one who
5 would be acceptable to all.

6 Q. [15:03:50] Now according to this agreement and its provisions, this
7 prime minister acceptable to all, as you put it, was to remain in place until the
8 next election, yes or no?

9 A. [15:04:07] That is what was decided.

10 Q. [15:04:16] Mr Witness, in the French transcript, lines 8 to 15 of 27 June
11 2016, page 56, the Prosecution asked you a question, and the Prosecution said
12 this:

13 "As for the authority of the president of the republic, what was the impact of
14 the signing of this agreement?"

15 And the Prosecution was referring to Linas-Marcoussis.

16 And then line 11 is where you began providing your answer, and I quote:

17 "What I can tell you is that this agreement did not cast doubt upon the
18 legality, the constitutional legality prevailing in Côte d'Ivoire."

19 And then you went on to say:

20 "This agreement recognized the authority of President Gbagbo over Côte
21 d'Ivoire. His authority was not questioned."

22 End of quote.

23 A. [15:06:11] That is right.

24 Q. [15:06:12] Mr Witness, just to make sure that we understand one
25 another, when it comes to this next point, what do you mean by

1 "constitutional legality"?

2 A. [15:06:33] The duly elected president of Côte d'Ivoire in 2000 -- in the
3 year 2000 was Mr Laurent Gbagbo. He had all the power and authority
4 conferred upon him by the constitution. When he went to Marcoussis, we
5 did not cast that into doubt. If you reread the Linas-Marcoussis Agreement
6 and if you look at what was shown to me this morning, you will see that
7 when the list of recommendations began, one recommendation was to
8 recognize the authority of the Republic of Côte d'Ivoire. But there was no
9 questioning of the fact that Laurent Gbagbo, the president, was indeed the
10 president of Côte d'Ivoire. And that was signed and duly recorded on the
11 second page of the Linas-Marcoussis document.

12 Q. [15:07:38] Now if I've understood you correctly, if I've understood
13 what you're saying, correct me if I've misunderstood, but if I've understood
14 you correctly that means that in your opinion, when you talk about
15 constitutional legality not being called into question, that means that
16 Mr Laurent Gbagbo as president of Côte d'Ivoire at that time kept all his
17 constitutional privileges; is that it?

18 A. [15:08:19] Yes, exactly. That is what we wrote. That is what we said
19 in Marcoussis.

20 MR N'DRY: [15:08:41] (Interpretation) I'd like to ask for an item to be put
21 up on the screen. This is actually the constitution of Côte d'Ivoire. Just a
22 moment.

23 Just a moment if you don't mind. This is item bearing the following
24 reference number, CIV-OTP-0021-1511. And this is item 143 on our list of
25 materials.

1 Just before we have a look at this document, something has come to my
2 mind.

3 Now, an account, it might have been on Monday or Tuesday, you mentioned
4 a member of parliament of the FPI, and you said that in Adzopé, or some
5 town like that, had mention -- there had been something about an
6 infringement upon the rights of others, and you also mentioned the
7 gendarmerie. And this person was detained?

8 A. [15:11:53] Yes.

9 Q. [15:11:54] And what was that based on? Didn't you abuse your
10 authority as minister in a way?

11 A. [15:12:06] I'd prefer not to answer that question.

12 Q. [15:12:09] Let's keep it simple. Could you tell me which legal test or
13 threshold that you used to ask the gendarmerie to arrest that member of
14 parliament?

15 A. [15:12:44] I don't have the legislative provisions of Côte d'Ivoire at
16 hand, so I can't answer your question.

17 Q. [15:12:50] We will now examine the constitution of the Republic of
18 Côte d'Ivoire. Do you have the document? Can you --

19 PRESIDING JUDGE TARFUSSER: [15:13:07] Maître N'Dry, could you
20 enlighten us on what this has to do with the trial? We are now trying the
21 witness because he had said that a member of parliament should be arrested?
22 I really don't understand this line of questioning. And I think we should not
23 hear -- be here to make the witness validate the constitution of Côte d'Ivoire, I
24 think.

25 MR N'DRY: [15:13:42] (Interpretation) Your Honour, we do have a very

1 clear plan in our minds as Defence counsel. I truly wish to reassure you on
2 that point. And indeed, the witness was in Marcoussis. We are here -- or,
3 the witness has said that after Marcoussis, the authority of the president of
4 the day, the sitting president, had not been harmed or undermined. He
5 made mention of the constitutional legality. Let us -- we are not off track
6 when we turn our attention to the constitution and, indeed, I think we agree
7 on this point.

8 PRESIDING JUDGE TARFUSSER: [15:14:56] Yes. But the witness is not a
9 lawyer and an expert in law, in constitutional law of Ivory Coast, as far as I
10 know or as far as he said. So I think it's not a matter of challenging on the
11 law. But I will listen to the questions, but keep in mind what I said. Thank
12 you.

13 MR N'DRY: [15:15:31] (Interpretation) Thank you, your Honour.

14 Q. [15:15:56] Mr Witness, let us say we are in Marcoussis. We are there.
15 And you said that after Marcoussis, the authority of the president of the
16 republic had not been called into question; is that correct?

17 A. [15:16:22] Yes, correct. I'd like to point out that it is quite clear, it's
18 written in black and white in the agreement itself.

19 Q. [15:16:33] Very well. I asked you about the resolutions that were
20 adopted in Linas-Marcoussis. And I wanted to find out more about the
21 designation of a consensus prime minister. And I wanted -- well, I asked
22 you what that meant.

23 I also asked you, and I think we read it, that the consensus prime minister
24 should remain until the time of the next election. I do hope that we could
25 now have a look at Article 41 of the constitution of Côte d'Ivoire.

1 I shall now read out the provision:

2 "The president of the republic is the only person who holds the executive
3 power. It is he who appoints the prime minister the head of the government
4 who is accountable to him. He terminates his duties."

5 I'll stop at this particular point. And so you -- the Presiding Judge wanted
6 to know what my question was, and, well, here is my question: How could
7 the participants at Linas-Marcoussis, including the MFA, how could they
8 reconcile this provision found in the constitution and the resolution that you
9 and I have both read which calls for a prime minister of consensus, that is to
10 say agreeable to all, and a prime minister who is -- who shall remain in place
11 until the next election? That is my question.

12 A. [15:19:30] Thank you. Well, you see, constitutions are quite clear.
13 Now, we said that we had respected constitutional legality, and there is this
14 provision saying that when the president is elected, he has an obligation to
15 ensure the territorial integrity of the country. At the time of Marcoussis,
16 Mr Gbagbo did not have authority throughout the entire country. However,
17 we said that his authority was to be maintained. An agreement is an
18 agreement. It's an arrangement so one can solve a crisis.

19 You asked me how, how could the appendices to the Linas-Marcoussis
20 Agreement could give specific instructions on how to manage power in Côte
21 d'Ivoire and to put the crisis behind us.

22 You must realise one thing, not having the complete authority or not having
23 control of the entire country is a form of constitutional betrayal, treason.

24 And when a president comes to power, he must ensure that. You see, at the
25 time the country was divided in two. We could have spoken of that, but we

1 didn't. We merely said: Mr President, you remain president of the
2 republic. But since the country is divided in two, to solve the crisis we will
3 make a number of arrangements. And that is why Mr Gbagbo's party
4 agreed to, well, signed that agreement.

5 Q. [15:21:19] I shall hark back to my actual question. My question was
6 specific. I said this: How, how did the participants at the Linas-Marcoussis
7 round table intend to reconcile these resolutions on the one hand which
8 contradict the constitution itself? How?

9 A. [15:22:09] Well, the how is to be found in the documents appended to
10 the agreement. Yes, there was a contradiction with the constitution, but, you
11 see, the main contradiction or noncompliance was that our country was split
12 in two. On the one hand, we had the New Forces administering part of the
13 country. On the other side, we had Mr Gbagbo who was governing another
14 part of the country.
15 Politics is also a matter of plain common sense and taking stock of the reality
16 of the day. That came out of Kléber and that is what happened with the
17 Linas-Marcoussis Agreement as well.

18 MR N'DRY: [15:23:04] (Interpretation) Your Honour, I crave your
19 indulgence, but I would like to share something with the Bench but with the
20 witness outside of the courtroom, if that is possible, with your leave.

21 PRESIDING JUDGE TARFUSSER: [15:23:16] Yes, it is possible.
22 Could you please ask the witness or accompany the witness just outside.
23 Mr Witness, just for a few minutes. Thank you.

24 (The witness stands down)

25 PRESIDING JUDGE TARFUSSER: [15:23:38] Maître N'Dry.

1 MR N'DRY: [15:24:07] (Interpretation) Your Honour, if I could address the
2 Bench in order to ensure that everything is understood correctly.
3 We are here to try to understand matters. We have our own particular
4 reading of the pre-trial brief that was prepared by the Prosecution. Now,
5 earlier you seem to think that I was getting off track. Our strategy is very
6 simple, our understanding. We wish to demonstrate to you that contrary to
7 what the witness has said, saying that after Marcoussis that president
8 allowed this, and I'm speaking of Mr Gbagbo, that -- he says that the
9 president had all his privileges and that the authority of the president had
10 not been called into question. But I think you must realise that, with what
11 we have just done, the witness is showing us that at Marcoussis there was an
12 assault upon the constitution of Côte d'Ivoire.
13 This is what we are trying to understand. This is what we wish to
14 demonstrate to the Court. And contrary to the Prosecution's case, in our
15 way of understanding matters, the institutions were being defended. There
16 was no common plan. I am saying this because I do not want the Court to
17 be misunderstanding my intent.
18 PRESIDING JUDGE TARFUSSER: [15:26:14] Well, I don't think we do
19 misunderstand. Sorry if I am so conceited. But, first of all, thank you for
20 this explanation, because really sometimes I have a hard time to understand
21 the line of questioning. But maybe it's my fault, because I'm used to orient
22 my thinking to the charges on the one side and the accused on other. This is
23 the space in which I am normally living, and here we are always talking
24 about things which are quite far away from this area.
25 As far as the specific Marcoussis Agreement and what happened in

1 Marcoussis is concerned, I don't think -- well, it's an agreement, but you can't
2 ask him to speak for all participants. It's as if he is here the voice of all
3 people who were there. I mean, there were many other groups there and
4 obviously the outcome is a compromise.

5 But this is just my idea. So I think that the responsibility you give him in
6 asking, in asking him these questions, is as if the witness is the Marcoussis
7 agreement. But I do understand. Please continue, but keeping also in
8 mind that we have charges and two accused.

9 MR N'DRY: [15:28:03] (Interpretation) I always have those in mind, and I
10 think -- well, my approach I think will be quite clear once we have ended our
11 questioning.

12 PRESIDING JUDGE TARFUSSER: [15:28:20] Okay. Can you bring the
13 witness in again? Thank you.

14 In any case, I thank you for this explanation. No. I thank you for this
15 intervention and explanation, because sometimes I think it's good.

16 (The witness enters the courtroom)

17 PRESIDING JUDGE TARFUSSER: [15:29:15] Mr Witness, sorry for this
18 interruption. Or maybe for you it was also a good 5 minutes' rest. But now
19 I give back the floor to Counsel N'Dry for the Mr Blé Goudé Defence.
20 Yours the floor.

21 MR N'DRY: [15:29:36] (Interpretation) Thank you, your Honour.

22 I would like to call up a document. Just one moment.

23 The document is CIV, it is number 147 on the list, CIV-D15-0004-0498. It is a
24 book by Madam Fanny Pigeaud. And we will simply refer to pages 50 and
25 51.

1 Q. [15:31:50] Mr Witness, before asking you a question about this

2 document, was Mr Mamadou Koulibaly present in Marcoussis?

3 MR N'DRY: [15:32:30] Koulibaly is K-O-U-L-I-B-A-L-Y.

4 The case manager informs me that we have a few difficulties, so I would like
5 to ask for the assistance of the court officer. Can we display pages 50 and 51
6 of this document.

7 THE COURT OFFICER: [15:33:07] (Interpretation) Pages 50 and 51, this is

8 *CIV-D15-0004-0523, and the document is on Evidence 1.

9 PRESIDING JUDGE TARFUSSER: [15:33:31] Prosecutor.

10 MR DEMIRDJIAN: [15:33:32] Yes. Mr President, I think that this issue has
11 come up before, also with a previous witness. Mr MacDonald had taken the
12 issue of presenting to a witness on the stand a book that he's not the author
13 of. I'm happy with the Defence putting questions directly to the witness
14 based on any document they have, but to try to improperly submit a
15 document by reading an ERN on the record and hoping that the document
16 comes in, first of all, we don't have foundations, and I don't see how the
17 witness can answer questions written by another author.

18 PRESIDING JUDGE TARFUSSER: [15:34:05] Well, it depends on how the
19 question is posed. I mean, obviously it's a question related to the book. It's
20 not a submission of the document to him. It's not a contradiction which has
21 to be solved. But just I see it more as a help to -- for the question to be said.
22 It's nothing else, I think. You're not confronting it, it's not a confrontation,
23 it's not a reminder, it's not a refreshing the memory. It's just I see it more as a
24 help. If I put the question or I read -- I put the question after reading, after
25 having read a part of it, I don't think there is a big difference, so.

1 MR DEMIRDJIAN: [15:34:56] I mean the problem we have is that the
2 moment that an ERN is mentioned on the record it is considered to be
3 submitted, and we don't believe that a book of another person should be
4 submitted.

5 PRESIDING JUDGE TARFUSSER: [15:35:07] Yes. But there are then three
6 judges who are well -- they are capable to give the right value to what is
7 submitted.

8 MR DEMIRDJIAN: [15:35:17] All right. Well, our objection is on the record,
9 your Honours.

10 PRESIDING JUDGE TARFUSSER: [15:35:19] Okay.
11 Mr N'Dry.

12 MR N'DRY: [15:35:25] (Interpretation) Your Honour, we did not deem it
13 necessary to come back to this issue because it is constantly a reminder that
14 everything depends on the question that will be put.

15 Q. [15:36:02] On page 50 I will read. You have said that Mr Mamadou
16 Koulibaly was in Marcoussis?

17 A. [15:36:18] I did not yet answer your question.

18 Q. [15:36:20] I'm sorry, that is true. Can you answer?

19 A. [15:36:22] Yes, Mr Mamadou Koulibaly, with a K, was indeed in
20 Marcoussis.

21 Q. [15:36:29] Who was Mr Mamadou Koulibaly?

22 A. [15:36:33] He was the speaker of the national assembly of Côte d'Ivoire.

23 Q. [15:36:38] Very well. What I will read now is a quote from
24 Mr Mamadou Koulibaly, which is included in this book, and afterwards I will
25 ask you some questions. This is what Mr Mamadou Koulibaly had to say:

1 "I realised that Pierre Mazeaud, the chairman of the round table, a close
2 collaborator of Chirac, was carrying out a constitutional coup d'état. What
3 the rebels did not succeed in doing from a military point of view, he was able
4 to do in Marcoussis. Instead of recalling the constitutional procedures,
5 instead of condemning the use of weapons, Mr Mazeaud reversed the
6 problem. These were no longer rebels, it was the people of Côte d'Ivoire
7 who found themselves as the accused."

8 And the footnote number 4, and this is still Mr Mamadou Koulibaly:

9 "I still remember this image Mazeaud, with hands spread open, proclaimed
10 from his chairman's seat that there were no rebels in Côte d'Ivoire and that
11 there were no rebels either around the round table. As from that moment
12 everything became possible because there were no longer any people who
13 were attacked, no victims, and therefore no perpetrators."

14 So this is a quotation from Mamadou Koulibaly from his book, "The French
15 War Against Côte d'Ivoire" from the publishers L'Harmattan, 2003.

16 My question --

17 PRESIDING JUDGE TARFUSSER: [15:39:26] May I just interrupt you one
18 moment. I just wait for them.

19 Just to get the record clear, this is not a quote of Mr Koulibaly. This is you
20 have read a quote from the book attributed to Mr Koulibaly, just to be
21 precise. Right?

22 MR N'DRY: [15:39:59] (Interpretation) Yes, that is very clear. So that is a
23 quote, a quote from the book by Ms Fanny Pigeaud, who is quoting
24 Mr Koulibaly. That is very clear.

25 Q. [15:40:23] My question is as follows: Mr Witness, you were in

1 Linas-Marcoussis. Now, does the description of the negotiations as
2 described by Mr Mamadou Koulibaly correspond to the reality of what you
3 experienced at the round table conference?

4 A. [15:40:58] Thank you. I am surprised that Mr Mamadou Koulibaly
5 can speak even in this book. You know why? Three or four days after the
6 beginning of the meeting, he stormed out of the meeting. He returned to
7 Abidjan and we learnt later that he came to prepare the resistance. So his
8 statement is totally wrong.

9 Mr Mazeaud's mission was not to carry out a constitutional coup d'état.
10 Otherwise, we would not have ended the agreement with the maintenance of
11 the constitutional legality. So this is a gentleman who was incapable of
12 remaining in the room because he did not have the right to speak.

13 There were people around the table who had the right to speak, but he
14 wanted to take the floor all the time. Mr Mazeaud said, "Mr Mamadou
15 Koulibaly, please sit down." And he said that three times. After that, he
16 stormed out of the room and he never came back. How can you believe a
17 quotation from such an individual? So I'm telling you that what he says is
18 totally incorrect because he was not in the room. He left before the end.

19 Q. [15:42:33] I agree with you. I was not in Marcoussis. We are simply
20 trying to understand. You have said that is incorrect, we have understood
21 you.

22 Mr Witness, let me come back to your statement of Monday, 27 June 2016,
23 lines 10 to 19, page 58. You said, and I quote you:

24 "I remember that at the very beginning of the meeting the president of the
25 movement of des forces de l'avenir, Mr Anaky Kobéna, asked a crucial

1 question: 'Is this a constitutional conference?' Because if this is a
2 constitutional conference, then from the very outset the provisions, the
3 decisions taken at Marcoussis would be enforced and would replace certain
4 provisions of the constitution." End of quote.

5 And you continued and you said:

6 "Unanimously, including Mr Pierre Mazeaud and the parties that were
7 attending, they said: 'No, this was not a constitutional conference.'"

8 I am sure I did not distort your statement?

9 A. [15:45:01] Yes, that is indeed what I said.

10 Q. [15:45:04] Now, Mr Witness, Mr Anaky Kobéna, president of the MFA,
11 you were also there, you were his advisor. What did he observe to be able to
12 say this? Isn't it because he had realised that some of the resolutions of the
13 agreement were inconsistent with the constitution and he asked that question:
14 is this a constitutional conference?

15 A. [15:45:46] Counsel, the agreement had not yet been drafted. Please
16 reread my testimony. At the very outset, from the very beginning, how do
17 you imagine that Mr Kobéna, at the very beginning of the meeting,
18 issued -- asked a question on the basis of resolutions that have not yet been
19 adopted? I believe that you are totally incorrect when you say that.

20 Q. [15:46:20] Mr Witness, what I'm trying to understand is this: If we
21 come into a room and no discussion has actually started, I do not understand
22 why someone should ask this type of question at the very beginning when
23 nothing has been said: Are we here to revise the constitution? That is what
24 I do not understand.

25 A. [15:46:53] You can ask him that question.

1 Q. [15:46:56] You were his advisor?

2 A. [15:47:00] I was his advisor, and I'm telling you he asked that question
3 deliberately. He has a degree in political sciences. He knows how
4 constitutions are written ever since the period of antiquity. He knows that
5 when people meet they can change the constitution of a country. This was a
6 question. You cannot take his question as an affirmation. He said, are we in
7 a constitutional conference here? And we said no, period.

8 Now, instead of asking questions, you're making comments or insinuations.

9 Please stick with the facts, the facts are stubborn. We said no, period. We
10 answered his questions. So please do not make insinuations.

11 Q. [15:48:02] Please be reassured we know that the facts are stubborn.

12 That is why we are here.

13 A. [15:48:12] Yes, me also.

14 Q. [15:48:13] To summarise you, what you are saying is that once in the
15 room, even before any discussions started, Mr Anaky Kobéna actually asked
16 a preliminary question: Are we in a constitutional conference? Is that it?

17 A. [15:48:44] Yes, that is correct. And the answer was no.

18 Q. [15:48:51] Very well. That is what you said. What do you mean by
19 "pouvoir constituant" or "constitutional assembly" or "constituent assembly"?

20 A. [15:49:05] Have you ever heard about a constituent assembly?

21 PRESIDING JUDGE TARFUSSER: [15:49:18] May I interrupt? I mean, what
22 is this? What does he understand about -- under constitutional assembly?

23 Is he a constitutionalist? I mean, this is not a fact, what he thinks is a
24 constitutional assembly. I really would like you to go back to the facts.

25 And by the way, we all know what a constitutional assembly is.

1 MR N'DRY: [15:50:16] (Interpretation) Mr President, we would like to call
2 up a document. It is number 167 on the list, and the reference is
3 CIV-D25-0011-0028. I'm sorry, I believe there is a minor error here.

4 (Counsel confer)

5 MR N'DRY: [15:52:08] (Interpretation) Your Honour, we have a small
6 problem here at our level. I think we shall proceed.

7 PRESIDING JUDGE TARFUSSER: [15:52:30] Not very long, because in five
8 minutes we suspend for today. So if there is something you can stick into
9 the next seven minutes, fine. Otherwise, we could suspend.

10 MR N'DRY: [15:52:51] (Interpretation) Mr President, I agree with you, we
11 can adjourn now and resume tomorrow.

12 PRESIDING JUDGE TARFUSSER: [15:53:01] Can you give me an estimate
13 on how long you think to continue? Just in order for our housekeeping.

14 MR N'DRY: [15:53:21] (Interpretation) I believe that tomorrow, one session
15 would be sufficient for me. That is from 9.30 to 11, I believe so.

16 PRESIDING JUDGE TARFUSSER: [15:53:32] Okay, thank you very much. I
17 also can before closing just announce that the next witness will not start
18 before Thursday, 7. It will not be Wednesday, 6 July as we thought it would.
19 It will be Thursday the 7th. But I will keep you updated in any case as soon
20 as I have more clear information.

21 MR O'SHEA: [15:54:10] So just for clarification, that means that we're not
22 sitting on the 5th and the 6th.

23 PRESIDING JUDGE TARFUSSER: [15:54:15] No. On the 5th we are not
24 sitting because it's a court holiday.

25 MR O'SHEA: [15:54:19] Right.

Trial Hearing
WITNESS: CIV-OTP-P-0048

(Open Session)

ICC-02/11-01/15

- 1 PRESIDING JUDGE TARFUSSER: [15:54:20] And on the 6th we should have
- 2 sat, but we are not because it doesn't start before the 7th because there are
- 3 technical issues, I think, as I learned. But I will give you hopefully more
- 4 clear information tomorrow.
- 5 MR O'SHEA: [15:54:33] Your Honours, thank you.
- 6 PRESIDING JUDGE TARFUSSER: [15:54:35] Okay. So the hearing is
- 7 adjourned to tomorrow to 9.30 for the continuation of the questioning by the
- 8 Defence of Mr Blé Goudé. Thank you.
- 9 THE COURT USHER: [15:54:45] All rise.
- 10 (The hearing ends in open session at 3.54 p.m.)