

Trial Hearing
WITNESS: CIV-OTP-P-0156

(Open Session)

ICC-02/11-01/15

1 International Criminal Court
2 Trial Chamber I
3 Situation: Republic of Côte d'Ivoire
4 In the case of The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé
5 ICC-02/11-01/15
6 Presiding Judge Cuno Tarfusser, Judge Geoffrey Henderson and
7 Judge Olga Herrera Carbuccion
8 Trial Hearing - Courtroom 1
9 Thursday, 6 July 2017
10 (The hearing starts in open session at 9.32 a.m.)
11 THE COURT USHER: [9:32:14] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE TARFUSSER: [9:32:38] Good morning. Good morning to
15 you, Mr Witness.
16 I give immediately the floor to the Office of the Prosecutor for his re-questioning.
17 MR MACDONALD: [9:33:02] Good morning. And thank you, Mr President,
18 your Honours.
19 WITNESS: CIV-OTP-P-0156 (On former oath)
20 (The witness speaks French)
21 QUESTIONED BY MR MACDONALD: (Continuing)(Interpretation)
22 Q. Good morning once again, Mr Witness. We will certainly be done within half
23 an hour.
24 And I'd like us to continue with some questions about -- well, yesterday we ended the
25 day with some questions about FRAGO 69, fragmentary order 69. Let me continue.

1 And once again, let's take it in chronological order.
2 During your testimony several times you referred, when I questioned you or when
3 Mr Altit was putting questions to you, you made reference to four operations that you
4 took part in. So you assumed command of Camp Commando on 28 February, and
5 you say that in the days preceding you took part in the operation upon the road
6 between the MACA and Anyama. I'd like to know whether there were other FDS
7 operations in Abobo and of the same nature. I'm not talking about travelling about
8 to gather information, rather, I'm talking about operations, combat operations.

9 PRESIDING JUDGE TARFUSSER: [9:34:56] How does this arise from the
10 questioning?

11 MR MACDONALD: [9:34:59] Just to clarify the record, I just want to indicate if it's
12 the last one or not, your Honour, and that's it; that's the only question.

13 PRESIDING JUDGE TARFUSSER: [9:35:08] Is it the last one or not?

14 THE WITNESS: [9:35:18](Interpretation) The last one as --

15 MR MACDONALD: [9:35:25] (Interpretation)

16 Q. FDS in the region of Abobo, was that the last operation of the FDS in the area in
17 the neighbourhood of Abobo, PK18, that general area?

18 A. [9:35:38] Thank you. I can't answer that question because, you see, I was
19 taken into the field, and at the same time I was at the headquarters at the CPCO.

20 And I've said earlier that the headquarters, through the CPCO, was a large piece of
21 machinery, so to speak, and many issues were being dealt with at the same time.

22 And so it was not possible to be aware of absolutely everything going on in the field.

23 What I can say is that the only person in the headquarters of an organisation such as
24 this one who would be aware of everything would be the chief of the headquarters,
25 that is to say, the chief of staff.

1 Q. [9:36:41] Thank you. Very well. I'd now like us to continue, and to do so I'd
2 like to make reference to the transcript of 5 July 2017, and to do so I'd like to situate
3 you once again if I could. This is page 34, line 1, lines 1 to 12. Mr Altit was putting
4 a number of questions to you about your mission when you were the commander of
5 Camp Commando.

6 Now -- no, I'll begin by quoting you.

7 "We, we were not there, and we were trying to understand, in particular, the reason
8 for taking action for creating protagonists, for example, soldiers and so on. So we
9 have to get an explanation. All the ins and outs of what was happening, what were
10 the risks?"

11 And your answer was this:

12 "Well, because, you see, we were there to ensure the security and safety of the families
13 of the gendarmes at Camp Commando and the university campus, automatically,
14 they were allies or rather should I say supporters. The enemy was fighting us. We
15 were protecting -- we had people to protect. Our presence, our actions allowed them
16 to keep on to continue their lives. I think that if we were to have left them behind,
17 they would have been exposed."

18 So I'd like us to focus on the last part of that answer. Now, first of all, could you
19 explain exactly where the university is? Perhaps we should look at annex
20 number 4, 0082-0016. If we could put that up on the screen. And that would be on
21 evidence channel, evidence 1. Annex 4 to the witness's statement to the OTP.

22 With your permission, we can see here in red at the top, to the right we see the word
23 "Abobo". If we could please zoom in and have a closer look at this area, please. If
24 you could zoom in a little bit more, please. Thank you.

25 Now, are you able to situate the university campus that you've referred to on the map

1 that is in front of you?

2 A. [9:41:15] Well, first of all, the cité universitaire that I was referring to up until
3 now is close to Camp Commando.

4 Q. [9:41:34] Well, this is a known location. We can see here that you put
5 "Western Union" here. And then above that, we see "Police, 13 arrondissement".
6 And just to the right, we can see two -- or, we can see the word "market" and then just
7 above "Cité universitaire". Do you think that this is correct?

8 A. [9:42:11] Well, what we see here on the map is not the point that I've been
9 mentioning ever since I began giving testimony and up until today. Perhaps it
10 would be necessary to view Camp Commando and then I could show you what we
11 were referring to as the university campus.

12 Q. [9:42:31] Unfortunately, I don't have the 360 panoramic shot of Camp
13 Commando, but I won't go that far.

14 PRESIDING JUDGE TARFUSSER: [9:42:45] What are we looking for?

15 MR MACDONALD: [9:42:47] (Interpretation) The university campus that was
16 being protected, just to indicate this to the Chamber and to be very specific. The
17 witness seems to be saying that it is not the location that we see here on the map.

18 Q. [9:43:04] Can you tell us, sir, where was the university campus that you were
19 supposed to protect?

20 A. [9:43:10] Well, if you could put Camp Commando up on the screen, that
21 would be very easy.

22 Q. [9:43:20] If we could zoom in even more just to the lower part. We see
23 "gendarmerie". Yes, there.

24 A. [9:43:31] The gendarmerie camp has a brigade and that is right at the road.

25 And we were more inside at Camp Commando. But if you look a bit further down,

1 a bit further down.

2 Q. [9:43:47] Let's scroll down a bit. Yes.

3 PRESIDING JUDGE TARFUSSER: [9:44:05] Excuse me. How far was the Camp

4 Commando, what distance was between Camp Commando and the cité universitaire?

5 THE WITNESS: [9:44:20] (Interpretation) The cité universitaire that I have been

6 mentioning was one street away from Camp Commando, depending on where you

7 situate yourself. May I continue, your Honour?

8 PRESIDING JUDGE TARFUSSER: [9:44:32] I want just to ask in terms of metres, of

9 distance?

10 THE WITNESS: [9:44:40] (Interpretation) Yes, depending on where you situate

11 yourself, the university was either to the east or west. Just one road separated this

12 area, this cité universitaire from the camp.

13 MR MACDONALD: [9:44:57] (Interpretation)

14 Q. [9:44:58] Just to situate you on the map, the four cardinal points, north, south,

15 east, west; the north is towards the top. Can you tell us?

16 A. [9:45:18] Yes, Camp Commando is not mentioned. I know full well that north

17 is north and south is south and so --

18 Q. [9:45:25] I'm sorry, I put it poorly. The north on the map is at the top.

19 A. [9:45:32] Obviously.

20 Q. [9:45:37] Mr Witness, could you tell us, now, you've placed a black mark on

21 this map during your interview.

22 A. [9:45:47] Could we scroll up so I can see the black line?

23 Q. [9:45:52] Zoom out, please.

24 If we could scroll down. Sorry. Let's stop here.

25 You sketched a black line and a black arrow. What's all this about?

1 A. [9:46:19] The black line indicates the road, that's the road.

2 Q. [9:46:26] Which road?

3 A. [9:46:28] The two main roads, because when we were doing this
4 sketch -- when I was doing this sketch, we were talking specifically about the
5 operation that was underway at PK18, so that mark has nothing to do with the
6 position of Camp Commando, and I reiterate, of the university that is there.

7 Q. [9:47:04] So you are saying this is a road east of the camp; is that right?

8 A. [9:47:11] That road?

9 Q. [9:47:13] No, no, no. Let me go back to the university.

10 A. [9:47:18] It is right -- well, when you cross the road, it is on the side by the
11 secondary entrance to Camp Commando.

12 Q. [9:47:31] To the east?

13 A. [9:47:36] Okay, to the east.

14 Q. [9:47:38] Very well. I'd like to obtain one additional specific item of
15 information from you. What do you mean by -- well, who was at the cité
16 universitaire? It may seem like a stupid question, but at that time you were at Camp
17 Commando, the week of 28th to the 3rd, who was at the cité universitaire?

18 A. [9:48:20] Well, when I went up, that is to say, I took over from the person who
19 was there, when I was debriefed, we were at Camp Commando. There were families,
20 there were gendarmes, there were such-and-such a unit, and then there was the
21 university campus or area. But as to verifying who was living there and who they
22 were, I must acknowledge that that was not part of our concerns.

23 Q. [9:49:02] Mr Witness, why did you mention that it was your allies or, rather, or
24 your sympathisers, your supporters, the people who were at the cité universitaire?
25 Explain that to us.

1 A. [9:49:20] I'm explaining to you, people, civilians in a university area, a peaceful
2 and quiet area, who are right on your perimeter and you are living in complete
3 harmony. I would even say that they provide you with information. The only
4 word that exists is "sympathiser".

5 Q. [9:49:57] Were they students?

6 A. [9:50:02] I repeat, with all due respect, my mission was such that I did not
7 have the -- I did not take the time to take some kind of survey to determine the
8 identity of the civilians who were at this cité universitaire.

9 Q. [9:50:24] Very well. I can see that my colleagues, my learned friends -- I will
10 continue, your Honour, but if they want to share a joke with us, they certainly may.

11 PRESIDING JUDGE TARFUSSER: [9:50:41] No, come on. I -- please.

12 Mr MacDonald.

13 MR MACDONALD: [9:50:44] Your Honour.

14 PRESIDING JUDGE TARFUSSER: [9:50:45] No, you are here to put questions to
15 the witness and not to comment on anything. Please, put the questions and that's it.

16 MR MACDONALD: [9:50:52] I am. That's what I'm doing. I'm trying to do this
17 professionally, and I don't think that when a --

18 PRESIDING JUDGE TARFUSSER: [9:51:01] Yes, but stop it here. Please, put
19 questions.

20 MR MACDONALD: [9:51:05] (Interpretation)

21 Q. [9:51:08] I'd now like us to move on to the next document, and this is the last
22 document that I'll be showing you, 0071-0521. And I have a hard copy for the
23 witness. It's four pages. And I think it would be a good idea to show it to the
24 witness just to facilitate the questioning, with your leave.

25 A. Merci.

1 Q. [9:52:18] Once again, if we could return to the issue of the rules of engagement.
2 And I'd like to read out something for interpretation purposes. This is from the
3 com-ter, commander of all the units. It's addressed to the commanders of all the
4 units. It's immediate, 17 March 2011. "Re: reminder of reflexes and elementary
5 actions of combat." Reference is made to "0746/EMA/CPCO, 15 March, regarding the
6 purpose of the message."

7 This is a message, "It is my honour to bring to your attention as part of the beefing up
8 of the operational capacity of detachments in the field in order to optimise their
9 combat actions. The reflexes and elementary actions cited below must be
10 reminded -- staff must be rigorously reminded of these principles".

11 And then we see various headings, first, second, third. And I'd like to move on to
12 page 0522, and we'll have a look at the heading -- the third heading. Here we
13 see -- well, I'll quote once again:

14 "Combat section or squad at contact, 20 to 30 people." And then there are
15 instructions that have been given or passed on. I'm not going to read them all out.
16 One can easily read them.

17 If we could now move to the following page, 0523. Next page, please.

18 And then we see "Role of the chief. Apply firing discipline. Selector of weapons."

19 If we can now move on to the next page, the last page of this document, and the
20 heading is "quinto", that is to say, the fourth section. "Rules to respect and abilities to
21 develop during combat." Mention is made here of "observing the DIH, international
22 humanitarian law, in its entirety while carrying out the mission, particularly, only
23 deal with military objectives. Hand over prisoners and suspicious persons to the
24 command. Respect civilian population and their belongings. Apply the elementary
25 reflexes and actions of combat which require the following human abilities or

1 qualities: Discipline, courage, will, responsibility, and team spirit. Commanding
2 officers are responsible for ensuring that all these instructions are applied at all
3 times."

4 Mr Witness, you were part of the ground forces and you were the commanding
5 officer of the first BCP; you also worked at the CPCO. What kind of document is this
6 that we see here that makes reference to 746/EMA/CPCO, et cetera? Please explain
7 the chain of transmission. This seems to come from -- what is this? Describe this
8 document to us and the chain of transmission, that is to say, how it was passed down.

9 A. [9:57:43] The headquarters through the CPCO, which was the grey matter of
10 headquarters, and that expressed clearly and concisely by way of documents already
11 drawn up in context, is expressing the intent and volition of the chief. So we can say
12 that the CPCO prepares operational orders, the FRAGOs, when the situation changes
13 or the mission changes. These documents are intended for the commanders of the
14 forces, particularly the ground forces, the national navy, and the command of the air
15 force, and depending on some orders, to the gendarmerie, and the police are also
16 recipients, so to speak.

17 But as for the order, the command of the ground forces, you see, there is some leeway
18 because, you see, such a commander has men in the field and the commander also
19 gets feedback. So such a document, you see, are messages, and this is not just about
20 the rules of engagement. There are reminders of how one -- how a soldier must
21 behave in combat. So at any time making reference to documents coming from the
22 headquarters, from the commander of the -- force commander, can each time,
23 depending on needs and requirements, issue messages to the commanding officers or
24 the ones leading men in the field making reference to a FRAGO or to an operational
25 order. That, generally speaking, coming from headquarters, gives the mission. So

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1 that's the mechanism.

2 Q. [10:00:13] Last question, just to clarify. Now, when we go back to the first
3 page, 0521, and the reference, if you look closely. So this is a document that comes
4 from -- well, that was dated 15 March 2011 from headquarters, CPCO, and the subject
5 is "Reminder of elementary reflexes and actions during combat"; isn't that so?

6 PRESIDING JUDGE TARFUSSER: 7 March.

7 MR MACDONALD: No, it's 15 March, your Honour. Looking at the reference.

8 PRESIDING JUDGE TARFUSSER: [10:01:05] Okay.

9 MR MACDONALD: [10:01:06] But the date that is there is 17 March, in red. We
10 have -- you can see it very well on this copy.

11 Q. [10:01:21] (Interpretation) Is that correct? Take a look at the reference.

12 A. [10:01:27] Yes, this document is issued by the commander of the ground forces.
13 It was sent out of March 17, and it refers to a document issued by the chief of staff
14 through the CPCO, dated March 15.

15 Q. [10:01:48] And the purpose is reminder of the reflexes and elementary actions
16 during combat?

17 A. [10:01:55] Yes.

18 Q. [10:01:57] Yes, did you want to add something?

19 A. [10:02:02] The chief of staff at his level may hear about the attitude or the
20 actions on the ground. He may, in fact, he should, recall the instructions as to proper
21 behaviour. So two days later, two days later, he recalls the aspects that were
22 referred to by the chief of staff, and that's what this is.

23 Q. [10:02:36] Thank you very much. That's very clear.

24 Again, I'd like to thank you for testifying, and I wish you a safe trip home to
25 Côte d'Ivoire.

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1 A. [10:02:49] Thank you very much.

2 PRESIDING JUDGE TARFUSSER: [10:02:50] Thank you, Mr Prosecutor.

3 And now I would ask the two Defence teams if they have some questions to put to the
4 witness.

5 MR ALTIT: [10:02:58] (Interpretation) Your Honour, we have no further
6 questions.

7 PRESIDING JUDGE TARFUSSER: [10:03:04] Thank you very much, Maître Altit.
8 Maître N'Dry.

9 MR N'DRY: [10:03:08] (Interpretation) Your Honour, I just have one question, if I
10 may, for the witness for purposes of clarification.

11 QUESTIONED BY MR N'DRY: (Interpretation)

12 Q. Mr Witness, I'd like to clarify one point. Yesterday, when you were asked
13 about the recruitment that took place in 2003, you participated in the training. Did
14 the recruits come from all of the regions? You said there was a little bit of everything,
15 and I'd just like to clarify that. When you say "a little bit of everything" --

16 MR MACDONALD: [10:03:51] I have no objection, even though it wasn't part of
17 my re-examination, your Honour.

18 PRESIDING JUDGE TARFUSSER: [10:03:57] I would say so.

19 MR N'DRY: [10:04:11] (Interpretation) Thank you, your Honour.

20 Q. [10:04:13] Just to clarify, when you say there was a little bit of everything, do
21 you mean that there were people from the north, from the east, from the west of
22 Côte d'Ivoire, including people from the north of Côte d'Ivoire, when you say a little
23 bit of everything, just to clarify?

24 A. [10:04:38] Well, the some 60 ethnic groups in Côte d'Ivoire were represented.

25 Q. [10:04:43] Thank you very much, Mr Witness.

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1 I'd like to apologise. I misstated the name of my learned friend who's representing
2 the witness, Maître Diarrassouba. Thank you, your Honour.

3 PRESIDING JUDGE TARFUSSER: [10:05:12] Mr Witness, this concludes your trip,
4 your stay, in The Hague. Thank you for having been here, and answered the
5 questions which were put to you. I wish you a safe trip back. Thank you to your
6 counsel to have been assisting you. This concludes your testimony here. Thank
7 you very much.

8 Yes?

9 THE WITNESS: [10:05:53](Interpretation) With your permission, your Honour, I
10 would like to add a conclusion, if you will, to my testimony. If you will allow me.

11 PRESIDING JUDGE TARFUSSER: [10:06:10] If it's not political, I will allow you.
12 Not a political statement, so if it's personal you may.

13 THE WITNESS: [10:06:27](Interpretation) Well, it's a conclusion on behalf of a
14 soldier because I was convened here to testify as a soldier who participated legally in
15 defending Côte d'Ivoire.

16 I would like to thank you, your Honour, in five minutes. I think that would suffice,
17 and I would like to say three things, three main points.

18 First of all, I would say with my right hand on my heart, I would like to express my
19 sincere condolences to all of the victims, all those who lost their lives during
20 those -- the unfortunate fighting that took place in Côte d'Ivoire, be they civilians or
21 military, whether they were combatants or non-combatants, from whatever party
22 involved in the conflict.

23 Secondly, I would like to say to all those who will listen and understand, that we
24 must avoid stigmatising soldiers. We must -- because ever since the 90s now, people
25 have been saying that a soldier is pro-Gbagbo, pro-Bédié or pro-Ouattara. We have

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1 to get away from these preconceived ideas, that this shouldn't exist. Any soldier,
2 regardless of his rank, who's been recruited, appropriately trained and continually
3 trained, educated in keeping with military ethics is not pro anybody; it's not possible.
4 On the other hand, that type of soldier that I've just described is asked to be a soldier
5 of the republic, guaranteeing the republican institutions. And, therefore, such a
6 soldier must be totally loyal to the president of the republic who is the supreme chief
7 of the army at all times in all circumstances. That is what I'm talking about.
8 However, that very same soldier must be able to say no in certain circumstances,
9 when a mission leads to criminal -- potential criminal responsibility, and when such a
10 mission would not be in keeping with international humanitarian law. In that case
11 such a soldier I've described must be able to say no.
12 And lastly, your Honour, with all due respect, and this is my last point, I would like
13 to say that in these five minutes, you have a very noble mission, but it is a very
14 delicate one, and therefore, I would like to plead with you, and I would like to ask the
15 almighty Lord to help you, to inspire you, because you must decide not only the
16 manifestation of the truth, but also the fate and the future of two heads of household,
17 two fathers.

18 Ladies and gentlemen, I would like to thank all of you, and God bless you all.

19 PRESIDING JUDGE TARFUSSER: [10:10:44] Thank you very much. Now you
20 can leave the courtroom, together with your counsel. Thank you very much, for
21 having been here and have a safe trip home.

22 (The witness is excused)

23 PRESIDING JUDGE TARFUSSER: [10:11:13] I -- thank you, Counsel.

24 Before adjourning the hearing to tomorrow morning, just as a matter of household,
25 we have a request. Tomorrow will be a Rule 68 witness. We have a request from

1 the Office of the Prosecutor of one hour, probably less, I would imagine, but okay. It
2 is whatever it is. Then another email came in yesterday -- oh, there is a request from
3 the VWU, which should not take long, from the LRV, sorry, which should not take
4 long. Then there is an announcement of three hours.

5 MR MACDONALD: [10:12:07] I'm sorry, your Honour, to interrupt you. The
6 document, I think the witness -- or the counsel left with the evidence, last document.
7 Sorry.

8 PRESIDING JUDGE TARFUSSER: [10:12:19] He took it with him?

9 MR MACDONALD: [10:12:21] Yeah, I think so.

10 PRESIDING JUDGE TARFUSSER: [10:12:23] Well, they are not on the plane yet, I
11 would say.

12 MR MACDONALD: [10:12:27] I know, I know, I know, but if we can --

13 PRESIDING JUDGE TARFUSSER: [10:12:29] Yeah, we will. It normally takes 15
14 minutes to come up and down, so.

15 So we have a request for about three hours by the Defence for Mr Altit. I have no
16 idea what the Defence for Mr Blé Goudé is foreseeing. What the intention of the
17 Chamber is is to finish it in one day, and we are here to do extended hours, so this is
18 what we intend to do, and to conclude this tomorrow in -- within the -- within
19 tomorrow, also by going into extended hours.

20 Has the Blé Goudé Defence an idea on the questioning of the Witness 172 in terms of
21 length?

22 MR N'DRY: [10:13:42] (Interpretation) Your Honour, we'll send you an email
23 because the person -- it is Maître Zokou who is going to be questioning this witness,
24 and I believe it relates to the third incident. I don't think it will take long, in my
25 humble opinion, but we will send you an email.

- 1 PRESIDING JUDGE TARFUSSER: [10:14:06] To be on the safe side, we start
- 2 tomorrow with two hours, with extended hours, and then we'll see where we go.
- 3 We can always make a step back instead of doing the other way around. So we start
- 4 at 9.30, but with a two-hour session.
- 5 Okay, thank you very much. The hearing is adjourned tomorrow 9.30.
- 6 THE COURT USHER: [10:14:45] All rise.
- 7 (The hearing ends in open session at 10.14 a.m.)