

1 International Criminal Court  
2 Trial Chamber I - Courtroom 2  
3 Situation: Republic of Côte d'Ivoire  
4 In the case of The Prosecutor v. Laurent Koudou Gbagbo and Charles Blé  
5 Goudé - ICC-02/11-01/15  
6 Presiding Judge Cuno Tarfusser, Judge Olga Herrera-Carbuccia and  
7 Judge Geoffrey Henderson  
8 Trial Hearing  
9 Tuesday, 10 May 2016  
10 (The trial hearing starts in closed session at 10.35 a.m.)  
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Trial Hearing

(Closed Session)

ICC-02/11-01/15

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13 (Open session at 11.58 a.m.)

14 THE COURT OFFICER: We are in open session, Mr President.

15 PRESIDING JUDGE TARFUSSER: I wanted to make a general reminder to the public,

16 but I think we do it at a later stage because I don't think it's very helpful to do so now.

17 So we resume at 1.30. Now we go have the lunch break. Thank you.

18 THE COURT USHER: All rise.

19 (Recess taken at 11.59 a.m.)

20 (Upon resuming in open session at 1.34 p.m.)

21 THE COURT USHER: All rise.

22 Please be seated.

23 PRESIDING JUDGE TARFUSSER: Good afternoon.

24 Before resuming and continuing the testimony of Witness 441, I want to address the

25 public here in the courtroom, in the public gallery and all those who follow this

1 proceedings or anyhow are interested in these proceedings outside the courtroom.

2 The Chamber has been informed this morning about speculations in the social media as  
3 regard the identity of witnesses in this case whose identity is protected by order of the  
4 Chamber. This is of utmost concern to the Chamber and it is about these speculations  
5 and the connected security issues we have been discussing this morning.

6 The Chamber strongly reminds the public, and when I refer to "the public", I refer to those  
7 in the public gallery, I refer to those covering the trial in the media and I refer to those  
8 following the trial on the media, that disclosing identifying information of protected  
9 witnesses is forbidden.

10 Witnesses, and I mean all witnesses, are here only to help the Chamber in its endeavour to  
11 find the truth and, therefore, they must be in a position to do so.

12 They are called -- or, they are not called as witnesses to take sides. There is no such thing  
13 like Prosecution witnesses or Defence witnesses. All witnesses are witnesses for the  
14 Chamber and, indeed, they are called to tell their truths by answering the questions from  
15 the Prosecutor, the Defence teams, the victims representative and the Chamber.

16 One may agree or disagree with the account of a witness, but all witnesses must be able to  
17 testify freely. Only in this case will the Chamber be in a position to assess first the  
18 credibility of witnesses and later the facts as brought before it with a view to establishing  
19 the truth.

20 Besides being it a general principal, it is in everyone's interest that these proceedings are  
21 conducted as publicly as possible. It is the right of the accused, it is the right of their  
22 Defence teams, and it is certainly in the interest of all the Ivorians to be in a position to  
23 follow the proceedings, and in doing so to have a direct and democratic control over the  
24 proceedings and on how the proceedings is conducted.

25 It must be clear to everyone that continuing speculations about the identity of protected

1 witnesses does not only have no benefit but, even worse, it will compel the Chamber to  
2 order that large parts or even the entirety of the testimonies be conducted in private or  
3 closed session and, as such, withheld from the public.

4 The Chamber cannot imagine that this scenario, which will become real if these  
5 speculations continue, is in the interest of justice and of the Ivorian people. And  
6 therefore it expects - not it wishes, it expects - that such speculations will immediately  
7 cease for now and the future and that, therefore, a resulting restrictive approach by the  
8 Chamber will not have to be the course taken.

9 I hope that this was clear enough and I hope we can really continue as publicly as possible  
10 these proceedings.

11 And I see the witness already on the screen. Good afternoon, Mr Witness.

12 WITNESS: CIV-OTP-P-0441 (On former oath)

13 (The witness speaks French)

14 (The witness gives evidence via video link)

15 THE WITNESS: (Interpretation) Thank you, Mr President.

16 PRESIDING JUDGE TARFUSSER: Do you feel at ease? Do you feel okay?

17 THE WITNESS: (Interpretation) Yes, I do, Mr President.

18 PRESIDING JUDGE TARFUSSER: Have you some concerns, some things you would  
19 wish to tell the Chamber, some fear?

20 THE WITNESS: (Interpretation) For the time being, Mr President, no.

21 PRESIDING JUDGE TARFUSSER: Okay. Okay, thank you very much.

22 And, therefore, I give the floor to the Prosecutor for last not very long questioning, I think.

23 And then once the Prosecutor is finished, the floor goes to the -- first to the Legal  
24 Representative and then to the Defence.

25 Mr Prosecutor, you have the floor.

1 MR MACDONALD: Thank you, your Honour.

2 QUESTIONED BY MR MACDONALD: (Continuing) (Interpretation)

3 Q. Good afternoon, Mr Witness. Can you hear me well?

4 A. Yes.

5 Q. Very well. So I shall continue seeking points of clarification with regard to your  
6 testimony from yesterday.

7 A. Yes, Mr Prosecutor.

8 Q. I would like to come back to the moment in time when you were ordered to undress.

9 A. Go ahead.

10 Q. Did you have any identification papers on you at that moment in time?

11 A. Yes, Mr Prosecutor. I even had my driver's licence on me.

12 Q. Now, without revealing any information or any details that might have appeared on  
13 those identification papers, I just wanted to know what happened to those identification  
14 papers?

15 A. Mr Prosecutor, they made me eat the cardboard, the cardboard driver's licence.  
16 They made me eat it.

17 Q. Are you in a position to tell us specifically whether this incident occurred on the  
18 Friday, or did it occur at some other moment?

19 A. On the Friday, Mr Prosecutor.

20 Q. Did you have a personal identity card upon your person?

21 A. Yes, I did, Mr Prosecutor.

22 Q. What happened to that identity card?

23 A. Mr Prosecutor, the identity card was given back to me subsequently by an unknown  
24 individual.

25 Q. Very well. Could you please explain to us the circumstances under which you

1 were forced to eat your driver's licence?

2 A.\* Well, they came up to me after they had taken everything that I had on me, and they  
3 said, "Well, you didn't say that you were not Dioula. Well, if you're not Dioula, then who  
4 are you? Here, here what's this? Eat it." That's what happened.

5 Q. And where were you located physically when that incident occurred?

6 A. I was on the terrace before or in front of the --

7 THE INTERPRETER: Inaudible.

8 MR MACDONALD: (Interpretation)

9 Q. Very well. And your identity card, when was it handed back to you?

10 A. My identity card was given back to me when I left that location where Mr Cissé was  
11 cut up. A young man came to give it back to me.

12 THE INTERPRETER: Correction from the interpreter: Previous answer, "in front of the  
13 minaret."

14 MR MACDONALD: (Interpretation)

15 Q.\* Yesterday you mentioned --

16 A.Yes.

17 Q. And you alluded to --

18 A. Yes.

19 Q. Handing over your ID. And you mentioned that you had been ... you were shown an  
20 image of the sewer, of what you called the manhole. Was it before or after you got to the  
21 manhole that that identity card was given to you?

22 A. Mr Prosecutor, it was afterwards.

23 Q. And who gave it to you?

24 A. An unknown individual, somebody I did not know who was part of the group, a civilian.

25 Q. When you refer to "a civilian," to whom are you referring?

1 A. Somebody who was not wearing a uniform, who was not in camouflage on that day.

2 Q. Very well. So just to confirm it was a civilian, somebody who was part of the militia?

3 A. Part of the militia, yes.

4 Q. Very well.

5 MR MACDONALD: (Interpretation) I would like now, Mr President, to come back to a  
6 very personal matter that we need to broach in private session. It will be quite brief.

7 PRESIDING JUDGE TARFUSSER: Please, court officer, could you call private session. Thank you.

8 (Private session at 1.47 p.m.)

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17 (Open session at 1.51 p.m.)

18 THE COURT OFFICER: We are back in open session, Mr President.

19 PRESIDING JUDGE TARFUSSER: Thank you very much.

20 Mr Prosecutor, we are in open session.

21 MR MACDONALD: (Interpretation)

22 Q. Mr Witness, we are once again in open session. I would like to come back to an  
23 individual whom you have named, Mr Maguy Le Tocard.

24 A. Yes, sir.

25 Q. Do you know the name of this individual apart from the fact that he was known

1 under the name of Maguy Le Tocard?

2 A. No, Mr Prosecutor.

3 Q. In which context did you come to know this individual on the first occasion? What  
4 were the circumstances of that encounter?

5 A. Mr Prosecutor, he came to our neighbourhood, not far afield from the mosque under  
6 an acacia tree which is not far from the fence of the mosque, and he held a meeting with  
7 the inhabitants of the neighbourhood. That was before the events, Mr Prosecutor.

8 Q. And you attended this meeting?

9 A. Yes, I did, Mr Prosecutor.

10 Q. And what did he say?

11 A. \* Well, he introduced himself to us, saying that he was the perpetrator of the  
12 victim...the imam of the Port-Bouët II mosque and that it was he who had killed him.

13 Q. Did he say anything else to you?

14 A. Yes. Subsequently he said that we needed to be careful, that he was the one who was  
15 called Maguy Le Tocard, and that in the west it was he who had started, he even fought in  
16 Angola. And he might have known Sam Bockarie or somebody like that, yes. \*So with  
17 regard to the attacks that occurred out on the road, he said that it was not only other  
18 ethnic groups. Young Dioulas were also taking people's mobile phones and their wallets.  
19 That's what he said on that day, Mr Prosecutor.

20 Q. I just want to come back to what you said. We're going to concentrate our attention  
21 on this first meeting you had with Maguy Le Tocard. That was before the events, you  
22 said.

23 A. Oui.

24 Q. When you say "the events," which events are you referring to?

25 A. I don't know. The last one, or there was a first one that had already occurred. But

1 it was the last one,\*after the one when the mosque was burnt down.

2 Q. Very well. So let us situate ourselves in time so that we do not lose ourselves. Let  
3 us take the attack on the mosque which you said occurred on a Friday?

4 A. Yes.

5 Q. This first meeting you said with Maguy Le Tocard occurred before that incident, you  
6 say?

7 A. Yes.

8 Q. And before the incident, on how many occasions did you see Mr Maguy Le Tocard?

9 A. Twice.

10 Q. And the first time that you saw him, when was that?

11 A. The first time that I saw him was at the meeting that he held with us, and the second  
12 occasion was at Yao Séhi, where I did not take part.

13 Q. Very well. So let us concentrate our attention on this first meeting where you were  
14 in attendance. Let's leave the Yao Séhi to one side because you weren't present then.

15 A. No.

16 Q. Can you repeat to us what Mr Maguy Le Tocard said to you on the occasion of that  
17 first meeting?

18 A. Maguy Le Tocard in that first meeting introduced himself to us. I'm talking in  
19 simple terms here, he said, "Well, you know who I am. So I am not afraid of anybody  
20 here amongst you, because I am the person who killed the imam of the Port-Bouët II  
21 mosque."

22 Q. Mr Witness, very well. Listen, with regard to this incident and with a view to  
23 seeking the truth and establish the facts --

24 A. Yes.

25 Q. -- to your knowledge, during the crisis itself, to your knowledge, were there any

1 imams who lost their lives?

2 A. Beforehand, yes.

3 Q. When you say "before," you mean before what?

4 A. Before the last events.

5 Q. When you talk about the last event or events, are you referring to the attack upon  
6 the mosque or other events?

7 A. Yes, quite, Mr Prosecutor. That's --

8 THE INTERPRETER: The witness trails off.

9 MR MACDONALD: (Interpretation)

10 Q. And the imam, whom to your knowledge lost their lives, are you in a position to  
11 name them?

12 A. No, Mr Prosecutor.

13 Q. Are you able to establish the location where they officiated?

14 A. Yes, Mr Prosecutor.

15 Q. In which location or locations did they officiate?

16 A. In Port-Bouët II, in Port-Bouët II and also in the new quartier, Toits Rouges --

17 THE INTERPRETER: Inaudible for the interpreter, the name.

18 MR MACDONALD: (Interpretation)

19 Q. So we can come back to those events. Let me concentrate on your testimony.

20 After the attack upon the mosque, did you see Mr Maguy Le Tocard again?

21 A. No, Mr Prosecutor.

22 Q. So if I understand you correctly, you saw them once before the attack and then you  
23 saw them on the day of the attack -- you saw him on the day of the attack and after that  
24 you never saw him again?

25 A. Yes, Mr Prosecutor.

1 THE INTERPRETER: Correction from the English interpreter: After the new  
2 neighbourhood, the word was Toits Rouges.

3 MR MACDONALD: (Interpretation)

4 Q. Are you in a position to describe this individual to us physically?

5 A. Yes, Mr Prosecutor, I can. Maguy Le Tocard, when I saw him, well, above all he  
6 was a well-built man, tall, thin.

7 THE INTERPRETER: Inaudible.

8 THE WITNESS: (Interpretation) \* Taller than me. Yes. He had bodyguards as well with  
9 him.

10 MR MACDONALD: (Interpretation)

11 Q. Well, do you think you would be in a position to recognize him if you were shown a  
12 photograph of him?

13 A. No, Mr Prosecutor.

14 Q. You don't think you could recognize him?

15 A. No, Mr Prosecutor, because people in uniforms, well, honestly, I have a problem  
16 recognizing them afterwards, even if they don't have a uniform on.

17 Q. Very well. I would now like to continue and ask you some other questions. Can  
18 you remember the date on which Mr Gbagbo was arrested?

19 A. Mr Prosecutor, I only remember the 11th, but I don't know what month.

20 Q. Very well. But you do know that it was the 11th?

21 A. Yes.

22 Q. The day after Mr Gbagbo's arrest on the 11th, could you explain to us what  
23 happened, namely what events occurred in the Lem neighbourhood and the Doukouré  
24 neighbourhood?

25 A. Yes, the Doukouré neighbourhood, just to be more specific, Mr Prosecutor. After

1 he was arrested on the 11th, the next day some people came into the neighbourhood and  
2 they began to go door to door. I don't know if you understand. And they were trying  
3 to break down the doors and take various goods such as televisions, fans, that sort of  
4 thing. And they also killed people, quite a few people, a good many people. And after  
5 I identified -- I buried 34 corpses. And there were more than that.

6 THE INTERPRETER: Interpreter correction: At the beginning of his reply the witness  
7 said vehicles were going door to door.

8 THE WITNESS: (Interpretation) \*When I ... pulled myself together, I said to the survivors  
9 like me who were there, "Help me dig a hole because the bodies are going to begin decomposing  
10 in the neighbourhood" and they helped me with this task. We buried -- we buried 34 in  
11 one place. And two four-by-fours came -- well, some people wearing uniforms were there  
12 and they were asking me what I was doing. And they said, "What are you doing there\*I  
13 said "No, since it's starting to smell, well we want to get rid of the body." They said, "OK.  
14 We are going now, and when we come back, if you are still here, you'll be joining them.  
15 At that time I was supposed to finish this task. These people went away. As soon as they  
16 went away I had a visit from a gentleman, he came to see me, \*and he said, "Please wait,  
17 there are bodies over there, come and say a prayer. I said, "No, hurry, hurry." That is  
18 what I said to them, "Hurry." He said no, that it was many more than that. There were  
19 some 60, more than 60 other corpses in this other location and then I said, "Well, if that is  
20 the way of it, everyone just has to manage for themselves because I have been warned."  
21 So that is pretty much what happened.

22 MR MACDONALD: (Interpretation)

23 Q. Let's look at this one thing at a time.

24 A. Very well.

25 MR MACDONALD: (Interpretation) And once again I'm very sorry, but I think we

1 briefly need to go into private session just 30 seconds.

2 PRESIDING JUDGE TARFUSSER: Can you call a private session. Thank you.

3 (Private session at 2.06 p.m.)

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17 (Open session at 2.08 p.m.)

18 THE COURT OFFICER: We're in open session, Mr President.

19 PRESIDING JUDGE TARFUSSER: Yes, please, Mr Prosecutor.

20 MR MACDONALD: (Interpretation)

21 Q. We are once again in open session.

22 A. Yes.

23 Q. Now, you were saying that some people came into the Doukouré neighbourhood.

24 And who were these people?

25 A. \*Well, Mr Prosecutor, I just told you that those people were not identified by me.

1 They wore T-shirts, usually white, and also, sort of, camouflage trousers. They were kind of in  
2 uniform but half in uniform. \* One thing for sure is that they had the guns of the uniformed  
3 men.

4 Q. So you say these people had weapons, they were uniformed and they had weapons?

5 A. Yes.

6 Q. Were there vehicles?

7 A. Huh?

8 Q. Were there vehicles?

9 A. Of course there were vehicles; four-by-fours.

10 Q. And were these vehicles marked in any way? Could you identify them?

11 A. They did not have any numbers on most of them. No registration plates.

12 Q. And you say that they were going from one door to the next?

13 A. Yes, beginning with chez l'imam. That was the first stage.

14 Q. And then you said that you helped with the burial of some bodies?

15 A. Yes. That was on the Wednesday. Wednesday, yes.

16 Q. So that would have been the 11th was the arrest of Mr Gbagbo. And you said the  
17 next day, the 12th, the vehicles were going door to door. And in relation to the 12th,  
18 after that you say you were burying some bodies?

19 A. After the 12th, that is when I buried the bodies, Mr Prosecutor.

20 Q. Do you remember whether it was the 13th, the 14th, the 15th?

21 A. I know it was a Wednesday.

22 Q. Very well. Witness, just a few questions for you and then I would like to play some  
23 video footage for you.

24 A. Yes.

25 Q. Do you know some of the victims, the people that you buried, their names?



1 A. Well, I remember the name of three people, just three people, Mr Prosecutor, yes.

2 Q. Could you give us those names, please?

3 A. Yes.

4 Q. Go ahead.

5 A. There was Fofana Adama, Fofana Adama was one who was in the  
6 neighbourhood -- from the neighbourhood; then a Mr Ouattara; and Mr Touré, who had a  
7 mill and he would grind flour from corn and the like. So those were the three.

8 Q. Now, the 34 people that you buried, what was the gender of those people?

9 A. Yes, Mr Prosecutor, not a single woman.

10 Q. Can you tell us the approximate age of these 34 people?

11 A. The 34 people, I can't tell you. I can't tell you everyone's ages. People in their 40s,  
12 \*50s and also some people in their 30s. \*As for Adama, he was not old.

13 Q. So can we agree that these were adult men?

14 A. Adult.

15 Q. And you mentioned -- and I will just intervene momentarily to confirm that the 11th,  
16 on the day that Mr Gbagbo was arrested, and the 13th was indeed a Wednesday in the  
17 year 2011.

18 Witness, you buried the bodies and you say someone else, a gentleman came up to you  
19 and said that there were other bodies, more than 60, at another place?

20 A. Yes, in the neighbourhood.

21 Q. When you say "in the neighbourhood," which neighbourhood do you mean?

22 A. Doukouré.

23 Q. Still Doukouré?

24 A. Yes.

25 Q. Now, why is it that you said 34 bodies that buried? How can you tell us that?

1 A. Mr Prosecutor, everyone had left. There was no imam. The imam had fled.  
2 Everyone had gone. They had fled. They had fled from that place. I was the only one  
3 who was kind of -- who had -- (Redacted)  
4 (Redacted)  
5 (Redacted) Thank you.

6 Q. We are in open session, sir. Now, Mr Witness, these bodies that were buried, in  
7 relation to the mosque, where were they buried? Can you tell us where?

8 A \*Yes, but perhaps I could show you on the video-- well, you see it's the main road that  
9 crosses the place that you showed me yesterday. I showed you a building and I said that it  
10 was Mr Coulibaly's place not far from there, a few metres away. It was an open space.

11 Q. Very well. Agreed.

12 MR MACDONALD: (Interpretation) With the Court's permission, I shall now show  
13 the specific location.

14 THE INTERPRETER: Interpreter correction --

15 THE COURT OFFICER: The document will be displayed on the evidence 2 channel.  
16 Could you please tell us the level of confidentiality.

17 MR MACDONALD: Sorry, evidence 2? Okay.

18 THE COURT OFFICER: And the level of confidentiality.

19 MR MACDONALD: Public.

20 THE COURT OFFICER: Thank you.

21 THE INTERPRETER: Interpreter correction: The witness mentioned the home of  
22 Mr Coulibaly in his previous reply, line 6, page 32 of the French realtime transcript.

23 MR MACDONALD: I'm not sure if the witness can see.

24 Q. (Interpretation) Can you see, Mr Witness? Now we are looking once again, here  
25 I'm using my cursor here to draw a circle. And I'd like to take you to the back here,

1 (Redacted). Can you see that with the arrow?

2 A. No, that's not his home. Please rotate the view a bit. The big building, there  
3 you -- that's it. That's it. That is Mr Coulibaly's compound. \*And behind the fence, just  
4 right there, that is where I buried the 34 bodies.

5 Q. So you were saying behind the fence, left or right?

6 THE INTERPRETER: Overlapping speakers.

7 MR MACDONALD: (Interpretation)

8 Q. Okay. We'll head to the left now. We can see the antenna. We can see the  
9 building.

10 A. Yes.

11 Q. And I remind you, sir, that these photographs were taken in 2014?

12 A. Yes.

13 Q. So they're more recent than --

14 A. Oh, yes, I see.

15 Q. Do you recognize this location?

16 A. I know that that is the tower of the mosquée, but the specific place where the bodies  
17 were buried, we haven't seen that yet.

18 Q. Very well. I'm now going to play a video for you and then we will come back to  
19 the 360 panorama view, okay?

20 A. Okay.

21 MR MACDONALD: With your permission, your Honour, very briefly, can we switch  
22 the mic off so I can provide information to the Chamber, so I can draw the attention of my  
23 colleagues and the Chamber on a specific point of interest?

24 PRESIDING JUDGE TARFUSSER: You mean the microphone in Abidjan?

25 MR MACDONALD: In Abidjan, yes.

1 PRESIDING JUDGE TARFUSSER: Yes, please.

2 MR MACDONALD: So that he cannot hear us or see us either, I just realized, if that's  
3 possible. I want to show something on this.

4 So we have confirmation that the witness cannot see the screen? I'm zooming in, your  
5 Honours, on this building

6 PRESIDING JUDGE TARFUSSER: Hopefully, yes. We're in the hands of technology.

7 MR MACDONALD: I will, I will draw your attention, your Honours, on the three  
8 windows that we -- well, there is four windows. Of interest to us is that poll, electric poll  
9 next to the building, on the left of the building. The first window, which is open, then  
10 you have a blue car. Above the blue car, there's a closed window. That is also square  
11 window. And then you have a little rectangular small window. I will now show a  
12 video. And those same windows can be seen on that video at one point in time, which  
13 I'll also draw your attention to it.

14 We can now put back the -- I will remove the 360 and we can bring the witness back, with  
15 your permission. Thank you.

16 THE COURT OFFICER (Via video link): (Interpretation) We can hear you once again.

17 MR MACDONALD: (Interpretation)

18 Q. Witness, I would now like to play some video footage for you. And this is part of  
19 some video that was shot. And this is CIV-OTP-0012-0048, and I'm going to start at 2.29  
20 up until 3.22, timestamps 2.29 to 3.22.

21 Witness, please watch the video carefully on the screen and I will ask you some questions  
22 afterwards.

23 A. Very well.

24 THE COURT OFFICER: Mr MacDonald, could you please confirm the level of  
25 confidentiality again, please?

- 1 MR MACDONALD: Public.
- 2 (Viewing of the video excerpt)
- 3 MR MACDONALD: (Interpretation)
- 4 Q. Witness.
- 5 A. Yes.
- 6 Q. Have you seen these images before?
- 7 A. Yes.
- 8 THE INTERPRETER: Overlapping speakers.
- 9 MR MACDONALD: (Interpretation)
- 10 \*Q. Were you there –
- 11 A. I was present.
- 12 Q. Were you there at the time this footage was shot?
- 13 A\* Well, no, Mr Prosecutor. At the time of the filming-- no. Not until you see them,
- 14 digging the public grave and I was at the wall.--
- 15 MR MACDONALD: (Interpretation)
- 16 Q. We'll stop at this point. Don't tell us where you were.
- 17 A. Very well, I won't.
- 18 Q. But in any event, I think this is too hazy to actually see you, but we do see the minaret?
- 19 A. Yes.
- 20 Q. Can you confirm that that is indeed the place where the 34 corpses were buried?
- 21 A. Yes, Mr Prosecutor, I do think so.
- 22 Q. Why do you say "I do think so"?
- 23 A. Because you mentioned the minaret. I don't see the minaret.
- 24 Q. We will rewind to that particular point where we see the minaret. Do you --
- 25 A. Yes, I can see it now. I can see it now, yes.

1 MR MACDONALD: For the purposes of the proceedings, your Honour, we also have  
2 taken a still shot of that very image, and with the indulgence of my colleague, I would  
3 request that it be submitted without me showing it to the witness because it's the same  
4 one. But it may be easier for future reference, it's CIV-OTP-0092-0054, and it's actually a  
5 still image at 2.58.11. Here I have second 01, but it's exactly the same view.

6 MR O'SHEA: Your Honours, there is no objection to that. I would, however, like to  
7 remind my learned friend that before he introduces a video, he must comply with your  
8 Honours' direction in your latest decision, and specifically paragraph 44, "The  
9 introduction of any item of documentary evidence shall be accompanied by succinct  
10 information indicating the item's relevance, its probative value, including authenticity and,  
11 two, the date on which it was disclosed to the other parties."

12 I let it go on this occasion, realising what my learned friend was doing. But if it's not -- if  
13 this protocol is not followed, then we're in danger of being taken by surprise.

14 MR MACDONALD: Very briefly, I don't think there's any surprises to my colleagues  
15 since it's on the list that we disclosed last week with ERN numbers, including the stills  
16 and so on. But I take note and I appreciate the objection, but I take note. We'll try to  
17 follow it as best as we can in the future.

18 MR O'SHEA: There was no objection. That's why I didn't stand up at the beginning.

19 MR MACDONALD: (Interpretation)

20 Q. Very well. Now, witness.

21 A. Yes.

22 Q. Just to finish things off, I'm now going to remove the video from the screen and  
23 we're going to go back. Now, and on the video I drew the Chamber's attention a few  
24 moments ago, and I'll come back to this point -- (Speaks English) if you allow me, just a  
25 second.

1 (Viewing of the video excerpt)

2 MR MACDONALD: Anyway I'll move on and give the exact minutes later on, so where  
3 we can see the same three windows on that building.

4 Q. (Interpretation) Mr Witness, I have a last question or series of questions to put to  
5 you and then my examination-in-chief will be over. To your knowledge, do you know  
6 why it is that the Lem mosque came under attack on that Friday?

7 A. Mr Prosecutor, no.

8 Q. I apologise. Inside the mosque, were there any weapons inside the mosque?

9 A. Mr Prosecutor, I'm saying to you loud and clear no.\* Maguy Le Tocard had told us  
10 that. Yes, I'm sorry for speaking so forcefully, but I said no, no. What's more, there were  
11 no weapons there, not even a knife.

12 Q. And at what moment in time did Mr Maguy Le Tocard inform you or ask you  
13 whether there were any weapons?

14 A\*It was at the time of the meeting in the Doukouré neighbourhood, in the Yao Séhi  
15 neighbourhood. I wasn't there, but according to those who had been there, they said that  
16 \*yes, Maguy Tocard said that there were weapons here, that there were even some  
17 mercenaries who had slept in the mosque. They told me about that, I didn't see it, I didn't  
18 hear it. I found out about it through the rumour mill.

19 THE INTERPRETER: Request from the interpreter: Could the witness please be  
20 requested to repeat his answer.

21 MR MACDONALD: Final private session.

22 PRESIDING JUDGE TARFUSSER: Could -- Mr Witness, the interpreter asked you to  
23 repeat the answer.

24 MR MACDONALD: Can we go in private session then to do that and then I'll be  
25 finished?

1 PRESIDING JUDGE TARFUSSER: Okay. So we call private session.

2 (Private session at 2.34 p.m.)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

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25 (Redacted)



1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Open session at 2.37 p.m.)

10 THE COURT OFFICER: We are back in open session.

11 PRESIDING JUDGE TARFUSSER: Thank you.

12 And the floor is back to you.

13 MR MACDONALD: So, Mr President, in relation to video 0012-0048 you will see that at  
14 a number of places you can see, on that video, the three windows I described, starting at  
15 seconds 28, seconds 52, 2.40, 2.28 for confirmation.

16 Q. (Interpretation) Mr Witness, I thank you. These are the questions that I had to  
17 put to you. And now I think it's firstly the Legal Representatives of Victims who will  
18 putting questions to you.

19 PRESIDING JUDGE TARFUSSER: Mr Witness, I give now the floor to the Legal  
20 Representatives. And just for housekeeping, I think that we finish by - yes, I've seen  
21 it - we'll finish by 3 o'clock.

22 So we can break and after the break the Defence starts. You have asked for the floor,  
23 Mr Altit?

24 MR ALTIT: (Interpretation) I thank you, Mr President. Very briefly. I do have a  
25 question and an observation to make, with your leave that is.

1 The question that I would like to put: You will recall that yesterday we indicated that we  
2 will probably be raising objections to the request of the LRV to question P-369, who is  
3 going to come to testify shortly. And I am ready to explain these objections to the  
4 Chamber, if you would like, and whenever you would like.

5 I'm saying this to you now so that you are at liberty to tell us when we can provide these  
6 explanations.

7 And the remark I wanted to make or observation was before the Legal Representatives of  
8 Victims rose to their feet -- because yesterday the Defence received at 12.51 an email from  
9 the Legal Representatives notifying the Chamber and parties a list of the documents it  
10 intended to use during the questioning of P-441, P-441, so that is the witness.

11 According to the decision on the conduct or debates branded on 4 May 2016, virtue of the  
12 fact that these documents have not been used by the calling party, the Legal  
13 Representatives should have made a written request and not an oral request, and she  
14 should have done so at least 48 hours before the questioning, which was not done. So  
15 logically speaking, she should not be authorised to use these documents. I just wanted to  
16 make note of this.

17 PRESIDING JUDGE TARFUSSER: It's one document.

18 MR ALTIT: (Interpretation) One document.

19 I just wanted to note this fact, but I note that the Legal Representative will be explaining to  
20 you that she was only able to intervene at a later stage. A slight inconsistency here, but I  
21 just wanted to raise this point with the Chamber.

22 MS MASSIDDA: (Interpretation) I thank you, Mr President. Indeed, it is a little bit  
23 more complicated yet than that. And I'm going to respond in a different vain to that  
24 expected by my learned colleague.

25 I do not believe, Mr President, that paragraph 16 of the new directive that has just been

1 delivered by the Chamber applies to this concrete situation.

2 I am going to re-read paragraph 16 of your decision 489, dated 4 May 2016, which  
3 indicates, and I quote:

4 "An oral application in accordance with Rule 91(3)(a) of the Rules will suffice unless the  
5 Legal Representative wants to rely on items of evidence for its questioning that were not  
6 already relied on by any of the parties in relation to the same witness." End of quote.

7 Now, the material which is on our list of evidence is the witness statement which is  
8 contained in the OTP list of material provided to the Defence six days ago. So in this  
9 sense, we do not think that paragraph 16 of the new direction is applicable.

10 I would also like to note something else, your Honour, for the sake of clarity. The new  
11 directive does not supersede because it's not -- it's silent on the point. A previous  
12 instruction by the Chamber in relation to the quest for questioning, and I'm referring to  
13 the transcript of the hearing of 3 February 2016 transcript number 13, page 2, lines 17 to 25,  
14 and I quote:

15 "... an application by LRV ... to question ... shall be made orally before the witness first  
16 takes the stand." End of quote.

17 Which means that I can request immediately before the witness will take the stand.

18 And a subsequent direction still not supersede by the new direction, which is silent on the  
19 point, transcript of hearing number 25, 7 March 2016, page 4, lines 1 to 5, and I quote -- I'm  
20 very sorry, my mistake, it was the wrong transcript. It's actually transcript 25,

21 7 March 2016, page 2, line 13 to 15: "... the Chamber authorises ..." the Legal  
22 Representative "to disclose the list of materials to the parties immediately upon being  
23 granted leave to question a witness." End of quote.

24 Which was done yesterday immediately after leave was granted to question Witness 441.

25 Thank you, your Honour.

1 MR ALTIT: (Interpretation) Mr President.

2 PRESIDING JUDGE TARFUSSER: Do you want to have the floor again?

3 MR ALTIT: (Interpretation) Just for a second. I just wanted to make two remarks in  
4 response to this.

5 Firstly, in order to refer your Chamber to paragraph 14 of the new directives,  
6 paragraph 14 says very clearly that the new directives replace in their entirety the  
7 previous directives. That's the first thing that should be said. I won't underscore that  
8 point any further.

9 And the second point is that paragraph 16 of this new directive is very clear. It is not a  
10 case of elements that are on the list of evidence, but elements that have not yet been used,  
11 relied on by any of the parties.

12 So the question is whether it was used by the calling party or not. And the answer is that  
13 it was not used, so it was not used by the calling party, so it is indeed paragraph 14 of the  
14 new directives that is applicable. Does not matter whether it is on the list of elements  
15 that was disclosed or not.

16 PRESIDING JUDGE TARFUSSER: On this last point I must say I was really -- I was  
17 surprised when I saw the LRV indicating this document, she would rely upon the own  
18 statement of the witness. I mean, it's -- what do you want to rely upon if not on the  
19 statement? I think the mistake was that it was indicated as the document on which she  
20 wants to rely because it's -- I think it's obvious that some source it must have -- she must  
21 have to in order to make -- to put questions, so I think the problem is, in fact, to my  
22 understanding, a non-problem.

23 So I just want to indicate the LRV to make the questions, but I will still give her the time  
24 until the end of this session.

25 On the Witness 369, and everything related on Witness 369, because now we received also

1 a filing which was announced, a filing from the Defence of Mr Blé Goudé on that issue,  
2 I would ask the parties to submit their oral observations at the end of this witness and  
3 before we start the next witness so that we can then decide, so on all issues which  
4 somehow relate to Witness 369. No? Maître Altit.

5 MR ALTIT: (Interpretation) With regard to this, I don't think we have the time because  
6 what was disclosed to the Defence of Mr Blé Goudé is a very interesting document, but  
7 rich and quite complex from a judicial viewpoint, and it requires an amount of  
8 preparation time for it to be discussed in a useful manner. Mr President, your Honours, I  
9 request that your Chamber allows us the time to discuss this in a useful manner, notably  
10 not at the end of this witness because we won't have the time to prepare because we're  
11 going to be leading a cross-examination now, but at least -- yes, but at least after the  
12 following witness. It would seem more reasonable to me and more useful for all of us.

13 PRESIDING JUDGE TARFUSSER: But I think that after the Witness 579, Witness 369 is  
14 due, right?

15 MR MACDONALD: Yes, but he's not -- he's not coming before next Monday.

16 PRESIDING JUDGE TARFUSSER: No, of course, sure.

17 MR MACDONALD: So the point being is we can argue it at the end of 579 if we have  
18 time, if the Chamber wants it orally, which may be a faster way. And we're  
19 communicating with the -- right now verifying with the 369 team. But if not, we can do  
20 it on Monday.

21 PRESIDING JUDGE TARFUSSER: No, because if we -- my thing is if we do it after  
22 Witness 579, the following one is already 369 so we don't have even the time to discuss  
23 and decide. So that's why I thought this witness will not finish today -- what's going on  
24 here? Oh, there.

25 Well, this witness will, I don't know, finish when, but probably this week. The following

1 witness will probably not finish this week and we will go to next week, at least Monday  
2 I would say, but this is something I thought now. Therefore I think there is sufficient  
3 time, but --

4 MR MACDONALD: We're filing -- I'm being told we're filing tomorrow.

5 PRESIDING JUDGE TARFUSSER: Observations?

6 MR MACDONALD: Our response. So it should be pretty quick. We don't think it's  
7 that difficult of an issue, actually, because our position will be that we agree in part.

8 MR ALTIT: (Interpretation) Mr President, as far as we're concerned, I fear that we will  
9 not have the time because we do have a number of things that we need to file as well that  
10 we are currently working on. In addition to the cross-examination of this witness, and in  
11 addition to the preparation of the next witness we are going to be filing a number of  
12 documents.

13 PRESIDING JUDGE TARFUSSER: Excuse me. Can I make a proposal? If we -- for  
14 these submissions, if we start with the next witness, 579, on Monday and these  
15 submissions, oral submissions are -- can be done on Tuesday in the morning -- on  
16 Thursday in the morning hours, could that be? We finish this witness whenever we  
17 finish by today, tomorrow, then we stop, we resume on Thursday in the morning,  
18 submissions and then we come with 579 on Monday.

19 MR ALTIT: (Interpretation) That would seem entirely acceptable to us. So we do  
20 thank you, Mr President.

21 PRESIDING JUDGE TARFUSSER: Okay. Thank you very much.

22 Now the floor is always less minutes to the LRV.

23 MS MASSIDDA: (Interpretation) I think the Chamber will be pleased to know that I  
24 have no questions for this witness.

25 However, your Honour, since I have the floor for once, I would like to seek clarification

1 from the Chamber because if the Defence is going to stand up each time in relation to the  
2 list of material, then I'm going to have a problem in providing the list of the material to  
3 the Defence within the 48 hours.

4 For P-579 I have requested authorisation yesterday, but still the Chamber has not decided,  
5 so in any case I am still unable to comply with any guidance from the Chamber. Thank  
6 you.

7 PRESIDING JUDGE TARFUSSER: But I think and I interpret also the thought of Maître  
8 Altit in this moment that Witness 579 shouldn't be a problem because it is a dual status, so  
9 it is granted. And that's it. So I have interpreted, freely interpreted all the thoughts of  
10 the parties, so you have all the time now to comply with the directives.

11 So if you don't have any question, I think we take now the break and we start at 3.30 with  
12 the questioning -- with the start of the questioning by the Defence.

13 Mr Witness, you can now have a rest for half an hour and then we have another session  
14 for of one hour and a half for you and with the Defence, okay? Thank you very much.

15 THE WITNESS: (Interpretation) Yes, Mr President.

16 THE COURT USHER: All rise.

17 (Recess taken at 2.54 p.m.)

18 (Upon resuming in open session at 3.31 p.m.)

19 THE COURT USHER: All rise.

20 Please be seated.

21 PRESIDING JUDGE TARFUSSER: Good afternoon. I have heard about some concerns  
22 about the scheduling between now and, say, Monday, Tuesday, before Witness 369 comes  
23 in. My idea was, just to recapitulate and to make it clear, my idea was that now we start  
24 the Defence with Witness 441. I don't know how long it will take for the Defence to  
25 question Witness 441. Maybe I could have some estimate on this, if possible?

1 MR ALTIT: (Interpretation) Thank you, your Honour. As far as we are concerned,  
2 probably we will have finished, probably we'll have finished -- well, we need less than  
3 three sessions of one and a half hours. That is what I could say. Can we agree on that  
4 point? Less than three one-and-a-half-hour sessions, and that is a generous estimate.  
5 Probably we will not go beyond that estimate.

6 PRESIDING JUDGE TARFUSSER: When you say you, you mean you, Altit team?

7 MR ALTIT: Oui.

8 PRESIDING JUDGE TARFUSSER: Not you Defence?

9 MR ALTIT: No, not all Defence.

10 PRESIDING JUDGE TARFUSSER: Defence of Mr Blé Goudé.

11 MR ZOKOU: (Interpretation) Your Honour, in principle it will depend on the  
12 questioning from the Gbagbo Defence team, but I don't think we would be able to finish in  
13 less than three hours, and that is truly -- I think that would be the most generous estimate.  
14 We wouldn't go beyond that, that is for sure.

15 PRESIDING JUDGE TARFUSSER: Okay. So I'm quite confirmed in what I thought,  
16 meaning that today and tomorrow, if we are lucky, the whole -- if we are lucky, if we are  
17 unlucky we go into Tuesday, in the beginning of Tuesday, and then we have the  
18 submissions on -- the whole submissions on -- on Thursday I was saying on 369, and then  
19 we go to Monday with 579, which should, if I read the estimation by the Prosecutor and  
20 make a pre-action to the Defence, should more or less conclude in one day, one full day,  
21 and then start with 369 or not, we'll see, on Tuesday, okay? Is this -- are there any  
22 observations to this?

23 But I would ask for short things because otherwise this morning we spent the whole  
24 morning to talk about, let me say, not really so productive things, but yes.

25 MR MACDONALD: I understand the Chamber's position. The thing is -- anyway, in



1 any event, I understand 579 is on standby and can start testifying at any moment if the  
2 schedule goes faster. Now, also the question is the percentage of time of use by the  
3 Prosecution for Defence to cross, I understand that's not foreseen by the new directives,  
4 unless I missed something.

5 PRESIDING JUDGE TARFUSSER: No, it is foreseen.

6 MR MACDONALD: It is?

7 PRESIDING JUDGE TARFUSSER: Everything is foreseen.

8 I would now ask the Defence for Mr Gbagbo to start its questioning of the witness.

9 No. The LRV has said they have no question and therefore I don't know why we spent  
10 15 minutes today to debate about nothing also, but okay.

11 Yours the floor.

12 MR ALTIT: (Interpretation) Thank you. The Defence's examination will be led by  
13 Mr O'Shea, followed by --

14 THE INTERPRETER: Inaudible.

15 PRESIDING JUDGE TARFUSSER: Followed by? We didn't hear.

16 MR ALTIT: (Interpretation) By Maître Baroan.

17 PRESIDING JUDGE TARFUSSER: Okay. Mr O'Shea, you have the floor.

18 MR O'SHEA: Thank you, Mr President. I will start with a brief closed session, if I may.

19 PRESIDING JUDGE TARFUSSER: Yes, please.

20 MR O'SHEA: Private session.

21 PRESIDING JUDGE TARFUSSER: Could you please call the private session. Thank  
22 you.

23 (Private session at 3.37 p.m.)

24 (Redacted)

25 (Redacted)

Trial Hearing

(Private Session)

ICC-02/11-01/15

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4 (Open session at 3.41 p.m.)

5 THE COURT OFFICER: We are back in open session, Mr President.

6 PRESIDING JUDGE TARFUSSER: Thank you.

7 Yours the floor.

8 MR O'SHEA: Thank you, Mr President.

9 Q. The mosque de l'antenne was also known as the mosque de Doukouré, was it?

10 A. Of course.

11 Q. In your evidence, and I'm referring to the English transcript at page 52 in line 12 of

12 5 September 2016, and again on French transcript 5 September 2016 --

13 PRESIDING JUDGE TARFUSSER: September?

14 MR O'SHEA: Sorry.

15 PRESIDING JUDGE TARFUSSER: There is a little bit of a confusion. It can't be

16 5 September.

17 MR O'SHEA: Sorry. 9 May.

18 PRESIDING JUDGE TARFUSSER: Okay.

19 MR O'SHEA: 9 May 2016.

20 PRESIDING JUDGE TARFUSSER: It's the other way around. You read it in the

21 American way, I think.

22 MR O'SHEA: I read it and I didn't think, yes.

23 PRESIDING JUDGE TARFUSSER: Okay.

24 MR O'SHEA:

25 Q. Yes, 9 May 2016 the French transcript, page 55, line 11, you say that at 9 a.m. on the

1 day in question, when you started to notice things you were performing your ablutions; is  
2 that right?

3 A. Yes, that is correct.

4 Q. And performing your ablutions means washing yourself as part of the procedure of  
5 prayer; is that correct?

6 A. Yes. I don't know if I've made myself clear. When I say "ablutions," I mean  
7 ablutions, washing myself thoroughly, zenembat (phon) is also what it's called.

8 Q. But this is a -- this is a procedure which involves you placing water on yourself?

9 A. Yes. I was performing my ablutions with water.

10 Q. You saw the Prosecutor on the -- now, I don't know whether to say this is 12  
11 February or 2 December.

12 A. I can't give you a specific date, ma'am.

13 Q. But you saw the Prosecutor in 2014, is that right, and explained your story?

14 A. Which Prosecutor?

15 Q. The Prosecutor of the International Criminal Court. You saw people representing  
16 the Prosecutor of the International Criminal Court and recounted what you have  
17 recounted before us today; is that right?

18 A. \* Well, I don't know if they were prosecutors. But it was Amnesty International that I  
19 met with before, before the international court, yes. I don't know if it's the same thing,  
20 but -- but it wasn't the face as what I am seeing.

21 Q. But you accept that you have spoken to the Office of the Prosecutor before these  
22 proceedings about the events?

23 A. Yes. Before testifying here, yes. The investigators, yes, from the Prosecution.

24 Q. And what you told the Prosecutor was written down and put into a statement,  
25 which was read back to you; is that right?

1 A. Yes. Everything that I said -- I signed everything.

2 Q. Yes. And in your statement to the Office of the Prosecutor, you begin your story by  
3 explaining that at 9 o'clock in the morning you are washing a kettle before the prayers.

4 What you actually say is this, and it's at paragraph 40 of the statement:

5 (Interpretation) "It was 9 in the morning when the things began. I was washing a  
6 kettle."

7 MR MACDONALD: I'm sorry.

8 THE WITNESS: (Interpretation) I beg your --

9 MR O'SHEA: Just be aware the witness --

10 MR MACDONALD: We're -- yes, yes. I'm doing this in English so maybe we don't  
11 need to translate to the witness.

12 If you look at the full sentence and what the witness is talking about he's doing it's what  
13 you do before going to the prayer. So I understand that we need to use the full -- you're  
14 not using what's after bouilloire. You're intentionally not giving it. Therefore, if you  
15 do -- we have to go to a full stop. And I'm intervening now, but I think we've done this  
16 in the past many times. You need to give the full sentence. Let's be honest with the  
17 witness even though we're in cross-examination.

18 PRESIDING JUDGE TARFUSSER: We're not in cross-examination --

19 MR MACDONALD: Sorry, examination. Examination.

20 PRESIDING JUDGE TARFUSSER: -- we're in examination by the non-calling party.

21 And I think, this was my guess, that Mr O'Shea has not yet written -- read out all the part  
22 he was going to read out. This was what my -- because he's going so slow for the benefit  
23 of the interpreters, of course, so I was waiting until the end of his reading out, but I  
24 wouldn't have jumped up yet, Mr Prosecutor. We'll see.

25 MR O'SHEA: Yes. Well, there was a reason why what I -- there was a reason for what I

1 did. But so as not to waste time, I will simply read out the sentence in full.

2 (Interpretation) "I was at the mosque in the process of washing a kettle for the prayers  
3 when Gbagbo's people arrived and took control of the road."

4 Q. So which is correct, are you doing your ablutions or are you washing the kettle?

5 A. Thank you. Both. I said both. Why? Well, I have my personal reasons. I told  
6 you that when the things began I was in the middle of washing the kettle before, because  
7 that's what you do before you perform your ablutions. That is what you do. And they  
8 came, and they were coming by several times. So I don't know. Perhaps my French  
9 was faulty, but that is what I said.

10 Q. Now, it's at 9 o'clock that you perceive that there are young people on the road; is  
11 that right?

12 A. Yes.

13 Q. And it's at around 12 o'clock that you go and report matters to the imam; is that  
14 correct?

15 A. Yes, at the time when the people are called to prayer. Yes, it was around noon,  
16 maybe 12.30, around then when the call is issued to come to prayer, yes.

17 Q. And is it hearing this singing, the singing of à chacun son Dioula, is it, that singing  
18 which provokes you to go and report matters to the imam?

19 A. Exactly.

20 Q. Because that singing was quite shocking to you and created some fear in you, did it?

21 A. Yes.

22 Q. And when -- at what point in the day was the first time that you saw Agbolo?

23 A. That day it was around the afternoon. Around the afternoon Agbolo and  
24 Maguy Le Tocard arrived.

25 Q. And at 9 o'clock you saw these young people coming down the road, but there was

1 nothing in particular at that time which provoked you into going to speak to the imam?

2 A. Well, it was when they began to sing. I beg your pardon, but I remind you but  
3 during that time those young people were in the habit of doing that. They would sing as  
4 they went along the road. They would often go quite far, as far as the neighbourhood.  
5 What's the name of that neighbourhood\* Often they would go towards Siporex --

6 THE INTERPRETER: Inaudible.

7 THE WITNESS: (Interpretation) \* But that day they did not go all that far. They  
8 stopped not too far from the police station of the 16th and then they came back again.  
9 Often glancing into the courtyard, before throwing stones.

10 MR O'SHEA:

11 Q. When you first saw Agbolo towards the afternoon as you say, what was he doing, if  
12 anything?

13 A. Around the afternoon, when I saw Agbolo and Maguy Le Tocard, they were in the  
14 office of CNI-COCY. They were there.

15 Q. And that was the first time you saw Agbolo that day, was it?

16 A. No, it wasn't the first time. He would often ride about and he was also often with  
17 people, members of FESCI, the students' federation, and they would keep the students  
18 from going to class. But I saw --

19 Q. But was it the first time that you saw Agbolo that particular day? May I -- are  
20 you -- are you looking at something there?

21 A. The day Friday. Yes.

22 Q. What do you have in your hands?

23 A. It is a handkerchief, and I am rubbing my hands.

24 Q. Sorry.

25 A. No, no, no problem. No offence taken.

1 PRESIDING JUDGE TARFUSSER: Excuse me, but this is also a little bit of mistrust  
2 towards the people of the ICC in there, I would say.

3 MR O'SHEA: It's not meant to be, your Honour.

4 PRESIDING JUDGE TARFUSSER: Yes. Okay. Thank you very much.

5 MR O'SHEA: It's just that I noticed something so I asked the question.

6 Q. So yes, sorry, so the question was this: You said that towards the afternoon you  
7 saw Agbolo. Did you say in the office? Is that what you said?

8 A. Yes.

9 Q. So the question was: Was that the first time you saw Agbolo that day?

10 A. A short while ago I said no, it was not the first time. I frequently saw Agbolo --

11 Q. I'm talking about the day in question. I'm talking about the day of the event. We  
12 appreciate that you've seen Agbolo on previous occasions, you've explained that. I'm  
13 talking about the day of the event. The time that you saw him in the office, was that the  
14 first time that you saw him on that day?

15 A. Yes, on that specific day, yes.

16 Q. And when you saw him in the office in the afternoon, what did you see him doing?

17 A. The two of them were walking towards my direction.

18 Q. Was he saying anything?

19 MR O'SHEA: Sorry. Sorry to the interpreters.

20 Q. Was he doing anything or was he saying anything, rather?

21 A. Saying something? Well, there were many of them. I will give you further  
22 clarification. It was while the door and the windows of the CNI-COCY office were being  
23 smashed in by their group, that is when they were removing the chairs, tables, Internet  
24 equipment and so on. So they were coming towards me. Initially I did not hear them  
25 say anything.



1 Q. Now, in your statement you start your story in paragraph 40 by explaining that  
2 things began at 9 o'clock. Then in paragraph 42, you say the following: (Interpretation)  
3 "I heard Agbolo shout out 'to each one his Dioula' and as far as I'm concerned, it meant  
4 that each person had to attack a Dioula. Afterwards Agbolo started shooting in the air."

5 A. Mr President, that is not correct. There were so many of them that I could not  
6 recognize Agbolo or Maguy Le Tocard amongst those who were singing at that time. It  
7 was around 9 a.m. that the singing took place. So I cannot say whether they were in that  
8 group or not.

9 Q. So that has been written down incorrectly you think?

10 MR O'SHEA: Yes, for the record, he nodded yes I'm told.

11 PRESIDING JUDGE TARFUSSER: Yes, but for the record I would also say his opinion  
12 is -- we have this on the record and that's it. We don't care so much on what his opinion  
13 is. This is a fact that he noted it, we noted, it's on the record. There is a discrepancy.  
14 That's it.

15 MR O'SHEA: Yes, noted, Mr President.

16 Q. Now I'm going to read you another paragraph from your statement, and it's  
17 paragraph 47, and you say this in the middle of the paragraph, you say:

18 (Interpretation) "I believe that it was around -- that it was at 10 a.m. when they started  
19 throwing stones at us because at 9 o'clock they passed in front of the mosque and started  
20 singing 'to each one his Dioula' and then they left. They remained -- they returned  
21 shortly."

22 Did they start singing à chacun son Dioula?

23 A. That is what they started by doing, and I'm saying 9 a.m., I did not stay there from  
24 9 o'clock right up to 10 o'clock, but I'm saying that what they were saying to each person  
25 his Dioula, and they are saying Dioula.

1 \* Shortly afterwards they came back, the time you gave, 10 am, honestly, well ... umm ..."

2 Q. Now, you explained earlier that at 12 o'clock when you heard them singing á chacun  
3 son Dioula, this provoked you into going to speak to the imam. So why didn't you go to  
4 speak to the imam at 9 o'clock?

5 A. Why did I not go immediately as you said? Even at 6 a.m. in the morning I could  
6 have gone to tell the imam. But that was what they were in the habit of doing. That is  
7 what they were doing between the antenna and Siporex. But on that day, that is the  
8 Friday in question, \*it was it was too...it was too fast. And then too violent. That is the  
9 reason why I waited first before going to the imam. Otherwise I could even have gone at  
10 6 a.m.

11 Q. Also in this same sentence, contrary to what you told us a moment ago, at 9 o'clock  
12 these people are already stoning you or throwing stones in your direction?

13 A. No. I did not say at 9 o'clock. It was at 9 o'clock that I was making my ablutions.

14 Q. Sorry, at what time did they start throwing the stones?

15 A. It was not at that time that they started throwing stones.

16 Q. Sorry.

17 A. (Redacted) that is after I finished the ablutions, I  
18 went and made the first ablutions.

19 THE INTERPRETER: Says the witness.

20 THE WITNESS: (Interpretation) \* During that time I heard the noises. And when I  
21 looked behind, they were throwing stones at the office, first the CNI-COCY office. It was  
22 not yet 9 a.m. precisely.

23 MR MACDONALD: I think we -- I think you have to address the gallery, because this  
24 will be redacted from the 30 minutes transcript that the identity of the witness or what he  
25 did or he was doing, he in the course of the cross-examination, as we had foreseen these

1 things will take place, or even now it seems that even Mr O'Shea has difficulties  
2 questioning, and it comes out naturally.

3 I note this because I thought the comment in closed session in relations to the  
4 professionalism of one asking the questions was out of place.

5 But the point is is that now the information is coming out, and I think you need to inform  
6 the gallery, and I'm seeking an oral redaction order from the 30 minutes delay. Thank  
7 you.

8 PRESIDING JUDGE TARFUSSER: Mr MacDonald, I think that the public gallery has  
9 been informed at the beginning of this afternoon session. This, what I said at the  
10 beginning of the afternoon session is still in place and goes until the end of this trial and  
11 we'll see when this trial will finish. So I cannot all the time stand up and ask. I think we  
12 have adult people here and they all know what they should do and they should not do.  
13 I would really -- during this whole testimony, lots of things came out which could lead to  
14 an identification. It's after your questioning, after the questioning of the Defence. So I  
15 would be careful in just putting it on one side, but still I will again ask all teams to be  
16 aware of trying to avoid too specific questioning which could lead to specific information.

17 MR MACDONALD: I'm not putting it on anybody's side. That's what I'm just saying.

18 PRESIDING JUDGE TARFUSSER: No.

19 MR MACDONALD: The witness is who he is and understands the rules and public  
20 nature. You can be the best examiner in the world or examiner on the Defence side and  
21 these things happen.

22 PRESIDING JUDGE TARFUSSER: Yes.

23 MR MACDONALD: That's my message.

24 PRESIDING JUDGE TARFUSSER: Yes, okay. But I cannot after -- I can do lots of things.  
25 I can redact the names, I can -- but more than what was done by this Chamber today

1 cannot be done. I think the reminder I did also to the public gallery here was clear:  
2 Otherwise, we close down and we continue next years in closed session. This is the  
3 message. So it is up to -- it's probably also for their benefit to refrain from doing  
4 anything which is contrary to their interest also and obviously to the interest of the trial.  
5 Please, Mr O'Shea, please go ahead.

6 MR O'SHEA: Thank you, your Honour. I wasn't aware that he had said something  
7 about his identity myself.

8 PRESIDING JUDGE TARFUSSER: He continues, he continuously does, so.

9 MR O'SHEA:

10 Q. Now, so at 9 o'clock in the morning, these young people are singing, are they?

11 A. Yes.

12 Q. And according to you they're singing á chacun son Dioula?

13 A. Yes, because I'm Dioula so I understand it well.

14 Q. And apart from that, what else are they doing at 9 o'clock in the morning, apart from  
15 the singing?

16 A. At 9 o'clock in the morning, as you have just recalled, they did not start throwing  
17 stones, but they were marching, but they didn't go far, they would just go a short distance  
18 and then turn around. So they were turning around faster and quicker than on the  
19 previous day. So that is what they were doing while still singing.

20 THE INTERPRETER: Mr O'Shea is continuing to interrupt all the time.

21 MR O'SHEA:

22 Q. So they're singing, they come and they go, but they're not doing anything in  
23 particular other than singing?

24 A. Yes. At that time, yes.

25 Q. And apart from the singing, did you hear anything else at 9 o'clock in the morning?

1 A. No.

2 Q. Now, in 2011, there were some legal proceedings which took place in Côte d'Ivoire.  
3 I won't -- just to avoid identity, I won't mention the date of those proceedings, but there  
4 were some proceedings, legal proceedings in Côte d'Ivoire that you attended, where you  
5 told the judicial authorities in Côte d'Ivoire about what happened on the 25th or 26th of  
6 February. Do you remember doing that?

7 A. Well, I do not know what it was. I never met with Ivorian authorities.

8 Q. Is that right, you've never met with judicial authorities in Ivory Coast; is that what  
9 you are saying?

10 A. No, no, no. That is not what I want to say. If I understood your question correctly,  
11 did I meet with Ivorian authorities? The people I met with was Amnesty International,  
12 and they came later as well as people from the Court.

13 Q. Have you given evidence in judicial proceedings or evidence between the -- before  
14 the public prosecutor in Ivory Coast?

15 A. Never.

16 Q. Never. Did you talk to a huissier?

17 A. Jamais.

18 Q. Jamais. So is it your position that the only official context in which you've spoken  
19 about your story is, number one, to the Prosecutor of this Court; number two, to Amnesty  
20 International?

21 A. First of all, to Amnesty International, and secondly, that is the investigators of the  
22 OTP.

23 Q. And apart from that you have taken part in no other --

24 MR O'SHEA: Sorry. I'll look in this direction.

25 Q. And apart from that, you have taken part in no other official investigation of the

1 burning of the mosque de l'antenne?

2 A. It was after the burning that I received all the investigators. (Redacted)

3 (Redacted)

4 Q. Sir, I didn't quite understand that, Mr Witness. You're saying that after -- after the  
5 events investigators came to you. So the question is --

6 A. Yes.

7 Q. -- did you see investigators from the state of Ivory Coast?

8 A. No. I received the mayor of Yopougon, at that time, who came and asked me about  
9 what had happened. That was two days after the event. Well, if that is what you are  
10 referring to as administration or authorities, all right, but otherwise I never talked to the  
11 Ivorian administration.

12 Q. So two days after who came to see you?

13 PRESIDING JUDGE TARFUSSER: No, wait a minute.

14 THE WITNESS: (Interpretation) It was the mayor of Yopougon because the burning  
15 took place in his constituency or locality.

16 MR O'SHEA: Can I have one moment to consult with my colleagues on a point of civil  
17 procedure?

18 PRESIDING JUDGE TARFUSSER: Yes, you can have one moment but, I don't know, if  
19 you have something why don't you contest it simply. But okay, I'm --

20 MR O'SHEA: Well, I'd just like some guidance on civil procedure --

21 PRESIDING JUDGE TARFUSSER: Okay, okay.

22 MR O'SHEA: -- which your Honour is more familiar with than me.

23 (Counsel confer)

24 MR O'SHEA:

25 (Redacted)

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. And did you tell him the following --

7 MR MACDONALD: Sorry, which reference are we talking about? What page?

8 What -- thank you.

9 MR O'SHEA: I'm making reference to CIV-OTP-0057-1371-R01.

10 MR MACDONALD: And which page, please?

11 MR O'SHEA: 3.

12 MR MACDONALD: I don't see a 3. I see ERN numbers.

13 MR O'SHEA: The third page.

14 MR MACDONALD: Which is page 1373?

15 MR O'SHEA: 1371.

16 MR MACDONALD: That's the first page?

17 MR O'SHEA: It's the third page of the document. It's the first page of the testimony.

18 MR MACDONALD: Could you at the bottom left or right, there is an ERN number

19 which helps everybody to understand. That's the way we name things.

20 MR O'SHEA: Yes, I don't think we should be talking to each other across the courtroom.

21 There is a Bench here. But the ERN number is CIV-OTP-0057-1371-R01 in terms of the

22 page I'm looking at. And the reference referred to by my learned friend in the right-hand

23 corner is CIV-OTP-0057-1373.

24 MR MACDONALD: Thank you.

25 MR O'SHEA:

1 Q. Did you say the following:

2 (Interpretation) "On Friday, 25 February 2011, at around 9 a.m., we were alerted by  
3 noises of gunshots on the road not far away from the mosque."

4 Did you say that?

5 A. To the president of the committee, I believe so. It was in the presence of Amnesty  
6 International. It was in his home that I said that because we saw each other rarely.

7 Q. So you said at that stage --

8 PRESIDING JUDGE TARFUSSER: You should have learnt by now that you should leave  
9 the witness ending his sentence and then start slowly with yours.

10 MR O'SHEA: Your Honour is quite right. I've been in the English courts for a few  
11 weeks, so I've got out of the habit. I'll --

12 PRESIDING JUDGE TARFUSSER: I would like to intervene continuously, don't worry,  
13 but I will, I refrain myself.

14 MR O'SHEA: Yes. I'll discipline myself.

15 PRESIDING JUDGE TARFUSSER: Yes.

16 MR O'SHEA:

17 Q. So you did say that you were alerted by the noises of gunfire at 9 o'clock?

18 A. Yes. Let me repeat. At 9 o'clock, no. There were people shouting and there were  
19 noises, but gunfire? I really do not believe so.

20 Q. So at 9 o'clock in the morning, these young people, they came and they left, but they  
21 were not in a battle with other young people?

22 A. No. They were singing going back and forth. That was at around 9 a.m. That is  
23 what they did first.

24 Q. So again when you met you say with the facilitation of Amnesty International, when  
25 you met with the president of the communauté musulmane, you did not say the following:



1 (Interpretation) "We went close to the mosque to see what was happening. It was a  
2 battle between the young people of the Doukouré neighbourhood and those of the Yao  
3 Séhi neighbourhood"?

4 You did not say that?

5 MR MACDONALD: Your Honours, I will formulate an objection. Are we talking  
6 about the same person? Look at the date of the age mentioned on that page, 1373 of that  
7 report. As I can -- if we follow the testimony of this witness so far, Amnesty  
8 International he would have met the following week. If we look at the date in question,  
9 which my colleague says he doesn't want to mention in public session, we're way beyond  
10 the week after in 2011. So therefore are we talking about the same person? That's the  
11 number one question and so on.

12 PRESIDING JUDGE TARFUSSER: What do you mean are we talking about the same  
13 person? Are you saying that the person speaking in that --

14 MR MACDONALD: Yes.

15 PRESIDING JUDGE TARFUSSER: -- report is somebody else?

16 MR MACDONALD: Well, we have to establish that.

17 PRESIDING JUDGE TARFUSSER: No. I --

18 MR MACDONALD: If we have to go into closed session, we'll go into closed session so  
19 that we can question more freely, because right now we're walking on eggs. But the  
20 point is is that I think we have to establish that because right now the date of birth is  
21 different, or eventually the Defence will have to call this l'huissier de justice.

22 PRESIDING JUDGE TARFUSSER: My question --

23 MR MACDONALD: But I understand that he set up the --

24 PRESIDING JUDGE TARFUSSER: My question is: Are you questioning that the person  
25 of which counsel is reading and confronting the witness with its declarations made

1     sometime in 2011 is different to the person sitting here as a witness in front of the

2     Chamber? Is this what you are saying?

3     MR MACDONALD: Yes. I don't know --

4     MR O'SHEA: Can I ask if the witness is listening to this?

5     PRESIDING JUDGE TARFUSSER: Yes. Well, he is listening, but it doesn't matter. But

6     now we have to clarify this because I don't know.

7     Can we just switch off Abidjan?

8     And I think also go in private session just to clarify this.

9     (Public session at 4.35 p.m.)

10    (Redacted)

11    (Redacted)

12    (Redacted)

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Trial Hearing

(Private Session)

ICC-02/11-01/15

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Trial Hearing

(Private Session)

ICC-02/11-01/15

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Trial Hearing

(Private Session)

ICC-02/11-01/15

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Trial Hearing

(Private Session)

ICC-02/11-01/15

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17 (Open session at 4.49 p.m.)

18 MR O'SHEA: All right. We'll try to arrange for two more copies of this document for  
19 the judges.

20 PRESIDING JUDGE TARFUSSER: I can do that. We have it, we have it in -- I have it  
21 here. Don't worry.

22 THE COURT OFFICER: We're in open session, Mr President.

23 PRESIDING JUDGE TARFUSSER: Thank you very much.

24 Yours the floor.

25 MR O'SHEA: Your Honours, thank you.

1 PRESIDING JUDGE TARFUSSER: But the witness should hear us. He's not hearing us  
2 yet.

3 We have about 10 minutes, Mr O'Shea.

4 THE COURT OFFICER: (Via video link) We can hear you.

5 MR O'SHEA:

6 Q. Yes, Mr Witness, can you hear me?

7 A. Yes.

8 Q. Now, before we broke off with you, I put a question, and I'm going to put the  
9 question again. Did you say the following: (Interpretation) "We went towards the  
10 mosque to see what happened. There had been a battle between the young people from  
11 the Doukouré neighbourhood and the young people from another neighbourhood."  
12 Is that what you said?

13 A. \* Umm, in the statement I had given, no. there were constant battles between the  
14 groups. That happened all the time, yes.

15 Q. So at 9 o'clock in the morning on that day, 25 February 2011, when you started to  
16 notice something going on, did you notice a battle between the young of Doukouré and  
17 those from the quartier Yao Séhi?

18 A. That day, no.

19 Q. Now, these two vans that you say arrived, the white vans, what time did they arrive  
20 in the day on that day?

21 A. Well, the time, the day, you'll have to pardon me, but it was in the afternoon when  
22 we had finishing praying, when the imam ordered to usher the faithful out and to close  
23 the mosque, it was after that. So it was afternoon and also after 1 o'clock, I would say.  
24 It was in the afternoon.

25 Q. And if I'm -- if I've understood you correctly, there was one further vehicle which



1 came even later in the day, a vehicle Kia?

2 A. Of course so.

3 Q. Now again when you went to speak with the president of the communauté  
4 musulmane, did you say that (Interpretation) "At around 2 in the afternoon, a  
5 four-by-four kind of vehicle, white in colour, with uniformed men aboard, stopped at the  
6 office of the CNI-COCY"?

7 A. \*During that time he was no longer there. The president of our committee was no  
8 longer there. He must have left\* It was after the event, it was during the following weeks  
9 that I took the people from Amnesty International home, once the president was already back.

10 Q. Yes. This is what you're telling somebody after the events. I understand that.

11 And do you also tell them that:

12 (Interpretation) "A second vehicle, white in colour, with other uniformed men aboard  
13 arrived with a dump truck, sort of a Kia dump truck"?

14 A. \* Yes. Now, the two CECOS trucks, they came as I told you and they were -- it was  
15 already the afternoon. And there were uniformed men indeed, yes. After that, around  
16 1600 hours, just before torching the mosque, the Kia vehicle arrived, yes.

17 Q. Now, when the mosque was being stoned, was it being stoned only by young  
18 people or was it being stoned by young people and police and soldiers?

19 A. \*It was the uniformed men, people wearing camouflage uniforms, who brought them.  
20 They were the ones who brought them. But it was the young people who were throwing  
21 stones at the office of the CNI-COCY.

22 Q. When you gave a statement to the Prosecutor of this Court, and I'm referring to  
23 paragraph 48 of that statement, four lines down, page 10, you said this to the investigators  
24 for the Prosecution of the International Criminal Court:

25 (Interpretation) "I went to see him at his home, and I informed him that groups made up

1 of police officers, civilians and uniformed men wearing camouflage clothing are in the  
2 process of throwing stones at us." Is that incorrect?

3 A. Yes, but there is one specific point to clear up. During that time as we were speaking, I  
4 didn't say that the uniformed men did not respond\* But during that time, they were led  
5 ... they were the ones who ... which is why the young people from the neighbourhood  
6 did not go out, because the uniformed people were out front and so perhaps it was to  
7 influence the young people of the Doukouré neighbourhood. So you see, they were  
8 amongst them. But throwing stones, that I cannot prove. I said that they did throw stones,  
9 yes. Of course I said that since they were amongst ... they were there and they were  
10 supposed to intervene, but they didn't. But they didn't punish them for that. Yes, they  
11 were amongst them when they were throwing stones.

12 Q. So your position now is that they were present, the police and the soldiers, but they  
13 themselves were not actually throwing stones? Is that your position at the moment?

14 A. Yes, yes, if you wish.

15 MR O'SHEA: That would be a convenient moment if your Honours please.

16 PRESIDING JUDGE TARFUSSER: I would say it's also convenient because it's 5 o'clock.

17 MR O'SHEA: Yes.

18 PRESIDING JUDGE TARFUSSER: So it's very convenient. I think we stop here. We  
19 resume tomorrow at the same time as we did today because we are still connected with  
20 Abidjan. So I would -- by the way, Mr O'Shea, I've seen that you have studied the  
21 directives on paragraphs, on some of the paragraphs, you forgot a little bit to study better  
22 the 22, 23, 24 and 26, 27, but it's okay just for the homework for you.

23 Okay. Thank you very much. Tomorrow at 10.30. Thank you.

24 THE COURT USHER: All rise.

25 (The hearing ends in open session at 5.00 p.m.)