

1 International Criminal Court
2 Pre-Trial Chamber I - Courtroom 1
3 Situation: Republic of Côte d'Ivoire
4 In the case of The Prosecutor v. Laurent Gbagbo - ICC-02/11-01/11
5 Presiding Judge Silvia Fernández de Gurmendi, Judge Hans-Peter Kaul and Judge
6 Christine Van den Wyngaert
7 Confirmation of Charges Hearing
8 Friday, 22 February 2013
9 (The hearing starts in open session at 2.32 p.m.)
10 THE COURT USHER: All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Good afternoon.
14 We shall now begin.
15 Court officer, please read out the case.
16 THE COURT OFFICER: (Interpretation) Yes, your Honour. Situation in Côte d'Ivoire,
17 in the case of The Prosecutor versus Laurent Gbagbo, ICC-02/11-01/11.
18 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you.
19 Now, I see that Mr Gbagbo is here today. Do you feel well?
20 Are there any changes in the composition of the various teams?
21 MR ALTIT: (Interpretation) No change.
22 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Very well.
23 We shall now resume these hearings.
24 The Prosecution now has the floor.
25 MR MACDONALD: (Interpretation) Thank you, your Honours.

1 As we were saying yesterday, the last presentation by the OTP will be given by
2 Mr Gallmetzer, and it is possible that the presentation may go beyond the 60 minutes and
3 so I think it might be better for us to have our break after an hour and then resume. And
4 I'll now give the floor to my esteemed --

5 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) I didn't
6 understand. You're going to stop and then resume? Very well.

7 MR ALTIT: (Interpretation) No problem.

8 MR GALLMETZER: Good afternoon, Madam President, your Honours.

9 I'm going to present now the facts and the evidence that are relevant to establish
10 individual criminal responsibility of Mr Gbagbo.

11 The Prosecution alleges that Mr Gbagbo bears individual criminal responsibility for the
12 crimes charged as an indirect co-perpetrator pursuant to Article 25(3)(a).

13 My presentation will focus on how Mr Gbagbo contributed to the realisation of the
14 material elements of the crimes. I will then also briefly deal with the other elements of
15 indirect co-perpetration, and eventually add a few remarks on the Prosecution's other
16 legal characterisation of the facts and Article 25(3)(d) of the Statute.

17 Your Honours, the evidence linking Mr Gbagbo to the crimes must be viewed in the
18 context of the crime-base evidence that was discussed yesterday. That evidence
19 demonstrates that the four incidents were carried out by a well-organised structure of
20 power, in a co-ordinated manner and in pursuance of the common plan, but most
21 importantly that evidence shows that pro-Gbagbo forces acted in pursuance of
22 instructions from their superiors.

23 This, your Honour, constitutes linkage evidence from the bottom up, and from there, we
24 suggest, it is a small step to link Mr Gbagbo to the crimes; Mr Gbagbo who was the
25 President of Côte d'Ivoire and the commander-in-chief of the army. He was the one who

1 controlled de facto and de jure all the pro-Gbagbo forces.

2 I will now discuss how Mr Gbagbo contributed to the realisation of the objective elements
3 of the crimes.

4 Mr Gbagbo's conduct can be classified into six forms of contribution, each of which was
5 essential during the implementation of the common plan and to the commission of the
6 crimes.

7 First, Mr Gbagbo defined and adopted the common plan.

8 Second, he created a structure to implement the common plan.

9 Third, Mr Gbagbo provided his forces with weapons.

10 Fourth, he co-ordinated the implementation of the common plan.

11 Fifth, Mr Gbagbo instructed and incited his subordinates to implement the common plan,
12 and finally he encouraged his subordinates to commit crimes.

13 I will deal with all six forms now in turn, so first Mr Gbagbo defined and adopted the
14 common plan.

15 My colleague, Mr Dutertre, has already discussed the evidence that shows that
16 Mr Gbagbo, together with the members of his inner circle, adopted a policy to retain
17 power by all means, including by launching violent attacks against his political opponents
18 and by using lethal force against them. This policy, your Honours, constitutes a common
19 plan for the purposes of Article 25(3)(a).

20 Mr Gbagbo created and espoused a common plan that evolved around him. It was to
21 keep him in power and it was implemented by the forces controlled by him. The
22 widespread and systematic attack on perceived Ouattara supporters, including the four
23 incidents charged, had one purpose and one purpose only: To keep Mr Gbagbo in
24 power. Without that specific purpose, your Honours, that was defined by Mr Gbagbo,
25 the crimes would not have been committed.

1 Moreover, the mere fact that Mr Gbagbo supported the common plan and communicated
2 that publicly and to members of his inner circle, as well as to other subordinates,
3 constitutes an important contribution to the crimes.

4 Mr Gbagbo's subordinates at all levels committed the crimes knowing that their
5 unquestioned leader not only endorsed their activities, but that he expected them to do
6 what is necessary to keep him in power, including to commit the crimes that were
7 committed.

8 Second, your Honours, Mr Gbagbo created a structure within the government and the
9 pro-Gbagbo forces that ensured his absolute authority and control over them and enabled
10 him to implement the common plan through them.

11 The evidence shows that already prior to the election, and immediately thereafter,
12 Mr Gbagbo consolidated his power over the FDS by appointing or promoting persons
13 loyal to him into key positions in the FDS and in the government.

14 For instance, he appointed Mr Blé Goudé, the leader of the Galaxie Patriotique and the
15 Young Patriots, to the position of Minister of Youth. Your Honours, by so doing,
16 Mr Gbagbo legitimised and empowered Blé Goudé, the so-called "General of the Streets,"
17 and at the same time he instrumentalised him to ensure his control over the youth militia
18 who would later be chiefly involved in the commission of the crimes charged.

19 As stated by Witness P-87, it was clear that Blé Goudé was the link between the Gbagbo
20 regime and the Young Patriots.

21 Mr Gbagbo further ensured that the FDS, youth militia and mercenaries under his
22 authority and control had sufficient numbers in their ranks. This was to assure
23 Mr Gbagbo of their compliance with his instruction.

24 Witness P-9 gave evidence that shortly before the election Mr Gbagbo ordered the
25 Minister of Defence to recruit an additional 2,000 elements into the armed forces. This

1 order was followed. The new recruits were trained on the use of weapons, elementary
2 acts of fighting and disciplinary regulations. They received weapons as soon as they
3 were assigned to their units.

4 Your Honours, I will later provide my script to the Defence and to the Chamber that
5 includes all the detailed references to the quotes that I'm reading out now.

6 There is also evidence that during the post-election crisis Mr Gbagbo instructed his
7 subordinates to recruit youth militia and to integrate them into the FDS. Witness P-164
8 stated that President Gbagbo gave the order to integrate a large number of youth militia
9 into the FDS. He did so with a view to liberating Côte d'Ivoire after the 2002 crisis.

10 Witness 239 corroborates that Mr Gbagbo gave the order to recruit so-called militia into
11 the FDS. He specified that during the election campaign they were recruited through the
12 General Staff to the Republican Guard.

13 Further, Witness P-11 described the appeal that Blé Goudé and Mangou made to
14 thousands of youths in March 2011 asking them to enrol into the FDS, and he stated as
15 follows, and I quote. "The Head of State was aware of this appeal. The president
16 certainly gave his agreement to appeal to the young people," end of quote.

17 Also, Witness P-44 corroborates that Blé Goudé was following direct orders from
18 President Gbagbo. According to him, Blé Goudé could not have asked the youth to set
19 up roadblocks, to protest on the streets or to enrol in the army if he had not been asked to
20 do so by the president.

21 This order again, your Honours, was complied with and the evidence shows that
22 thousands of youths were mobilised and recruited into the FDS.

23 Mr Gbagbo also oversaw the recruitment of mercenaries prior to and during the
24 post-election crisis. According to an email exchange of 19 December 2010 between
25 Mr Anselme Seka, a person close to Mr Gbagbo, and Mr Joel Deeb, the former inquired

1 about the conditions of hiring foreign fighters to deploy in Côte d'Ivoire.

2 Mr Deeb answered that he can make available 3,000 ex-marines and ex-Navy Seal Special
3 Forces. He specified that they would answer solely to Mr Seka and to President Gbagbo
4 and that these forces would be deployed within 15 days, and I quote "If President Gbagbo
5 agrees," end of quote. You will find this document at ERN-0021-1290.

6 Further, a handwritten document that the Prosecution seized in Mr Gbagbo's bedroom at
7 the presidential residence states that, on 28 May 2010, a former minister of the Gbagbo
8 government met with three persons and gave them over 1 million CFA francs to recruit 40
9 Liberian mercenaries. See ERN-0018-0084.

10 Another document dated 1 March 2011, which was also seized in Mr Gbagbo's bedroom at
11 the presidential residence, deals with the, and I quote, "... re-dynamisation and
12 reorganisation of the FDS to ensure the total security of Abidjan," end of quote. One of
13 the proposals put forward in that document is to, and I quote, "... recruit 50 experienced
14 and professional mercenaries to support the FDS," end of quote. See ERN-0018-0067.

15 Your Honours, these last two documents, as I indicated, they were both seized in the
16 bedroom of Mr Gbagbo at his private residence. They show what really occupied the
17 mind of Mr Gbagbo prior to and shortly after the election. They show how he prepared
18 for the election and how he reacted to it, by recruiting professional mercenaries.

19 Let me continue. Mr Gbagbo provided arms to pro-Gbagbo forces, thereby giving
20 them - giving the physical perpetrators of the crimes - the means to perpetrate these
21 crimes.

22 The evidence shows that Mr Gbagbo controlled a considerable amount of weapons and
23 ammunition, which were stored in the basement of the Presidential Palace. For instance,
24 Witness P-44 stated that he saw crates of heavy weapons, rocket launchers and
25 machine-guns in the basement of the Presidential Palace. Army trucks would come to

1 collect these weapons for distribution at military camps.

2 Prior to the post-election crisis, Mr Gbagbo instructed his subordinates to purchase
3 additional weapons. Witness P-9 stated that Mr Gbagbo was very concerned about the
4 difficulties in receiving weapons.

5 During three meetings with the FDS leadership prior to and during the post-election crisis,
6 the problem of receiving arms and ammunition was raised. During one such meeting in
7 October 2010, Mr Gbagbo instructed the Minister of Defence to purchase weapons,
8 including weapons of war, small arms, machine-guns and grenades.

9 Witness P-69 corroborates that the Defence Minister asked the president to sign a
10 document authorising the purchase of weapons.

11 Moreover, a letter seized at Mr Gbagbo's presidential residency states that on 23
12 February 2011 an Ivorian diplomat contacted the Head of State of the DRC, on behalf of
13 Laurent Gbagbo, asking him among others to provide military and police equipment.
14 See ERN-0018-0264.

15 Mr Gbagbo's efforts to obtain weapons were indeed successful. A special UN expert
16 panel reported that prior to and immediately after the November 2010 election, large
17 amounts of weapons and ammunition were purchased by members of his inner circle, and
18 I refer you to ERN-0021-0125 at paragraph 33.

19 Mr Gbagbo then proceeded to provide weapons and ammunitions to his forces.

20 Witness P-10 reports that during two meetings Mr Gbagbo -- between Mr Gbagbo and the
21 FDS leadership, held in February 2011, Mr Gbagbo assured his troops that he would
22 resolve any problems related to the shortage of weapons and ammunition.

23 Witness P-107 corroborates that he heard that, prior to the first round of elections,
24 Mr Gbagbo supplied weapons to youth militia, including those of Yopougon.

25 The evidence also shows that, in spite of the UN arms embargo against Côte d'Ivoire,

1 pro-Gbagbo forces were well-equipped and armed with conventional weapons and heavy
2 war weaponry which they used to commit the crimes.

3 Further, your Honours, Gbagbo co-ordinated the implementation of the common plan.

4 During the post-election crisis, Mr Gbagbo held regular meetings intended to co-ordinate
5 the implementation of the common plan. He was informed of the events on the ground
6 and he approved the activities of his subordinates.

7 Even if Mr Gbagbo did not always issue concrete orders, or express orders, he was at the
8 centre of all decisions that led to the implementation of the common plan and to the
9 commission of the crimes charged.

10 Witness P-44 gave evidence that, and I quote, "During the crisis, all the leaders of the LMP
11 were really attached to the president. They supported Mr Gbagbo in the fight to keep
12 him in power," end of quote.

13 Witness P-44 also stated that crisis meetings attended by Mr Gbagbo, the First Lady and
14 Blé Goudé, among others, were held two or three days a week, starting in January 2011.

15 According to Witness P-46, during the post-election crisis there were at least ten meetings
16 with the president that were attended by all the FDS generals and some of the
17 government ministers. Witness P-10 stated that the president summoned the FDS
18 generals twice to the Presidential Palace to report to him. During these meetings, the
19 Chief of Staff always explained the situation in the field.

20 Further, your Honours, Mr Gbagbo also met with the leaders of the Galaxie Patriotique
21 and in particular with Blé Goudé and he gave him concrete instructions.

22 Witness P-44 stated that Blé Goudé received instructions from Mr Gbagbo. All that Blé
23 Goudé said or did was approved by Mr Gbagbo. Blé Goudé passed his instructions on to
24 the youths and they were intended to keep Mr Gbagbo in power.

25 Witness P-11 corroborates that Mr Gbagbo and Blé Goudé were very close and met

1 regularly at the Presidential Palace.

2 The evidence further demonstrates that, during the post-election crisis, the FDS leadership
3 held regular daily meetings at the General Staff. The purpose of these meetings was also
4 to co-ordinate the implementation of the common plan. Mr Gbagbo was informed of the
5 content of these meetings, and he had one-to-one contacts with the senior FDS
6 commanders to follow up on events.

7 Witness P-9 stated that, although the president did not attend the meetings at the General
8 Staff, he was informed of their content through General Zogbo. If the president then
9 wanted specific information about an event, he would call the FDS generals to the
10 Presidency. The Army Chief of Staff would also call the president on the phone and
11 explain the situation to him. During the crisis, the Chief of Staff was in constant contact
12 with the president and sometimes he called him late at night.

13 This is corroborated by Witness P-11, who stated that Mr Gbagbo was notified of all
14 messages through General Zogbo. The Army Chief of Staff also very often directly
15 telephoned the president to report to him. He informed Mr Gbagbo of the whole
16 situation in the field.

17 Similarly, Witness P-10 stated that the president was aware of what was happening in the
18 field because the Army Chief of Staff was giving him regular reports.

19 Simone Gbagbo, the wife of Mr Gbagbo, also convened daily crisis meetings at the
20 presidential residence with some government ministers and FPI officials to co-ordinate
21 the implementation of the common plan. In addition, she convened meetings of the
22 CNRD that had the same purpose.

23 The evidence shows that the meetings convened by Simone Gbagbo were held with the
24 knowledge and the approval of Laurent Gbagbo, who attended some of these meetings.
25 Even if Mr Gbagbo was not present, no decision could be taken without him.

1 Let me refer you to the following examples of evidence that support this. After laying
2 out a road map of action to be taken to keep her husband in power, Simone Gbagbo noted
3 in her minutes of a CNRD meeting that the president must be consulted, and you will find
4 this at ERN-0018-0881, at page 0888 at the top right.

5 Witness P-11 also stated that, and I quote, "I know that the president was certainly
6 informed of these meetings. I'm sure that the president embraced the thinking
7 expressed," end of quote.

8 Witness P-44 also states that the president was aware of all instructions that were given by
9 his wife. Both were aware of everything. Each of them knew what the other was doing.
10 Next, Mr Gbagbo instructed and incited his subordinates to implement the common plan.
11 The crimes charged reflect Mr Gbagbo's instructions and acts of incitement and they were
12 a direct result thereof.

13 Let me go through one instruction after the other:

14 First, Mr Gbagbo issued an order to deploy the armed forces against political protesters.
15 In December 2010, when Ouattara supporters started to protest on the streets of Abidjan,
16 Mr Gbagbo ordered the armed forces to, and I quote, "Deal with the situation." This
17 order directly led to the crimes committed in the context of the RTI demonstration, as well
18 as those committed on 3 March 2011 in Abobo. It lay the ground for intervention of the
19 army, with its heavy war weaponry, against peaceful political demonstrators.

20 Witness P-9 gave evidence that in December 2010 Mr Gbagbo signed a decree by which he
21 required the armed forces, led by the Army Chief of Staff, to lend a strong hand to the
22 police and to the gendarmerie. Mr Gbagbo wanted to use all the force of the army and
23 its war weaponry to be engaged to stop the violence. When asked by the Prosecution
24 what violence he was referring to, Witness P-9 stated that Ouattara supporters organised
25 protests after election results were announced.

1 Witness P-10 corroborated that Mr Gbagbo instructed the Chief of Staff to assume control
2 of operations. This order, your Honour - and that's very important to appreciate - it
3 departed from the manner in which the army and the armed forces were generally
4 deployed.

5 Witness P-9 stated that it would usually be the gendarmerie and the police to deal with
6 protesters, as a matter of routine law enforcement and with conventional weapons. To
7 the knowledge of the witness, this was the first time that the president ordered the armed
8 forces with its heavy war weaponry to engage against protesters.

9 Witness P-9 explained, "If you require the army to deal with protesters, you require the
10 use of weapons of war." According to Witness P-9, the president wanted that these
11 demonstrations come to a quick end. He wanted that the army definitely solve the
12 problem.

13 He further stated that all senior FDS commanders held a meeting to discuss the
14 instruction of Mr Gbagbo. They concluded that based on their appreciation of what was
15 happening on the ground, the intervention of the army was not required. It would have
16 been sufficient to send the police with its conventional weapons. Nevertheless, Witness
17 P-9 says that the order of the president was implemented because the FDS is required to
18 follow these orders.

19 Witness P-10 corroborates this evidence. He stated that to deal with street protests in
20 general is a job for the police, who used tear-gas to disperse protesters. However, where
21 the army is deployed, he generally uses the array of weapons of war that it has at its
22 disposal.

23 A second order issued by Mr Gbagbo is to stop the 16 December march of Ouattara
24 supporters to the RTI. As you have already heard, Ouattara supporters announced a
25 peaceful march towards the RTI for 16 December 2010. Mr Gbagbo gave orders to the

1 FDS to use all means necessary to prevent the pro-Ouattara demonstrators from accessing
2 the RTI.

3 This instruction must be interpreted in light of Mr Gbagbo's prior order to use armed
4 forces against political demonstrators and his intention that these demonstrations come to
5 a quick end and that the army definitely solve the problem.

6 Witness P-10 stated that well before the demonstration, arrangements were made on how
7 to handle it. The day before, the Army Chief of Staff summoned the FDS generals to
8 discuss the measures that each unit should take during the demonstration. Witness P-10
9 expressly stated that the Chief of Staff received instructions to that effect from the
10 president and from two ministers.

11 Witness P-9 confirmed that the day before the demonstration, the Chief of Staff called a
12 co-ordination meeting at the General Staff with all FDS generals. The overall aim of the
13 operation was to prevent the demonstrators from accessing the RTI.

14 That the Army Chief of Staff acted on instruction of Mr Gbagbo can further be inferred
15 from the fact that Mr Gbagbo exercised control over the army, that the Chief of Staff has
16 pledged his loyalty to him and has been in his inner circle for many years. In fact,
17 already back in 2006, the Chief of Staff made it clear that he always consulted Mr Gbagbo
18 before taking any decisions.

19 Next, Mr Gbagbo ordered to lay siege to the Golf Hotel and its inhabitants. Witness P-46
20 stated that as soon as the election result was announced, Ouattara was at the Golf Hotel.
21 The FDS, with its heavy weapons of war and supported by police, stopped people going
22 to and from the Golf Hotel and this, according to Witness 46, was pursuant to an order of
23 the Head of State.

24 Witness P-44 corroborates that the order to block the Golf Hotel was issued by Mr Gbagbo
25 personally.

1 The evidence shows that Mr Gbagbo's order was implemented by pro-Gbagbo forces and
2 the siege of the Golf Hotel was maintained by means of violent attacks against persons
3 trying to leave or to reach the Golf Hotel. This is another example of how Mr Gbagbo
4 used the army against civilians in order to stay in power.

5 I now would like to refer to a number of acts of incitement that led to the crimes
6 committed in Abobo on 3 and 17 March 2011.

7 Witness P-10 stated that during a meeting with senior FDS commanders in late February
8 or early March 2011 Mr Gbagbo instructed his forces to, and I quote, "Stand firm and not
9 to lose Abobo." He said that he did not give specific operation instructions, but he
10 declared that the FDS must not lose Abobo.

11 Witness P-107 gave evidence that he saw Mr Gbagbo stating on TV that he would send
12 CeCOS and the police to clean - he used the term "clean" - Abobo and make a cemetery
13 out of Abobo because they were rebels.

14 Witness P-172 stated that although he did not see personally, everyone in Abobo spoke
15 about an interview that Laurent Gbagbo gave on TV in which he said that he will make
16 a cemetery out of Abobo and that all those who remained in Abobo were foreigners.

17 In addition, an Ivorian publication of 11 February 2011 reports that the deputy
18 commander of CeCOS stated that he was waiting for an order to "clean Abobo" and to put
19 an end to what was happening in Abobo. See this document at ERN-0021-0843.

20 Your Honour, he used the exact same terms that Mr Gbagbo used, to "clean Abobo."

21 This shows that pro-Gbagbo forces committed the crimes not on their own initiative, but
22 upon instruction of their superiors.

23 The meaning of the order of Mr Gbagbo to his forces to stand firm and to clean Abobo,
24 need to be interpreted in the context of other evidence that is before you. This includes
25 Mr Gbagbo's order to deploy the army against political protesters and his intention to use

1 whatever means necessary that the Ouattara demonstrations come to a quick end.

2 Why, your Honours? Why was Mr Gbagbo specifically targeting Abobo? Abobo is the
3 neighbourhood of Abidjan with the largest population and it is a Ouattara stronghold.

4 Witness P-172 stated that everyone who lived in Abobo was considered to be an enemy of
5 Gbagbo. Abobo is also the neighbourhood where many anti-Gbagbo demonstrations
6 were held.

7 In addition, Witness P-10 stated that Abobo is Abidjan, meaning that in order for
8 Mr Gbagbo to hold Abidjan, it was necessary to hold power over Abobo, and this
9 expresses the strategic importance of Abobo in the pursuance of the common plan.

10 The Prosecution does not contest that the Commando Invisible and the FDS engaged
11 against each other in Abobo during the post-election violence. However, in this case, we
12 must focus on the crimes that were committed by pro-Gbagbo forces against civilians in
13 Abobo.

14 Those crimes are totally unrelated to any activity of the Commando Invisible. To attack a
15 women's demonstration or to shell a market during daytime cannot possibly be perceived
16 as fighting the Commando Invisible. These crimes are not collateral damage and they
17 are not part of any legitimate FDS activities, but they are specifically intended to target
18 civilians perceived to support Ouattara in pursuance of the common plan.

19 Finally, your Honours, Mr Gbagbo made a number of statements that contributed to the
20 Yopougon massacre on 12 April 2011. Witness P-109 stated that at the beginning of
21 October 2010, Mr Gbagbo, together with Blé Goudé and other youth leaders, visited a
22 gathering of Young Patriots in Saguidiba neighbourhood of Yopougon.

23 Mr Gbagbo said, and this is now very important, that the youth, they should fight to
24 protect the nation and not to leave the country in the hands of the enemy. Fight to
25 protect the nation and not to leave the country in the hands of the enemies.

1 Yopougon, your Honours, was a Gbagbo stronghold. After this visit, Mr Gbagbo
2 ensured, through Blé Goudé, that his supporters in Yopougon were kept ready to fight.
3 According to Witness P-108, Blé Goudé visited the parliaments of Yopougon several times.
4 Witness 109 corroborates that Blé Goudé held several meetings with Gbagbo supporters in
5 Yopougon. These meetings gathered a large number of people, and in his speeches Blé
6 Goudé called on the youth to protect their president and asked for the surveillance of their
7 neighbourhoods against the rebels.

8 As stated before, Mr Gbagbo provided his forces with weapons. In particular, P-107
9 heard that prior to the first round of election, Mr Gbagbo supplied weapons to the youth
10 militia, including those of Yopougon.

11 Witness 108 stated that weapons were stocked in the parliaments of Yopougon and he, as
12 well as Witness 109, saw armed Young Patriots in the streets of Yopougon.

13 The impact that Mr Gbagbo's statement at Saguidiba had on the armed youths of
14 Yopougon must also be viewed in light of the fact that Mr Gbagbo controlled the youth
15 through Blé Goudé. On several occasions, including towards the end of March, Blé
16 Goudé called the youth militia of Yopougon to join the army to ensure that Gbagbo stayed
17 in power.

18 Eventually, a few days before his arrest, on 9 April 2011, Mr Gbagbo issued a
19 communiqué, a copy of which the Prosecution found in the bedroom of Mr Gbagbo's
20 bunker in the basement of the presidential residency, where Mr Gbagbo spent the last
21 days prior to his arrest.

22 In this communiqué, Mr Gbagbo called upon the people to continue the resistance and to
23 fight against, and I quote, "Ouattara and his terrorists," end of quote. See
24 ERN-0018-0564.

25 The term "terrorists," your Honours, used by Mr Gbagbo generally refers to Ouattara

1 supporters. Mr Gbagbo and members of his inner circle have previously used degrading
2 terms such as "bandits" to refer to them. For instance, during a cabinet meeting on 22
3 February 2011, the Prime Minister stated that, and I quote, "We must use the term
4 'terrorists' when referring to the protesters," end of quote. You can find this at 0025-0082
5 at 0084.

6 The evidence shows that this communiqué was distributed to Gbagbo support groups and
7 I specifically refer you to the evidence included in footnote 386 of the footnoted DCC. It
8 was issued at the time when the FDS were disintegrating. Nevertheless, Mr Gbagbo
9 wanted to pursue the implementation of the common plan and called upon the forces that
10 continued to be loyal to him; namely, youth militia, mercenaries and the remaining FDS
11 forces.

12 Mr Gbagbo's arrest on 11 April then triggered the Yopougon massacre. His supporters
13 took revenge for their leader's arrest, but his arrest does not mean that the common plan
14 ceased to exist.

15 In fact, as demonstrated by Mr Gbagbo's communiqué just a few days earlier and when
16 Gbagbo was already surrounded in his bunker by enemy forces and his physical
17 apprehension was only a question of time, he called upon his forces to continue the fight.
18 He did not ask for a fight against the enemy forces to be continued. He asked for the
19 continuation of the fight against Ouattara and his political supporters. He wanted the
20 violent power struggle to continue. This shows, your Honours, that the common plan
21 was meant to be continued beyond Mr Gbagbo's arrest that was foreseeable at the time.

22 In fact, as demonstrated by the evidence, pro-Gbagbo forces continued to commit crimes
23 beyond his arrest, and at least until 8 May 2011 and including the Yopougon massacre on
24 12 April 2011.

25 The next form by which Mr Gbagbo contributed to the commission of the crime is by

1 encouraging his subordinates to commit a crime. On 27 August 2010, Mr Gbagbo gave a
2 speech to a large number of police officers in Divo. During that speech he told - he
3 expressly told - his forces not to question the legality of the orders that they will receive
4 from their superiors, and he indicated to them that they would not be punished for any
5 measures that they would take.

6 Mr Gbagbo further encouraged his subordinates to commit the crimes by failing to take
7 measures that were within his power and authority to prevent, repress and punish the
8 commission of the crimes.

9 Your Honours, the widespread and systematic attack against Ouattara supporters were
10 committed over an extended period of time. Mr Gbagbo was informed of the situation
11 on the ground, among others through the FDS generals, but he did nothing to intervene.
12 This alone encouraged pro-Gbagbo forces to continue committing the crimes in
13 implementing the common plan.

14 In addition, Mr Gbagbo encouraged his subordinates to commit the crime by giving them
15 a personal motive to do whatever is necessary to keep him in power. Mr Gbagbo made it
16 clear to his subordinates, in fact, that their careers depend on him staying in power.

17 Witness P-239 stated that Mr Gbagbo repeatedly reminded the senior generals of the FDS
18 that, if he falls, then they will all fall.

19 Witness P-239 also stated that Gbagbo promised the Young Patriots that they would be
20 incorporated in case of victory; incorporated in the army in case of victory.

21 The evidence also shows that throughout his Presidency, and including during the
22 post-election violence, Mr Gbagbo paid the leaders of the youth militia monthly
23 allowances.

24 Your Honour, I will now continue and briefly touch upon the other elements of indirect
25 co-perpetration under Article 25(3)(a), starting with the existence of an organised and

1 hierarchical apparatus of power.

2 The evidence shows that the common plan that I've previously referred to was
3 implemented through an organised structure of power. This hierarchy was comprised of
4 the Ivorian Defence and Security Forces, the FDS, which was reinforced by pro-Gbagbo
5 youth militia and mercenaries.

6 In the Document Containing the Charges, at paragraphs 59 to 67, the Prosecution refers to
7 this hierarchy as, "The pro-Gbagbo forces," and we have used this term also throughout
8 our presentation.

9 Now, the FDS. The FDS has five branches that were involved in the commission of the
10 crimes. These are the armed forces; the gendarmerie; the Republican Guard; CeCOS; and
11 the police. Each of these five branches was headed by a member of Mr Gbagbo's inner
12 circle, who ultimately answered to Mr Gbagbo either directly, or through one of
13 Mr Gbagbo's government ministers.

14 For instance, Witness P-9 gave evidence that during the crisis period the Chief of Staff
15 co-ordinated the armed forces, the gendarmerie and the police. On the ground, the
16 Director of the Police was responsible for directing the operation of the police, the
17 gendarmerie and CeCOS. In the evening, they would then all meet at the état-major to
18 brief the Chief of Staff.

19 The evidence also shows that the FDS had a clearly defined command structure and
20 reporting lines, and that orders issued by commanders were relayed down the chain of
21 command to the subordinates.

22 Witness P-9 described that for each operation the Chief of Staff would assess the situation,
23 then assign missions to each unit. He would give orders to report to him, orders
24 regarding when to fire and orders regarding how to conduct themselves with regard to
25 the general population. Each unit and soldier on the ground was in turn commanded by

1 their own leaders, who they reported to. These leaders gave instructions in keeping with
2 the orders that the Chief of Staff issued.

3 According to Witness P-9, the Chief of Staff reported to the Minister of Defence and then
4 to President Gbagbo, either directly or through the Minister of Defence, and this, your
5 Honour, is corroborated by Witness P-11.

6 The evidence also shows that Mr Gbagbo and the FDS commanders were routinely
7 informed by the subordinates on the events on the ground.

8 The youth militia is a second component of the hierarchically organised pro-Gbagbo
9 forces. Prior to 2010, and during the post-election crisis, Mr Gbagbo and his inner circle
10 systematically recruited thousands of volunteers from the Galaxie Patriotique to
11 contribute to the implementation of the common plan. These youths that were engaged
12 by Mr Gbagbo are referred as the youth militia, and it does not matter, your Honours, for
13 the purpose of our case whether certain individuals are formally associated with the
14 Galaxie Patriotique or the Young Patriots. All that matters is that these are the youths
15 that were effectively utilised, engaged, instrumentalised by Gbagbo and his apparatus,
16 also through Blé Goudé, to implement the common plan. These are the youth militia.

17 Witness P-44 describes the Young Patriots as being very well-organised. They had a base
18 in each district and neighbourhood, with a representative in each area who received
19 orders from high up in the chain of command and passed these orders to the members at
20 their base.

21 Witness P-44 also stated that Blé Goudé was the head of the Galaxie Patriotique, there
22 were several sub-leaders and each sub-leader had specific responsibilities regarding the
23 orders to be given to the youth in their area. Some were responsible for giving orders
24 regarding the erection of roadblocks, some regarding the monitoring of persons and some
25 regarding the driving out of those who were perceived as rebels.

1 Many of the youth militia were armed and underwent military training. P-44 gave
2 evidence that Blé Goudé had 7,000 youths undergo military training in the Banco Forest in
3 Yopougon and in the interior of the country.

4 The youth militia were controlled by the FDS and they conducted joint operations under
5 the leadership of the FDS. The evidence shows that the youth militia were also
6 effectively integrated into the chain of command of the FDS. This was done not only
7 towards the end of the post-election violence, when they were officially integrated, but
8 long before. In fact, Mr Gbagbo has relied on the youth militia as an integral part of his
9 armed forces throughout his Presidency.

10 During that entire period he paid their leaders, including Blé Goudé, monthly allowances.
11 Moreover, Witness 164 stated that youth elements referred to as "the Blé Goudé
12 contingent" were integrated into the army. They were pro-Gbagbo and were guaranteed
13 impunity for whatever they did. They executed the plan of Blé Goudé, and they were
14 the most violent elements within the forces. In fact they implemented any order from
15 their superior, even if it violated criminal law.

16 The third component of the pro-Gbagbo forces, your Honours, are pro-Gbagbo
17 mercenaries. The evidence shows that both before and during the post-election crisis
18 Mr Gbagbo and his inner circle systematically recruited, financed and armed thousands of
19 mercenaries, primarily from Liberia, to contribute to the implementation of the common
20 plan.

21 For instance, Witness P-44 gave evidence that Bertin Kadet, the personal adviser of
22 Mr Gbagbo, made the mercenaries come from Liberia to Côte d'Ivoire, and Pastor Mori,
23 the personal pastor of Mr Gbagbo, was responsible for buying arms for them.

24 Mercenary elements were placed under FDS command and they operated together with
25 the FDS and pro-Gbagbo youth militia. For instance, Witness P-9 stated that the

1 Republican Guard was supported by mercenaries. They were hired, took the money and
2 they did what they were told to do.

3 Your Honours, if this is a good moment, we could take a break now and I will have some
4 ten to 15 minutes left after the break.

5 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Yes, thank you. I
6 believe that it is the right time for us to take a break and we will reconvene in
7 half-an-hour.

8 THE COURT USHER: All rise.

9 (Recess taken at 3.27 p.m.)

10 (Upon resuming in open session at 4.00 p.m.)

11 THE COURT USHER: All rise.

12 Please be seated.

13 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) The sitting now
14 resumes. Please proceed.

15 MR GALLMETZER: I'm now going to talk about Mr Gbagbo's control over the
16 organisation, or what we call also the ability of Mr Gbagbo to cause the organisation to
17 commit the crime.

18 Mr Gbagbo, together with the members of his inner circle, controlled the pro-Gbagbo
19 forces, and first I'm going to talk about how he controlled the FDS.

20 As demonstrated before, during the post-election crisis, the FDS had a functioning chain
21 of command and structure. Mr Gbagbo was on top of this structure and he exercised
22 absolute de jure and de facto control over it.

23 According to Article 47 of the Ivorian Constitution, Mr Gbagbo was at the top of the
24 structure as the Supreme Commander of the Armed Forces. Mr Gbagbo also had de jure
25 power over the gendarmerie, CeCOS, the Republican Guard and the police. Their

1 respective heads either reported directly to Mr Gbagbo or they reported to the Ministers
2 of Defence or Interior or to the Army Chief of Staff, who then reported to Mr Gbagbo.
3 In addition to his de jure power, Mr Gbagbo also exercised de facto power over all five
4 branches of the FDS that we are considering for these purposes. He consolidated his
5 control over the FDS by appointing persons who were loyal to him to key positions within
6 the government and the FDS, and that effectively allowed him to control the FDS, to
7 implement the common plan through the FDS.

8 On 3 December 2010 - and this is just one example of all the evidence that we have
9 referred to in our Document Containing the Charges - on 3 December 2010, the entire FDS
10 leadership declared its loyalty to Mr Gbagbo. The Chief of Staff made the following
11 statement in the presence of the entire FDS leadership, and I quote, "We came to show our
12 admiration for the President, to reiterate our loyalty and to tell him that we are ready to
13 accomplish any mission that he entrusts to us."

14 Mr Gbagbo also controlled the youth militia, and he controlled them primarily through
15 Blé Goudé. The evidence shows that Blé Goudé was very close to Mr Gbagbo and, as
16 indicated before, Mr Gbagbo appointed Blé Goudé to a post within his government, and
17 in fact as the Minister of Youth.

18 Witness P-87 described how Blé Goudé incited thousands of people at a public gathering.
19 He stated that Mr Gbagbo did not need to be present. It was clear that there was a direct
20 link between what the Gbagbo regime wanted and what the Young Patriots would do.
21 Blé Goudé was the link between them.

22 Witness P-44 said it was impossible for Blé Goudé to command the youth, to control the
23 streets of Abidjan, without the consent of the president. All the powers of Blé Goudé
24 over the youth were based on instructions that he received from Gbagbo.

25 Mr Gbagbo and members of his inner circle were in personal contact with other leaders of

1 the youth militia, and he gave the youth militia instructions on the implementation of the
2 common plan. Moreover, Mr Gbagbo controlled the youth militia through the FDS in
3 whose command structure they were integrated.

4 Finally, Mr Gbagbo and his inner circle were also in control of the mercenaries. His
5 subordinates recruited, financed and armed the mercenaries, and as demonstrated before,
6 Mr Gbagbo oversaw their recruitment.

7 Mr Gbagbo also controlled the mercenaries through the FDS, with whom they co-operated
8 and into whose command structure they were integrated.

9 Now, very briefly on the subjective elements of indirect co-perpetration, I'd like to
10 mention that the evidence presented by the Prosecution demonstrates that Mr Gbagbo
11 acted with intent and knowledge. Without repeating our submissions that we made in
12 the Document Containing the Charges, I specifically refer the Chamber to the facts and the
13 evidence laid out in paragraphs 87 to 91 of the Document Containing the Charges from
14 which Mr Gbagbo's intent and knowledge can be inferred.

15 And eventually, with your permission, I would like to make some observations on the
16 other possible legal characterisation of the facts that the Prosecution put forward in its
17 Document Containing the Charges; namely, under Article 25(3)(d).

18 It is our position that the elements of Article 25(3)(d) are largely included in those of
19 indirect co-perpetration pursuant to Article 25(3)(a). To the limited extent that this is not
20 the case, the facts and circumstances in this particular case, and as specified in the
21 Document Containing the Charges and the evidence submitted by the Prosecution, fully
22 cover all the elements of Article 25(3)(d), and please allow me now to go through
23 one-by-one of these elements and explain how they relate to each other.

24 First, the element of Article 25(3)(d), that a crime within the jurisdiction of the Court was
25 committed, is fully subsumed in the element of Article 25(3)(a) that the accused and other

1 co-perpetrators must provide contributions that resulted in the fulfilment of the material
2 elements of the crime.

3 Second, the element of Article 25(3)(d), that a group of persons acting with a common
4 purpose committed this crime, is largely included in the element of Article 25(3)(a),
5 requiring proof of a common plan or agreement between the accused and one or more
6 persons.

7 As stated by another Chamber of this Court, and I quote, "The concept of common plan is
8 functionally identical to the statutory requirement of Article 25(3)(d) that there be a group
9 of persons acting with common purpose." End of quote.

10 However, please allow me to specify, while indirect co-perpetration does not require the
11 physical perpetrators of the crime to espouse the common plan, Article 25(3)(d) requires
12 that the crime be committed by a group of persons acting with a common purpose.

13 Nevertheless, in this case, the evidence shows that the physical perpetrators of the crimes
14 and their immediate supervisors also espoused the common plan, and therefore acted
15 pursuant to a common purpose that included them but also Gbagbo and members of his
16 inner circle, and this can be inferred, among others, from the following facts:

17 (a) The physical perpetrators and their immediate supervisors implemented the
18 common plan in a co-ordinated manner. This is demonstrated by the evidence and the
19 facts not only in relation to the four crime incidents that were laid out yesterday, but also
20 by other incidents that show a wide-spread and systematic attack against civilian
21 population. All these incidents of crime were perpetrated by pro-Gbagbo forces
22 applying the same manner, the same modus operandi as shown throughout the entire
23 period.

24 (b) Members of the pro-Gbagbo forces expressed that they share a common plan, and this
25 can be seen in the evidence included in footnote 146.

1 (c) The members of the pro-Gbagbo forces also explicitly expressed their intention to
2 commit crimes to keep Mr Gbagbo in power. You have heard some examples during
3 yesterday's presentation in relation to the four incidents, when again and again reference
4 was made to Mr Gbagbo and keeping Mr Gbagbo in power and targeting those who are
5 opposed, namely Ouattara and his supporters, but please allow me in addition also refer
6 to the evidence included in the following footnotes of our DCC: 148, 198, 216, 219 to 221,
7 224, 226 to 229, 245 to 247. So there is overwhelming evidence that in this case the
8 physical perpetrators acted with the intent to keep Mr Gbagbo in power.
9 Moreover, and this is very important, Mr Gbagbo gave his subordinates personal motives
10 to do whatever is necessary to keep him in power. As stated by Witness 239, Mr Gbagbo
11 repeatedly reminded his senior commanders that if he falls, they will all fall, implying that
12 their careers will depend on him staying in power.
13 Similarly, Witness 239 also stated that Mr Gbagbo promised the Young Patriots that they
14 would be incorporated in the army in case of victory. So, again, they would get a job.
15 They will be involved in case Mr Gbagbo stayed in power.
16 Also, he has been paying the leaders of the Young Patriots a considerable amount of
17 money over years. Obviously, these payments are also dependent on Mr Gbagbo staying
18 in power. And as far as the mercenaries are concerned, the mercenaries were paid, and
19 they were paid a lot. Serving Mr Gbagbo's regime in pursuance of the common plan was
20 a very profitable business for them which obviously was also dependent on Mr Gbagbo
21 staying in power, and evidence to that effect you will find on ERN-0021-0129.
22 In addition, that the pro-Gbagbo forces espoused a common plan can also be inferred
23 from the fact that they operated in a structure that had a functioning chain of command
24 and that their political and military leaders, including Mr Gbagbo and his inner circle,
25 adopted the common plan and consistently acted in pursuance of implementation. So

1 this inference, your Honour, is based on jurisprudence of this Court, and please allow me
2 to refer to the decision ICC-01/09-01/11-373, at paragraph 352.

3 Third, the element of Article 25(3)(d) that the accused contributed to the crime is included
4 in the element of Article 25(3)(a) that the accused provide a contribution to the common
5 plan and through it to the crime.

6 Article 25(3)(d) requires a lower level contribution than indirect co-perpetration.

7 Therefore, the threshold of contribution to a crime under Article 25(3)(d) is necessarily
8 met by contributions that are designed to meet the higher threshold under Article 25(3)(a).

9 We submit that both Article 25(3)(a) and 25(3)(d) require a contribution to the crime, even
10 if under Article 25(3)(a) this contribution is made through the common plan. There must
11 be, in our submission, a causal link between the act and conduct of the accused and the
12 commission of the crime. Otherwise, it is our position a person would be held
13 responsible under Article 25(3) for committing a crime without actually having
14 contributed to it.

15 Fourth, the element of Article 25(3)(d) that the contribution is intentional is fully
16 subsumed in the element of Article 25(3)(a) that the accused acted with intent.

17 Fifth, the element of Article 25(3)(d)(i) that the contribution was made with the aim of
18 furthering the criminal activity or criminal purpose of the group can be established by the
19 evidence presented by the Prosecution to prove that Mr Gbagbo espoused the common
20 plan, that he consistently acted towards its implementation through pro-Gbagbo forces
21 that he controlled and that he had the necessary intent and knowledge for the purposes of
22 Article 25(3)(a).

23 Finally, the element of Article 25(3)(d)(ii) that the contribution was made in the
24 knowledge of the intention of the group to commit the crime is to a large extent subsumed
25 in the material elements of Article 25(3)(a). Although these elements do not necessarily

1 cover knowledge of the intention of the physical perpetrators, in this case that can be
2 inferred from the evidence and the facts relied upon by the Prosecution to establish the
3 mental elements of Article 25(3)(a) as referred to in Article -- or, sorry, in paragraphs 87 to
4 91 of the Document Containing the Charges.

5 As already indicated on the first day, your Honours, even if the Chamber is satisfied that
6 the Prosecution evidence establishes substantial grounds to believe that Mr Gbagbo
7 committed the crimes as an indirect co-perpetrator, the Prosecution nevertheless invites
8 the Chamber to enter findings under Article 25(3)(a), as well as under Article 25(3)(d)(i)
9 and (ii). This is to present the other possible legal characterisation also to the Trial
10 Chamber and to restrict the need to employ Regulation 55 at trial.

11 Madam President, your Honours, I will now end my presentation here, but I would like to
12 add that the Prosecution is planning to present submissions on its interpretation of the
13 law both under Article 25(3)(a) and 25(3)(d) in its written closing submissions.

14 Thank you very much.

15 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you.

16 Well, before you conclude, Judge Kaul has a question for you.

17 JUDGE KAUL: Yes, I have a question which is directed to the Prosecution obviously.

18 You have explained at first in some detail the mode of criminal responsibility pursuant to
19 Article 25(3)(a) and subsequently you have explained that, according to the Prosecution,
20 Article 25(3)(d) may also be applicable.

21 Well, I believe that it is a natural task of the Prosecution to examine carefully all possible
22 modes of criminal responsibility, and I would be interested to know what were the
23 considerations - the considerations of the Prosecution - with regard to criminal
24 responsibility pursuant to Article 28, responsibility of commanders and other superiors?

25 I'm aware that this question comes in a way as some surprise, and taking into account this

1 I would accept -- I would accept that the Prosecution would find it necessary to consult a
2 little bit and to reflect a little bit with the entire team before an answer to this question - a
3 full and considered answer - is given, but of course if the Prosecution feels able to provide
4 us now with a full and considered response to this question I -- well, I for myself would be
5 interested in hearing it.

6 That's my question.

7 MR GALLMETZER: Thank you very much for your question, and I am -- having already
8 prior to this hearing consulted with the team, I'm prepared to give you an answer at this
9 stage.

10 As said on the first day, the Chamber in its decision on the warrant of arrest indicated that
11 the precise mode of liability in this case may be subject to specification in due course, and
12 we have taken that opportunity to carefully consider every single mode of liability on
13 Article 25 and Article 28 to see how it is applicable in this particular case.

14 Our conclusion was that, based on the facts and the evidence that I put forward to you
15 this afternoon, we believe that every single mode of liability, except direct personal
16 perpetration, under Article 25(3)(a) is met.

17 In relation to your specific question under Article 28, we have alleged that one form of
18 encouragement of Mr Gbagbo to his troops was by failing to take measures to prevent,
19 repress and punish his subordinates, who have started to commit the crimes in pursuance
20 of the implementation of the common plan and who have started committing wide-spread
21 and systematic attacks against the civilian population.

22 We have also provided the evidence to you that Mr Gbagbo had knowledge of the crimes
23 committed by his subordinates. We have submitted to you that he was regularly
24 informed, primarily through his command structure of the FDS, primarily through the
25 Army Chief of Staff and General Zogbo, of the events on the ground.

1 Mr Gbagbo co-ordinated the implementation of the common plan. He was hands-on.
2 What happened was, you know, the information of what happened on the ground was
3 available to Mr Gbagbo. The FDS had a functioning reporting line and he was on top of
4 it, so Mr Gbagbo knew everything that was happening, and eventually, as to the third
5 requirement of Article 28, Gbagbo was the commander-in-chief. He had effective control
6 and authority over all three branches of the FDS.

7 So this is in very short how the facts and evidence laid out in the presentation this
8 afternoon meet the requirements under Article 28. We are also prepared to supplement
9 these submissions in writing as part of our closing arguments.

10 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you.

11 JUDGE VAN DEN WYNGAERT: Thank you. I had a question about the organigram,
12 and I would ask you to be if possible a bit more specific about what you were saying in
13 respect of the youth militia and the mercenaries. On the one hand you say they are
14 integrated into the FDS and, on the other hand, you say they report directly to Mr Gbagbo.
15 Would there be some kind of an organigram that you could present to show reporting
16 lines and to show more concretely in what way the mercenaries and the youth militia
17 were integrated into this general structure?

18 MR GALLMETZER: I suggest that the best way to proceed would again be in writing
19 and to make this part of our closing submissions, but we have taken very good note of
20 your question and we will proceed accordingly, with your permission.

21 JUDGE VAN DEN WYNGAERT: Thank you.

22 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you.

23 Would that be the end of your presentation?

24 MR MACDONALD: (Interpretation) Madam President, your Honours, this will
25 conclude the Prosecution's presentations, but I think we need to deal with the HNE

1 numbers and we also have copies of this afternoon's presentation by our colleague.

2 Mindful of the fact that we have referred to the annotated DCC, it might also be

3 appropriate to submit that document and give it an HNE number.

4 I would also like to request that, although we had publicly mentioned this earlier, the

5 DCC and the footnotes, as well as references, be maintained as confidential to the extent

6 that there is information in writing which may not be appropriate to disclose and so we

7 want to make sure that we protect the identity of Prosecution witnesses. I do not see that

8 this would raise any problem, given that our presentations are already on the transcript.

9 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: Thank you.

10 Maître Altit?

11 MR ALTIT: (Interpretation) No problem.

12 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) We will then

13 assign the appropriate HEN numbers, as suggested, and take care of the confidential

14 aspects that you have raised.

15 So let us now hear the Defence. As we clearly understand that some of the Defence time

16 has been taken up, but maybe we could go up to 5 p.m. and then see what to do in order

17 to make up for the time that we owe you.

18 MR ALTIT: (Interpretation) Thank you, Madam President.

19 Regarding the time, Jennifer Naouri will be making our next presentation and will be

20 addressing the Court 'til Monday, so we are in your hands, your Honour. We could

21 either stop at 5 p.m. and then come back a half-hour later for an hour, or we could arrange

22 otherwise. In any event, we can go as initially scheduled.

23 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) If I have

24 understood you very well, what we would like to do is to maintain this scheduling for

25 today and then Monday, if need be, we may need a little more time.

1 MR ALTIT: (Interpretation) Yes. Jennifer Naouri will start and will be followed by
2 the next presentation from our team, as appropriate.

3 MS NAOURI: (Interpretation) Madam President, your Honours, before I begin I would
4 like to ask the court usher to facilitate the use of a PowerPoint presentation by assisting
5 our case manager.

6 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Please, court
7 usher, could you please assist?

8 MS NAOURI: (Interpretation) Thank you.

9 Madam President, your Honours, to understand this case and the logic behind the
10 Prosecutor's charges, we must first of all revisit the Prosecutor's statement of the facts.
11 At paragraph 3 of the Document Containing the Charges, which we will refer to here by
12 your leave as the "DCC," the Prosecutor offers fragmentary statements of the facts and
13 leaves out or omits facts that are relevant to the understanding of this case.
14 It takes a genuine review of the recent history of the Côte d'Ivoire to understand the
15 post-electoral crisis of 2010. Unfortunately, the post-electoral crisis of 2010 was not the
16 first attempt to destabilise the government in place in Côte d'Ivoire. The first unrests
17 occurred in 1998 -- 1999, rather, as duly recalled by the legal representative of victims.
18 On 24 December 1999, Ibrahim Coulibaly, alias "IB" former bodyguard and right-hand
19 man of Alassane Ouattara, staged a coup d'état against President Konan Bédié. The idea
20 was to bring General Gueï to power.
21 After the successful coup d'état, General Gueï turned against his supporters and they fled
22 back to Burkina Faso, where they had come from. In September 2000, the same group of
23 rebels had re-armed and reorganised themselves and re-entered Côte d'Ivoire and
24 attempted to overthrow General Gueï. That is what is known as the White Horse coup
25 d'état, which failed. Having gotten rid of the threat of the rebels, General Gueï went

1 ahead to organise democratic elections in October 2000, which President Gbagbo won on
2 26 October 2000.

3 It then fell on President Gbagbo to discharge an onerous duty of healing the wounds of
4 the fighting and rebuilding the country that had been bedevilled by waste and a lack of
5 interest in successive governments. It was all the more so relevant to the President,
6 given that those who wanted to control Côte d'Ivoire in the unrelenting efforts of the
7 rebels continued to train, equip and arm soldiers in Burkina Faso, with a view to taking
8 power. They were acting on behalf of one man, Alassane Ouattara.

9 Zaccaria Koné, the rebel leader, was very clear on this point when he talked at a meeting
10 which was videotaped. He said, "If you support the MPC I, the Mouvement patriotique
11 de Côte d'Ivoire, please do not do it for Zaccaria, nor for IB, nor for anyone else. Do it for
12 the one who bought our weapons, namely Alassane Dramane Ouattara."

13 He further stated that when the rebels were in exile, Alassane Ouattara took care of them
14 and that, for that reason, he gave them a monthly amount of 25 million francs CFA.

15 These are not my statements, these are statements that were made by Koné Zaccaria, and
16 we will show you a video to illustrate the point.

17 (Viewing of the video excerpt)

18 MS NAOURI: (Interpretation) Abdoulaye Traoré, former warlord who had control
19 over Man and surrounding areas, also said that before the year 2000 Alassane Ouattara
20 dispersed the amount of 25 million francs each month, at the end of each month, for our
21 food. He armed us and it is because of the arms that he became an exceptional
22 candidate.

23 The first coup d'état against President Gbagbo did not take long to occur. In January 21,
24 the rebel chiefs launched an attack using Ivorians and mercenaries recruited in Burkina
25 Faso and Mali and Niger. Rebel troops invaded northern Côte d'Ivoire and advanced

1 towards Abidjan. I'll slow down.

2 It is, however, clear that this attempted coup d'état would not be the last. The enemies of
3 Gbagbo will try to do everything to make him illegitimate by all means, including media
4 campaigns and what have you.

5 These media campaigns began before September 2002 and continued thereafter. For
6 example, they alleged, for example, that death squads did exist, and these assertions were
7 again taken up the day before yesterday by the Prosecutor in this Court.

8 Contrary to the Prosecutor's submission, the French courts were seized of these false
9 allegations, and on 5 April 2006 convicted Le Monde newspaper, which had referred to
10 the so-called death squads in February 2003 in an article entitled "Gbagbo, Simone God
11 and Destiny."

12 On 15 June 2006, the Paris Appeals Court also found the newspaper Express guilty of
13 defamation for publishing an article on 26 February 2003, an Article entitled "Côte d'Ivoire
14 in Crisis, Simone Gbagbo and Femme Fatale."

15 The purpose of these slanderous comments was to make President Gbagbo illegitimate
16 and ultimately oust him from power. However, these campaigns were based on
17 falsehood and did not produce the expected results. The Ivorian people again supported
18 him when local elections took place in July 2002, and his party came out on top. The
19 only other remaining option therefore was the use of force. The use of force was made
20 even much more easier because President Gbagbo did not worry about force. In fact, in
21 spite of his victory in the elections, President Gbagbo sought to build unity by bringing
22 opposition members into his government. It is in this context that a new or another coup
23 d'état took place against the government in power.

24 While President Gbagbo was on a state visit in Italy, several well-armed troops made up
25 of Ivorians recruited in the north, people from Burkinabe, Liberians and other mercenaries,

1 entered the Côte d'Ivoire on 19 September 2002. In a span of a few days, the rebels
2 captured the northern part of the country and mercilessly massacred the representatives
3 of legitimate local authorities and civilian population, while committing summary
4 executions, torture, cannibalism and mutilations. All villages in the Dekoua region were
5 set ablaze and put to the sword, and its inhabitants put to the sword.
6 For example, in Diahouin, the rebels attacked an area on 19 September 2002 and 30 people
7 were killed, all of whom were Wê. They were killed by bullets, some were slaughtered
8 and some were burnt alive, while others were thrown into wells.
9 Between of 6 and 9 of October 2002, a mass grave was found at the community cemetery
10 known as Dar es Salaam in Bouaké, holding some 90 corpses, out of which 48 were
11 gendarmes and 37 were members of their families.
12 In early November 2002, following the attack on Bouaké, rebels attacked Sémien village,
13 pillaged and torched houses, took away or burnt cocoa and killed some 35 civilians.
14 However, in Abidjan, those violent attacks were warded off and the rebels had to flee
15 towards the north. The country had, thus, been divided into two.
16 We must understand that the aim of each attempted coup d'état was to take power. It
17 must also be highlighted that it was always the same groups of persons who attempted
18 these coup d'états, whether it be against President Bédié or against President Gbagbo.
19 The Prosecutor, at paragraph 3 of the DCC, simply states the following: "In 2002, a coup
20 d'état led to the fragmentation of the Ivorian Armed Forces and culminated in the division
21 of Côte d'Ivoire into the government-controlled south and rebel-controlled north." The
22 Prosecutor abstains from clearly explaining what the consequences of this division of the
23 country were on the Ivorian people.
24 Following the coup d'état of 19 September 2002, the country was divided into two and the
25 north came under the direct control of its new masters.

1 Who are the rebel leaders? The Prosecutor does not at any time whatsoever provide any
2 information on who the rebel leaders controlling the northern part of Côte d'Ivoire are. It
3 is therefore our task as the Defence to make up for this shortcoming.

4 The rebel forces of the north are headed by warlords, most of whom are suspected of mass
5 crimes by human rights organisations. They include Guillaume Soro. In

6 September 2002, Guillaume Soro was the secretary-general of the rebel movement known
7 then as the Mouvement patriotique de Côte D'Ivoire, MPCI, which would later be known
8 as the Forces Nouvelles. He was involved in defining the general strategy of the Forces
9 Nouvelles and the bloody internal fighting which made several victims among civilian
10 populations.

11 In fact, he himself concedes that indeed there were killings in 2002 during a rebellion, but
12 a law on amnesty has been passed and a political agreement has been reached which
13 settles the matter; document or Exhibit 4498 of the Defence.

14 As the leader of the Forces Nouvelles, he knew and was aware that a lot of acts of violence
15 had been committed in the north, and that there was a wide-spread racketeering system in
16 place. Following the elections of 2010, Alassane Ouattara appointed him to the position
17 of Prime Minister and Minister of Defence. In that capacity, he commands the Forces
18 Républicaines of Côte d'Ivoire, that is the FRCI, which carried out several massacres in
19 Dekoua in the west of Côte d'Ivoire, on 29 and 30 March 2011, where some 800 people
20 were killed. Today he is the speaker of the National Assembly, and in that capacity
21 enjoys parliamentary immunity.

22 Ibrahim Coulibaly, so-called IB, as we said, was the right-hand man and former
23 bodyguard of Alassane Ouattara. IB, like Guillaume Soro, was one of the main actors of
24 the coup d'état of 9 September 2002.

25 You see, Guillaume Soro and IB vied for leadership of the rebel movement and this rivalry

1 between the pro-Soro and the pro-IB factions led to several deaths. In a report of
2 22 April 2008, International Crisis Group recommended that the United Nations Security
3 Council take sanctions against IB for attempting to destabilise the peace process.
4 During the post-electoral crisis, IB was the leader of the invisible commando, which
5 excelled in the most severe abuses on civilian populations in January, February and
6 March 2011. Soumaïla Bakayoko, he was the Chief of the General Staff of the Forces
7 Armées des Forces Nouvelles, the FAFN. His headquarters was in Bouaké, where he
8 controlled ten rebel zones. He therefore was in charge of the army and the parallel
9 administration that had been set up in the north of the country. The Forces Nouvelles,
10 under his command, pillaged, racketeered, stole, killed, massacred and burnt. We will
11 revisit this point subsequently.

12 On 17 July 2011, Alassane Ouattara appointed him to the position of Chief of General Staff
13 of the Forces Républicaines de Côte d'Ivoire, that is the most senior rank of the Armed
14 Forces of the Côte d'Ivoire, and he holds that position to this day.

15 Ousmane Coulibaly, alias Ben Laden, he was one of the commanders of the MPJ rebel
16 group, Mouvement pour la justice et la paix, which was operating actively in Man to the
17 west of the country. He later became commander of zone -- of the Odienné zone, a
18 region on the borders with Mali and Guinea.

19 Ousmane Coulibaly is suspected by human rights organisations, such as Human Rights
20 Watch, International Crisis Group and Amnesty International of committing serious
21 international crimes in Man and its vicinities in -- on 19 September 2002, rather. These
22 crimes include systematically taking of civilians, taking women as wives and subjecting
23 them to repeated acts of sexual violence.

24 In May 2011, Ben Laden was the commander of the BAE camp in Yopougon. He
25 tortured people and conducted arbitrary arrests in that area. On 15 August 2012, he was

1 appointed to head the operations in Dabou where several civilians were arrested, tortured
2 and assassinated. In a report of 2012, Human Rights Watch talks about the close ties
3 between Charles Taylor, Ousmane Coulibaly and Liberian mercenaries. Defence exhibit
4 3969, page 4039. On 26 September 2011, he was appointed by Alassane Ouattara to the
5 position of prefect of the San-Pédro region.

6 Chérif Ousmane. Chérif Ousmane, also known as Papa Guépard, or The Cleaner, was
7 one the Ouattara's closest zone commanders. In fact, he is referred to as one of those
8 who handled Ouattara's dirty work. He was commander of the Bouaké zone throughout
9 the rebellion. Throughout the rebellion. He's accused of participating in several blood
10 crimes. For example, Human Rights Watch, in a report of 2011 entitled "They killed
11 them as if it counted for nothing," directly mentions that there was involvement in the
12 killing of 29 people in Yopougon.

13 On 3 August 2011, Alassane Ouattara promoted Chérif Ousmane to deputy commander
14 of the presidential security forces. Issakia Ouattara, also known as Wattao, was the
15 commander of rebel Zone 5 covering the areas of Séguéla and Vavoua. He was also the
16 Deputy Chief of Staff of the Armed Forces between 2002 and 2011. He is very close to
17 Guillaume Soro.

18 Ouattara was involved in several acts of trafficking in the north of Côte d'Ivoire
19 throughout the rebellion, particularly the illicit trade in diamonds.

20 A cable, a diplomatic and intelligence cable, from the French Services states, and I quote
21 that, "The organisation of rebel finances had -- " states rather, that "Ouattara had set up for
22 his own purposes a racketeering and pillaging system." And again I'm referring here to
23 material that is in the - a Defence document. Not Ouattara, rather, but the reference is
24 being made to Wattao.

25 He is suspected, that is Wattao, by the International Crisis Group, in a release of the

1 International Crisis Group, of being involved in various attempts to derail the peace
2 process and several -- on several occasions and for being responsible for the Bouaké
3 killings. Today he is the deputy commander of the Republican Guard.
4 Losseni Fofana, the "Intrepid Loss" as he is otherwise known, is the strongman of the
5 rebellion. He controlled the western mountains area and was heavily involved in
6 trafficking. He was the commander of the Forces Nouvelles in Man. And in
7 February 2009, during the clashes in Man, his men deployed machine-guns on vehicles
8 and rocket launchers in the streets when the FN forces were settling scores.
9 In March 2011, the troops of Losseni Fofana actively participated in the massacres at
10 Guéré and Duépoué as they advanced towards Duékoué. Alassane Ouattara promoted
11 him to the position of one of the responsible officers of special forces.
12 A Human Rights Watch report of 2011 states that he is still the commander of the
13 Republican Forces and that he has been appointed deputy commander of an elite force
14 which will be receiving training in France.
15 Martin Kouakou Fofié, he took part in the first coup d'état in 1999 against President
16 Konan Bédié. He is considered to be one of the pillars of the rebellion mainly because of
17 his unflinching loyalty to Guillaume Soro. He has been since 2002 at the head of the
18 territorial company in Korhogo, and that is an important force involved in trafficking.
19 According to the United Nations in 2004, he had at least 90 persons killed, most of whom
20 were asphyxiated after having been detained in sealed containers without food nor water.
21 These crimes happened when there were conflicts between Guillaume Soro's faction and
22 IB.
23 Since 2006, the United Nations council has imposed sanctions on Martin Kouakou because,
24 I quote, "His forces, or forces under his command, were involved in recruiting child
25 soldiers and sexual violence on women, arbitrary arrests, extrajudicial killings and forced

1 labour, which are all practices that are contrary to the standards of human rights
2 conventions and International Humanitarian Law." Exhibit D-153486, page 3525.
3 In his capacity as zone commander in Korhogo, Fofié made a fortune for himself through
4 activities of racketeering and corruption. He was later to be Mr Gbagbo's jailer.
5 Koné Zaccaria was one of Alassane Ouattara's close collaborators. Ouattara funded his
6 activities from the beginning of the rebellion. He was the commander of Zone 5 in
7 Séguéla but was overthrown following a bloody conflict and has since sought refuge in
8 Burkina Faso.
9 Zaccaria is involved in trafficking in the north, particularly of diamonds, but most
10 importantly he is a Dozos insider. He hid some 1,500 Dozos, known as The Warriors
11 Light, which fought on the side of the Forces Nouvelles at the beginning of the rebellion in
12 2002. In 2003, he was appointed by Alassane Ouattara to head the Military Police.
13 Because of the human rights protest, and in this context, Koné was transferred in 2012 to
14 the artillery battalion, which is located in Akouedo. However, this is a matter of serious
15 consideration given that it is located at the very heart of Abidjan.
16 The Prosecutor omits to explain who these former warlords -- or warlords are and the
17 manner in which they are set up in the north of the country. The rebels were the
18 overlords of the north and the west of Côte d'Ivoire. They controlled the natural
19 resources and trade. They pillaged and extorted the civilians. Each of them profited
20 from the natural resources, controlled trade and raw materials. On the road out of every
21 town, their shabbily-dressed soldiers extorted vehicles, buses and trucks.
22 Defence Witness P-2, who is -- who, because of his position at that time, is very
23 well-informed, and he recounts how the rebels systematically carried out acts of
24 banditism and attacked civilian members of the population so as to rob them.
25 Having used force to compel the population to hand over their money and their property,

1 the richer and more powerful rebels were then able to engage in the trafficking of cocoa,
2 coffee, timber, petroleum products, gold, diamonds, drugs, weapons and even organs.
3 It is instructive to know that Burkina Faso at that particular time became a cocoa exporter,
4 whereas that country does not produce cocoa.

5 Concerning diamonds smuggling, a report of a panel of experts of the United Nations,
6 which carried out an investigation in Côte d'Ivoire in 2005, reveals that the trafficking
7 brought in huge amounts of money to the rebels. One of the rebels became extremely
8 wealthy. And as P-2 explains, this rebel had taken over control of a mine -- of a diamond
9 mine.

10 The diamonds, which came from the areas controlled by the New Forces, were then sold
11 to neighbouring countries, such as Mali and Guinea, in violation of the UN embargo and
12 of the Kimberley process. So these were blood diamonds.

13 Each rebel reigned supreme, like the lord of the manor, using their own parallel
14 administrations and setting up a truly feudal economy, to use the very terms of United
15 Nations experts.

16 As to the sums of the money raked in, I will quote from an article of Le Monde. "Neither
17 Abidjan nor the local population benefited in the slightest from this money. The money
18 was transferred to Burkina Faso, Mali and to other tax havens."

19 Furthermore, the warlords in the north were supported by foreign powers. Rebels were
20 armed and trained in the Pô camp in Burkina Faso and Mali. They were equipped with
21 new arms and supported by combatants from several countries of the region.

22 France supplied weapons to the rebellion. For example, Witness P-2, and we would like
23 to state that he is very important, stated that, "In 2005, French authorities replenished the
24 weapons supplies of the rebels. The Defence Minister at the time explains that French
25 vehicles were transferred to the rebels in 2009 and 2010. For example, Ousmane Chérif

1 received substantial French military matériel, including cannons and armoured vehicles,
2 and many weapons of war. I was in Séguéla and I saw them. I also saw many of these
3 things, particularly in Bouaké. I witnessed training being conducted by French officers
4 in Bouaké." D-154499, page 4503.

5 Given that they were now richer, the rebels were able to recruit an armed -- more men,
6 and as the years went by, they had at their disposal an increasingly large number of
7 well-armed and well-trained troops.

8 The patriotic movement of Côte d'Ivoire, MPC I --

9 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) I'm sorry to
10 interrupt you. I thought I heard you would prefer to continue on Monday? That we
11 were going to go up to 5 p.m. today and then resume in half-an-hour.

12 MR MACDONALD: (Interpretation) I understand the presentation of the
13 Defence team, but they have to link it up to the allegations, to the charges. I do
14 understand that there is a political objective that they wish to raise here. I understood
15 the opening statements, except that the charges are very clear and precise.
16 Secondly, the Prosecution would like to receive a list of the pseudonyms and -- of the
17 witnesses, and so on and so forth, so that we should be able to determine who is P-2 or P-3,
18 because we do not have these codes in eCourt.

19 MR ALTIT: (Interpretation) Regarding your requests we will, with pleasure, send to
20 you all the information that you have requested.

21 Secondly, when or, rather, if you listen to the very end of the presentation, you will
22 understand where we are going, but for the time being we are saying that it is necessary to
23 have a comprehensive overview of the entire situation in order to understand and not use
24 fragmented submissions.

25 For example, we have talked about leaders who were suspected of blood crimes and

1 carried out massacres in Yopougon, and other places, at the same time when, according to
2 you, other people were killing, then it is impossible to determine the truth. You can only
3 understand the truth when you take a certain distance from the events, and that is what
4 we are doing in your stead because we want to make sure that everything is fully
5 understood in the interests of justice.

6 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you. We
7 will break now for half-an-hour and reconvene at half-past-5.

8 THE COURT USHER: All rise.

9 (Recess taken at 5.03 p.m.)

10 (Upon resuming in open session at 5.31 p.m.)

11 THE COURT USHER: All rise.

12 Please be seated.

13 MR MACDONALD: Excuse me, your Honour, very, very briefly, with your permission,
14 it's in relation to the question of Article 28 and it just came to mind that notice would have
15 to be given by the Chamber immediately, ideally, to the Defence that the Chamber may be
16 entertaining that mode of liability like in the Bemba case. I'm just raising it at this stage,
17 because it's something that we didn't think about, but -- and I don't have the reference in
18 Bemba, but that is maybe something that the Chamber would want to look into.

19 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Please don't be
20 worried. We know the procedure regarding modification of the mode of responsibility.
21 It's just that we wanted to have a little better idea of what you intended to do. Now we
22 will continue with the Defence presentation.

23 MR ALTIT: (Interpretation) Yes, we will continue, your Honour.

24 MS NAOURI: (Interpretation) We have stated that the Patriotic Movement of Côte
25 d'Ivoire, MPCI, was joined by the Movement for Justice and Peace and the Ivorian

1 people's Movement of the Greater Western Region, two other rebel forces. They formed
2 a political/military alliance, known as the Armed Forces of the New Forces, FAFN.
3 The FAFN was the armed wing of the New Forces. They had a hierarchical military
4 structure and the linch-pin of this structure was Guillaume Soro. The Independent
5 International Commission of Inquiry on Côte d'Ivoire set up by Resolution 1625 of the
6 United Nations Security Council stated that the FAFN was modelled on the national army,
7 and its Chief of Staff was Soumaïla Bakayoko, its staff headquarters was based in Bouaké,
8 containing ten zones under the authority of zone commanders exercising administrative
9 powers.

10 The New Forces were answerable to a well-defined hierarchy and that was clearly
11 identifiable. The same leaders had authority over the same subordinates from 2002 to
12 2010 and they are in power today. By remaining vague about the organisation and
13 functioning of the rebels, the Prosecutor deliberately overlooked the existence of powerful
14 armed groups that terrorised the population and threatened the government authority in
15 the south.

16 We stated that each warlord reigned like a lord of the manor, but they did not leave it at
17 that. Whenever they arrived at the locality, they attacked the forces of law and order.
18 For example, on 6 October 2002, in Bouaké, gendarmes and their families were arrested by
19 the MPCI, taken to the prison camp in the infantry battalion. They were starved and
20 then machine-gunned. The survivors were forced to transport the bodies and bury them
21 in mass graves. The toll was more than 120 dead.

22 They attacked civilian populations. Human Rights Watch states in its 2003 report
23 "Trapped Between Two Wars, Violence Against Civilians in Western Côte d'Ivoire", that
24 the frequency of rapes had increased when the MPCI, MPIGO and MJP moved into the
25 Guéré regions which were traditionally favourable to the government. Rapes were

1 perpetrated on the basis of ethnic origin.

2 We have mentioned the horrific acts, but these are only a few examples amongst the
3 horrific events that took place in the north of Côte d'Ivoire for several years. The north
4 was a lawless territory.

5 The Prosecutor has tried to distort the reality by concealing certain segments of the history
6 of Côte d'Ivoire. The silence of the Prosecutor regarding the rebels is all the more
7 surprising because, in paragraph 14 of the DCC, he takes the trouble to point out that the
8 New Forces were rebaptised the Republican Forces of Côte d'Ivoire. He was therefore
9 fully aware that there were rebel forces known as the New Forces operating in Côte
10 d'Ivoire. He knew that these New Forces, which later became the Republican Forces, did
11 not simply show up during the post-electoral crisis. He was aware that these forces were
12 created in 2002 and their objective was in keeping with driving President Gbagbo from
13 power.

14 How did the Prosecutor know that? They knew it because the situation in Côte d'Ivoire
15 was referred to them by a letter of 18 April 2003 from the Minister of Foreign Affairs of
16 Côte d'Ivoire, Mamadou Bamba, in which he stated that they had to identify, prosecute
17 and try perpetrators and their accomplices for the events ever since 19 September 2002.

18 This silence is all the more -- less understandable because the Prosecutor is suggesting that
19 nothing happened in the north. The Prosecutor in his DCC does not mention any
20 large-scale violations in the north for many periods -- for many years. Keeping from
21 2002 to 2007 as the Prosecutor did is truncating the history of Côte d'Ivoire. It is
22 distorting reality and it is misrepresenting the crisis in the Côte d'Ivoire in 2010.

23 The Prosecutor does not want to face reality because reality would disavow his thesis.

24 He prefers a biased presentation which makes it possible for him to accuse only one of the
25 parties to the conflict. It is therefore up to us to return the four years of its lost history to

1 Côte d'Ivoire.

2 The silence of the Prosecutor in his statement of facts is even more surprising because the
3 Pre-Trial Chamber had questioned him about -- in the decision of 3 October 2011. The
4 Chamber stated, and I quote, "While the context of the violence reached a critical point in
5 late 2010, it appears that this was a continuation of the ongoing political crisis and the
6 culmination of a long power struggle in Côte d'Ivoire."

7 The Presiding Judge asked the Prosecutor to provide all additional information relating to
8 the crisis in Côte d'Ivoire ever since 2002. In his statement of facts, the Prosecutor should
9 therefore have reviewed all the events that led to the post-electoral crisis. By omitting to
10 do that, he distorted the facts and misrepresented history.

11 It is even more instructive that the Prosecutor does not mention what happened between
12 2002 and 2007, whereas during that entire period President Gbagbo repeatedly attempted
13 to secure peace and reunification in the country and to that end he made overtures both
14 towards the international community and the rebels.

15 The Prosecutor merely states in his DCC that in 2007 a coalition government was put in
16 place and the peace process led to the presidential election of 2010. Which coalition
17 government? On the initiative of whom? Why? Which peace process and in which
18 context did this peace process take place?

19 The Prosecutor forgets an entire segment of Ivorian history. He forgets to talk about the
20 efforts deployed to bring peace to Côte d'Ivoire. He forgets to state that it was President
21 Gbagbo who always tried to start negotiations and tried to look for a way to facilitate
22 dialogue and resolve the crisis in the Côte d'Ivoire.

23 In a bid to restore national unity and in spite of the partition of the country and the danger
24 represented by the rebels' failure to disarm, President Gbagbo multiplied efforts to resolve
25 the crisis. One of the witnesses of the Prosecutor, P-44, confirms that the president, that

1 is President Gbagbo, always wanted to bring people together and he always wanted
2 peaceful solutions and always wanted to initiate dialogue. For example, on
3 1 November 2002, in Lomé, President Gbagbo started the first round of peace negotiations.
4 In November 2002, barely one month after the signing of the accords, the MPCI, with the
5 help of the new groups that were allied to it, launched attacks in the west of the country,
6 particularly in the towns of Man, Danané, Toulepleu, Guiglo, Bloléquin and Bangolo.
7 On 24 February 2003, in Linas-Marcoussis, President Gbagbo once again signed a new
8 round of agreements and accepted to form a new government of national reconciliation,
9 delegating substantive powers to a new prime minister selected by consensus, Seydou
10 Diarra. This accord stipulated that the rebels had to disarm. Prosecution Witness P-44
11 explains, and I quote, "President Gbagbo always wanted to use peaceful means, for
12 example, in Marcoussis, when he accepted to include rebels in the government. All that
13 for the interest of Côte d'Ivoire." D153774 page 3707.
14 On 7 March 2003 and on 29 July 2004, President Gbagbo accepted in Accra to initiate new
15 political reforms and the rebels accepted a new schedule for disarmament and
16 demobilisation, and these are just a few examples, and yet in 2003 and 2007 the rebels had
17 still not disarmed. It is for this reason that in 2007, in the face of this deadlock, President
18 Gbagbo once again seized the initiative to resume direct dialogue with the New Forces.
19 The former ambassador of Côte d'Ivoire in South Africa explains that in 2007, and I quote,
20 "President Gbagbo in order to revive the process thought of a new solution, a political
21 agreement under the aegis of Blaise Compaoré, and this process led to the Ouagadougou
22 Accords signed on 4 March 2007." It was following these agreements that Guillaume
23 Soro, who at the time was Secretary-General of the New Forces, was appointed Prime
24 Minister under Laurent Gbagbo.
25 This peaceful overture made by President Gbagbo was intended to secure the

1 reunification of the country through the accords. And as the former ambassador to
2 South Africa mentions, it was to be crystallised by the redeployment of the administration
3 on the entire territory, the disarmament of rebel combatants and the unification of the
4 army.

5 Voter roles were supposed to be drawn up. It should be pointed out that according to all
6 the witnesses President Gbagbo believed in the good faith of the rebels, but despite all the
7 attempts to resolve the conflict between the government in the south and the New Forces
8 in the north, the series of agreements - the peace agreements - were frequently violated by
9 the rebels. They always refused to disarm, and why was that? Prosecution Witness

10 P-44 gives us the answer: Because their objective had not changed. They still wanted to
11 take over power.

12 According to the former Côte d'Ivoire ambassador to South Africa, the rebels should have
13 started disarming as from the time of the signing of the Ouagadougou Accords. They
14 always used the excuse that these agreements would take time, and this makes it possible
15 for them to only make gestures and never disarm.

16 He explains how the rebels staged certain acts intended to make believe that they were
17 disarming. For example, he said in December 2007 weapons were burnt in Bouaké, but it
18 was all a sham. President Mbeki was present and so were President Compaoré and the
19 political leaders of Côte d'Ivoire. The only person who was absent was Alassane
20 Ouattara.

21 Lastly, P-44 Prosecution witness also confirms that the rebels never disarmed. The
22 ambassador of Côte d'Ivoire to South Africa in this vein states that in 2006 President
23 Mbeki said that the rebels were the ones obstructing the peace process in Côte d'Ivoire
24 because they refused to disarm and their presence in the government was enough for
25 them to paralyse government action.

1 The Minister of Defence at the time states that regarding the Bouaké flame, the dice were
2 loaded. The rebels were with us in the government sector. They were fully aware of
3 what we were doing, but in their zone they could do anything without us knowing.

4 They never disarmed. They never even pretended to do so.

5 The Bouaké flame was a political event but without any real impact because the military
6 configuration in the area did not change, and this is what the Minister of Defence himself
7 said. According to him, "The objective of the rebels was to undermine the government
8 and to take its place. They never changed their objective, but I realised it only later."

9 He confesses, and I quote once again, "These agreements were fool's agreements."

10 The rebels signed the agreements to lull the government to sleep and also President
11 Gbagbo. I myself was taken in like all the others. I even encouraged the appointment
12 of Guillaume Soro as the Prime Minister and it was only after the fact that I understood
13 that it was an error. The strategy of the rebellion was to sufficiently infiltrate the
14 government in order to better destroy it.

15 An officer of the New Forces explains to a journalist of Le Monde, and he stated, "We have
16 grabbed the north and we will not let go. Reunification, disarmament, all of that is a
17 circus. Power is too good."

18 The peace agreements, according to the main stakeholders themselves, was a fool's
19 agreement and President Gbagbo was a victim.

20 Another Defence witness, Chief of State Protocol, explains, "At the beginning of the
21 campaign, that is in September 2010, we were informed that the rebels were rearming and
22 massing themselves in Bouaké and Burkina. These were mainly the rebels of Koné
23 Zaccaria and Chérif Ousmane. The two leaders were close to Ouattara. We knew they
24 were trained by Burkinabe officers. This was an open secret. The rebels said so
25 themselves. They themselves stated that on several occasions that it was Ouattara who

1 was financing them. The intention of the rebels was still the same. They wanted to take
2 over power, and why was that? Because it was the south and the west of Côte d'Ivoire
3 that were rich."

4 The Prosecution allege that before the 2010 election President Gbagbo, and I quote, "Took
5 a number of measures to ensure that he would remain in power." They allege that he
6 adopted a policy of attacking his political rival, Alassane Ouattara, as well as members of
7 his political circle and civilians thought of as his supporters. Yet, President Gbagbo did
8 all he could to ensure that the elections would be held properly, respecting the democratic
9 process and would be transparent.

10 Five points: First, he asked the Prime Minister Guillaume Soro to handle all the
11 preparations for the election and for implementation of the disarmament, and Guillaume
12 Soro himself acknowledged that president Gbagbo had given him a free hand to do so.
13 My second point: President Gbagbo agreed that the Independent Electoral Commission
14 responsible for organising, supervising and monitoring all electoral operations be made
15 up for the most part of people from the opposition parties and people from the rebel
16 movement, so people who were hostile to him. I remind you that after the
17 Linas-Marcoussis Agreements the president issued a presidential decree, 2005-06/PR. In
18 that decree he said that the opposition could hold 16 seats and a further 22 non-voting
19 seats.

20 My third point: The president called upon a major foreign company to update the
21 electoral list. In accordance with the Ouagadougou political agreement, the government
22 called upon two organisations for technical assistance, the INS and Sagem Sécurité.

23 My fourth point: The president set the stage for a true democratic campaign. During
24 that campaign, parties would be allowed to hold meetings, rallies, distribute campaign
25 literature, put up posters.

1 My fifth point: Above all, President Gbagbo allowed Henri Konan Bédié and Alassane
2 Ouattara to run for the presidency. The first person was past the age limit. He was
3 over 75. This was provided in Article 35 of the Constitution. The second gentleman
4 had been declared ineligible.

5 In the spirit of democratic openness, and to fast-track the peace process, President Gbagbo
6 agreed as part of the Pretoria Agreement that he would make use of Article 48 of the
7 Constitution and lift the restrictions. Thus, he issued presidential decree 2005-01/PR on
8 5 May 2005 allowing Ouattara and Bédié to run for the presidency in 2010.

9 President Gbagbo's former Chief of State Protocol, who worked closely with him
10 throughout all the preparations for the election, said that President Gbagbo, and I quote,
11 "... believed in democracy and he believed deeply in restoring peace. He prepared the
12 elections in a very serious manner. He set up a campaign team led by Dr Malik
13 Coulibaly who was from the north. President Gbagbo would never have discriminated
14 in any way, shape or form against people from the north. Many of the people who
15 worked with him were from the north. I myself am from the north," end of quote.

16 Another person who worked closely with the president, a Defence witness, Defence
17 exhibit 3695, also explained to us that the president did everything he could to ensure that
18 the election would run smoothly because he knew he would be judged upon the election.
19 He wanted democracy to prevail.

20 He had agreed to the presence of foreign observers. He took all the preparatory work for
21 the election very seriously. He commissioned opinion polls calling upon Euro RSCG.

22 This is a major French company that runs the campaigns of various politicians. President
23 Gbagbo asked this company to organise his campaign. The opinion polls showed that
24 President Gbagbo was ahead of the others. He had more than 40 per cent of the decided
25 voters.

1 The actions that we have just described are not the actions of a man who wishes to cling to
2 power at any price. They are the actions of a man who wanted democracy to prevail.
3 Furthermore, if President Gbagbo had wanted to remain in power at any cost, do you
4 honestly believe that he would have organised an election at such a difficult juncture
5 when the rebels were refusing to disarm?

6 Even P-44 has explained that personally he was not in favour of elections being held,
7 because the rebels had not yet disarmed. President Thabo Mbeki, former President of
8 South Africa, stressed that the international community was aware that the necessary
9 conditions for democratic elections were not in place because the rebels had not disarmed.

10 Let us listen to him.

11 (Viewing of the video excerpt CIV-D351-0001-0576)

12 MS NAOURI: (Interpretation) I believe that this is the moment to deal with a number
13 of the other charges made by the Prosecution in their opening statements.

14 They claim that to implement this policy of attacking his rival, President Gbagbo allegedly
15 consolidated his absolute power before the election as well as the control he had over the
16 security and defence forces, particularly by appointing insiders to key positions.

17 Later on in the Document Containing the Charges, the Prosecution makes reference to
18 appointments of a number of senior officers and promotions; Mangou, Kassaraté,
19 Faussignaux, Kadjo, Bi Poin, Detho Letho, Dogbo Blé. They allege that the PDS would
20 thus be led by people who were loyal to the president.

21 All these statements are gratuitous and unsubstantiated. We will return to this issue
22 later on in our presentation.

23 I think it is important to stress that the reality runs entirely counter to the Prosecution's
24 statements. No military leader was appointed to new duties before the 2010 elections.

25 The former Minister of Defence has told us that, "There never were any promotions for

1 reasons any -- any reasons other than the usual operations of the Defence Ministry. The
2 most recent appointments were in August in Yamoussoukro, and a number of people
3 received promotions. Mangou Felipe, he already was a four-star general; and Chief of
4 General Staff, General Kassaraté, who was already a three-star general; General Detho
5 Letho, who is now the Deputy Chief of General Staff, he had been the Commander of the
6 Land Forces before that. General Aka also received a promotion, and General
7 Faussignaux, and so on and so forth. These were normal promotions that I suggested as
8 minister, without President Gbagbo speaking to me about the matter beforehand."

9 I think it is only suitable to recall that some of these military men are now part of the
10 Ouattara administration and even have received other promotions.

11 Furthermore, it was a special committee made up of the leaders of the various military
12 units that made recommendations to President Gbagbo regarding both appointments and
13 promotions, and the Minister of Defence has said that President Gbagbo never said that a
14 particular candidate should receive a promotion or an appointment. He did not impose
15 his own candidates on anyone.

16 The military leaders were from all kinds of different ethnic origins. Some of them were
17 from the north.

18 I think it's important to point out that the Minister of Defence stated that no
19 discrimination was shown against any particular group because of ethnicity, religious
20 creed or political affiliation. The Minister of Defence himself stressed that he himself was
21 Baoulé from the centre. Before President Gbagbo, no president of Côte d'Ivoire had ever
22 appointed a Minister of Defence who was not a member of his own ethnic group, but for
23 President Gbagbo ethnicity was never a criteria. Within the major government
24 institutions there were no Bittaye people, so the Prosecution's statement is entirely
25 unsubstantiated.

1 Rather than giving the Chamber the impression that elections were held properly, the
2 Prosecution really should have informed the Chamber that there had been massive
3 election fraud, particularly -- during the second round of voting, particularly in the north,
4 and the Prosecution should have disclosed documents that allow us to understand the
5 irregularities.

6 I make reference to CIV-OTP-0021-7671. This document shows, and it's shown right here
7 in the PowerPoint presentation, that when you look at the number of actual voters in
8 some communes, the number of voters was greater than the number of inhabitants. For
9 example, in Odienné, the population was estimated at under 53,000, whereas more than
10 57,000 people cast votes. In Ferkessédougou, the population was 62,000, yet more than
11 92,000 people voted. What about Mankono, where twice as many voters turned up at the
12 polls than the number of actual inhabitants? The irregularities were not just to be found
13 on the electoral lists. There were also irregularities in the way that the votes were tallied.
14 We'd like to say a few things about a document that was disclosed, but I think we should
15 go into private session at this juncture.

16 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) We will now go
17 into private session.

18 (Private session at 6.04 p.m.)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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Page 54 redacted – Private session.

1 (Open session at 6.09 p.m.)

2 THE COURT OFFICER: (Interpretation) We are in open session, your Honour.

3 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you.

4 MS NAOURI: (Interpretation) I'm sorry, we are having a few problems with our
5 PowerPoint presentation.

6 Now, the Defence witnesses have confirmed the massive electoral fraud in the north.

7 Now, the head of protocol has told us about this election fraud. The president's
8 supporters were driven out of a number of localities. In many polling stations,

9 Mr Ouattara had more votes than the number of registered voters. He said to us, "I
10 myself saw files being passed about and I heard our representatives in the field. Some
11 officials were forced to sign reports at gunpoint or after being beaten up. The president
12 thought he would win, even though the fraud, if the votes had been tallied properly."

13 Defence Witness P-3, who was in Côte d'Ivoire between May 2008 and late March 2011,
14 explained to us that neutral outside observers such as himself - we will not mention his
15 name since we are in open session, but this is important - according to this witness, there
16 were many cases of election fraud in the north during the second round of voting. He
17 told us in particular that false nationality certificates were being sold by the mayor himself
18 in Bouaké in order to increase the number of voters. Even though the circumstances in
19 which these certificates were being sold are very instructive, we will not go into details,
20 but the name of the people that were being -- that provided the information to him is also
21 very instructive, and we refer you to document D-15-1302, pages 1302 and 1303.

22 Everyone knew about the election fraud. Independent international observers spoke out
23 against what was happening. In particular, representatives of the African Union
24 Electoral Observation Mission, African electoral experts, the representative of the
25 distinguished persons for the Promotion of Credible Elections in Africa, Mr Cheik.

1 In a press release, the former Prime Minister of Togo, Mr Koffigo, spoke out. He
2 denounced the violence and the abuse because he said that they seriously undermined the
3 credibility of the voting in the north.

4 (Viewing of the video excerpt CIV-D15-0001-0577)

5 MS NAOURI: (Interpretation) The Constitutional Council took these irregularities into
6 account before proclaiming the results of the election. One member of this council, a
7 Defence witness, explained to us that this High Court used the figures that they had
8 available, namely the reports that had been forwarded by the electoral commission and
9 the digital reports from the SILS, and they also took into account the cases of out-and-out
10 fraud, and on the basis of all that information, President Gbagbo was proclaimed to be the
11 winner of the election. This was done by the Constitutional Council sitting in plenary
12 session.

13 I think we need to point out that the Prosecutor has said nothing about the second round
14 of voting, thus overlooking the terrible violence that was inflicted upon President
15 Gbagbo's supporters in the entire north, yet international observers did report.
16 They made the following report. Lawoson Cheick, spokesperson of this group of
17 distinguished persons for the promotion of credible elections in Africa, he said the
18 following, and I quote, "The supporters and representatives of Mr Gbagbo were harassed
19 and attacked. The presidential majority supporters were attacked both verbally and
20 physically." CIV-OTP-0001-0341.

21 In another statement, observers from the African Union spoke out. They said (Speaks
22 English) "... that in the entire district of Korhogo, serious cases of murders, death threats,
23 intimidation, confinement and physical assault were perpetrated against the LMP activists
24 and representatives by New Forces and the RDR activists."

25 (Interpretation) Members of the African Union Mission did not confine themselves to

1 this general statement. They gave details. For example, Coulibaly Sita, one of the LMP
2 supervisors, had been arbitrarily detained and beaten to a pulp before being killed.
3 Traoré Kady was stripped, beaten badly and then thrown in prison. Yéo Kalifa, LMP
4 supporter, died as a result of the injuries that the New Forces inflicted upon him. The
5 Prosecution themselves stressed the importance of the elections. If we look at the facts
6 closely and just the facts, we have to conclude that the narrative that the Prosecution
7 would have us believe is far from being true. The elections were so important, are so
8 important to these proceedings because there had been so many cases of massive electoral
9 fraud in the north.

10 The Prosecution have stated that the Chairman of the Independent Electoral Commission,
11 the CEI, announced the provisional results and declared that Ouattara had won 54.1 per
12 cent of the vote and Gbagbo 45.9, and I quote from paragraph 7 of the DCC.

13 However, the Prosecution have been quite careful not to specify that the CEI did not have
14 the authority to proclaim anyone the winner, and nor did they describe the circumstances
15 in which the announcement was made, yet these circumstances are quite revealing. The
16 Independent Electoral Commission could not announce anything except for provisional
17 figures. This was subject to the legislation, and then afterwards the Constitutional
18 Council would have to consider the matter. Only the Constitutional Council had the
19 power to announce the winner and they had to do so before 1 December a few moments
20 before midnight, but just before that listen to what was said.

21 (Viewing of the video excerpt CIV-D15-0001-0583)

22 THE INTERPRETER: Microphone, please.

23 MS NAOURI: (Interpretation) Let us stress one thing: These were preparatory or
24 rather preliminary results that had to be considered prior to the Constitutional Council's
25 decisions pursuant to Article 2 of the act to establish the Independent Electoral

1 Commission, and this article is quite clear. Only the Constitutional Council has authority
2 to announce the final results, and this is also pursuant to Article 94 of the constitution.
3 The CEI is not the Constitutional Council. Only the Constitutional Council has the
4 power to announce the final results of the election. The CEI is in no way a second
5 Constitutional Council, despite what the international community and a biased press
6 would have us believe, even though the Prosecutor tried to give us to understand that the
7 CEI's decision was overturned by the Constitutional Council.
8 In any event, the announcement of the results came after the dead-line - the statutory
9 dead-line - and that was on 2 December.

10 Furthermore, the conditions in which the announcement was made were quite suspicious.
11 Apparently the President of the CEI was summoned to Ouattara's headquarters. He was
12 asked to come alone and make an announcement. And this was quite a surprise. All
13 the other members of the electoral commission were waiting at the commission's
14 headquarters. Please listen to the following video.

15 (Viewing of the video excerpt CIV-D15-0001-0777)

16 MS NAOURI: (Interpretation) President Gbagbo's representative, who was working
17 with the CEI and also a Defence witness, has very clearly explained the irregularities.
18 Furthermore, in an interview Jean Ziegler, the Vice-Chair of the Advisory Committee to
19 the United Nations Human Rights Council, stated that President Ouattara's proclamation
20 was unilateral and completely illegal. This means that in actual fact the CEI never
21 announced the results. Only the Chairman of that Commission made an announcement,
22 and he did so in a very suspicious manner illegally and in clear violation of the
23 constitution.

24 Furthermore, the certification by the United Nations of these results violated United
25 Nations Security Council Resolution 1933/2010. In actual fact, pursuant to this particular

1 resolution, the Secretary-General's Special Representative had a mandate to certify only
2 the various stages of the electoral process. Simply put, he was to await the results
3 of -- from the Constitutional Council and certify the results. He was not supposed to
4 bypass the Constitutional Council on the basis of provisional figures.
5 Furthermore, it's quite strange that the Chairman of the CEI announced that Ouattara was
6 leading even though the day before the CEI had received a letter from the company that
7 was supposed to do the electronic processing of the results. In that letter the company
8 said that Gbagbo was clearly ahead of Ouattara, and I refer you to Prosecution document
9 0022-1704.

10 Finally, I think we need to point out that Ouattara had been informed as early as
11 8 December 2010 that the proclamation of the results by the Chairman of the CEI had no
12 legal value. It was only the Constitutional Council that had the authority to make such
13 an announcement.

14 The Prosecution would have us believe -- correction, the Prosecution would prefer the
15 Chamber to overlook or forget some of these irregularities, but their efforts are in vain.
16 The Constitutional Council was supposed to meet in its entirety in plenary. The
17 Members of the Council met and they deliberated. It was legal, it was legitimate and it
18 was part of their usual duties and part of their usual powers provided for under the
19 constitution and other legislation.

20 Once President Gbagbo had been arrested, the Constitutional Council did not agree to
21 overturn the earlier decision and merely endorsed the decision of the African Union that
22 proclaimed Ouattara president on 6 May 2011.

23 Finally, the Prosecution would have us believe - would have you believe - that President
24 Gbagbo and Mr Ouattara were sworn in at the same time, but that is in no way the case.
25 Shortly after the statement made by the Chairman of the CEI at the campaign

1 headquarters, Ouattara went to the very same room and appeared before journalists.

2 Then, on 3 December 2010, he sent a letter to the Constitutional Council. In that letter he
3 said, "I am honoured to forward to you my written oath of office and I request that you
4 duly take note thereof and draw the consequences," thus informing the Constitutional
5 Council that he had proclaimed himself President of the Republic.

6 The Constitutional Council responded, saying that only the Constitutional Council had
7 the authority to swear-in the president and that was President Gbagbo. It was only then,
8 on 4 December 2010, that President Gbagbo swore his oath of office before the
9 Constitutional Council.

10 I think it should also be pointed out that on 22 December 2010 the Constitutional Council
11 deemed the self-proclamation by Mr Ouattara to be null and void, so the Prosecution has
12 brought a number of facts before this Court, but legally speaking they are incorrect. The
13 Prosecution are twisting the facts.

14 I've finished with this particular point. With your leave, we shall continue this
15 presentation tomorrow -- I beg your pardon, Monday.

16 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Yes, that would
17 be better.

18 We have now come to an end of today's hearing. If there is no other business to be dealt
19 with, if there are no further comments, we shall now adjourn for the day.

20 I wish you all a very pleasant weekend and we shall see you on Monday at 2.30 in the
21 afternoon.

22 THE COURT USHER: All rise.

23 (The hearing ends in open session at 6.28 p.m.)