

1 International Criminal Court
2 Trial Chamber I - Courtroom 1
3 Situation: Republic of Côte d'Ivoire
4 In the case of The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé
5 ICC-02/11-01/15
6 Presiding Judge Cuno Tarfusser, Judge Olga Herrera Carbuccion and
7 Judge Geoffrey Henderson
8 Trial Hearing
9 Monday, 1 February 2016
10 (The hearing starts in open session at 9.33 a.m.)
11 THE COURT USHER: All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE TARFUSSER: Good morning to all of you inside the courtroom and the
15 public gallery and outside the Court. I think we should start immediately with the
16 presentation of the cases, in this case by the Defence today and tomorrow, and I immediately
17 give the floor to whoever of you wants to speak according to what you decided among
18 yourselves. Who will speak?
19 Maître Altit, yours is the floor.
20 MR ALTIT: (Interpretation) Thank you, your Honour.
21 The Gbagbo Defence shall begin.
22 Your Honours, allow me to paint a picture for you, namely, the sight of French
23 soldiers one morning in April 2011. They come in transported within tanks from the
24 French camp located nearby, and they begin their attack with the support of
25 helicopters from the first airborne -- from the first warfare helicopter regiment

1 belonging to the French army, and they begin their attack upon positions held by the
2 army of Côte d'Ivoire.

3 The entire residence is hit at 11 in the morning. The gateways are entirely broken
4 down. The residence, itself, of the president is partly destroyed. Grenades are
5 launched from helicopters belonging to the French ground forces that have flown
6 over the residence all night and the previous day. The people staying in the
7 residence, including women and children, entire families are terrorized. They flee to
8 the basement and await the final assault.

9 For several days, they had undergone shelling from both these helicopters belonging
10 to the light air force of the French army, and also they have been the targets of French
11 snipers belonging to the special forces hiding behind the wall between the
12 presidential precedence and the French embassy -- correction, the residence of the
13 French ambassador.

14 The previous evening the last details of the attack on the residence are decided upon
15 by the French ambassador and by French military authorities. The French units,
16 which, after a week of intense shelling and attacks, had reduced, one after another,
17 the various support positions held by the army of Côte d'Ivoire. These French units
18 were positioned for the attack to ensure that the residence would be taken as quickly
19 as possible.

20 Given the failure of the military offensive in Abidjan since the end of March 2011 by
21 mercenaries and combatants hired by the Ouattara camp, even though the offensive
22 had been organised by men from the French special forces, the French commander
23 had no other choice. He had to launch the forces of the French army against the Côte
24 d'Ivoire army and peacekeepers.

25 After the French commandos stormed the residence, and once the few men defending

1 the residence surrendered, it took a good two hours, two hours for the French soldiers
2 to fetch the first soldiers from the pro-Ouattara army who had been so busy looting
3 the neighbourhoods in the north of Abidjan. Their column of 200 vehicles preceded
4 and led by French soldiers reached the residence at 1 in the afternoon.

5 With the support of French commanders, that was the moment when they actually
6 entered the various building and seized President Gbagbo. Many of the people who
7 were in the residence were beaten or injured. Some were murdered by pro-Ouattara
8 mercenaries and soldiers. Others were saved at the very last minute by French
9 soldiers.

10 Your Honours, in the Prosecution's opening remarks, we heard not a word about the
11 essential tragic events, nothing in their pre-trial brief, not a word about this column of
12 200 military vehicles, not a word about this army of pro-Ouattara fighters and
13 mercenaries who had attacked Abidjan coming from the north of the country in the
14 days preceding the attack upon the presidential residence, not a single word about
15 the thousands of Dozos fighters who were with them, these fighters who were known
16 as the Kamajors in Sierra Leone where they distinguished themselves by actually
17 cutting off the arms and legs of their victims.

18 We have heard not a word about the hundreds of pro-Ouattara fighters and
19 mercenaries, 5 or 600 according to the rebels themselves who had been stationed in
20 the Golf Hotel complex since September 2010 in the very heart of Abidjan; and yet,
21 this group was the largest armed force in Abidjan during the crisis, with the exception
22 of the French army itself.

23 We have heard not a word about the hundreds of pro-Ouattara fighters and
24 mercenaries who infiltrated Abidjan, particularly the neighbourhood of Abobo, as
25 even before the presidential election of October-November 2010.

1 Why were they there? They were there to seize the town in cooperation with the
2 fighters who were holed up in the Golf Hotel.

3 We have heard not a word about the violent incidents that involved these hundreds
4 of combatants between November 2010 and April 2011, so how can we make sense of
5 these events as they unfolded, these events that the Prosecution would have you
6 decide upon without saying a word about the main protagonists? How can we
7 understand the battle of Abidjan if there is only silence when it comes to the essential
8 role that the pro-Ouattara armed forces and mercenaries played as well as the role
9 played by the French army. How can you come to a decision about the
10 responsibility of the protagonist if no information is provided to you? And yet, it's
11 as if the Prosecution were asking you -- if you were being asked to come to a ruling
12 about the highlights of the Korean war without saying a word about the narrative of
13 the Chinese and the French -- correction -- the Chinese and the American armies.
14 Why this silence?

15 First of all, I think if you consider the true protagonists in the battle of Abidjan, you see that
16 the whole meaning of this battle is quite different and leads one to a very different reading of
17 the four incidents that the Prosecution have based their charges upon. Let me give you an
18 example. Let us take the example of the 16 December 2010 demonstration. We see that the
19 various video footage shot at the time, the photographs, all the objective items of information
20 that we have shown that unlike what the Prosecution has said, this was not a peaceful
21 demonstration or march. It was an attack that had been planned by the pro-Ouattara
22 warlords and by Ouattara himself in order to seize power by force.

23 The pro-Ouattara fighters and mercenaries attacked the forces of law and order from
24 several sides, from the Golf Hotel; that is to say the rebel soldiers who were there, but
25 also from various gathering points located in a number of neighbourhoods within

1 Abidjan. The mercenaries, wearing civilian clothing, hid behind the demonstrators
2 who were being used as a tool. They had actually been turned into human shields.
3 The fighting - and this has been documented - was violent and the forces of law and
4 order who were on the defenses, they were the ones who paid the price.
5 Generally speaking, let us look at the role of the true protagonists of the battle of
6 Abidjan. And once we do so, the arguments of the Prosecution fall apart.
7 According to the Prosecution, the units from the Côte d'Ivoire national army and the
8 police, according to them, engaged in violent operations after the elections, violent
9 operations against civilians in order to terrorize the general population; and thus,
10 allow President Gbagbo to remain in power. This is what the Prosecution says.
11 Now, would these operations have been possible if - well, according to the
12 Prosecution - there was some kind of ethnic solidarity that brought together and
13 bound a number of military and political authority figures within Côte d'Ivoire?
14 This is a scenario that really is about an ethnic war, but nothing could be further from
15 the truth. Nothing could be further from the truth and the reality of Côte d'Ivoire.
16 Simply put, the units of the Côte d'Ivoire army and police were made up of officers
17 and rank and file from various ethnic origins, from various backgrounds, from
18 various faiths. They were defending people against the troublemakers and against a
19 foreign invasion.
20 If we speak out and fill the silence that the Prosecution has left, we can see a different
21 scenario. It was the forces of law and order, the security forces who were being
22 attacked; and thus, the account of the Prosecution falls apart. There is countless
23 items of evidence to this effect.
24 Now, you see, it was the security forces who were trying to protect the people; and
25 that being the case, the Prosecution's account falls to pieces.

1 There were groups of attackers organised as military groups, heavily armed, who
2 launched these attacks and a strategy aimed at seizing power by force can be seen.

3 And so allow me to reiterate. The Prosecution's account falls apart.

4 Now, you see, these groups of soldiers and rebels, mercenaries, had infiltrated
5 Abidjan before the election, transferred to the Golf Hotel, organised in the northern
6 part of the country preparing for the final assault. If that is the case, we can say that
7 Ouattara and his supporters wanted to seize power by force and the battle of Abidjan
8 was, simply put, the very implementation of his strategy.

9 Perhaps if we set these people apart, if they are no longer part of the story, can
10 we -- will people forget that it was the pro-Ouattara army that came from the north
11 late in March 2011 that had left rivers of blood behind them, committing countless
12 massacres? Perhaps someone wants everyone to forget that when these soldiers
13 arrived in Abidjan, they engaged in all kinds of criminal activities against the local
14 people, including wide-scale rape. Perhaps someone wants everyone to forget about
15 the crimes, the looting, the rapes that the pro-Ouattara soldiers and mercenaries
16 engaged in once they were in Abidjan as early as December 2010.

17 Above all, no one wants to consider the pro-Ouattara armed forces and the French
18 forces as part of the account of the battle of Abidjan because, otherwise, you see, one
19 would have to answer the essential questions, look at the vital issues, understand the
20 recent history of Côte d'Ivoire, the issues of who was giving the orders because once
21 you have answers to these questions, you will understand the crisis of Côte d'Ivoire
22 and every single aspect thereof.

23 For example, I think it is quite useful to realise that early in 2010, a campaign to
24 recruit mercenaries began in Burkina Faso. The recruits were trained at the Pô camp
25 by foreign military advisors. These recruits were transferred to the north of Côte

1 d'Ivoire, and there they were organised in a military fashion and given arms.

2 Despite the embargo set by the United Nations, while this was going on, Dozos
3 leaders were being promised money and war booty in exchange for their support of
4 the military offensive that the pro-Ouattara forces were preparing.

5 The plans for military action had been drawn up by the plotters and schemers at the
6 Golf Hotel in cooperation with French military leaders during the entire crisis; that a
7 fleet of military aircraft delivered heavy weapons to pro-Ouattara combatants in the
8 north of Côte d'Ivoire in February and March 2011, once again, breaking the UN
9 embargo.

10 It was the French special forces who prepared and organised the offensive of
11 March 2011 to sweep up, so to speak, before the pro-Ouattara forces came in. Isn't it
12 awfully revealing to see that the Prosecution does not intend to call any French
13 witness even though only the French authorities of the day, be they military or
14 civilian, have the information needed to tell the Court about the true issues of the
15 post-election crisis, about the strategy that the pro-Ouattara forces followed to
16 conduct a smear campaign of President Gbagbo and to gain power by force? And in
17 more general terms, only they can tell us about the true objectives of the various
18 protagonists.

19 How can the Court truly understand the post-election crisis and the tragic events of
20 the day if the main stakeholders are not called to the bar to give -- correction, called to
21 the box, the witness box? If the Prosecution's account is silent about the protagonists
22 of the Abidjan battle, it is because the Prosecution is following a different line of
23 reasoning, something different than what you would expect of a serious and impartial
24 investigation.

25 In actual fact, this is nothing more than a political narrative that has been heated up

1 and re-served.

2 This account, which was concocted up during the crisis of 2010-2011 by French
3 professionals who were in charge of Ouattara's communications was intended to
4 justify the use of force against President Gbagbo in the eyes of the international
5 community since the results of the election had been challenged.

6 Ouattara's spin doctors had decided that there would be two figures on one hand; on
7 one side the good guy, on the other side the villain; on one side democracy, on the
8 other side the dictator. The entire strategy was to have -- to conduct a smear
9 campaign against President Gbagbo to make him out to be some kind of demon. In
10 contrast, Ouattara was to be the good guy. He was to be painted as the legitimate
11 leader of the country. In other words, this entire story, the storyline, so to speak,
12 was all about making the new government seem legitimate. Above all, this
13 campaign was devised in the middle of an emergency. That is why it makes no
14 sense from a legal point of view. It is only a communications plan really. It's a
15 matter of making President Gbagbo out to be some kind of demon and painting
16 Ouattara as the good guy.

17 The Prosecution structured their DCC and their pre-trial brief in a certain way
18 following the communication plans of the Ouattara spin doctors, and they chose four
19 events to develop their own strategy. These events were turning points in the
20 post-election crisis of Côte d'Ivoire. These were various steps in discrediting
21 President Gbagbo and his government internationally. And at the same time, these
22 events meant France became more and more involved in the conflict. The so-called
23 putting down of the attack upon the RTI in December 2010 led to President Gbagbo
24 and his governments being condemned internationally.

25 The allegations relating to the women's march early in March 2011 led to the peace

1 talks that were underway being suspended immediately. France did not want peace
2 to be negotiated. The alleged shelling of the Abobo market on 17 March 2011 led, a
3 few days later, to the Security Council passing resolution 1975. It also led to a
4 ground offensive that had been prepared well in advance craftily, sneakily by French
5 forces.

6 And what can we say about the accusations relating to the fighting in Yopougon after
7 President Gbagbo fell? The fighting or, rather, the accusations are such that no one
8 considers the systematic violations of human rights and the numerous rapes that
9 were committed after the pro-Ouattara forces emerged victorious. These four events
10 lead us to a particular account, a story that legitimises the people who now hold
11 power.

12 The events lead us to think that there are two groups, the good guys, the bad guys,
13 good versus evil. And from this point of view, the events have a political meaning.

14 Rather than verifying the actual truth of this account, rather than investigating to
15 determine what actually happened, the Prosecution took this account for granted.

16 The problem is that this account really is not a faithful account of what happened, of
17 the truth. This is a particular militant approach to reality. This is why this account
18 is not particularly realistic and it really shows just how weak the Prosecution's
19 evidence is.

20 The shortcomings of this scenario were already pinpointed by the Pre-Trial Chamber
21 in their decision of 3 June 2013. They noted that what the Prosecution had brought
22 before them could not be deemed, and I quote: "As the result of a complete, proper
23 and full investigation," and they refused to confirm the charges.

24 One year later, the whole issue of the evidence for this so-called "common plan"
25 remained unanswered. In June 2014, Judge Van den Wyngaert warned quite

1 officially, really, and I quote: "In my opinion, there is no convincing items of proof
2 showing that at any particular point in time Laurent Gbagbo decided, with his inner
3 circle, to commit crimes against innocent civilians." End of quote.

4 Why did the Prosecution not make any changes to their account so that it would be
5 more in keeping with what happened, with the actual reality of the events? But you
6 see, the Prosecution couldn't go backwards. They had moved too far forward.
7 They were too exposed. They had no choice, so they upped the stakes because the
8 weakness of their arguments had been shown regarding the reality of the common
9 plan decided upon in 2010.

10 The Prosecution claimed that the so-called common plan had been devised and
11 implemented early in the year 2000, early in -- and that all efforts since the beginning
12 of the confirmation of charges hearing up until 2015 were intended to prove that the
13 common plan had been drawn up in 2010.

14 So you see, the Prosecution was trying to find some way to deflect the criticism about
15 the lack of evidence dating back to 2010 and to take the debate back to early
16 19 -- correction, to early in the years 2000. It was a matter of putting the debate on a
17 different kind of footing and finding a better position for themselves and doing away
18 with any traces of a rather lacklustre line of arguments.

19 President Gbagbo and his inner circle - and I think you should note the Prosecution
20 has never given a specific list of this inner circle - apparently constituted a group
21 sharing the same objectives and, acting together, they grasped power early in the first
22 years of the year -- early in the 2000s. To remain in power it is alleged that they
23 began a policy of intimidating the opposition.

24 Now, I think when you look at these arguments, you see that there really is not much
25 holding these arguments together.

1 The union for President Gbagbo was the condition for a common future, the
2 construction of a true democratic state and for the strengthening of institutions from
3 the time of the election until the fall, not a government that included ministers from
4 the political opposition or ministers from the rebellion. For example, one of the most
5 important figures from the rebel movement, Guillaume Soro, was appointed prime
6 minister in 2007 under these conditions.

7 When we hear the Prosecution explain that the government allegedly decided
8 between 2002 and 2006 to attack the political opposition even though this operation
9 was in government, I think really we have good reason to be surprised. But the
10 contradictions of the Prosecution's argument don't stop there. The facts show that
11 President Gbagbo did all he could to reunify the country, to restore the rule of law in
12 the north and ensure national reconciliation. He began his efforts as early as 2002.
13 But the Prosecution has not breathed a single word about President Gbagbo's policy
14 of openness. The masters in the north of the country were trying to disarm so that
15 elections could be held in the entire country. But before they were able to make this
16 commitment a reality, they never disarmed.

17 You see, their weapons were the key to their power, and the tool that they had found
18 to line their pockets to the detriment of local people. The violation of these
19 commitments by the rebels? Not a word from the Prosecution. Why? Because if
20 we were to stick to this reality, this version of the reality from the Prosecution, this
21 would mean President Gbagbo was some kind of despot.

22 President Gbagbo, as all people of Côte d'Ivoire and all Africans know, is a democrat,
23 a true democrat, a man who has struggled all his life to ensure democracy, the man
24 who promoted a multiparty system in Côte d'Ivoire, a man who preferred to go to
25 prison and to go into exile, a man who never compromised when it came to his very

1 principles, a man who knows that to build a country, you have to find a way to allow
2 peoples to live together. Everyone must have a place. And for everyone to have a
3 spot, a place within society, one must be able to seize one's own destiny.

4 Education is, thus, essential, and that is why President Gbagbo established a
5 remarkable system of free mandatory education as well as an innovative health
6 protection system.

7 The Prosecution is so uncomfortable with their scenario, which has no foundation,
8 that to keep this scenario alive, they remain silent about all the high-level events of
9 Côte d'Ivoire history of those years. They have said not a word about the repeated
10 attempts to seize power by force to put in -- to put Ouattara in place from the coup
11 d'état in 1999 against President Bédié, the invasion from the north and attempted
12 coup d'état against General Guéi in September 2000, the attack led in January 2001
13 against President Gbagbo, the invasion from Burkina that led to the country being
14 partitioned on 19 September 2002, the attempt to overcome President Gbagbo's
15 government in November 2004, none of these events are mentioned in the
16 Prosecution's account.

17 After dismissing and saying not a word about the protagonists, about the battle of
18 Abidjan, the protagonists of the crisis, now the Prosecution would say nothing about
19 the missing elements of Côte d'Ivoire history. It is a pity that the Prosecution did not
20 take any particular interest in the pro-Ouattara rebels, those who ravaged the north of
21 the country for years; nor did the Prosecution interest themselves in understanding
22 the history of Côte d'Ivoire.

23 Who are these rebels? A former French army official said the following: "I have
24 seen that most of these rebel leaders were not military leaders but, rather, they were
25 the leaders of gangs, extremely violent." The main activity of these people was to

1 engage in extortion, kill, rape people, and maintain terror amongst the population.

2 Why? So as to line their own pockets.

3 Your Honours, these are the very same people, the very same warlords who were

4 involved in various attempts ever since the year 1999, various attempts to have Mr

5 Ouattara come to power. These were the same leaders who surrounded him, were

6 with him at the Hotel du Golf in 2010, 2011. These are the same warlords who

7 implemented the strategy of grasping power by force. These are the same warlords

8 who are now in power today in Côte d'Ivoire.

9 Three years ago at the time of the confirmation of charges hearings, I asked the

10 Prosecution whether they intended to lay charges against those who are now in

11 power in Côte d'Ivoire and who are suspected of mass crimes, of crimes against

12 humanity. A number of human rights organisations suspect them of these crimes.

13 Despite the existence of evidence, despite the commitment that the Prosecution made

14 on Friday, I wage -- I bet that none of these supporters of Ouattara will ever be

15 charged and brought to justice here because this is what happens when one follows a

16 line of argument that has been elaborated by others. One is a prisoner of such

17 arguments rather than facing reality and drawing the appropriate conclusions; for

18 example, by providing an account to the Court that includes the historical truth of

19 what happened.

20 Instead of doing that, the Prosecution is trying to make the reality fit their account.

21 But if one says not a word about the attackers, the killers, the executioners, it's as if

22 their crimes never happened. It's as if the Prosecution has renounced their duty to

23 bring these people to justice. They have forgotten their commitments.

24 If one says not a word about the killers, the murderers, the executioners, does that

25 mean that the suffering of tens of thousands of people in Côte d'Ivoire never

1 happened?

2 So you see, if one turns the reality into something entirely different, the people who
3 suffered are the ones who pay the price. I'm thinking of the people of Côte d'Ivoire,
4 the first victims of the conflict; tortured, humiliated, raped, sometimes before their
5 families and ultimately carry the child of the man who attacked them. Suffering
6 cannot be divided into individual shares. It does not belong to one side or to one
7 ethnic group.

8 Rewriting history the way the Prosecution has is not only an attack upon the truth, it
9 is an attack upon the people of Côte d'Ivoire, what they have suffered, what they
10 experienced.

11 Your Honours, the year is 2016. The Prosecution has been investigating for nearly
12 five years now, five years of investigation to come to this form of bankruptcy, five
13 years of investigating to prepare a judicial catastrophe that certain judges from the
14 Pre-Trial Chamber saw coming as early as 2013; silence, shortcomings, flaws,
15 contradictions.

16 It is your task to speak out against what the Prosecution has done, to set the record
17 straight. You represent justice for the first time in the history of international
18 relations. International independent judges have the power to say no, the power to
19 speak out against the manoeuvring of powerful economic and political forces.

20 You have the power to condemn the corruption that they feed on, the power to
21 condemn the disdain that these interests hold for the institutions of countries. Thus,
22 you can say no to an old world, an archaic world, a world where violence and
23 domination triumph over all else. You can speak reason. You can speak for
24 modern times. You can set the record straight by proclaiming the truth. You will
25 give the people of Côte d'Ivoire their history back to them. You will give them back

1 their dignity. And on this foundation, they will be able to build true reconciliation.

2 The presentation will now continue with remarks by my colleague, Ms Naouri.

3 PRESIDING JUDGE TARFUSSER: (Interpretation) Thank you very much, Maître Altit.

4 Maître Naouri, the floor is yours. (Interpretation) You have the floor.

5 MS NAOURI: (Interpretation) Thank you, your Honour.

6 Your Honours, in the course of this presentation, we'll be showing a PowerPoint
7 presentation as well, and I will tell you when there are significant images that will be
8 shown on the screen.

9 At the end of the 19th century, France colonized the western part of Africa. The
10 colonization developed in the creation of a regional entity, western -- French West
11 Africa. Within this unit, there was coexistence of a number of different ethnic
12 groups of different cultures.

13 The economic and mining resources to a large part are to be found in the southern
14 part of the region, particularly in what would later become Côte d'Ivoire; whereas the
15 significant populations were to be found in the northern part. The colonial power
16 imported workers from the north to the south and mobility of populations was
17 encouraged.

18 When it came to independence, the administrative demarcations within French West
19 Africa became borders of the new states. These states, constructed on the basis of
20 arbitrary administrative borders, had no homogeneity or cohesion. They're all made
21 up of different ethnic and religious groups.

22 Côte d'Ivoire is one of the richest countries in Africa. It has tremendous potential as
23 regards its resources. It's the leading world producer of cocoa, and the third when it
24 comes to coffee production. It produces oil, wood, rubber, palm oil and diamonds
25 inter alia.

1 In 1960, under international pressure, France has to grant full independence to its
2 former colonies, but this is purely formal independence.

3 The CFA franc, which was the colonial currency, was to remain the currency of the
4 newly independent countries of Africa. Thanks to this system, it was possible for the
5 Bank of France to capture the profits in a strong currency from the sale of the raw
6 materials of former colonies and repay or pay back to the countries of origin the
7 equivalent of the amounts in CFA francs.

8 A defense agreement is signed by France and Côte d'Ivoire in 1961. As in the case of
9 the other former colonies, through this agreement, defense for the territory is
10 entrusted to the French armed forces. So everybody gets something out of it because
11 the heads of state don't have to develop their own army, which could actually be
12 dangerous in terms of their power, and France has a monopoly when it comes to
13 armed forces, which means that it can basically do what it likes as regards the heads
14 of state in power.

15 Over a period of 50 years, France intervened in a military fashion some 40 times in
16 Africa.

17 In Côte d'Ivoire, the security and safety of the country and the president, right from
18 independence, are guaranteed by the soldiers of the 43 BIMA at the Port Bouët camp
19 but close to the Abidjan airport.

20 And above all, as an agreement signed as a defence agreement that gives priority to
21 France when it comes to exploiting the countries resources.

22 It's because he considered calling into question this whole set-up, also the system of
23 the CFA franc, that Laurent Gbagbo is sentenced to be brought down by the French
24 authorities. Independence didn't bring about any changes. All of the significant
25 political and economic decisions concerning the former colonies continue to be taken

1 in Paris, and that is true to this day.

2 In order to illustrate the French authorities' perception of the role played by the
3 presidents of former colonies, in other words with a préfet, to whom the French
4 ambassador gives instructions, we just need to take a look at the exfiltration
5 procedure that's planned for them, and we can see this on the screen.

6 In order to make it possible for the Ivorian president to leave in the event of there
7 being dissatisfaction or discontent on the part of the population, France dug a tunnel
8 in Abidjan between the presidential residence and the neighbouring residence of the
9 ambassador of France and the fugitive could in that case go through the tunnel and
10 then cross a lagoon on a French boat and easily reach the French military camp that
11 has control over the airport, in this way making it possible to leave the country
12 should the need arise.

13 So this mechanism whereby the colonies were treated as wards made it possible not
14 only to give riches to France, which meant that it was, in fact, a country that had
15 ready access to low cost to raw materials, particularly oil, but it made it possible to set
16 up a clientele of States that supported the political decisions taken by the French
17 government.

18 (Playing of the video excerpt)

19 MS NAOURI: (Interpretation) This system prevailed until the start of this century, 2000,
20 because in all of the French-speaking countries there was a single-party system and any
21 attempt for there to be a democratic expression was suppressed. And I would like to show
22 you some images now.

23 (Viewing of the video excerpt)

24 THE INTERPRETER: The fall of the Berlin Wall, the globalisation of international trade, the
25 emergence of new international protagonists in Africa, the activism of pro-democratic

1 movements, all of these brought about a partial change in the France-Africa system as of the
2 start of the year 2000, and the system was based on economic interests. It allowed for the
3 intervention of lobby groups, which brought into play a group system that accepted to pay
4 the price of corruption rather than to have a simple political decision-making structure such
5 as had been before.

6 (Viewing of the video excerpt)

7 MS NAOURI: (Interpretation) This is the system that Laurent Gbagbo will attack.

8 (Viewing of the video excerpt)

9 THE INTERPRETER: When he comes back to the country, Laurent Gbagbo continues to
10 fight peacefully for the establishment of democracy in Côte d'Ivoire, compelling the power to
11 bring an end to the monopoly of the single party on 30 April 1990.

12 (Viewing of the video excerpt)

13 THE INTERPRETER: In 1990, Laurent Gbagbo stands for the Presidency of the Republic
14 against President Houphouët-Boigny. It's the first time since independence that an opponent
15 dares to stand against Houphouët-Boigny.

16 (Viewing of the video excerpt)

17 MS NAOURI: (Interpretation) In 1990, Alassane Ouattara is imposed on
18 Houphouët-Boigny by the French authorities as prime minister in order to introduce a
19 structural adjustment plan and to consolidate public finances. He's selected because his
20 career was in the IMF. That was after having been a Burkinabé citizen, where he was a
21 director of the CBWAS. And he's deemed to be technical expert by the business world.
22 Alassane Ouattara carries out a number of privatisations in the interests of foreign
23 companies, French companies, inter alia, he is in charge of the de-nationalisation of
24 the coffee, coffee and cocoa production and he brings in a number of foreign
25 multinationals.

1 The support of all of the foreign economic players who have benefited from the
2 privatisation policy is something that then lies in the interest of Ouattara. He is
3 entrusted with the responsibility of the devaluation of the CFA franc. At the time it's
4 Nicolas Sarkozy, who is the French minister of budget and who is in charge of
5 supervising the operation. Nicolas Sarkozy will then become one of the people
6 particularly close to Alassane Ouattara.

7 Alassane Ouattara suppresses the democratic opposition, and in 1992 he has some 400
8 people arrested, including all of the leaders of the opposition, and that included
9 Laurent Gbagbo.

10 In 1993 when Houphouët bony died, Alassane Ouattara attempted to flout the
11 constitution by grasping power. Henri Konan Bédié prevented the coup d'état and
12 Alassane Outtara had to flee the country and take -- seek exile. He found refuge
13 with the IMF and, thanks to the French authorities, he became deputy director general
14 and at the IMF he developed a support network.

15 Presidential elections were organised in 1995, and they were won by Henri Konan
16 Bédié.

17 Alassane Ouattara does not accept defeat, and even though he had become deputy
18 director general of the IMF, he carried out an international campaign in order to
19 convince everybody that he had been unfairly set aside in the context of the elections
20 because he was a Muslim.

21 Those close to him on 24 December 1999 organised a coup d'état against Henri Konan
22 Bédié, who had to flee the country.

23 (Viewing of the video excerpt)

24 MS NAOURI: (Interpretation) General Gueï, who has been persuaded to accompany them,
25 then acts against them and grasps power for himself; and he agrees to the presidential

1 elections planned for October 2000 going ahead. There is a further attempted coup d'état
2 that is immediately launched against him by Alassane Ouattara's supporters. This is the
3 Cheval Blanc coup d'état, and it occurred September 2000. The putschists failed in their
4 attempt.

5 (Viewing of the video excerpt)

6 MS NAOURI: (Interpretation) The winner of the presidential elections on 22 October 2000
7 is Laurent Gbagbo. He got 59.36 per cent of the votes during the first round.

8 (Viewing of the video excerpt)

9 MS NAOURI: (Interpretation) You heard him. "We have won. Peace has won over
10 war."

11 Laurent Gbagbo will never be able to shed the image of an African anti-French
12 nationalist which has been stuck to him by the supporters of Alassane Ouattara and
13 Henri Konan Bédié. The French establishment will never accept him. And in
14 France there is a campaign to de-legitimise him that starts almost immediately on his
15 coming to power.

16 (Viewing of the video excerpt)

17 THE INTERPRETER: Laurent Gbagbo and those who support him are set up as being the
18 baddies; Alassane Outtara, the current president, as being in the camp of the goodies. And
19 as soon as we stop to take a closer look at things, we can see if it's somewhat different. And
20 we're accused or you're accused of being pro-Gbagbo, which is quite extraordinary. But if
21 you want to take an honest look at things, then you're automatically assumed to be
22 pro-Gbagbo and then there is nothing more that can be said.

23 MS NAOURI: (Interpretation) At the same time there were further coup d'état that were
24 organised by Alassane Ouattara's supporters in order to bring him to power. The first is the
25 so-called Black Mercedes coup d'état in January 2001 carried out by IB, former bodyguard of

1 Alassane Ouattara. The rebels fail in their attempt.

2 (Viewing of the video excerpt)

3 MS NAOURI: (Interpretation) Alassane Ouattara's supporters do not give up. With the
4 assistance of President Compaoré, they recruit, train and arm new rebel troops in Burkina
5 Faso that are to allow them to grasp power on behalf of Alassane Ouattara. For Compaoré
6 and for Ouattara, the borders that are the result of the period of colonisation have no
7 significance. Listen to what they say.

8 (Viewing of the video excerpt)

9 MS NAOURI: (Interpretation) The French authorities do nothing to put an end to such
10 attempts, whereas, in fact, it would have been easy for them to do so. Indeed, Burkina Faso
11 is the armed wing of France in the subregion; and there is nothing that happens there that
12 France doesn't know about.

13 (Playing of the video excerpt)

14 THE INTERPRETER: Rebel troops enter Côte d'Ivoire in December 2002 while President
15 Gbagbo is on a state visit to Italy. The attempted coup fails in Abidjan, but the rebels who
16 have committed the massacres take hold of the north of the country. Gbagbo, in line with
17 the Defence agreements, requests aid from France. France refuses.

18 In Côte d'Ivoire, it's an internal conflict. It just concerns the Ivorians. And,
19 obviously, there is no question of France getting involved in this.

20 The rebels bleed dry the north of the country. There is a reign of terror and all sorts
21 of traffickings carried out. I remember I went to Bouaké and I walked around the
22 streets with my general in the air of the market and so on, or close to the barracks
23 where the Force Nouvelle were, and it was a shambles. There were people there
24 who had quite simply taken power through violence, through a reign of terror.
25 They were really gang leaders. And it was far from reassuring. You have to

1 imagine what the people living in the north or the west of the country feel when on a
2 daily basis they -- they -- they are having to cohabit with these lawless people and
3 people who have ransacked the north of the country.

4 I remember I went to the northeast of Côte d'Ivoire, I went to the town of Bouna, and
5 it really was a reign of terror. There was an armed gang that had imposed a sort of
6 organisation, and people living there were terrified. They hid in their homes. And
7 there were summary executions that were carried out in the north of the country.

8 It was the UN spokesman who told me at the time they had found containers full of
9 prisoners in the full heat of the day. So it's really difficult to have any sort of

10 negotiations. People close to Compaoré, president of Burkina Faso, are taking their
11 share of the profits of the rebel chiefs. The rebel chiefs who support Ouattara - and

12 some of them are Burkinabé - are close to Compaoré. Those in charge of the

13 Burkinabé presidential security force, and particularly General Diendéré and General

14 Zida are involved in the exploitation of the Ivorian north. The French authorities are

15 preventing the Ivorian government from expelling the rebels, although according to

16 Gildas le Lidec, who at the time was ambassador for France, he just needed three days,

17 no more than that, to take the north back and to halt the problem. It's not going too

18 far to say that the French authorities have made it possible for the rebels to prosper in

19 the north of the country Côte d'Ivoire to the detriment of the populations over a

20 period of eight years.

21 There is a real dialogue that we embarked upon this morning. I think it's a good

22 dialogue that makes it -- this makes it possible for us to move ahead. Tens of

23 thousands of people who are fleeing the north and fleeing the exactions carried out by

24 the rebels in November 2004, the Ivorian government forces launched a military

25 operation to push back the rebels beyond Bouaké and to guarantee the protection of

1 the population. This, however, failed because of the French intervention.

2 The events of November 2004, according to the French officials at the time, seemed to
3 show that there was an attempted plot that was striving to remove Laurent Gbagbo
4 from power. The shelling of a French position in Bouaké that led to the destruction
5 of Ivorian aviation by the French soldiers under the intervention of an armoured
6 convoy of the French that went into the very centre of Abidjan and surrounded the
7 Gbagbo residence before going back to l'hôtel Ivoire, Alliot Marie said it was to
8 protect the French embassy, said that it was a UN Jeep that misguided the French
9 tanks; but I honestly don't believe any of these versions.

10 In the following hours, French helicopters shot at the crowd that was trying to cross
11 the lagoon in order to demonstrate in front of the French military camp, and there
12 were dozens of people killed.

13 (Viewing of the video excerpt)

14 THE INTERPRETER: French helicopters flew over around a dozen times. The attacked
15 lasted four hours, and we didn't see a single demonstrator firing a shot.

16 The French convoy then was hiding at l'hôtel Ivoire, it forced a peaceful blockage of
17 the hotel area, and the people gathered around the hotel, many of them were killed.

18 We're getting close to the truth. There is just one question. How come there were
19 16 people who died and 76 people injured?

20 (Viewing of the video excerpt)

21 MS NAOURI: (Interpretation) When Gbagbo was elected in October 2000, the Ivorians had
22 just lived through horrific times. The supporters of Ouattara had grasped power in
23 December 1999 and then tried again to take it back in September 2000. As for the Général
24 Gueï, he attempted to manipulate the results of the presidential elections.

25 It's because he was aware of the fragility of the country and that he was determined to

1 make sure that its institutions functioned correctly that as soon as he was elected,
2 President Gbagbo created a national unity government. Up until the war of 2010, in
3 all of the governments, in all of his governments there were representatives of the
4 different Ivorian political parties. Even the RDR, Alassane Ouattara's party, was
5 represented.

6 President Gbagbo even appointed in his government as of March 2003 representatives
7 of rebels, among which Guillaume Soro, the rebellion leader.

8 It's important to note that in most of the governments, the opposition members
9 constitute a majority. In exchange for their involvement in the government and
10 integration into the national armed forces, the rebels undertake to disarm and to
11 allow the return of civilian authorities in the north of the country. But they were
12 never to comply with their promise. It has to be said that their avowed objective was
13 to seize power.

14 On 2 November 2004, General Jean-Louis Georgelin, who was the special chief of staff
15 of the French president at the time, who was Jacques Chirac, wrote a note in which he
16 directly accused Soro, who was inspired by Ouattara, of preventing or blocking the
17 disarming of the rebels. The officer added, and I quote, "The two parties concerned,
18 Soro and Alassane Ouattara, have to be spoken to in a political language that is
19 convincing, and it's important to underline that the only possibility of overturning, of
20 toppling President Gbagbo will be through elections, and the process itself will be
21 determined by the disarming."

22 However, the French authorities right to the bitter end will prevent the disarming of
23 the rebels, which inevitably led to a catastrophe.

24 The rebels were involved in arms trafficking. They had heavy weaponry, despite the
25 UN Security Council's ban. But it cannot be said that that was the case of the

1 government forces and the national peacekeeping forces. The French authorities
2 made sure that they could not get around the embargo.

3 Notwithstanding the fact that there was no longer a State in the north of the country,
4 where the populations living there were subject to arbitrary actions, exactions, the
5 French authorities put pressure on the country for the presidential elections to be held
6 in 2010, although the country was not ready for it.

7 According to a UN report that was drafted by experts in September 2010, but it was
8 kept secret and only published on 27 April 2011, organising elections at a time when
9 the rebels had not yet disarmed would inevitably lead to a catastrophe.

10 (Viewing of the video excerpt)

11 MS NAOURI: (Interpretation) When it was announced that elections would be held and
12 then a campaign to recruit mercenaries from Burkinabé in particular was begun by Ouattara
13 supporters. They gathered early in 2010 at the Pô Camp in Burkina Faso, trained by foreign
14 advisors, and they were given their equipment.

15 (Viewing of said video excerpt)

16 THE INTERPRETER: The specialists are sure Outtara's forces have benefited from foreign
17 assistance: new materials, Kalashnikovs, uniforms, heavy machine guns, pickups which the
18 rebels did not have at all. The rebels were disorganised in the past, divided and poorly
19 equipped. Now they have weapons and they have been trained for a number of weeks.
20 They can count on neighbouring countries such as Nigeria.

21 (Viewing of the video excerpt)

22 MS NAOURI: (Interpretation) Afterwards these mercenaries from Côte d'Ivoire, Burkina
23 Faso, Nigeria, Guinea, were transferred to the north where they received heavy weaponry.
24 The French authorities did not react, even though they had to be aware of the recruitment and
25 the training of these mercenaries and that they had been transferred to the north of Côte

1 d'Ivoire and that they had been organised into an armed force ready to attack the south.

2 (Viewing of the video excerpt)

3 MS NAOURI: (Interpretation) The election campaign unfolded in good conditions.

4 Laurent Gbagbo paid special attention to ensure that everyone could make their views known.

5 The various candidates received funding, government funding.

6 (Viewing of the video excerpt)

7 MS NAOURI: (Interpretation) We have just seen a video showing Madame Ouattara

8 dancing and to a song that -- what the Prosecution said a few days ago was Gbagbo's

9 campaign slogan. And I think -- and apparently this campaign slogan was a sign of his will

10 to remain in power. But here we see Antoinette dancing to this same song.

11 The French officials showed their commitment to Ouattara during the entire period

12 leading up to the election. The French ambassador was constantly visiting Outtara,

13 and Outtara had vast resources put to his disposal. He had advice from French

14 military advisors and spin doctors. He had major logistical and financial resources

15 and was protected by French bodyguards. The French president, Nicolas Sarkozy,

16 showed unwavering support for his friend Alassane Outtara.

17 Subject to this pressure from France, Outtara was allowed to occupy the Golf Hotel in

18 Abidjan along with some of his warlords and their armed men. Just before the

19 elections, the Golf Hotel complex became the pro-Ouattara forces headquarters.

20 Hundreds of heavily armed mercenaries set up operations there. They were ready

21 to attack this town and seize power. French advisors were also based there, some

22 civilians, some military advisors, in addition to communication experts and the team

23 of the new pro-Ouattara TV station funded by French friends of Ouattara. The

24 purpose of that television station was to call for civil disobedience and rioting.

25 The results of the first round of elections were as follows: Laurent Gbagbo came first

1 with 38.04 per cent of all votes; Alassane Ouattara was second with 32.07 per cent of
2 the votes; and Henri Konan Bédié third, 25.24 per cent. A few leaders, Henri Konan
3 Bédié, said that he had lost at least 600,000 votes and he should not have come third.
4 He should have been second.

5 (Viewing of the video excerpt)

6 MS NAOURI: (Interpretation) During the second round of voting, massive electoral fraud
7 occurred in the north and was reported by observers.

8 (Viewing of the video excerpt)

9 THE INTERPRETER: Observers from the African Union have seen the following: The
10 observers' mission notes with regret serious violence, loss of human lives, attacks upon people
11 causing bodily harm, abductions, intimidation, attempted kidnapping and destruction of
12 electoral material.

13 The rebellion -- correction, the rebels showed their fangs. The partisans of President
14 Gbagbo were kept from going to the ballot boxes.

15 MS NAOURI: (Interpretation) The announcement by the independent Electoral
16 Commission of the provisional results of the second round of voting was scheduled for 1
17 December 2010 in accordance with legal provisions. Then it was up to the Constitutional
18 Council to proclaim the final results.

19 On 2 December 2010, at the request of the French ambassador and the American
20 ambassador, and without the knowledge of the other members of the Electoral
21 Commission, the president of the Electoral Commission went to Ouattara's campaign
22 headquarters, and he declared that Ouattara had been elected on the basis of
23 provisional results; and in actual fact, these results had not been crosschecked. It
24 was up to the Electoral Commission to come to a decision together and that the
25 Electoral Commission was foreclosed because it only had until 1 December to come to

1 a decision.

2 What is more, although, you see, the CEI was supposed to validate the elections on a
3 provisional basis, but the final results, the final check was to be done by the
4 Constitutional Council of Côte d'Ivoire. This was under the terms of the constitution
5 itself.

6 (Viewing of the video excerpt)

7 THE INTERPRETER: We have gone to the Riviera neighbourhood to see the press
8 conference of Ouattara's party, the RHDP. Initially the press conference was postponed, and
9 there were -- there were only a few of us on the list. We were then invited to the press room.
10 The president of the Electoral Commission arrived, escorted by two soldiers. In brief
11 remarks, he provided the results of the presidential election announcing that Ouattara was the
12 winner with 54.10 per cent of votes versus 45 per cent for Laurent Gbagbo.

13 MS NAOURI: (Interpretation) Your Honour, we are aware of the time. Could we ask the
14 indulgence of the Chamber? Could we have a few more minutes to conclude this
15 presentation and then resume after the break?

16 PRESIDING JUDGE TARFUSSER: I don't know how long it takes, but if it's -- I think it's
17 better to conclude if possible. How long do you estimate it can take?

18 MS NAOURI: (Interpretation) Five minutes.

19 PRESIDING JUDGE TARFUSSER: Well, I'm looking, I look to the booth, and they are okay.
20 Thank you very much.

21 So just go ahead. Thank you.

22 MS NAOURI: (Interpretation) Thank you, your Honour. Thank you to the interpreters.
23 On 3 December 2010, the Constitutional Council provided the final results of the
24 election declaring that Laurent Gbagbo had won and, in turn, they proclaimed him
25 the president elect of the republic.

1 On 4 December, the president elect, Laurent Gbagbo, was sworn in.

2 (Viewing of the video excerpt)

3 THE INTERPRETER: Before the sovereign people of Côte d'Ivoire, I solemnly swear that I
4 shall respect and faithfully defend the constitution.

5 MS NAOURI: (Interpretation) Immediately thereafter, President Sarkozy protested and
6 called for respect of the unchallenged election of Ouattara. He called President Gbagbo and
7 demanded that he step down.

8 (Viewing of the video excerpt)

9 THE INTERPRETER: After verification of the votes, the special representative of the United
10 Nations, the Secretary General of the United Nations confirmed that Ouattara's victory cannot
11 be challenged.

12 MS NAOURI: (Interpretation) On 4 December 2010, Ouattara wrote to the Constitutional
13 Council and proclaimed himself president of the Republic on the basis of the results provided
14 by the president of the independent Electoral Commission.

15 (Viewing of the video excerpt)

16 THE INTERPRETER: The primary powers that have interest in the election of a mercenary
17 such as Ouattara have discredited the Constitutional Council and unilaterally proclaimed one
18 of the two adversaries the winner in a fashion that is completely illegal, and completely illegal
19 in light of the existing institutions in Côte d'Ivoire.

20 MS NAOURI: (Interpretation) Early in December 2010, sporadic attacks against members
21 of the police force occurred in a number of neighbourhoods of Abidjan.

22 I have concluded, and I thank you, your Honour.

23 PRESIDING JUDGE TARFUSSER: Thank you very much, Mrs Naouri. Even less than 5
24 minutes. Okay. Thank you very much.

25 Now, we have come to the break. We will resume just after 11.30. The hearing is

1 adjourned.

2 THE COURT USHER: All rise.

3 (Recess taken at 11.03 a.m.)

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

5 THE COURT USHER: All rise.

6 Please be seated.

7 PRESIDING JUDGE TARFUSSER: (Interpretation) Maître Altit, you have the floor.

8 MR ALTIT: (Interpretation) Thank you, your Honour. Jennifer Naouri is going to
9 continue her presentation.

10 MS NAOURI: (Interpretation) As of the start of December 2010, there was sporadic attacks
11 against the forces of law and order in certain districts of Abidjan. We are going to show you
12 an extract. And I would like to warn you there are a number of images we are going to see
13 that are difficult to watch.

14 (Viewing of the video excerpt)

15 THE INTERPRETER: On 15 December 2010, Guillaume Soro, who was prime minister under
16 Gbagbo until the elections, after which under Ouattara, made an appeal from l'hôtel du golf in
17 the presence of the mercenaries of Wattao, the warlord, he called for there to be an
18 insurrectional march the next day in order to take the Ivorian broadcasting corporation, and
19 he said that he was doing this at the request of Ouattara.

20 Soldiers, I'm going to Ivorian Radio and Television building in order to install the
21 new director general of the television company, and this I'm doing at the request of
22 the president of the Republic. You have to prepare yourselves. You must mobilise
23 on Thursday. We will be going to the television building. And I'm counting on
24 you. Morale, morale. There you have it. The boss has spoken. For the moment
25 we have nothing to say. We'll be ready for Thursday. Everyone is to be at the

1 swimming pool in five, eight hours with all the military equipment. The fun is over.
2 The next day, 16 December 2010, there were hundreds of rebel mercenaries based at
3 l'hôtel du golf who forced their way through to the presidential residence on the way
4 towards the RTI building.

5 (Viewing of the video excerpt)

6 THE INTERPRETER: This footage was shot yesterday, Thursday, 16 December, at l'hôtel du
7 golf, by the special reports of TF1, a French TV channel. Amongst other things, they said
8 that the pro-Gbagbo and pro-Alassane soldiers had pitched battle, and there were 11 people
9 who died. Their mission is then to link up with the hundreds of other civilian combatants
10 who are heavily armed hiding among the demonstrators who come from the north of Abidjan
11 are now heading towards the RTI as well. The civilian mercenaries have been infiltrated into
12 Abobo in the north of Abidjan just before the presidential elections in 2010.

13 In the following days and weeks, armed attacks against members of the forces of law
14 and order or against civilian populations deemed to be pro-Gbagbo multiplied in
15 Abidjan, particularly in the Abobo district.

16 Windows were shattered, ceilings blown off, shots in the walls. This is what the
17 First Lady of Côte d'Ivoire Simone Gbagbo saw when she went to the police station in
18 the 14th arrondissement in the centre of Abobo on 14 February. There had been the
19 attack of -- heavy attacks and the purpose was to eliminate the brave police officers of
20 the police station.

21 Tens of thousands of people from all ethnic groups were forced in January and
22 February 2011 to flee Abobo, part of Abidjan, together with Abidjan, this district that
23 has more than a million inhabitants, and the rebels reign over the area.

24 I was in bed at home. My mother called me and said the police captain had told
25 everyone to leave, to leave Abobo because the rebels were everywhere. It wasn't a

1 joke.

2 We didn't really know how this had happened. They had come into Abobo.

3 They're really impressive.

4 We're tired.

5 Throughout this period Gbagbo was constantly seeking a peaceful solution to the
6 post-electoral crisis and he proposed, for example, that votes be recounted. Ouattara
7 persisted in refusing this.

8 I say he doesn't agree, and those who support him don't agree. Well, they should
9 come along to the assessment committee. We'll take a look. We'll take a look at the
10 election results. We'll recount.

11 The French president, Nicholas Sarkozy, didn't want there to be a compromise either.
12 Laurent Gbagbo and his spouse have their destiny in their hands if they have not left
13 their post before the end of the week, he's continuing to occupy this post
14 notwithstanding the express will of the Ivorian people, so if they don't do so, they'll
15 be on the sanctions list.

16 He puts pressure on the international community to acknowledge Ouattara as
17 president. He sends his ministers and diplomats to try to convince them that
18 Gbagbo is responsible for the incidents and he should be prosecuted by the
19 International Criminal Court.

20 The president of the Côte d'Ivoire is called, Mr Alassane Ouattara. Strategic
21 decisions concerning the management of the Ivorian crisis are taken at the Elysée
22 palace. Simon, the French ambassador, is the liaison in situ for Ouattara. French
23 diplomats prevent any attempts at peaceful settlement of the conflict including on the
24 part of the African Union or the Vatican.

25 The mercenaries who have come into Abobo and the mercenaries at l'hôtel du golf do

1 not manage to take power by force. Sarkozy has therefore to call on the French
2 armed forces in order to destroy the Ivorian national army positions. But there is a
3 problem: The French intervention has to get the go-ahead from the United Nations;
4 and that is why in March 2011 a French diplomacy embarks upon a major campaign
5 and manages to have Resolution 1975 adopted by the Security Council, thus allowing
6 the use of force.

7 French military intervention goes ahead under cover of a rebel offensive from the
8 north of the country. As soon as the Security Council resolution is adopted on 30
9 March 2011, the troops of mercenaries recruited at the start of 2010 organised by the
10 French Special Services come down from the north of Côte d'Ivoire towards Abidjan.
11 The rebel mercenary forces are preceded by the French army, which clears the ground
12 before them.

13 In the context of this offensive, the government forces, in order to prevent civilian
14 losses, withdraws to Abidjan without any battle.

15 As they come down from the north to the south, the rebel mercenaries perpetrate
16 many attacks against civilians and commit numerous massacres. For instance, in the
17 Duékoué region, ethnic massacres led to hundreds of deaths and tens of thousands of
18 people having to flee. It's a veritable ethnic cleansing that the native population
19 suffer from.

20 The Carrefour district is now a ghost town. Here the houses have been looted before
21 being set alight and macabre discoveries occur every day.

22 This man was thrown into a well in the Carrefour district where it's not even been
23 possible to collect all of the bodies.

24 The responsibilities of the pro-Ouattara forces have not even been discussed in the
25 context of these massacres. It's the Republican Forces, as they're referred to, led by

1 Ouattara and Soro, and we're saying that these forces have been directly involved in
2 the massacres perpetrated in a number of villages, that these villages have been set
3 alight, there have been mass rapes, there have been mass crimes, and they're clearly to
4 be the responsibility of the Ouattara forces.

5 As soon as they get to Abidjan, the rebel mercenaries terrorize the population.

6 You've come to kill. That's what your mission is. Gbagbo, well, we're going to
7 bring him down. Whatever the obstacles, Gbagbo is going to have to face up to
8 these guys.

9 Some of the worries of veterans of the 2002 campaign before the country was
10 partitioned: In Yopougon, which is majority in favour of Gbagbo, this is where their
11 first victims are to be found, their first prisoners are taken.

12 However, even after linking up with the rebel groups that are active in Abidjan, the
13 rebel forces from the north are incapable of threatening the government army
14 positions. It's the French forces that attack the Ivorian positions.

15 Once the Ivorian army positions have been destroyed, the French army attacks
16 Gbagbo's residence. And for several days the French soldiers at the French
17 ambassador's residence, which is next door to Gbagbo's residence, attack the soldiers
18 and civilians who have sought refuge there.

19 Witnesses confirm that French helicopters shot at unarmed young people who
20 wanted to protect the residence.

21 After being bombarded by French helicopters in night of 10, 11 April 2011, the final
22 assault is launched against the residence by the French commandos in the morning of
23 11 April.

24 An hour and a half will go by between the start of the attack led by the French
25 commando and the time when the first rebel mercenaries' vehicles, guided by the

1 French soldiers from Abobo, will actually get to the residence.
2 When the rebels get through to the residence, they can get through without there
3 being any fighting, because the final people there who were defending it had
4 surrendered to the French commanders.
5 Despite everything, there were a lot of civilians arrested at the residence who were
6 then beaten and executed by the rebels.
7 The epilogue comes two days later. In the meantime, the UN and the French forces
8 have taken control. Gbagbo's capture is announced, and all of the troops that have
9 not taken part rush to the residence.
10 French guns had created an opening. They'd set alight the buildings and they forced
11 Gbagbo to surrender.
12 Inside there are traces of fighting and rooms that had clearly been looted.
13 The time has not come for reconciliation.
14 Rebels' exactions against civilians will continue a long time after the fall of Gbagbo,
15 which forces more and more people to flee the country.
16 Provoking the elections that were to lead to the departure of Gbagbo, all of that was
17 programmed. There was a clear objective, which was to get rid of Gbagbo. There
18 was a strategy, which was to bring to power his opponents as early as possible, and
19 all of this in the context of French military presence, which of course remained
20 inactive when it came to saving people.
21 MR ALTIT: (Interpretation) Thank you, your Honour. Maître Baroan will continue the
22 presentation, if you allow.
23 MS BAROAN: (Microphone not activated)
24 THE INTERPRETER: Microphone, please.
25 MS BAROAN: (Interpretation) Your Honours, for nearly five years now, I have listened to

1 the Prosecution, I have read their filings and I think the time has come to set the record
2 straight when it comes to some aspects of my country and to explain the complex nature of
3 Côte d'Ivoire, to tell you about the cultural and historical truth of my country.

4 All the same, I really must pay tribute to the courageous and valiant people of Côte
5 d'Ivoire, who still are looking for a rock, these people that the Prosecution would
6 have divided because of their obsession, their obsession, their wish to show you a
7 polarized Côte d'Ivoire, one camp against another, one ethnic group against another,
8 as if the people of Côte d'Ivoire have not suffered enough.

9 Your Honour, with all due respect I wish to pay my tribute to all the victims of the
10 various armed crisis that have shattered Côte d'Ivoire since 1999.

11 Your Honour, it is on behalf of the people of Côte d'Ivoire that you will render justice.

12 The people of Côte d'Ivoire are astonished. For now, now it has been nearly five
13 years, and the Prosecution has had a mandate to deal with the case, to investigate
14 both incriminatory matters and exculpatory matters, in other words, as completely
15 and as impartially as possible. But no, the Prosecution would divide, make
16 distinctions amongst the victims. Let me think, and yet not a word about the
17 families of the policemen of Bouaké, not a word about the victims of the massacre that
18 occurred in Quitrozon; nothing about the victims of the Grand Ouest ivoirien or the
19 thousands of Wé people who died; not a word about the people of the north who
20 have been left to the prey of warlords of Ouattara. They have ravaged the north for
21 nearly ten years now, killing, looting, raping.

22 I wish to remind you that it has been nearly 13 years actually that the ICC has been
23 supposed to be looking at the situation in Côte d'Ivoire. The ICC was first called in
24 in April of 2003. And where has the Prosecution been all this time regarding the
25 post-election crisis? Why has the Prosecution forgotten the victims of PK18, the

1 people living in the village of Anonkoua Kouté, who were massacred in March 2011
2 by pro-Ouattara fighters who infiltrated Abidjan well before the presidential election.
3 If we take stock of these horrors, we really have to ask questions, what have the
4 pro-Ouattara fighters done? And we can see that the forces of security were not
5 attacking the people. Quite on the contrary, they were defending the local people.
6 Why were you not told that in late March 2011, as they moved from the north to the
7 south, the pro-Ouattara soldiers and mercenaries committed horrific crimes. People
8 still remember the massacres that occurred in Duékoué when hundreds of men,
9 women and children were murdered most horribly. People still remember the
10 massacres of Gagnoa and how many other massacres.

11 Once these mercenary soldiers and Dozos arrived in Abidjan, they carried out
12 widespread looting. They killed countless people and engaged in a campaign of
13 systematic rape. These horrors were committed under the authority of Ouattara's
14 warlords. The violent acts of these people were denounced by French military
15 authorities between 2002 and 2010. Unfortunately, these people are now in power in
16 Côte d'Ivoire.

17 Your Honour, maintaining the silence about the horrors committed by the Ouattara
18 forces, maintaining the silence about the attempts to bring Ouattara to power by force,
19 by, for example, the attempt in 1993 and then the attempt in 1999 against President
20 Bédié, the attempt in the year 2000 to overthrow General Gueï in 2001, the attempt to
21 overthrow President Gbagbo, and finally the most memorable, the attempt on 19
22 September 2002 which led to the country being divided, partitioned. And, finally,
23 you see in 2004 once again another attempt was made to overthrow President
24 Gbagbo.

25 The Prosecution says nothing. And why is this silence necessary? It's because they

1 need to remain silent to support their theory of a common plan so that they can paint
2 or depict, rather, President Gbagbo as a despot.

3 Year after year for nearly a decade, the supporters of Mr Ouattara tried to put him in
4 power by force. And so we understand that when it comes to Côte d'Ivoire, we must
5 bear all these multiple issues in mind.

6 So now they rewrite history, and we see this staggering reversal. The Prosecution is
7 now saying that there was political oppression by the opposition in the south; but the
8 actual reality was completely different. And the political opposition present in the
9 government was associated with all the decisions. They would have you believe that
10 everything was going just fine in the north of the country, even though the people
11 living there were terrorized by Ouattara's warlords for ten years. You can see that
12 the reality is the complete opposite of what the Prosecution has said.

13 The Prosecution goes even farther explaining that the conflict in Côte d'Ivoire was an
14 ethnic conflict, the south against the north, Christians against Muslims, Bété people
15 against the Dioula.

16 It would appear that ethnic conflict is the only thing that the Prosecution has left to
17 support their arguments.

18 Your Honours, Côte d'Ivoire is not divided into two components. It's not one area
19 against another. This is an incorrect and dangerous vision that the accusation -- that
20 the Prosecution, rather, would have you believe.

21 Côte d'Ivoire is made up of more than 50 ethnic groups that belong to four major
22 cultural groups. But these groups are not entirely closed off. Members of the
23 various groups interact, and within families there are subgroups and many people
24 marry outside of their ethnic group, which provides for a very rich form of humanity.
25 Allow me to explain Côte d'Ivoire and its common areas, the neighbourhoods. Côte

1 d'Ivoire is organised into common areas or yards shared by a number of homes.

2 Most of the time these shared areas have people from various different ethnic origins

3 and different faiths. This is the forum for talking about daily items, and in these

4 common areas people talk and people consider each other to be family members.

5 People can deal with family problems in these common areas. In other words, they

6 have an opportunity to wash their -- set out their dirty laundry in front of members of

7 the family.

8 But now, you see, because of development and a more urban way of life, the people of

9 Côte d'Ivoire now live in cities, towns and hamlets. They marry one another, they

10 mix. It is difficult to find a family that does not have people from other ethnic

11 groups or from other faiths or people from other countries, even other continents.

12 In Côte d'Ivoire, nothing can be boiled down to a matter of ethnicity. Just because

13 some people share certain customs, a language or common ancestors, this doesn't

14 necessarily mean they have the same world view.

15 The same thing holds true for religion. Of course, religion does have a social

16 component to it, but it is mostly a private matter. It is the commitment of an

17 individual. Just because one is part of a cultural group or ethnic group or a

18 particular family, that doesn't necessarily mean one follows a particular

19 region -- religion, pardon me. In Côte d'Ivoire, religious boundaries do not

20 necessarily match ethnic boundaries.

21 I have already provided an example of this reality to this Court. The family to which

22 I belong, it includes people from Burkinabé, from Wé, from Malinké people, Bété

23 people, Malians, people from Guinea, Cameroon, even Germans and Belgians. We

24 even have a Chinese person in our family. Some of our family members are

25 Christians, others Muslims, some follow traditional beliefs.

1 Myself, I see myself as Malinké and Bété. I consider myself to be a Christian,
2 although my father was Muslim.

3 Even if people share a common origin, their political choices, their religious choices
4 remain individual. The people of Côte d'Ivoire, like other human beings, have free
5 will. Within a single family you will find Christians, Muslims, people who support
6 one party, people who support another.

7 Your Honours, when we are talking about human beings, I think we need to avoid
8 caricatures such as the ones that the Prosecution have been drawing in this case.

9 When it comes to human beings, I don't think it's useful to simplify things. For
10 example, this distinction that the Prosecution is making between the Muslim, Dioula
11 and the Christian Bété, doesn't the Prosecution realise that not all Bété people are
12 Christians? Many are Muslims. Because in actual fact, many of them follow animis
13 beliefs. Does the Prosecution realise that Dioula is not a word that covers a
14 particular ethnic group?

15 In actual fact, it is used to describe itinerant traders and is really not a term that
16 applies to an ethnic group. If you are any kind of trader, you will be referred to as a
17 Dioula.

18 When the Prosecution makes this distinction between the Muslims in the north and
19 the Christians of the south, do they realise that there are more Muslims in the south
20 than in the north? One only has to tour Abidjan to see that and count the number of
21 mosques and you will realise that this concept of a Muslim north and a Christian
22 south is but an illusion.

23 Now, I suppose we could forgive the Prosecution for this attempt to build these
24 archetypes and then pit them against one another. He needs this -- he needs these
25 archetypes to support his thesis. But, you see, the Prosecution is denying the reality

1 and the humanity of Côte d'Ivoire by saying that ethnic solidarity is greater than an
2 individual commitment. The Prosecution is denying the very humanity of members
3 belonging to the ethnic groups, their individual nature.

4 This ethnic-based mind, set of mind is insulting and dangerous. It throws
5 everything off. It is completely unacceptable.

6 The people of the north have been subject to extortion. They have been looted, they
7 have been killed, terrorized for ten years by warlords belonging to the same ethnic
8 group as them.

9 Ethnicity is not the key to understanding my country. And Judge Van den

10 Wyngaert was quite right when she pointed out in another case, "It is inappropriate to
11 consider entire populations as a single block and attribute collective criminal intent to
12 all members of the group. Individuals are not predestined to act or think in a certain
13 way just because they belong to a particular social or ethnic group."

14 The reference is ICC-01/04-01/07-3436-Anx1, French translation, paragraph 258.

15 If we look closely at the reality of Côte d'Ivoire, we see that ethnicity is never a correct
16 explanatory factor.

17 Your Honours, you will have to consider the complexity of the situation that the
18 Prosecution provided you. But they showed you a picture, but through the wrong
19 prism. You must give the people of Côte d'Ivoire their humanity back. You cannot
20 consider them to be clones or carbon copies of one particular ethnic archetype. That
21 would be -- really it is up to you to set aside these clichés and these approximations
22 that the Prosecution has used.

23 Your Honours, the Prosecution realized after the pre-trial stage that it was impossible
24 to prove the alleged common plan in 2010. So what did they do? They changed
25 their approach and now they are offering a new version of the story, a new version of

1 their arguments.

2 Now the Prosecution argue that President Gbagbo wanted to remain in power at any
3 cost and that this wish was seen as early as the election of October 2000. In other
4 words, the Prosecution is trying to prove that a common plan apparently existed in
5 2010, but dates the adoption of this plan to the early years 2000.

6 The reality of the common plan shown since the early years 2000 would prove this
7 will not to respect the results of the 2010 presidential election. In other words, to
8 prove that a common plan existed in the year 2010, the Prosecution shows the sceptics
9 a demonstration that has to do with the early years 2000 and not the year 2010.

10 The problem with this is that, first of all, you see, in 2010, the Prosecution argued
11 exactly the contrary before the Judges. The Prosecution said in three days the
12 country was transformed. It went from a democratic exercise, 80 percent of
13 registered voters taking part in polling, to a divided country, a country of hate,
14 during which hundreds of civilians were subject to widespread violence.

15 In actual fact, the Prosecution has nothing to support these allegations. Why?

16 Because all the Prosecution's efforts ever since the first hearings, the Confirmation of
17 Charges hearings in 2010, 2011 do not -- nothing has borne out their allegations.

18 And now the Prosecution has a new story, and they think it is necessary to paint a
19 different picture, a rather simplistic picture showing only incriminating elements
20 against President Gbagbo.

21 They say Gbagbo only wanted to keep power. They paint the portrait of a man who
22 opposed democracy, a despot. This is the only image that they can use to say that
23 the crisis of 2010 was present when President Gbagbo was elected in 2010 and the
24 period from the year 2000 to 2010 was only a lead-up to the 2010 crisis, a period of
25 low-level violence on the part of President Gbagbo's supporters. In other words, the

1 Prosecution has decided that President Gbagbo was illegitimate right from the very
2 beginning, to be discredited.

3 But what about respect for the will of the ordinary people of Côte d'Ivoire? The
4 more the Prosecution attempts to provide explanations, the more they find
5 themselves bogged down in contradictions of history, and they just don't have the
6 story right. Their account is false.

7 President Gbagbo is not a despot. He is a democrat who has fought for the
8 establishment of democracy in Côte d'Ivoire all his life. As we have said earlier, he
9 has made sacrifices to defend his ideas, ending up in prison and in exile. He has
10 suffered because of his conviction. He has never compromised on his principles.
11 He has refused any wrongful arrangements, any horse-trading, so to speak, any deals.
12 He has always thought that Côte d'Ivoire must establish a true form of democracy
13 and rule of law. This man has always turned down any offers, any iffy compromises,
14 and he paid the price. He sacrificed his freedom, and the Prosecution makes him out
15 to be some kind of despot, thirsty for power.

16 In 1995, President Gbagbo fought so that Ouattara could take part in the presidential
17 election. In 2010, he took a number of exceptional measures to allow candidates,
18 including Mr Ouattara himself and Mr Henri Konan Bédié, to take part in the election.
19 He allowed them to run.

20 Your Honours, like Florentin Prunier, the hero of George Duhamel's song has said,
21 Laurent Gbagbo resisted for many years. He held out against all those who wanted
22 Côte d'Ivoire to fall apart so that they could swoop in and take the resources. For
23 many years, he has attempted to reunify the country, always peacefully, so that this
24 country, so fragile, could have a better future. To this end, he opened up the
25 government, as is done in a smaller scale within the communal gardens, the

1 communal spaces.

2 Your Honours, do not allow yourselves to be deceived. It is Côte d'Ivoire that has
3 been attacked. It was the institutions of Côte d'Ivoire that were destroyed by the
4 French forces in April 2011 and alas - I reiterate alas - it is the people of Côte d'Ivoire
5 who have paid the price and are still paying the price for this manoeuvring on the
6 part of powerful interests.

7 More than 60,000 refugees live outside the country, and more than 20,000 people are
8 displaced internally. There are hundreds of political opponents in prison, and there
9 was -- and when President Gbagbo was in power, there were no political opponents
10 in prison. The people of Côte d'Ivoire are terrorized. The violence and the abuse
11 continue. The rule of law is swept aside.

12 Your Honours, the people of Côte d'Ivoire need justice and truth. They need to
13 know that justice exists. They beg of you to help the people who are in utter despair,
14 who have been sent in exile in their own countries, their own villages, their own
15 houses.

16 I thank you, your Honours.

17 PRESIDING JUDGE TARFUSSER: Thank you, Madame Baroan.

18 Maître Altit.

19 MR ALTIT: (Interpretation) Thank you, your Honour. With your leave, Maître Naouri
20 will take the floor once again.

21 PRESIDING JUDGE TARFUSSER: Of course. You have the floor, Maître Naouri.

22 MS NAOURI: (Interpretation) Thank you, your Honour. This presentation will be
23 accompanied as well by a PowerPoint presentation. Your Honours, as we have already said,
24 in order to understand this case and the context in which we're to see the Prosecution's
25 accusations, we have to understand who are the different protagonists in the post-electoral

1 crisis of 2010-2011. And we can only understand who those protagonists are if we have an
2 understanding of the fact that in Côte d'Ivoire, since 2002, there was a non-international
3 armed conflict underway; and in the course of the post-electoral crisis, it became an
4 international armed conflict.

5 After the September 2002 coup d'état, Côte d'Ivoire was cut into two, the north of the
6 country, which was ransacked by rebels who had attempted to bring to power by
7 force Alassane Ouattara. Those rebels organised themselves in order to set up an
8 army. It was an army of rebels, and it was supported by Burkina Faso and France.

9 The support of those two countries became so strong that in 2010 the conflict in Côte
10 d'Ivoire became an international conflict. We are going to demonstrate to you that in
11 line with the criteria laid down by text and case law, there was in Côte d'Ivoire an
12 armed conflict that was not international as of September 2002, but it then became
13 international.

14 In Côte d'Ivoire, rebel groups had gradually emerged and formed an army that was
15 well armed, well equipped and organised in a military fashion. This army, in order
16 to control territory, perpetrated violent attacks against the population and embarked
17 upon an offensive in 2011 against the southern part of the country. And this will be
18 my first point.

19 In 2002, once the north of the country was in the hands of warlords, rebel groups that
20 were pro-Ouattara were created. The most significant of these was the movement
21 Patriotique du Côte d'Ivoire, the MPCI, led by Guillaume Soro as of 14 October 2002.
22 The official declared objective of the MPCI was a political one; but, in actual fact, its
23 members behaved as looters and attacked the civilian population.

24 For example, we've already heard that at the start of November 2002, the rebels from
25 Bouaké were pursuing their blood-thirsty advance towards the south, looting houses,

1 burning cocoa fields in Samia, in the west of the country, and they summarily
2 executed 35 civilians there.

3 On 28th November 2002 in Danané, which is a town close to Liberia and Guinea, it's
4 in the west of the country, shots were exchanged for several hours until the rebels
5 took control over the town. Several gendarmes were killed.

6 Between 16 and 25 December 2002, 17 persons were executed in Dia Wang, which is a
7 village, a martyr village in the west of the country, and they were executed by
8 members of the MPCI. And this village was subsequently to undergo further
9 exactions.

10 The MPCI was acting on behalf of Alassane Ouattara. One of its leaders, Zaccaria
11 Koné, did not conceal this fact at a political rally in 2003 in Séguéla in the north of the
12 country, which was recorded by video. He explained that, and I quote, "If you
13 support the MPCI, don't do it for Zaccaria. Don't do it for IB. Don't do it for
14 anyone other than the person who bought our weapons; in other words, Alassane
15 Dramane Ouattara." And he added that when the rebels were in exile, Alassane
16 Ouattara took care of them, and that meant, amongst other things, providing them
17 with a significant amount of money each month.

18 Let's listen.

19 No, I'm sorry. We can't hear this. Anyhow, I'll tell you what he said. I think it's
20 very clear.

21 Abdoulaye Traoré, another warlord who controlled Man and its environs in the west
22 of the country said, and I quote: "At the end of every month, Alassane Ouattara
23 spent 25 million CFA francs for our food. He armed -- he provided us with weapons.
24 And it's those weapons, those arms that have made him into an exceptional
25 candidate.

1 In addition to the MPCI, there were two other large rebel groups, and the three of
2 them together controlled the major part of the north of the country. There was the
3 Mouvement pour le Justice et la Paix, the MJP, which was created in the town of Man,
4 and it was made up mainly of Dozos hunters.

5 Its commander was Gaspar Délé. But Ousmane Coulibaly, also known as "Ben
6 Laden," was also one of the commanders of that rebel group.

7 In addition, in the west of the country, there was the Mouvement Populaire Ivoirien
8 du Grand Ouest, the MPIGO, led by Sergeant Félix Doh.

9 The first two groups were created at the initiative of IB, former bodyguard of
10 Alassane Ouattara with the support of the Liberian president Charles Taylor.

11 In their ranks were former Liberian soldiers, including Koudou Denis and Sam
12 Bockarie, also known as Mosquito, who were responsible for massacres carried out in
13 Sierra Leone.

14 Let me say something about Ibrahim Coulibaly. He took part in all of the coup d'état
15 striving to bring Ouattara to power, including that of 24 December 1999 and that of 7
16 January 2001, which went by the name of the Black Mercedes Coup d'état, as referring
17 to the car that IB drove. And there was also the coup d'état of 19 September 2002.

18 IB was sentenced in absentia on 4 June 2008 by a French court for mercenary
19 activities.

20 International crisis group on 22 April 2008 recommended to the Security Council of
21 the United Nations that sanctions be taken against him because he had attempted to
22 destabilize the peace process in Côte d'Ivoire.

23 During the post-electoral crisis, IB was to head the invisible commando made up of
24 pro-Ouattara fighters and who had been infiltrated into Abidjan before the elections.

25 They were fighters who were responsible for numerous crimes and exactions.

1 In 2002, the three rebel groups that I've been talking about took control of the north of
2 the country. We can see this on the map on the screen. The rebel groups were
3 merciless in massacring in the north representatives of the legitimate authorities, and
4 they also attacked the civilian population. They terrorized them. They looted.
5 They carried out murders, rapes.

6 On 6 October 2002 in Bouaké, we've already seen this, gendarmes and their entire
7 families were arrested by the MPCI. They were taken to the prison at the military
8 camp of the third infantry battalion where all of them, men, women and children
9 were beaten, starved and finally shot. The survivors were forced to transport the
10 bodies and bury them in mass graves. There were more than 120 deaths.

11 Still in Bouaké on 8 October 2002, MPCI members shot at a peaceful demonstration.
12 Human Rights Watch in 2003 denounced the numerous cases of hostage-taking and
13 torture perpetrated by the rebels in the west of the country at the start of
14 December 2002.

15 Guillaume Soro, who was secretary general of the MPCI, said, "As regards 2002, it's
16 true that in 2002 there was killing, there was a rebellion, but we've had an amnesty
17 law."

18 In his book, "Why I Became a Rebel," he explained the plan of attack implemented by
19 the rebels during the coup d'état in 2002, which involved infiltrating key towns, such
20 as Khorogo in the north, Bouaké in the centre and Abidjan in the south prior to
21 embarking upon attacks.

22 This is a fundamental element because it's exactly the same *modus operandi* that we
23 will see in 2010.

24 As time passed, the rebels strengthened their hold over the north and multiplied the
25 number of exactions. Between 20 December 2002 and 26 February 2003 around

1 Duékoué and Bangolo, 368 civilians were executed by groups of rebel fighters.

2 Between 29 November 2002 and 12 March 2003, 134 people were shot, had their
3 throats slit or disappeared in Toulepleu, which is also in the west of the country.

4 Among the victims of the rebels were the Guéré people in the west of the country.

5 And for instance, on 22 March 2003, there were the inhabitants of the Dah village who
6 were massacred.

7 A French military official in position in Man between late February and June 2005 has
8 said that he had been called to note the existence of a massacre at the southern limit of
9 the area close to Duékoué, and 80 people there had been burnt alive.

10 From 31 May to 1 June 2005 in Duékoué a hundred people were massacred just 300
11 metres from a UN post that was held by a Bangladeshi contingent.

12 These attacks against civilian populations are just a few examples of the numerous
13 cases of atrocities that occurred on a daily basis in the north of the Côte d'Ivoire over a
14 period of years. Throughout that period, the military structure that involved the
15 different groups became stronger and stronger; and ultimately, in 2003 there was a
16 unified armed structure that was created.

17 The armed forces of -- the New Forces, the force army, the Force Nouvelles, the FAFN,
18 these forces changed their name in March 2011. They became the FRCI, the Force
19 Républicain de Côte d'Ivoire.

20 According to a commission established by the UN, the FAFN organisation was a
21 carbon copy of the national armed forces. Their headquarters were in Bouaké.

22 Since the 2002 invasion, the FAFN have been in control of 60 percent of the territory of
23 the country. The territory is in the hands of the rebels, and it's referred to as the
24 CNO zone, the centre northwest zone.

25 In order to strengthen their authority, each of the rebel chiefs acquired a portion of the

1 CNO territory. It was actually broken down into 10 zones, each under the authority
2 of a Com-zone commander. So who are the Com-zones who controlled the north?
3 A French military official said, and this is important because it's something that he
4 saw: "I saw that most of the rebel chiefs were not military leaders. They were gang
5 leaders. They were of a terrible violence. Their main activity involved imposing
6 themselves through force, carrying out extortion, killing people, raping and
7 maintaining a reign of terror over the population in order to enrich themselves."

8 I went to villages with around a thousand inhabitants that had actually been deserted
9 after the violent actions carried out by those leaders. My soldiers gathered up entire
10 families, including children, pregnant women, old people, and they had all been cut
11 down by machete.

12 The Com-zones are suspected of having committed mass crimes by human rights
13 organisations.

14 Chérif Ousmane, known as Papa Guépard, is one of Com-zones who was closest to
15 Alassane Ouattara. His soldiers called him the cleaner. He's facing grave
16 accusations because of his involvement in a number of massacre.

17 Chérif Ousmane took part in the final assault against Abidjan in March-April 2011,
18 and his men conquered Yopougon, amongst others, as a result of summary
19 executions.

20 On 3 August 2011, Alassane Ouattara promoted him to second in command of the
21 security outfit of the president of the republic,

22 Ouattara, we saw him haranguing the soldiers at the Golf hotel 15 December 2010
23 before the insurrectional march to the RTI. He was involved in numerous cases of
24 trafficking, particularly cocoa trafficking. International crisis groups suspect him of
25 having destabilised the peace-keeping process on a number of occasions and of being

1 responsible for a massive massacre in Bouaké in 2007.

2 In 2009, the military observers of the ONUCI noted that his unit that was called

3 Anaconda had heavy machine guns, which was a violation of the arms embargo that

4 had been imposed by the Security Council of the United Nations. He is currently

5 second in command of the Republican Guard of Alassane Ouattara.

6 Let me say something about Zaccaria Koné. He headed a unit of some 1,500 Dozos.

7 They were called the warriors of light, and they fought with the Force Nouvelle. The

8 Dozos, they're the same as the Kamajors who committed atrocities in Sierra Leone.

9 Koné Zaccaria is known for being at the heart of numerous cases of trafficking,

10 particularly diamond trafficking in the north of country.

11 In 2010, Alassane Ouattara appointed him commander of the military police, but he's

12 been accused by human rights organisations of having tortured and killed a number

13 of civilians when he headed the Adjamé camp after the downfall of Gbagbo. And he

14 was transferred in late October 2012 and he became the head of the ground-to-air

15 artillery battalion, which is at the military camp in Akouédo, which means, in other

16 words, that he retained his functions and he was placed at the very heart of a security

17 apparatus in Abidjan. Today he's suspected of having assisted General Diendéré in

18 the putsch in Burkina Faso on 17 September 2015.

19 Ousmane Coulibaly, we've heard about him, he's known as Ben Laden, he had close

20 links with Charles Taylor and the Liberian mercenaries, as noted by Human Rights

21 Watch. He was the commander of the former BAE camp in Yopougon until end of

22 September 2012. There he tortured people and he carried out widespread arbitrary

23 arrests.

24 Let me say something about Kouakou Martin Fofié. In 2011, he was to be Gbagbo's

25 jailor. Martin Fofié, in 2004, had at least 99 people killed. This is according to the

1 United Nations. Most of these people were suffocated after being held for several
2 days in sealed containers without any food or water.

3 Since 2006, he has been the object of sanctions by the Security Council of the United
4 Nations because the forces under his command have committed atrocious crimes,
5 such as the enlistment of child soldiers, rapes and extrajudicial executions. In 2006,
6 he was subject to UN Security Council sanctions. And 2011, he is entrusted with the
7 task of guarding President Gbagbo.

8 These are the men who control the north of the country and for a period of ten years
9 carry out wide-scale operations to try to seize power.

10 These are the men who brought Alassane Ouattara to power and these are the men
11 who today hold power in Abidjan.

12 In the light of all of this, it is easy to demonstrate that following the coup d'état that
13 led to the partition of the country in 2002, Côte d'Ivoire is the theatre of a
14 non-international armed conflict as defined by Article 8(2)(f) of the Statute, the
15 second additional protocol to the Geneva Conventions and the evidence that has been
16 brought by the ICTY and that has been taken into the case law of this Court.

17 Thus, the government army had to face and organise an armed fighters group that
18 controlled part of the territory and that carried out wide-scale attacks.

19 We cannot stop the analysis here because, after all, we must give a full picture of
20 reality. Indeed, how was it that the Force Nouvelle was so well-armed and trained,
21 notwithstanding the UN arms embargo? It's because they enjoyed foreign support.

22 This brings me to my second point.

23 First of all, the Force Nouvelle had support from Burkina Faso. All of the coup d'état
24 in the Côte d'Ivoire had a single objective, which was to bring Alassane Ouattara to
25 power. They were all carried out by the same people, those close to Alassane

1 Ouattara. Those men were to become the Com-zones, and that included a number of
2 Burkinabé nationals. Burkina Faso was the rearguard, the place where they enjoyed
3 the fruits of their crimes.

4 From the start of the destabilisation process of the Côte d'Ivoire right through to the
5 taking of power by Ouattara, there was always support given by the Burkinabé
6 authorities, including by those close to Blaise Compaoré, the members of the
7 Presidential Guard, including General Diendéré and General Zida; or they sought
8 refuge in Burkina Faso in order to prepare their next attack.

9 After the failure of the initial coup d'état, it was in Burkina Faso that together with
10 those close to Blaise Compaoré they prepared their next operations. For instance,
11 Commander Koné Bilhamany, a member of the FRCI, explained that the Black
12 Mercedes coup d'état was implemented with the assistance of Burkina Faso. He
13 himself was the intermediary responsible for recruiting rebel forces. He also
14 recognized having provided war material to the rebels.

15 What is more, the president of Burkina Faso, Blaise Compaoré, and his chief of staff,
16 General Diendéré, had very special privileged relations with the rebel leaders such as
17 IB and Koné Zaccaria.

18 General Diendéré's support of the Ivorian Force Nouvelles confirmed a number of
19 reports of the UN expert group on Côte d'Ivoire in which he is accused of having
20 used the embargo on weapons, which was enforced in 2004, to the advantage of the
21 Ivorian rebels.

22 Let me say something about General Diendéré. He had very close links with the
23 French authorities. The French elite troops trained together with those of the
24 Presidential Security Regiment in Ouagadougou. And General Diendéré received
25 the Legion of Honour, de La légion d'honneur in France in 2008.

1 What is more, General Diendéré was close to General Emmanuel Beth, who was chief
2 of Operation Licorne, unicorn, in Côte d'Ivoire. He was in charge of the military
3 cooperation and defense at the Quai d'Orsay, and he is suspected of having been
4 appointed French ambassador to Burkina Faso in 2010 in order to prepare the
5 toppling of President Gbagbo.

6 Without intervention on the part of Burkina Faso, the Force Nouvelle would not have
7 been as powerful and as damaging as they were.

8 Active participation on the part of the Burkinabé authorities in arms trafficking,
9 which benefited the Force Nouvelle, their involvement in the recruiting of

10 pro-Ouattara soldiers and mercenaries, providing to the rebels military infrastructure
11 and assistance from those close to Compaoré in setting up a pro-Ouattara armed force
12 was something that increased the closer we got to presidential elections of 2010.

13 In early 2010, Ivorian mercenaries or those also from Niger and Guinea, but mainly
14 from Burkina Faso, met, armed themselves and trained at the Pô camp in Burkina
15 Faso. They were then transferred to the north of the Côte d'Ivoire, and witnesses
16 there saw them setting up heavy equipment.

17 In the final report that was published on 27 April 2011, the UN expert group, and I
18 quote from it, "Recalls that the Burkinabé territory was repeatedly involved as the
19 point of origin or transit for weapons and munitions coming to the north of the Côte
20 d'Ivoire."

21 (Viewing of the video excerpt)

22 MS NAOURI: (Interpretation) Let me say something now about support from France.

23 France was always a military presence in Côte d'Ivoire. There was historical presence with
24 the 43rd BIMA and, in addition, as of 2002, there was the Licorne, unicorn, group.

25 In 2010 new French contingents were sent from France to the Côte d'Ivoire and they

1 were to play a major role in the fighting in March and April 2011.

2 It's the French special forces that organised the mercenaries who are trained at the Pô
3 camp and gave them their marching orders to invade the southern part of the country
4 in March 2011.

5 This was just a few hours after the UN Security Council at the request of France had
6 voted in favour of Resolution 1975 authorising the use of force in Côte d'Ivoire.

7 It was in full knowledge of the French chief of staff that other mercenaries who had
8 already been trained were infiltrated into the country before the presidential elections
9 in 2010. They entered Abidjan, where weapons had been concealed there,
10 particularly in Abobo.

11 It was with the agreement of the French authorities that it was decided by Ouattara
12 and the rebel warlords to organise an insurrectional march, the purpose being to take
13 over the RTI and the presidential residence, and it was to comply with a strategy that
14 was decided on jointly by the political and military force in France that the initial
15 attacks were carried out against the police and the gendarmes and the armed forces in
16 December 2010 and January 2011; and it was the French forces, and only the French
17 forces, who as of the adoption of Resolution 1975 attacked the barracks and support
18 positions of the Ivorian army.

19 That's from -- it was from the residence of the French ambassador, which was next
20 door to the Ivorian president's residence, that the French snipes shot at those in the
21 residence in order to discourage any desire to resist. It was the French commandos
22 who launched the attack against the residence on 11 April 2011 and took possession
23 of the residence.

24 The main protagonist, the French President Nicholas Sarkozy, said himself that
25 France had decided and implemented the downfall of Laurent Gbagbo.

1 When he met journalists on 6 July 2011, Nicholas Sarkozy said, and I quote, "When I
2 see the care that I took to intervene in Côte d'Ivoire, we got Laurent Gbagbo out, we
3 put Alassane Ouattara in place without any polemic, without anything at all."

4 In the light of these elements, it is easy to demonstrate that as of 2010, the
5 non-international armed conflict had become international. The logistics, military
6 and financial support from Burkina Faso and France constitute interference in the
7 domestic affairs of a country which is -- which it engages the international
8 responsibility of those States.

9 The control exercised by the Burkinabé and French military officials over the military
10 operations carried out by the Force Nouvelle quite clearly is a case of actual control,
11 which satisfies the more flexible criterion of global control when it comes to
12 determining internationalisation of an armed conflict as set out by case law.

13 Aside from the military support, it's clear that there was support from France and
14 direct involvement on the part of the defence and security forces, and this involved,
15 inter alia, the taking of the presidential residence on 11 April 2011 and, again, this is a
16 case of internationalisation of the conflict.

17 The Prosecution says nothing about the Force Nouvelle, nothing about the armed
18 conflict, says nothing about the involvement of Burkina Faso, and says nothing about
19 the role played by France.

20 It is, in fact, essential to analyse and to understand the facts that will be discussed
21 during the trial bearing in mind the existence of an armed conflict in Côte d'Ivoire.

22 As regards the four major events, they occurred in a context of armed conflict
23 involving combatants. They were combatants who were not on equal footing. On
24 the one hand you had the Forces Nouvelles, who were heavily armed and supported
25 by foreign powers and, on the other hand, a government army poorly equipped

1 because of the UN embargo. On the one hand, there were combatants who were
2 fighting, and on the other there were civilians.

3 The allegations according to which civilian populations were targeted do not hold
4 water.

5 PRESIDING JUDGE TARFUSSER: (Interpretation) Thank you very much.
6 Mr Altit.

7 MR ALTIT: (Interpretation) Thank you. The Defence would now like to turn to the next
8 stage of our presentation. Perhaps given the time of day, we might wish to have the break
9 now.

10 PRESIDING JUDGE TARFUSSER: Could you make an estimate on how long it will take you
11 in the afternoon?

12 MR ALTIT: (Interpretation) Approximately one hour, perhaps slightly less. Let's say one
13 hour.

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

15 So now we make the break, and we will resume at 2.30, at 1430 hours. Thank you.

16 THE COURT USHER: All rise.

17 (Recess taken at 12.54 p.m.)

18 (Upon resuming in open session at 2.34 p.m.)

19 THE COURT USHER: All rise. Please be seated.

20 PRESIDING JUDGE TARFUSSER: Maître Altit, please proceed.

21 MR ALTIT: (Interpretation) Thank you, your Honour. Jennifer Naouri will continue her
22 presentation, if you don't mind, your Honour.

23 MS NAOURI: (Interpretation) Your Honours, we have just seen that Ivory Coast was the
24 centre of an armed conflict that reached its height in 2010, 2011, and the four main events
25 brought forward by the Prosecution occurred during this armed conflict. It is important to

1 hark back to this particular point.

2 First of all, a few words about the so-called peaceful march upon the RTL. All
3 information at our disposal show that it was not the pro-Gbagbo forces who attacked
4 the unarmed crowds, as the prosecution claims; but, rather, it was the pro-Ouattara
5 army that launched a prepared, premeditated attack upon the forces of law and order.

6 The Prosecution has maintained their position regarding the so-called blockade of the
7 Golf hotel before the march on the RTI, yet all the information at our disposal shows
8 that there was no blockade but, rather, a checkpoint was set up close to the hotel so
9 that the rebel soldiers could not spread throughout the entire City of Abidjan. And
10 what is more, there could not have been a blockade because the people living in the
11 Golf hotel, as well as a number of civilians and journalists, came and went as they
12 wished at the time, and the hotel saw diplomats coming and going constantly.

13 Above all, the Prosecution have not explained that the Golf hotel was a stronghold of
14 the new forces at the time, according to the rebels themselves. 850 soldiers were
15 based there as of September, October, 2010.

16 Now, given this context, it is difficult to understand the Prosecution's allegations,
17 which are all based on one premise, namely that there had been a number of peaceful
18 demonstrators who were the victims of law enforcement workers who carried out
19 unprovoked attacks in order to terrorize them.

20 All of the evidence shows that the demonstration of the 16th of December, 2010, was
21 actually planned; and it was not really a demonstration but, rather, it was an
22 insurrection.

23 It has been established - and it shall be shown during the trial - that rebel soldiers,
24 heavily armed, had launched an attack on the hotel on 16 December 2010 in order to
25 gain control of the RTI and the presidential residence.

1 The coming together of thousands of demonstrators of all parts of the city was
2 nothing more than a diversion.

3 Evidence has been adduced showing that the rebel soldiers who had gathered at the
4 Golf hotel had been instructed on 15 December 2010 to prepare their equipment for
5 combat the next day.

6 We shall now display some footage. These were actual instructions given to the
7 army.

8 (Viewing of the video excerpt)

9 MS NAOURI: (Interpretation) How can the Prosecution tell us on 29 January, and I quote:
10 "On 14 December 2010, the government of Mr Ouattara asked its supporters to demonstrate
11 peacefully and to move towards the RTI on 16 December."

12 How can the Prosecution claim that these images, this video footage of Guillaume
13 Soro, providing instructions to the soldiers with their RPGs and Kalashnikovs didn't
14 exist? How can they act as if these -- this footage of rebel soldiers and leaders, in this
15 case Ouattara haranguing soldiers and instructing them to prepare, how can the
16 Prosecution say this video footage does not exist? Nor does the Prosecution say
17 anything about the purpose of the attack, which was to drive President Gbagbo out of
18 power and gain control over the places of power by violence.

19 Guillaume Soro, in an interview given in January 2011, answered the question. He
20 explained why he hadn't, as minister of Defence and prime minister, call upon the FN
21 rebels to install Ouattara as the president. He responded, and I quote: "I did so,
22 and I did it on 16 December. This attack was thus clearly premeditated and
23 organised, and the aim was to gain power at any price."

24 Fanny Pigeaud in her book "France Côte d'Ivoire, a Shortened Story," has said, and I
25 quote: "On 16 December 2010, FAFN soldiers left Bouaké, taking the bus from the

1 UTP, a private company, and these were armed youth who were wearing civilian
2 clothing along with young women so as not to raise any suspicion. They managed
3 to make their way to Abidjan taking a number of round-about paths, Douala, Bouna,
4 Doukouré, et cetera." And what did the Prosecution say? That it was a
5 demonstration of civilians, a peaceful demonstration? The prosecution is -- the
6 actual events put the law to what the Prosecution has said.

7 On 16 December, a journalist from France 24 told us the following:

8 (Playing of the video excerpt)

9 MS NAOURI: You have heard this for yourselves. It was the rebels who opened the way
10 for demonstrators, so it was not peaceful and was -- were the demonstrators actually peace
11 loving? No. They were bearing arms.

12 One Defence witness, D-30, has told us that on 16 December at 8 in the morning he
13 saw many young people with machetes and sticks marching along the Anyama
14 Abobo road saying that they were on their way to the RTI. They were calling out
15 "The little Gbagbo followers will die." But the Prosecution has not said a word about
16 that, nor about the unheard of violence of that particular attack. I wish to warn you
17 that some of the images you are about to see may be very disturbing.

18 (Playing of the video excerpt)

19 MS NAOURI: (Interpretation) The Defence has shown, and will show once again during
20 the trial, that the Prosecution's arguments and logic just don't hold water.

21 Regarding the women's march of 3 March, according to the Prosecution, the march
22 was organised by women for 3 March 2011 leaving from the Banco-Anador
23 cross-roads in Abobo, and they were calling for Gbagbo to step down, but not a word
24 about the context of this march.

25 We now know that at the time the rebel forces had entire control over the zone that

1 they were better armed than the defence and security forces, that they had heavy
2 weaponry, mortars and, in some cases, armoured vehicles.

3 The only support position of the government troops was at Camp Commando. They
4 were being resupplied by a number of convoys that were going through Abobo
5 without ever stopping, and at any time the soldiers could -- who were there were
6 surrounded, lightly armed and short of ammunition.

7 On 24 February 2011, heavily armed men and civilians paraded about Abobo and
8 were to attack the policemen at Camp Commando. Let us look at the video footage.

9 (Playing of the video excerpt)

10 MS NAOURI: (Interpretation) This is the modus operandi that the rebels used many times
11 to push civilians ahead of them so that they would be veritable human shields and to take
12 part -- it would appear that the same scenario played out during the women's march. It's not
13 even known whether the march was properly organised. It had not been -- the authorities
14 had not been informed of the march, nor international observers, nor journalists.

15 The Prosecution has said nothing about the origin of the march, nothing about the
16 reasons for the march being organised in the middle of a rebel-held neighbourhood.

17 The Prosecution has not even said whether this demonstration was to follow a
18 particular path, nothing. We have no information.

19 What we do know, and this is judging by the footage, is that this really doesn't seem
20 to be a march with 3,000 women. It's quite odd that the organisers would choose
21 such a location close to the road where the convoys were going by to provide supplies
22 to Camp Commando.

23 According to witness P-217, every morning the tanks would leave at 9.30 -- between
24 9.30 and 10, so there was no surprise for the demonstrators under these conditions.

25 The Prosecution has told us or, rather, told us -- showed us a video that allows us to

1 understand what happened. But when we look at this video closely and analyze it,
2 we see that the video only adds to the confusion and the doubt.

3 First of all, we see some images, a march. Then a few moments before we hear a
4 shot -- shots coming from an armed vehicle, we only see men who are applauding the
5 convoy, and they don't seem to be part of the march. It is though the angle of the
6 camera was changed all of a sudden. Then we see some people running in a
7 unknown direction, men for the most part. Where are the women? Then we see
8 some more images taken from yet another angle far away, and we see a convoy going
9 by quickly; whereas, in contrast, the first armed vehicle is moving forward slowly,
10 barely moving. It seems strange that this would be the same convoy. We see one
11 set of vehicles going by quickly and then another set. So it would make more sense
12 that while the people are dispersing, the convoy would be going by quickly.

13 We shall demonstrate that the testimony that the Prosecution will be providing via its
14 witnesses is contradictory. And the statements of these witnesses do not allow us to
15 determine what the convoy was actually made up of.

16 It's also strange to note that after seeing the convoy go by, the video focuses on the
17 women who are on the ground allegedly hit after the shooting, but why is it that these
18 women who allegedly were shot directly are only off to the side? It's quite strange
19 that less than a minute after the shooting, the alleged victims were all lined up at the
20 same place. Why is it that only women were hit? Because we know full well that
21 there were men facing the convoy when they allegedly fired.

22 When we look carefully at the images, there is one particular anomaly. One of the
23 women who allegedly is dead is -- gets up and we hear -- we see another woman get
24 up and we hear a voice saying, "Lie down. It's not over yet."

25 (Viewing of the video excerpt)

1 MS NAOURI: (Interpretation) Yes, you heard right. Someone said "Lie down. It's not
2 finished yet." And if this person was so badly injured, why wouldn't the person have tried
3 to help her? She was clearly conscious. These various sequences seem to point towards a
4 set-up, so to speak, something has been concocted.

5 But the Prosecution says this is not the case. The Prosecution say that they have
6 expert witnesses who will prove that the video is authentic and that the images have
7 not been edited, the sound has not been played with. This is quite a risk that the
8 Prosecution is taking. We will show during the trial that the Prosecution has failed.

9 With the exception of the policemen who were under siege at Camp Commando, the
10 entire neighbourhood was held by the Invisible Commando and the FAFN under
11 these conditions. It is difficult to understand how the Prosecution can continue to
12 claim even now, as they did in 2014, that Bassa soldiers at Camp Commando
13 allegedly fired on 17 March 2011 on a densely populated area in Abobo with a local
14 market, a mosque, a hospital and private residences.

15 The approximations have to do with various areas that apparently came under fire,
16 but these are not exact data. Abobo is more than a neighbourhood. It is a city
17 within the city. It spreads out over 78 square kilometres and has 1.5 million
18 inhabitants. The Prosecution must be more specific. We also need more
19 information about the chronology, the time. Throughout the trial, we will show that
20 the witnesses from the Prosecution cannot even demonstrate that the attacks occurred
21 in the day. The credibility of some of these witnesses from the Prosecution is more
22 than doubtful. For example, one particular witness, P-234, said that he had been
23 recruited by the Ouattara camp to destabilize the regime.

24 Finally, and I stress this particular point, it is difficult to understand why the
25 Prosecution continues to claim, and I quote: "While, the Gbagbo government had

1 evidence involving pro-Gbagbo forces in these events, no true investigation was
2 conducted and no one was punished."

3 The Prosecution knows and has known at least since February 2013 that the Abidjan
4 military tribunal heard about the matter and are conducting a complete investigation
5 about the shelling of Abobo.

6 The Prosecution totally ignores the result of the investigation, which lead to the
7 alleged perpetrators being acquitted.

8 The Abidjan military tribunal acquitted the soldiers who had been charged for their
9 alleged role in the shelling of Abobo on 17 March.

10 So what does that mean in practical terms? It means that those who were suspected
11 of being the direct perpetrators of the shelling of Abobo were acquitted owing to a
12 lack of evidence.

13 The Prosecution merely ignores in their pretrial brief that an Ivorian Court already
14 ruled on the matter a few months earlier. How can one continue with charges here
15 before the International Criminal Court when the direct perpetrators have already
16 been acquitted? How can one charge using the mode of indirect co-perpetration as
17 mode of liability? This makes no sense.

18 Why does the Prosecution cling so stubbornly to this particular incident? Because
19 they wish to remind people subconsciously of the shelling of another market in
20 Europe 20 years earlier, naming -- namely the bombing of the Sarajevo market.

21 Finally, a few remarks about the attacks in Yopougon after the arrest of President
22 Gbagbo. We have heard the Prosecution, and it is still not clear what this allegation
23 is all about. This doesn't seem to be just one single allegation but, rather, a series of
24 more minor accusations that are based on scanty evidence regarding events that
25 occurred after President Gbagbo was arrested.

1 The Prosecution's account is quite vague. For example, the Prosecution does not
2 give a specific date for the attack on Yopougon. They merely mention 12 April or
3 around that time. The Prosecution does not specify where the attacks occurred.
4 The Prosecution merely say that the incident occurred in Doukouré and Mamie Faitai
5 neighbourhoods, but Yopougon is the largest commune in Abidjan, more than 150
6 square kilometres, more than 1.3 million inhabitants.
7 But the reality of Côte d'Ivoire is quite different. All groups live in the same
8 neighbourhood. One cannot simplify things in this arbitrary fashion.
9 A neighbourhood in Abidjan may be described in terms of the group that founded the
10 neighbourhood; but really, these are very artificial boundaries. This is absurd and
11 simplistic.
12 It should also be noted the Prosecution is stepping back, further and further back
13 from these minor charges. The number of deaths seems to be decreasing from 80 to
14 75 and now 68 and finally 62. Alleged rapes have gone from 22 to 8.
15 So the Prosecution seems to be backing off on these allegations, and that's quite
16 normal because we shall see throughout the trial that the Prosecution's account really
17 bears -- has nothing to do with the reality of what happened in Yopougon between
18 March and April 2011. The reality in that neighbourhood is different.
19 Yopougon is a city within a city inhabited mostly by people favourable to President
20 Gbagbo. In March 2011, a number of well-armed, well-organised rebel groups
21 attacked civilians in Yopougon, in March 2011.
22 In the days preceding the arrest of President Gbagbo, the violence and the abuse by
23 rebels against civilians increased in number.
24 After President Gbagbo was arrested, the FDS no longer existed. Some had left,
25 some had fled, some had gone to the Golf hotel.

1 Once the policemen were gone, the rebels attacked the people of Yopougon, and these
2 civilians had to barricade themselves to protect themselves; the elderly, women,
3 children.

4 The rebel leaders began negotiations, and the population set down their weapons and
5 dismantled the barricades. It was only after that the rebel groups then ransacked
6 and attacked the people of Yopougon.

7 Once again, I warn you, a number of disturbing images.

8 It will not be possible to show you the footage. I'm afraid we're having some
9 difficulties with PowerPoint.

10 PRESIDING JUDGE TARFUSSER: We have one-one now. Okay.

11 MS NAOURI: (Interpretation) The point is this: The Prosecution's account makes no
12 sense. The people who committed the crimes in Yopougon after the fall of President Gbagbo
13 were the rebel forces who were wanting to install their leaders from the north in their new
14 stronghold, and we shall demonstrate this. I thank you very much, your Honour.

15 PRESIDING JUDGE TARFUSSER: Maître Altit?

16 MR ALTIT: (Interpretation) Your Honours, the final presentation will be made by
17 Professor Jacobs.

18 MR JACOBS: (Interpretation) Your Honours, it has been shown that the Prosecution has
19 twisted the truth as regards the situation of armed conflict in Côte d'Ivoire both before the
20 2010 elections and during the post-electoral crisis. It has deprived Côte d'Ivoire of part of its
21 recent history, and it's natural that the Prosecution does the same when it comes to the
22 individual liability of Laurent Gbagbo. This part of the Côte d'Ivoire's history that has been
23 overlooked by the Prosecution is, however, fundamental - and we've seen this - if we're to
24 have a real understanding of what actually happened during the post-electoral crisis. And
25 this forgotten portion of Ivorian history is like a phantom limb that we will be tempted to

1 scratch in the course of the process even although it's no longer there.

2 In full ignorance of the armed conflict or by denying its existence, the Prosecutor
3 cannot tell the truth, the truth that nonetheless shows up in the pretrial brief, State
4 operators that takes the measures that are necessary in order to respond to a situation
5 of civil war. The Prosecutor refers to meetings, decisions, orders, which is perfectly
6 normal in such a context.

7 To put it clearly, the truth is that there was a president of a State implementing the
8 legitimate legal constitutional means and resources of that State in order to respond to
9 a rebellion and a foreign invasion which attacked the forces of order, of law and order,
10 the armed forces and the civilian population.

11 As it refuses to acknowledge the reality of armed conflict, the Prosecution has to sell
12 us a different story, a black-and-white version, a skewed version of the context of the
13 post-electoral violence and the role played by Laurent Gbagbo.

14 The story is a semantic smoke screen serving to conceal the truth, the starting point of
15 which is a hypothetical common plan, which has been constructed on the basis of thin
16 air.

17 For the Prosecutor, there must be perpetrators, authors of such a common plan, which
18 brings us to Laurent Gbagbo and a vague fuzzy idea of an inner circle. Those behind
19 the common plan must have implemented it. So the FDS, the police, the
20 gendarmerie, symbols of the Ivorian State all of a sudden become pro-Gbagbo forces
21 led by some parallel structure, which, similar to the inner circle, have no consistency.

22 For the Prosecution, everything is done in a concealed hidden fashion, in parallel.

23 What a boon for the Prosecution because there we have the perfect excuse to explain
24 the absence of there being any solid probative evidence.

25 Like any good conspiracy theory, we find here that the absence of proof becomes the

1 veritable proof of the existence of a conspiracy.

2 Before illustrating the inconsistencies in the Prosecution's approach for each mode of
3 liability, it should be noted that there's been a successive accumulation of modes of
4 liability invoked by the Prosecution, moving from one single mode of liability that
5 was in 2012 to four modes, which is what we have today, without our ever having
6 fully understood the logic being pursued.

7 In fact, the Prosecution's approach ignores any legal rigor and boils down, quite
8 simply, to adopting the point of view of individuals who, from afar, observe the
9 complex situations that the Court is dealing with. They must have done something
10 wrong. Such an attitude might be forgivable coming from outsiders, observers, but
11 it's not acceptable when we're talking about the International Criminal Court's
12 Prosecution. And it's this attitude that explains the fact that the basis for the
13 arguments of the Prosecution is hot air when it comes to each mode of liability, and I
14 will now set out to present them.

15 As regards indirect co-perpetration, no doubt you've understood that the semantic
16 smoke screen of the Prosecution is based on the idea of a so-called common plan, the
17 idea being to maintain Gbagbo in a position of power at all costs.

18 We've already seen that the fact of saying that that plan goes back to 2000 is actually
19 based on nothing, it's groundless, and it's in full contradiction with the events that
20 actually occurred over that period, and particularly when it comes to the constant
21 efforts by Gbagbo to promote democracy and the rule of law in the face of combatants
22 who, for their part, intended to take power by any means possible.

23 You will note that on this point the Prosecution is not committing the first
24 inconsistency. For example, the Prosecution has no difficulty saying in one and the
25 same sentence in the opening statements, and I quote that "Laurent Gbagbo" - and I

1 quote - "fought for democracy and fought to have multi-party elections."

2 The Prosecution continues: "He spent years in prison, years in opposition before
3 becoming president of the Côte d'Ivoire."

4 And the Prosecution continues again: "In becoming president in October 2000, his
5 intention was to remain in power by all means possible."

6 And the conclusion of the Prosecution is to say it had already taken him so long to get
7 there that, admittedly, his intention was to remain there through all means possible.

8 So what is the Prosecution saying to us? A man that they acknowledge as having
9 fought for democracy for his whole life, as soon as he gets to power, his only concern
10 is to violate the most fundamental principle of democracy. Surely we can't believe
11 that.

12 Above all, what is the explanation given by the Prosecution? Quite simply, because
13 Gbagbo took a long time to get to power, he wanted to stay there.

14 Such a rudimentary psychological analysis is an insult to Laurent Gbagbo's political
15 career and combat and shows that the Prosecution's approach is totally lacking in
16 sophistication.

17 In a similar vein, the Prosecution tries, on the one hand, to convince us that the
18 common plan went back to 2000 but that it was only in 2010 that Gbagbo appointed
19 his members of his so-called inner circle to key positions.

20 Now, there again, we're facing an inconsistency on the part of the Prosecution.

21 The Prosecution's arguments concerning the period 2010, 2011 are no more
22 convincing.

23 As regards the authors of the common plan, it's difficult to understand exactly what it
24 is that the Prosecution is arguing. In the pretrial brief, they come up with a long list
25 of names of individuals who are supposedly part and parcel of the inner circle and

1 who shared, apparently, the same common plan as that pursued by Laurent Gbagbo.
2 Given the significant number of individuals cited by the Prosecution as being
3 members of the inner circle, you can well imagine that no effort was made to go into
4 the intentions of each and every one of them. It is, therefore, quite simply, an
5 unfounded affirmation.

6 Above all, the Prosecution says in the pretrial brief that the inner circle and the
7 composition thereof evolved over the course of time, which means that the
8 Prosecution immediately has an excuse to justify in advance any lack of precision.

9 The imprecise approach of the Prosecution can be seen in the organisational charts of
10 the official-in-parallel structure that is annexed to the pretrial brief.

11 During the trial, we will have the opportunity to demonstrate the presentation of the
12 official structure is erroneous and that the parallel structure only exists in the mind of
13 the Prosecution.

14 We should, however, at this point underline a particular contradiction as regards to
15 the organisational charts. The Prosecution states on the one hand that certain
16 individuals were part and parcel of the official structure, such as Émile Guiriéoulou,
17 minister of the interior; Alain Dogou, minister of the defense; Philippe Mangou, chief
18 of staff; Firmin Detoh Letho, commander of the land forces; Edouard Kassaraté,
19 commander of the gendarmerie; Simeon Bredou, director of the national police, that
20 these people were members of the inner circle and then five minutes later states that a
21 parallel structure had been established in order to get around them.

22 In other words, Laurent Gbagbo and his inner circle allegedly established a parallel
23 structure in order to get around themselves.

24 Now, as regards to the meetings that allegedly were held during the post-electoral
25 crisis, there are flagrant flaws in the Prosecution's arguments. First of all, the

1 Prosecution makes much of the records that were allegedly found in the presidential
2 residence. However, one can question their authenticity. It was September 2014
3 only where the Prosecution got ahold of these so-called original records; whereas, in
4 fact, the presidential residence was looted on 11 April 2011 and over the following
5 days. And in the hours following the assault, members of the French Special
6 Services got ahold of all of the archives. Consequently, scarcely a few days after the
7 assault, the residence had been emptied of documents and valuable objects. The
8 Prosecution has not demonstrated the authenticity of the documents and, as such,
9 they must be set aside.

10 Secondly, neither these records, nor a large part of the documents relied upon by the
11 Prosecution, give any indication as to the content of the alleged meetings, which
12 makes it possible for the Prosecution to say, without any proof, that the discussion
13 was allegedly of the so-called common plan.

14 Let me give an example which illustrates the way in which the Prosecution has
15 proceeded. In the pretrial brief, paragraph 246, the Prosecution says that Gbagbo
16 frequently organised during the post-electoral crisis meetings during which there
17 were discussions - according to the Prosecution - of the implementation of the
18 common plan.

19 There's a footnote referred to by the Prosecution. It takes up 17 lines, so it's
20 significant, and it refers, in turn, to the statements made by four witnesses, and it
21 refers to seven pieces of evidence. Now, what exactly do these say by way of
22 demonstration?

23 Certain evidence refers, quite simply, to the council ministers meeting at a certain
24 time on a certain date without any indication being given as to what was discussed.
25 Now, what is more normal than for there to be regular meetings of the Council of

1 Ministers during a period of crisis? There is just one elements alleged by the
2 Prosecution to be minutes of a Council of Ministers meeting that show that there was,
3 once again, a perfectly normal discussion among ministers, normal in times of crisis.
4 No logistics details or operations details are referred to, and clearly no mention is
5 made of a common plan.

6 What about the witnesses? P-44 quite simply says that there would have to be a
7 meeting because there was a crisis. There's nothing surprising in that.

8 As for P-9, much is made of the need to receive general indications in order to be able
9 to obstruct the activities of the invisible commando. Nothing strange in that when
10 we know that the commander of Pro-Ouattara combatants was carrying out
11 massacres throughout Abidjan during that period.

12 We can note as well that the Prosecution makes no single mention of the invisible
13 commando in the pretrial brief, which goes to show, once again, that it is -- that they
14 are striving to deny reality.

15 11 refers to the presence of certain government members at the residence without
16 saying anything about what happened at meetings because he wasn't there; and again,
17 that is proof of absolutely nothing.

18 P-46 refers to an alleged meeting held in the presence of Laurent Gbagbo where
19 Gbagbo apparently referred to the situation in very general terms. When asked
20 whether any instructions were received by him on the strategy, the witness said no,
21 Laurent Gbagbo is not a strategist. We are the soldiers.

22 The list of evidence provided by the Prosecution concludes with a reference made to
23 the famous Divo speech, but what is the link between a speech made in August 2010
24 and an allegation that meetings would have been held during -- were allegedly held
25 during the post-electoral crisis, particularly as the speech itself doesn't prove anything?

1 And I'll say more about that shortly.

2 So this example of a paragraph with a footnote shows how scant is the argument put
3 forward by the Prosecution. And let me say that this is evidence provided by the
4 Prosecution that I'm talking about; in other words, their own evidence doesn't
5 support their allegations.

6 In fact, the Prosecution is changing the order in logical terms. Rather than trying to
7 identify the evidence for allegations about the existence of a common plan by finding
8 concrete evidence, they stick to the affirmation that there was a common plan and,
9 therefore, there had to have been discussions of this during any of the meetings.

10 That is not a demonstration.

11 I come now to the question of the speeches. Much was made of this by the
12 Prosecution. Here again, the Prosecution's arguments are groundless. What is
13 even worse is that the Prosecution continues to twist reality and to deny the political
14 commitments taken by Laurent Gbagbo by saying that Gbagbo allegedly made
15 xenophobic speeches and incited people to violence.

16 Let's take a number of examples of these untruths on the part of the Prosecution.

17 The Prosecution states in the pretrial brief, and I quote: "At the end of November
18 2010, a few days before the second round for the elections, Laurent Gbagbo decried
19 Alassane Ouattara as the symbol of evil declaring - and here it would seem that it's a
20 quote from Gbagbo - "We are going to continue the war." And again a quotation:
21 "Because the snake is not yet dead." That is the quotation as given to us by the
22 Prosecution.

23 In actual fact, the Prosecution is just taking a few snippets out of the speech
24 completely out of context.

25 Now, let me give you the context so that we can reestablish the truth, and I quote:

1 "We're going to the elections on 28 November. We're going not to select a president
2 but to bring an end to the series of acts of violence, to the actions taken by people who
3 can only found their actions on violence." And Laurent Gbagbo continues: "But we
4 must continue. The war, the snake is not yet dead."

5 Clearly Laurent Gbagbo is calling to an end to be put to violence through the elections,
6 an end to the actions of those who have caused the crisis in Côte d'Ivoire over ten
7 years. So where is the violence here? Where is the xenophobia?

8 As a last ditch attempt, the Prosecution has to modify their punctuation in order to
9 find something to say.

10 In fact, and let me say once again, Laurent Gbagbo says: "We must continue. The
11 war, the snake is not dead." So for Laurent Gbagbo it's the war that is the snake.

12 In the pretrial brief, the Prosecution changes this, does away with the full stop saying
13 "We must continue the war," full stop, "The snake is not yet dead," which shows
14 Laurent Gbagbo not as a peaceful man but as a war mongerer. And the implication
15 is that he's referring to Alassane Ouattara as the snake.

16 Now, that is not what we expect from the Prosecution of the International Criminal
17 Court. If you take a look at the transcript of this speech, the full stop is in the correct
18 place. And what about the Divo speech in August 2010 that the Prosecution is
19 constantly referring to? That was a speech made in the presence of police officers,
20 and it was to explain the reasons for the establishment of a republican security
21 company in Divo.

22 Laurent Gbagbo, like any politician, welcomed the fact and said that it was good to
23 have a peace-keeping -- a force of law and order in a region where there were so
24 many people who steal cocoa during the harvest period.

25 For Laurent Gbagbo, it was important to show how keen he was on maintaining the

1 security and safety of the population. So transforming that speech into a sinister
2 warning against political opponents is really not acceptable, and it's absurd above all.
3 The Prime Minister of the Gbagbo government was Guillaume Soro. His ministers,
4 at least in part, were former rebels, and it's President Gbagbo himself who decided to
5 hold the elections. It's also worth noting that the Ivorian army generals who were
6 present on 7 August 2010 came, at least some of them, from the north of the country
7 and included members of the rebel forces.

8 These three examples go to show that the Prosecution has turned a deaf ear to reality
9 and is even willing to go so far as to change the punctuation of a speech in order to
10 get it to stick to their own account.

11 Let me make two last points on the speeches. First of all, the Prosecution is saying
12 that the fact of referring to rebels as terrorists is a sign of demonization on the part of
13 the opponent. You've seen earlier that there were the exactions perpetrated by the
14 rebels in the north of the country over a period of ten years, and this continued in
15 Abidjan during the post-electoral crisis. So in what way is it unreasonable to use the
16 word "terrorist" in such a context? Above all, the term "terrorist" is a technical, a
17 legal term. It's acknowledged, it's recognized in international humanitarian law.
18 The first additional protocol to the Geneva Conventions, article 51(2) states, and I
19 quote, that "There shall be no violent acts or threats, the main purpose of which is to
20 spread terror among the civilian population." So how else would you describe the
21 actions of rebels such as those that occurred in Doukouré in March 2011?

22 It should be noted that according to the Prosecution there's a criminal intent on the
23 part of any denouncing of involvement on the part of the international community,
24 whether it's by France or the United Nations.

25 Now, it's not a crime to criticize France and the United Nations, particularly when we

1 are aware of the role they played before and during the crisis; though in taking this
2 position, the Prosecution, which claims not to be making any political statement, is
3 doing that and nothing but that. Their position concerning the 2010 elections is
4 untenable.

5 The very first sentence that we heard in the hearing in the mouth of the Prosecution
6 28 January 2016 was as follows, and I quote: "That things be clear from the very start.
7 This case is not one of determining who won the election in 2010"; and yet, the
8 Prosecution and their arguments are based on an unspoken presupposition that is
9 vital for their demonstration, and that is that Laurent Gbagbo would have lost the
10 elections, of course; otherwise, why would there have been any need to conceive and,
11 above all, to implement this so-called common plan?

12 I'd now quickly like to move to the other modes of liability mentioned by the
13 Prosecution. As regards 25(3)(b) and 25(3)(d), the Prosecution made no effort to
14 construct a real independent demonstration and, quite simply, referred to what had
15 been said in conjunction with 25(3) and, in so doing, greatly facilitated the work both
16 of the Defence and of the bench. Indeed, as they did not demonstrate that the
17 elements of article 25(3)(a) were satisfied, mechanically we can say that there was no
18 demonstration made of -- the modes of liability under 25(3)(b) and 25(3)(d) were
19 satisfied.

20 Let me conclude my presentation with the question of command responsibility.

21 Once again, the Prosecution's demonstration is unfounded. There's no substance to
22 it, and it doesn't make it possible to establish any such responsibilities, and there are a
23 number of reasons for this. First and foremost, aside from the general affirmations,
24 the Prosecution proves nothing. They never make the effort to present to the Judges
25 the structure, the command structure, and the structure of sanctioning of the Ivorian

1 army or the police force. It's impossible to see on what basis they can say that
2 Gbagbo allegedly had the legal power to refer directly any incidents to the competent
3 authorities.

4 Secondly, aside from this fatal flaw in the investigation of the Prosecutor, we can see,
5 once again, that the demonstration as such is based on approximations.

6 For example, the Prosecution refers, once again, to the Divo speech. For the
7 Prosecution, according to this speech, any excesses by the police forces would
8 not -- would apparently go unpunished. And yet, in the extract shown in the
9 hearing, during the hearing by the Prosecution, it says that in the case of problems, it
10 would be the Judges who would decide. What is the problem with such an
11 affirmation?

12 One last example of the approximations on the part of the Prosecution. Laurent
13 Gbagbo's liability is invoked as that of command responsibility for the events alleged
14 to have occurred in Yopougon on 12 April 2011. Such responsibility implies that
15 there's an effective hierarchical link, which cannot exist here, because Laurent Gbagbo
16 was arrested the day before.

17 By way of inclusion, and this will be my last point, your Honours, we can clearly see
18 that the Prosecution, when it comes to identifying the individual liability of Laurent
19 Gbagbo, is basing themselves on approximate evidence and sometimes say the
20 opposite of what it is stated elsewhere by the Prosecution.

21 The original sin of the Prosecution has been seen from the very start, and that was to
22 adopt an incorrect account of the context surrounding the elections of 2010, but this
23 cannot be acknowledged by the Prosecution because that would mean causing to
24 disappear in one instant the entire semantic smoke screen that had been constructed.
25 As the account is not based on fact, it doesn't need to be consistent or logical, which

1 explains all of the contradictions that we have noted and that we will continue to note
2 throughout this trial, these contradictions in the evidence of the Prosecution.

3 Lastly, the fact that the Prosecution does not see these contradictions as being a
4 problem does show up a reality, even if it is not that of the Côte d'Ivoire. It is the
5 reality of the Prosecution's approach to legal argument.

6 The Prosecution has in the past stated without flinching, and I quote: "Yes, one can
7 indeed plead one thing and its opposite. The pretrial brief goes to show that, at least
8 on that score, the Prosecution is sticking to its tradition. Thank you.

9 PRESIDING JUDGE TARFUSSER: Thank you very much, Mr Jacobs. Please, Maître Altit.

10 MR ALTIT: (Interpretation) Thank you, your Honour. The Defence have concluded our
11 opening statements.

12 PRESIDING JUDGE TARFUSSER: Thank you very much, Maître Altit. Obviously I will
13 not give now the floor to the Defence of Mr Blé Goudé; but still, I would now ask you, just for
14 housekeeping reasons, what you think about in terms of time you need tomorrow. And let
15 me also guess that probably you don't need the whole day because a lot has already been said
16 by the Defence of Mr Blé Goudé, I would say, the historical background, so just to have an
17 estimate on the length of your presentation.

18 MR KNOOPS: Thank you, Mr President.

19 PRESIDING JUDGE TARFUSSER: Thank you.

20 MR KNOOPS: Indeed, we will not repeat the arguments of the defense team of Mr Gbagbo,
21 but still we estimate that we will probably need the full day in light of the -- also the
22 arguments of the Prosecution. We might break before 4 o'clock, but I estimate that we will
23 need probably four hours with the full team.

24 PRESIDING JUDGE TARFUSSER: Okay.

25 MR KNOOPS: I can assure you that we will not repeat Mr Gbagbo's argumentations.

1 PRESIDING JUDGE TARFUSSER: We will carefully listen to you tomorrow.

2 MR KNOOPS: Thank you, Mr President.

3 PRESIDING JUDGE TARFUSSER: I received a message that the Prosecutor wants
4 to -- briefly to intervene.

5 MS BENSOUDA: Thank you, Mr President.

6 Mr President, your Honours, with your leave, I will not be able to be present in court
7 tomorrow, but of course Mr MacDonald, who has conduct of this case and the team
8 will be -- will be present. It is as a result of a commitment, prior commitment, which
9 I have tried to change but could not.

10 PRESIDING JUDGE TARFUSSER: Thank you very much, Madame Prosecutor. We
11 acknowledge that you will not be here but that you're represented by other members of the
12 Office of the Prosecutor, that I come -- therefore, I come to the end of this hearing today. I
13 will adjourn the hearing to tomorrow at 9.30 for the presentation of the case by the Defence
14 for Mr Blé Goudé. Thank you very much.

15 THE COURT USHER: All rise.

16 (The hearing ends in open session at 3.40 p.m.)