

1 International Criminal Court
2 Pre-Trial Chamber I - Courtroom 1
3 Situation: Republic of Côte d'Ivoire
4 In the case of The Prosecutor v. Laurent Gbagbo - ICC-02/11-01/11
5 Presiding Judge Silvia Fernández de Gurmendi, Judge Hans-Peter Kaul and Judge
6 Christine Van den Wyngaert
7 Confirmation of Charges Hearing
8 Wednesday, 20 February 2013
9 (The hearing starts in open session at 2.31 p.m.)
10 THE COURT USHER: All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Court is in
14 session. Court officer, please call the case.
15 THE COURT OFFICER: (Interpretation) Situation in Côte d'Ivoire, case of The
16 Prosecutor versus Laurent Gbagbo, reference ICC-02/11-01/11.
17 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you,
18 court officer.
19 I would like to request of the parties and participants indicate whether there have
20 been any changes to the composition of their respective teams, please. The Office of
21 the Prosecutor?
22 MS BENSOUDA: Thank you, Madam President. Indeed, there have been just
23 slight changes. If I may list those who are present in court this afternoon. It's Eric
24 MacDonald, senior trial lawyer; Pascal Turlan, international co-operation adviser;
25 Krisztina Varga, associate trial lawyer; Florie Huck, assistant trial lawyer; and Maria

1 Berdennikova, assistant trial lawyer; Sandra Schoeters, case manager. I'm Fatou
2 Bensouda, Prosecutor.

3 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Speaks English) Thank you
4 very much, Ms Bensouda.

5 (Interpretation) Is there any change to the OPCV?

6 MS MASSIDDA: (Interpretation) There has been no change to our team.

7 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) The Defence,
8 please?

9 MR ALTIT: (Interpretation) Thank you, Madam President. There has been no
10 change in the Defence team.

11 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you.
12 And as far as the Registry is concerned?

13 MS OSEREDCZUK: (Interpretation) No, there has been no change, apart from
14 Mr Marc Dubuisson, to the Registry team.

15 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Before we
16 continue with our schedule for this hearing, we shall issue a brief order concerning
17 the detention of Mr Gbagbo at the headquarters of the Court.

18 The Chamber takes note that the deadline to re-examine its decision on the release or
19 continued detention of Mr Gbagbo compliance to Rule 118(2) of the Rules of
20 Procedure and Evidence, is nigh. To this end, the parties and the Common Legal
21 Representative of Victims may present their observations, or should present their
22 observations to the Chamber in writing by 5 March 2013 at the latest.

23 We shall now continue today with the schedule of our hearing and we shall continue
24 with the opening statement for the OPCV and for Defence.

25 Madam Massidda, I would invite you therefore to address the Court on behalf of the

1 victims participating in the procedure, for a maximum duration of 30 minutes, and I
2 thank you.

3 MS MASSIDDA: (Interpretation) Thank you, Madam President.

4 Madam President, your Honours, 199 victims are participating in this Confirmation of
5 Charges hearing. These are women, men and children who suffered directly during
6 the events which unfolded in the Republic of Côte d'Ivoire between

7 27 November 2010 and 8 May 2011. Some of them who experienced physical and
8 sexual violence and were humiliated still bear the scars and stigmatisation of this
9 humiliation today. For others, the murder of their nearest and dearest, notably
10 members of their family, is forever etched in their memory.

11 They have all suffered psychological damage, in addition to which most have
12 experienced physical suffering. The victims all bear witness during the account of
13 the events that they experienced to the particularly cruel nature of the crimes they are
14 victims of, but also to their widespread and systematic nature.

15 The attacks and crimes were widespread by virtue of their extent. Firstly, in
16 geographical terms, all of the neighbourhoods and districts of Abidjan, Abobo and
17 Yopougon as far as the outer reaches of the town were also affected, but other
18 locations in the country, such as Gagnoa, Divo, Daoukro or Bédi-Goazon.

19 The crimes were widespread by virtue of the sheer number of victims. Entire
20 families and communities were affected. The crimes were widespread also by virtue
21 of the age of the victims and their gender. There were no limits, nor was there
22 anything regard for the vulnerability of some of the victims. And lastly they were
23 widespread because of the nature of the crimes committed, which affected all the
24 victims concerned mentally, physically and materially.

25 Some of the victims were arrested whilst they were on their way to take part in

1 peaceful marches. Some of them were abducted, tortured or detained without
2 reason for weeks on end at police headquarters or in detention centres. Other
3 victims saw their son, daughter, mother, father, uncle, neighbour, brother or sister
4 killed in cold blood, sometimes before their very eyes, during attacks directed upon
5 them in public places, in places of worship or in their houses and properties.

6 Many young girls and women were victims of violence, sexual violence, irrespective
7 of their age. Entire communities were obliged to go into hiding for fear of being
8 arrested solely on the basis of their family name, of their country of origin or their
9 neighbourhood of residence. The systematic nature of the attacks is undeniably
10 reflected by the events and recognised by the Prosecution in its amended DCC. It is
11 also recognised in the victims' accounts.

12 In this regard, the victims would like to inform the Chamber of an important problem:

13 The locations identified by the Prosecution, as well as the dates noted for certain
14 events directly mentioned in the amended DCC, do not adequately reflect the
15 systematic nature of the violence.

16 For example, many victims who lost close family members during the attacks which
17 occurred in Yopougon insist on the fact that these attacks commenced on, and I quote,
18 "The day that Mr Gbagbo was arrested," that is to say 11 April 2011, and continued
19 over a period of a few days. Therefore they cannot be confined to the date of
20 12 April as indicated in paragraph 56 of the amended DCC.

21 What is more, the Prosecution concedes in paragraph 28 of this very same document
22 that murders were committed in Yopougon as early as 10 April 2011. This has a
23 direct impact on the rights of the victims, some of whom cannot participate in the
24 proceedings, despite having experienced the same attacks as members of the
25 community, their neighbours and family members.

1 The same applies to the various attacks in and around the mosques between
2 November 2010 and May 2011. The victims would like the Court to take into
3 consideration the fact that these attacks were recurrent, as was the murder of the
4 imams. And as an example, and in a non-exhaustive manner, between
5 17 December 2010 and 9 March 2011, the following mosques came under attack:
6 Andokoi 3 mosque in Abobo; Bougouniquin mosque in Abobo; Lem in Yopougon;
7 Sideci market mosque in Yopougon; Dabré mosque in Alepé; the great mosque in
8 Koumassi; the Banco mosque in Yopougon; the Blauckauss mosque in Cocody; the
9 Fitya mosque in Abobo; the Kouté mosque in Yopougon.

10 Between 8 and 19 March 2011, the Great Imam of Bloléquin and his son, the imam of
11 the Great Mosque of Port-Bouët 2 and the imam of the Zawiya mosque in Adjamé
12 Williamsville and his son were killed.

13 Once again, the Prosecution choose only to rely on the attacks upon the Grand
14 Bassam, Abobo and Williamsville mosques attacks on 17 and 18 December 2010 as
15 well as the attack on the Yopougon mosque on 25 February 2011 which does not
16 reflect the systematic nature of the events according to the victims.

17 Madam President, your Honours, the massacres committed during the crisis, the
18 targeted population and the various criteria underpinning this targeting require a
19 brief overview of recent history in the country in order to understand the events
20 which unfolded there.

21 The statement of facts contained in the amended DCC from the Prosecution refer to
22 the failed coup d'etat on 19 September 2002, which resulted in the partition of the
23 Côte d'Ivoire into the north and the south. Indeed on 19 September 2002, rebel
24 soldiers from Burkina Faso attempted to take control of the towns of Abidjan, Bouaké
25 and Korhogo.

1 If they failed in their attempt to take Abidjan, they did manage to take control of the
2 two other towns respectively in the centre and the north of the country. The
3 rebellion, which later would take on the name of Forces nouvelles - or New
4 Forces - progressively occupied the north of the country, dividing it into two distinct
5 geographical zones; the south under the control of the Forces armées de
6 Côte d'Ivoire - the Armed Forces of Côte d'Ivoire - and the north controlled by the
7 Forces nouvelles armed forces.

8 Now, Madam President, your Honours, the date 19 September 2002 is but the
9 culminating point in a progressive deterioration within Ivorian socio-political life
10 starting with the death of Felix Houphouët-Boigny, first president of Côte d'Ivoire
11 and founding father of the Ivorian nation.

12 During his presidency, the Côte d'Ivoire is a country where citizens enjoyed a good
13 standard of living. It's economic and political stability attracted many immigrants
14 from neighbouring countries, and this is how citizens of Burkina Faso, Malians and
15 Ghanaians settled in numbers in the forested areas of the south of the country.

16 Foreigners of African origin were able to vote in elections.

17 After the death of Houphouët-Boigny on 7 December 1993 there was a struggle for
18 succession that began between Henri Konan Bédié, at the time President of the
19 National Assembly, which enabled him to stand in for the deceased president, and
20 Alassane Ouattara.

21 The ideologists of the Democratic Party of the Côte d'Ivoire in power at the time
22 coined the following slogan, quote: "Houphouët-Boigny was the president of the
23 Africans. Henri Konan Bédié will be the President of the Ivorians."

24 The construction of the new Ivorian nation was based upon the distinction
25 between -- to be made between Africans on the one hand and Ivorians on the other.

1 On 8 December 1994, a review of the electoral code required candidates to the
2 presidency to prove their Ivorian ancestry as a guarantee of their citizenship.

3 On 26 August 1995, Henri Konan Bédié, who was president at the time and had been
4 since the death of Houphouët-Boigny, reinforced the concept of true Ivorian origins,
5 according to which a person would be deemed Ivorian only if his four grandparents
6 were born in the country, in Ivory Coast therefore, and according to this -- him, this
7 concept would enable the Côte d'Ivoire, or Côte d'Ivoire, to better preserve its identity.
8 This would enable him to oust its main political rival, Alassane Ouattara, who hailed
9 from the north of the country, and having -- would enable him to reject his candidacy.

10 Populations from -- the fact that he had followed his studies in Burkina Faso and that
11 he had occupied high functions in the Burkina-based State enabled him to reject his
12 candidacy.

13 Populations from the south, notably Dioula or Malinkes, also have surnames that are
14 identical to immigrants of the same ethnic origin hailing from neighbouring countries,
15 notably Burkina Faso, Mali or Guinea. They have been systematically found to be
16 origin from these countries, rather than from Ivory Coast.

17 Injustices became widespread against these people and some saw their identity cards
18 destroyed by police. In -- it is symptomatic in 1998 in the report by the Economic
19 and Social Council, and I quote, "A tolerable level of immigration has been exceeded.
20 Some Ivorians are wondering whether these second generation Ivorians, currently
21 estimated at 1,500,000, are about to claim the national -- Ivorian nationality by virtue
22 of having been born in the country and, if they obtain it, will they not utilise the
23 political liberalism of this country and claim political rights and also the right to
24 conquer power within the state to the detriment of true Ivorians?"

25 The report goes on to say, and I quote, "The influx of immigrants - of Muslim

1 immigrants - representing 73 per cent of foreigners from countries bordering the
2 northern Ivory Coast profoundly modified the equilibrium; the pre-existing religious
3 equilibrium. This loss of equilibrium in such a sensitive area might lead certain
4 individuals to exploit religious affiliation to political ends, thereby disrupting national
5 unity and harmony and threatening social stability. The concept shall pit the mostly
6 Muslim Ivorian population from the north and the savannahs against the Christian
7 Ivorian population from the forested areas of the south. The groups from the south,
8 for the most part Christians or animists, encouraged the view that migrant Muslims
9 from the northern part of the country have never visited those in the south.

10 Comparing Ivorians from the north with Muslim foreigners from francophone
11 Western Africa only reinforced the belief that Ivorians from the north were
12 foreigners."

13 On 24 December 1999, following a mutiny which transformed into a coup d'état,
14 Henri Konan Bédié was overthrown by the army. General Robert Guéi was put in
15 power until new elections were held and on 23 July a new constitution was adopted
16 by referendum, in Article 35 of which it is stipulated, and I quote, "Any candidate to
17 the position of President of the Republic must be of Ivorian origin, with parents of
18 Ivorian origin, and must never have held any other nationality." In application of
19 this article, the new candidacy of Alassane Ouattara at the presidential elections was
20 invalidated by a court decision dated 6 October 2000.

21 An organised repression by public and private pro-Gbagbo forces bore down upon
22 the RDR militants, demanding the exclusion of their leader from the political scene.
23 This repression would extend to those individuals assimilated to RDR militants by
24 virtue of their national, ethnic or religious background.

25 The massacres of the year 2000 went unpunished. The rebellion of 19 September

1 2002 wanted to fight and guarantee that (indiscernible) would be as well as the West
2 African nationals who are assimilated to them. Hence the division of the
3 Côte d'Ivoire between the south, held by pro-Gbagbo forces, and the north held by
4 forces favourable to Alassane Ouattara, which is an illustration of this division based
5 on a policy of true Ivorian origins.

6 Now, most of the victims that I represent today consider that the events of 2002 are
7 directly linked to those which occurred during the post-election crisis of 2010/2011.
8 Indeed, for them the crimes committed between 27 November 2010 and 8 May 2011
9 are part and parcel of the policy advocated by senior members of the Ivorian Popular
10 Front, pro-Gbagbo party, once they had gained power in October 2000.

11 The events that unfolded at the end of 2010/beginning of 2011 stem from the concept
12 of true Ivorian origins and its political application. They should therefore be read in
13 the light of recent Ivorian history.

14 These crimes, from which the victims I represent have suffered, are carefully
15 organised -- are part of a carefully organised plan with the aim of maintaining
16 Laurent Gbagbo in power at all costs via the utilisation of both private and public
17 means.

18 Paragraph 4 of the amended DCC mentions as follows, quote, "Gbagbo was
19 determined to stay in power. Some time prior to the 2010 election, with the support
20 of members of his inner circle he adopted a policy of attacking his political opponent,
21 Alassane Dramane Ouattara, as well as civilians perceived to support Ouattara with
22 the aim of retaining power by all means."

23 With this aim in mind, a media campaign was led in order to destabilise Alassane
24 Ouattara and RDR militants and any individuals perceived as such by virtue of their
25 national, ethnic or religious origin. This campaign was stepped up during the

1 various meetings organised by the FPI during the presidential campaign. The
2 written press, as well as social networks, provided a support in the design phase of
3 this policy.

4 It would not have escaped your attention, Madam President, your Honours, that
5 certain themes used from 1995 have resurfaced or resurfaced in the events of
6 2010/2011.

7 On 24 November 2010, in the face of FPI militants at the Cocody town hall in Ben
8 Soumahoro, Cocody town hall, the former director of the RTI under
9 Houphouët-Boigny and MP at the National Assembly said as follows, quote, "How
10 can I believe for one moment that you can continue to allow these people to insult
11 Ivorians? We will not mince our words when we expose who they are, what they
12 are up to, what they were and what they are attempting to hide from us. I plead
13 guilty to the crime of selective xenophobia. Alassane Ouattara is a foreigner."

14 The slogan of the campaign was, "It's a win/win situation." Paragraph of the
15 document -- paragraph 35 of the amended Document Containing the Charges
16 explains that this meant that supporters would not accept another -- that another
17 candidate be elected in his place. Another slogan utilised explained that, "There is
18 nothing standing in the way. They are as soft as corn."

19 However, it is far more than this, Madam President, your Honours. Mr Gbagbo's
20 determination to remain in power is mirrored in his infamous claim, "It's a win/win
21 situation. We win, or we win," and this should also be interpreted in the light of the
22 speeches and facts previously mentioned.

23 "There's nothing standing in the way. They're as soft as corn" certainly means that
24 there are no other candidates to the presidential election, rather than -- other than
25 Laurent Gbagbo, but this slogan is also derogatory and stigmatising. The farmers,

1 traders and consumers of maize hail mostly from the northern part of Côte d'Ivoire.
2 Reducing a political opponent and his followers to the status of maize is paramount
3 to commodifying the enemy and trivialising any harm which might befall him.
4 In this context it is obvious that the crimes committed between 28 November 2010 and
5 8 May 2011 are part of a plan to maintain Mr Gbagbo in power; a plan that could only
6 succeed with the destruction of his opponent and those who supported him by all
7 means possible.
8 The targets were chosen by virtue of their ethnic origin, their religious beliefs or their
9 nationality. The events of concern to us have caused hundreds of deaths, injuries
10 and rapes. Make no mistake, Madam President, your Honours, the number of
11 victims is far higher than that retained by the Prosecution in its amended
12 Document Containing the Charges.
13 All the victims that I represent today have difficulty rebuilding their lives. They
14 have no money for medical care and they have no financial assistance. The trauma
15 of their experience is still central to their everyday lives, ever renewing their sense of
16 victimisation.
17 Of course, your Honours, Madam President, we need not mention the PTSD they are
18 suffering from, as is Mr Gbagbo. Indeed - indeed - the victims are still living in those
19 areas where the crimes were committed and where they suffered. So in the town of
20 Abidjan, where in the same neighbourhood various ethnic groups and religious
21 groups live together, the victims end up living with their torturer in those places
22 where the crimes they endured were committed.
23 For example, Madam President, your Honours, the neighbourhood of Yopougon was
24 historically inhabited by individuals hailing from the west of Côte d'Ivoire, who were
25 pro-Gbagbo, and it is for this reason that this neighbourhood has always been

1 presented as a stronghold of the FPI, the political party of Mr Gbagbo. So, as a result,
2 those victims that I am representing find themselves in the minority and they have to
3 live side-by-side with their aggressors on a daily basis.

4 This cohabitation makes the security situation extremely precarious, and no later than
5 last Wednesday a spokesperson for a group of victims and parents of victims said as
6 follows, "The torturers of yesterday continue to scoff at us in the neighbourhoods and
7 even in the press." He went on to add that, "The victims will not be able to tolerate
8 acts of such disdain that are also an insult to the memory of our dead."

9 It would be a mistake to say that the victims had no expectations. Theirs are only
10 legitimate, just like any other individual before a court of law. After having met
11 with the victims and after having listened to their stories, I realised that the right to
12 justice is one of their main concerns. They expect an attentive and independent,
13 impartial, transparent and efficient form of justice that is ready to listen to and respect
14 the rights of all participants. They want a protective and restorative form of justice,
15 capable of establishing the truth with regard to the crimes committed.

16 Now, Madam President, your Honours, underpinning this claim we will find a
17 plethora of reasons brought forward by the victims and I shall attempt to report these
18 and share them with you today as faithfully as I can.

19 One of the main components of the right to justice would seem to be the right to the
20 truth. The focal point of interest for the victims seeking to establish the facts and
21 identify the culprits is the right to the truth for all victims of serious violation of
22 human rights.

23 In implementing this right through criminal proceedings, the victims want light to be
24 shed on what truly happened, therefore -- or thereby bridging any gaps between the
25 procedural establishment of the facts and the truth itself.

1 The victims are independent from the ongoing proceedings before this Court and
2 their concerns differ from those of the Prosecution, whether the Defence likes it or not.
3 They wish to contribute in the search for an establishment of the truth, and this
4 process involves speaking up, sharing experiences, recognising any harm they might
5 have suffered and the relevant crimes.

6 Secondly, the right to compensation is one of the essential components of the right to
7 justice. Participating in the proceedings is first and foremost an individual measure,
8 which will enable some of them to transmit their knowledge of the events and history,
9 and sometimes this will become a collective undertaking, bringing together
10 communities, neighbours and families.

11 Thereby throughout the proceedings I will attempt to convey to you the various
12 individual preoccupations expressed by each of the victims, but also the voice of the
13 entire community which is attempting to build a new existence.

14 Finally, it is also a matter of moving things forward by punishing those responsible
15 for the crimes and moving towards reconciliation so that justice be done and in the
16 hope that their courage will serve as an example and a hindrance to the perpetration
17 of heinous crimes which I repeat is part of history.

18 We need to all bear in mind the fact that the course of events which we are attempting
19 to retrace here does not only reflect the past but also the present and the future. The
20 rally organised last Saturday in Yopougon is proof of this. It was seen by some as
21 provocation and by others as a badly-timed event, whilst Ivorians were attempting to
22 reach some form of reconciliation, and Côte d'Ivoire is attempting to find a
23 socio-political climate favourable in order to avoid any renewed election crisis in the
24 upcoming municipal elections.

25 We should recall that it is in fact the victims who are at heart of these proceedings and

1 they are their unfortunate *raison d'être*. So let us not forget that behind all of the
2 legalese and technical terms that each participant shall be using, there are hundreds
3 of children, women and men who are following the proceedings closely.

4 I can assure you, your Honours, that the mere fact of being represented and the ability
5 to voice their concerns is part of what could be referred to or considered as reparation
6 in the general meaning of the term and is part of their daily struggle to rebuild their
7 lives, or rather to carry on with their lives, whilst mindful of what they experienced
8 and mindful of what is now part of their history.

9 Madam President, your Honours, this marks the end of my opening statement as the
10 representative of victims, and I thank you.

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

12 The Defence now, Mr Altit, you have one hour, but please bear in mind that we will
13 take a break at 3.30. You will begin and then resume afterwards.

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

15 We will split the time between myself and my colleague and we will not take more
16 than 35 minutes. It is about 5-past-3. Maybe we will stop at 20-to. Perhaps it is
17 better to go to the very end and then take the break afterwards.

18 Madam President, your Honours, you do certainly recall that ever since the
19 post-electoral crisis broke out in Côte d'Ivoire, the Prosecutor has been repeatedly
20 declaring that he would prosecute all the perpetrators of the crimes, irrespective of
21 their camp, but here we have only President Gbagbo. Why is this so? Is it because
22 the perpetrators of these crimes have not been identified? On the contrary, they are
23 known to all and their crimes have been documented, documented in great detail by
24 all the human rights organisations.

25 These people are well-known, those who occupied and carved up the north of the

1 country as from 19 September 2002. They are known, that is the people who are
2 suspected of ordering the murder of gendarmes in Bouaké in 2002; the murder and
3 rape of civilians in Man in 2003; the murder of civilians in Korhogo in June 2004
4 during the conflict between Soro and IB; the massacres of Bouaké in 2007 and the
5 murder of opposition activists and civilians during the bloody conflicts between the
6 rebels in 2008, amongst others.

7 They are known to all, those who are suspected of carrying out torture and killings in
8 Yopougon in May 2011; those who were engaged in pillaging large-scale extortion
9 and trafficking; those who have turned to systematic rapes as a policy; those who are
10 making use of mercenaries and Dozo militias to terrorise the population; and those
11 who continue to commit crimes, particularly in the west of Côte d'Ivoire. They are
12 mentioned in the reports of the United Nations, Amnesty International, Human
13 Rights Watch, International Crisis Group, Global Witness, the U.S. State Department
14 and many others.

15 And so would this be because they have gone into hiding and are impossible to locate?

16 And yet the fact of the matter is that one of them is the head of the army, another is a
17 prefect, one is in charge of the Presidential Security, another one is the commander of
18 the Republican Guard, another commands the special forces, and all of them were
19 appointed by Alassane Ouattara in 2011 and 2012.

20 Still others are prominent politicians and they are not in hiding, so why are they not
21 here? Why are they not being prosecuted? Because the idea here is to determine
22 those who are responsible for the protracted and painful conflict. It is as if the
23 Prosecutor of the International Criminal Court was convinced from the very outset
24 that there was only one individual responsible for the tragic events in Côte d'Ivoire.

25 Let us point out that ever since the second round of the presidential elections on

1 28 November 2010, not once did he ever attempt to contact President Gbagbo or his
2 government, not even once, whereas he was in contact with Alassane Ouattara and
3 his representatives. He did not even once issue a clear and unequivocal warning to
4 the leaders of the rebellion and the warlords of Alassane Ouattara, preferring to direct
5 his attacks and threats to the presidential camp.

6 Under the circumstances, is it any surprise that the Document Containing the Charges
7 is only a reflection of the accusations made by the rebel leaders and the pro-Ouattara
8 press at the time of the crisis? This document is nothing but a press review, the
9 review of a media that is committed against President Gbagbo.

10 It is true that the Prosecutor refers to a certain number of reports from human rights
11 organisations, but you will realise that the Prosecutor made partial use of those
12 reports simply overlooking any elements that might undermine his case. These
13 reports themselves should have prompted the Prosecutor to carry out further
14 investigations. There is no indication of any properly conducted investigation, let
15 alone an investigation of both incriminating and exculpatory elements.

16 The Prosecutor does not put forward any evidence with probative value to support
17 his allegations. It is striking to realise the dearth of statements that he offers which
18 are not only vague and imprecise but also frequently contradict each other.

19 It is also striking to realise that there is no trace anywhere of an order from President
20 Gbagbo or from the political and military leaders which would go at least some way
21 to corroborate even one of the allegations. There is nothing, as we are going to
22 illustrate, absolutely nothing that supports the allegations or even the narrative of the
23 Prosecutor, let alone that would sustain the putative liability of President Gbagbo.

24 The Prosecutor is so acutely aware of the defects of his document that he himself has
25 deliberately maintained a degree of ambiguity, mixing up the events with the

1 protagonists. Moreover, he, at the last minute, shifted the goal posts by invoking a
2 new and more restricted responsibility, apparently oblivious to the fact that by so
3 doing he was completely unravelling his own case.

4 The Defence will show that the Prosecutor does not provide sufficient evidence to
5 constitute sufficient grounds that the events selected by him happened as he claims.

6 The Defence will show that there is no factual basis for the allegations of the
7 Prosecutor, and as a result the Defence will show that it is not possible to establish the
8 existence of substantive grounds to believe that President Gbagbo committed the
9 crimes charged against him.

10 The Defence will further show that there are no substantive grounds to believe that
11 President Gbagbo bears any responsibility in the crimes charged as an indirect
12 co-perpetrator or even as a contributor. At no time does the Prosecutor succeed in
13 establishing a link between President Gbagbo and the four alleged incidents.

14 The narrative of the Prosecutor is disjointed and sketchy, for a simple reason: The
15 reality of the case does not tie in with the allegations and so he attempted to distort
16 that reality by sweeping certain facts under the carpet, but there is no getting away
17 from the facts, and we will bring them all to light, without exception, so as to enable a
18 full understanding of the events.

19 The narrative of the Prosecutor is biased for two reasons: As we have said, he relies
20 on materials communicated to him by the current Ivorian authorities, and the other
21 reason, which is more important, is that in order to place the responsibility for the
22 conflict firmly and exclusively on the doorstep of President Gbagbo, he has to stick to
23 the narrative constructed by President Gbagbo's opponents at the time of the crisis
24 and to convince the international community to support one part, or one camp,
25 against the other.

1 This explains the selection of these four events which underpin the DCC, regardless
2 of their contradictory and questionable nature. These events represented turning
3 points in the crisis in Côte d'Ivoire and constituted, each of them, a watershed in the
4 loss of legitimacy in President Gbagbo's government and at the same time the
5 involvement of certain powers in the conflict.

6 The alleged crackdown during the attack of the RTI in December 2010 provoked at
7 the international level the condemnation of President Gbagbo's regime. The
8 allegations relating to the demonstration of the women in early March 2011 led to the
9 immediate suspension of ongoing negotiations. The powers involved were not in
10 favour of a negotiated settlement, and we are going to provide evidence for this.
11 The shelling, or alleged shelling, of the Abobo market on 17 March 2011 led a few
12 days later to the adoption of Resolution 1975 of the Security Council and the launch of
13 the ground offences -- offensive that had been secretly prepared much earlier by the
14 French and the ONUCI.

15 And what should we say about the allegations about the fighting in Yopougon after
16 the fall of President Gbagbo? They make it possible to conceal the raids and the
17 systematic violations of human rights perpetrated after the victory of the
18 pro-Ouattara forces. These four events constitute a narrative designed, if believed,
19 to legitimatise those who are in power today.

20 They paint a black and white picture of one camp representing evil and another camp
21 representing good. From this point of view, they have a political significance. They
22 have led to the construction of a reality that legitimises one camp, used as a launching
23 pad to bring the other camp to power. Rather than verify the veracity of that
24 narrative or to investigate in order to determine its validity, the Prosecutor took it as
25 the gospel truth.

1 The problem now is that he can no longer deviate from that narrative lest the entire
2 edifice comes crumbling down. All the elements in our possession indicate that it is
3 not the pro-Gbagbo forces that attacked the unarmed crowd, but it was pro-Ouattara
4 militias who launched the premeditated attacks. Regarding the crackdown on the
5 women's market, the Ivorian press itself reported on the inconsistencies of the
6 allegations.

7 The Prosecutor took for granted the fact that the version of the rebels was the only
8 valid one, without questioning it, without investigating and without cross-checking
9 the various facts. Regarding the shelling of the Abobo market, the least that can be
10 said is that the file presented by the Ivorian authorities is not convincing and the
11 Prosecutor did nothing to shed light on things.

12 Isn't it surprising that those that the Prosecutor is presenting today as those having
13 given orders and those who had the role - the crucial role - of implementing the policy
14 charged against Gbagbo have been promoted and rewarded by Alassane Ouattara?
15 It is not difficult to understand that the reality is quite different. It is not a thesis that
16 we are presenting, but something that we are just pointing to because the reality is
17 stubborn and can be reconstructed. That is where the problem lies.

18 The Prosecutor was too busy trying to establish the liability of President Gbagbo and
19 did not have the time to examine, to analyse and to assess the incriminating evidence.
20 He did not even have the time to watch the video footage filmed at that time. If he
21 had done that, he would have seen pro-Ouattara combatants who were heavily armed,
22 marching in the direction of the RTI. He would have seen fighting between militias
23 and the forces of law and order. He would have heard the calls to violence, calls to
24 attack the institutions of the State and the presidency which were launched on the eve
25 of 16 December 2010 by the rebel leaders and by Guillaume Soro, Alassane Ouattara's

1 prime minister, calls that were reiterated on the very evening of the attack. He
2 would have wondered about the circumstances in which the pro-Ouattara forces took
3 over control of Abobo in January and February 2011.

4 It was the policemen in Abobo who were attacked and burned alive by pro-Ouattara
5 militias, while the civilian members of the population from all origins fled from
6 pro-Ouattara forces and the invisible commando. They were not fleeing from the
7 forces of law and order which were trying to protect them.

8 If the Prosecutor had read the necessary documents, he would have noted the
9 circumstances surrounding the demonstration of the women. He would have
10 examined the little evidence that he has more critically. He would have examined
11 the testimonies about the Abobo shelling, but he did not do anything.

12 Regarding the alleged attack on pro-Gbagbo forces in Abobo, the least that can be said
13 is that the Prosecutor does not document them, whereas many human rights
14 organisations reported on them, as well as the perpetration of crimes in Yopougon by
15 the pro-Ouattara forces.

16 If he had investigated, the Prosecutor would not have presented to the
17 Defence images of violence which occurred in Kenya. If he had investigated, he
18 would have taken into account the reality of the situation and exculpated
19 President Gbagbo, but he preferred to read the reality in Ivory Coast through a
20 narrow and restricted lens. It is simpler to imagine unarmed crowds
21 machine-gunned pitilessly when you want to distinguish between good and evil, and
22 this happened because he himself did not investigate; he relied on the materials
23 submitted to him by the Ivorian authorities and therefore the Prosecutor cannot tell
24 the Chamber the truth.

25 We will prove in the course of the proceedings how this tendency to follow the path

1 of least resistance and oversimplification has serious consequences and led the
2 Prosecutor to incorrectly interpret the events referred to, and so to construct a
3 narrative that would bring about the indictment of President Gbagbo before the ICC
4 the Prosecutor was compelled to stretch the truth and to reinvent the reality, whereas
5 all specialists and inhabitants of Côte d'Ivoire know the truth.

6 The fall of President Gbagbo was organised and planned. We will see that the
7 scenario which was constructed after the fact and in a hasty manner does not stand
8 up to any analysis. It does not stand up because it relies on two principles, both of
9 which are false.

10 One of those is that the country was at peace right up to the elections of 2010. The
11 other is that those responsible for the post-electoral crisis was President Gbagbo
12 because he allegedly refused to accept the verdict of the polls. But he is not the one
13 who refused the verdict of the elections. He was not the one who proclaimed
14 himself president. He's not the one who rejected the decision of the Constitutional
15 Court. He is not the one who refused mediation.

16 We are going to come back in detail on this point. These are the two pillars that the
17 Prosecution case relies on. When you forget the truth, you forget all those who have
18 suffered, all those victims who are looking for justice and who, after having listened
19 to the Prosecutor, are feeling even more abandoned today.

20 It is necessary here to spare a thought for all the victims, not only those who have
21 come forward but also those who are suffering in silence, abandoned and accused
22 because they do not belong to the victors' camp.

23 I would like to mention here the inhabitants of the martyred neighbourhood or city of
24 Duékoué who were victims of massacres in 2005 and 2011 under the very eyes of
25 ONUCI. I would like to mention the Guéré people of the west of the country who

1 are victims, or who were victims of an ethnic cleansing operation leading many of
2 them, tens of thousands, to flee their country to Liberia. My thoughts are also with
3 the women who were murdered, brutalised and raped, some of them in front of their
4 families, and they are hopefully waiting for justice.

5 Côte d'Ivoire is a country that has been traumatised by frequent coup attempts, and
6 the carving up of the north of the country by rebel leaders in September 2002, as well
7 as being subjected to an atrocious war inflicted upon the populations by the rebels in
8 2010 and 2011.

9 Madam President, your Honours, it is a dangerous game that the Prosecutor is
10 playing by using a construction that has been put together by others. If these are
11 proven not to be crimes against humanity, then all the efforts made by the
12 Prosecution to accuse Gbagbo and the entire edifice that has been built would all
13 come crumbling down. Then this would lead to the emergence of what this case is
14 really all about: That is the trial of a scapegoat, and this is simply a man who is
15 guilty of having wanted to emancipate his country, guilty of having preferred liberty
16 to subservience. It is a dangerous game that the Prosecutor is playing by focussing
17 in the four widely reported events because those events had political consequences on
18 the country, because by so doing he is overlooking the numerous crimes perpetrated
19 against the people of Côte d'Ivoire.

20 The people of Ivory Coast deserve that their suffering should be acknowledged.

21 They deserve a trial other than a political trial. They deserve that proceedings be
22 initiated against those who are really responsible for the crimes.

23 The Court deserves to have the opportunity to deal with what really happened in
24 Côte d'Ivoire over all these years and that is the only way they would play a positive
25 role in national reconciliation.

1 As you know, this case is not only a case that concerns Côte d'Ivoire, but it also
2 concerns France. Allow me to point out that over a period of 50 years France
3 intervened militarily in Africa about 40 times. If one thinks that they understand the
4 real situation in Côte d'Ivoire without exploring in depth the real reasons for that
5 crisis, then that person is deceiving himself or herself and misleading those who are
6 responsible for the application of justice. The reality is there right before our very
7 eyes and it is our noble responsibility, the responsibility of the Chamber, to bring that
8 reality to light. Thank you.

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

10 We will now take our break and you will be able to resume after the break. We will
11 reconvene at 4.05 p.m.

12 (Recess taken at 3.33 p.m.)

13 (Upon resuming in open session at 4.07 p.m.)

14 All rise.

15 Please be seated.

16 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) I shall now
17 ask the Defence to continue with their opening statements.

18 Mr Altit.

19 MR ALTIT: (Interpretation) Thank you, your Honour. It is my colleague who
20 shall now take over from me.

21 MS BAROAN: (Interpretation) Madam President, your Honours, it is difficult for
22 me to listen to the remarks made by my learned friend, the representative of victims,
23 without saying a few words about the past of Côte d'Ivoire, and I do have a number
24 of points I wish to raise in relation to this history.

25 She spoke about discrimination caused by Mr Gbagbo, but I don't think she reads the

1 International Press. She doesn't realise that there is a new policy, and Mr Ouattara is
2 providing new explanations and he has appointed Dioula people to many positions.
3 Mr Ouattara and his party, well, that party is called the RDR, and the first political
4 coalition in Côte d'Ivoire was the Republican Front, and it included the FPI led by
5 Mr Gbagbo and the RDR which was led by Mr Ouattara, and the two travelled
6 throughout all the towns and neighbourhoods of Abidjan and held many meetings.
7 That was in '94.

8 In 1994 Mr Gbagbo, who was a member of parliament at the time, did not vote in
9 favour of the Elections Act, so I think it's important to make that point for my learned
10 friend's benefit.

11 As for the rest, I would refer you to later arguments that I will be making, but I
12 believe that this seems to be the hobby horse of both the OTP and the representatives
13 of victims. They seem to be attaching considerable importance to these political
14 slogans, such as "There is nothing before us," "Nothing stands in our way," "They are
15 as soft as corn." These are but political slogans, and when people stand for office,
16 such slogans are bandied about.

17 The person who said such a thing was actually the person who led the campaign of
18 Mr Ouattara, so that remark, "They are as soft as corn," really, that has nothing to do
19 with the people who cultivate corn in Côte d'Ivoire. Everyone in Côte d'Ivoire has a
20 plot of land with some corn growing on it, this is commonplace throughout the
21 country, so there is no reference being made to a particular group. It is merely a
22 reference to the grain in question, which is rather soft.

23 I would also like to rebut one particular point relating to victims. She spoke of their
24 suffering and their pain, but, you see, this is a matter of great importance in the
25 country. Since 2002 many associations were set up. Women came together within

1 women's groups, groups of women who had been raped, to speak out.

2 I can tell you that the various governments of President Gbagbo showed their concern
3 for these women. How did they do so? Well, the government established
4 government departments exclusively in charge of helping victims. Unfortunately,
5 these government organisations were done away with in 2012, but this really is part
6 of the day-to-day reality of the people of Côte d'Ivoire.

7 That is why, your Honours, it is so important at this particular juncture, as you look at
8 this tiny sliver of the story of the tragedy that is the story of Côte d'Ivoire, at this time
9 it is so important for you to remember the victims and consider their suffering. They
10 continue to suffer. They continue to call out to us.

11 These victims have hope now with the ICC. For the first time the system of
12 international criminal justice, this beacon of light within the darkness of an
13 increasingly violent civilisation, is now giving a voice to victims. They now have
14 status.

15 Your Honours, since jurisdiction here at the Court dates back only to 2002, I wish to
16 make this point: Since the time of the atrocities, I reiterate, since the time of the
17 atrocities, more atrocities have gone on, and the legal representative of victims have
18 said this. And unfortunately these people are not dying only in battle for the most
19 part; alas, they perish as they go about their ordinary day-to-day activities; as they
20 sleep at night or while they are harvesting yams or millet; while they are picking
21 cocoa beans; as they gather corn for the afternoon meal; while they plant corn; when
22 they gather to pray in a mosque.

23 And I would point out that people were killed not only in mosques, but also in
24 churches. People were killed while hiding in bushes. People were -- people were
25 killed under many circumstances. Some lost their lives when they were at home, in

1 their very humble abodes, with only a thatched roof to shelter them from the
2 elements.

3 I do not intend to engage in lofty rhetoric, far from it. I wish to say this: The
4 victims have been the victims of crimes at a time when the international community
5 did not seem to be particularly concerned, or perhaps no one wanted these people to
6 be brought to trial. Your Honours, I do not wish to deliver some sort of lofty speech.

7 Back in Côte d'Ivoire I am a Human Rights activist, and during my career and also in
8 my individual endeavours I constantly taken interest in the victims and I try to help
9 them.

10 Consequently, with a number of friends and a number of other good-hearted people
11 from all different horizons, from all different levels of society, we set up organisations
12 to help the victims, those who have suffered because of the atrocities that have
13 occurred since September 2002, in particular women and children, so I am familiar
14 with victims' issues.

15 The violence that formed the back-drop to their suffering, the violence was just one
16 particular moment in time, one part of an ongoing crisis, one moment during the
17 unending foreign interference in our country.

18 The first victims of course were the civilians. The civilians now have hope. They
19 gained hope when they learned that the Court would look into the events and the
20 time frame would be as of 19 September 2002.

21 The Prosecution has mentioned the figure of 3,000 deaths, but just imagine what the
22 total count will be if we take this earlier date as our time frame? What about -- well,
23 consider the total count since September 2002. Consider the direct victims and the
24 thousands of refugees, the thousands of IDPs and traumatised people. All of these
25 people have suffered physically and spiritually. Just consider all the children who

1 have not been able to go to school, who have not been able to play in the playground.
2 All these people who have called out, their voices have not been heard for more than
3 ten years now. These people now are turning to you, turning to us. They are
4 looking so carefully at this Court.

5 We cannot make a distinction amongst the victims. We cannot place them in
6 separate categories. We have demonstrated this, and furthermore the OTP and the
7 representative of victims must realise that there are many victims. There are tens of
8 thousands of other people who have been victimised. They have been ruined.
9 Their suffering has been so horrid.

10 All these victims, all the victims of Côte d'Ivoire, do not understand. They -- I
11 cannot stand aside. We cannot say, "Well, some of these people are victims, some
12 aren't." We cannot remain indifferent to their fate. We cannot turn a blind eye to
13 the treachery and the greed.

14 We must be attentive to victims' issues. We must remember all these victims in Côte
15 d'Ivoire, because these are the victims of a country that has been carved up artificially,
16 a country where the north represents one reality.

17 I myself come from this part of the country and I am an embodiment of this part of
18 the world. I am not unusual. I am one of thousands of people in Ivory Coast who
19 falls within this pattern, so to speak, a Malinke from a group usually called the
20 Dioulas who came to the south. These people are usually -- have multiple wives and
21 in many cases these men marry different women from different parts in the country.

22 In my own case, my father came from the north, from Migninan, to the -- far to the
23 north, on the border with Guinea.

24 My -- we share many things with that country. I was born in the south. I was born
25 of a mother who came from another ethnic group, from another group. My father

1 married other women and they were like mothers to me. We lived together happily,
2 people from the Mossi, Bissa, Betes and Gouro ethnic groups. I have lived in the
3 south for decades. I've only travelled back to the north occasionally, in 2010 actually,
4 and that was for a business trip.

5 This is the reality of -- this is my reality and this is the reality of countless children.

6 In most cases, we are not familiar with our villages of origin. This is the reality of
7 Côte d'Ivoire. This is the reality that is being hidden, that some people want to
8 cover.

9 Côte d'Ivoire is not as simple as saying that the north is Muslim and the south is
10 Christian. That is not just so. Those of us who hail from the north, we now live in
11 the south and we have been there for decades. We live in peaceful conditions with
12 our fellow man, we prosper and that is why it was only so late in life that I went back
13 to my native village. And, you see, it's for that reason - it is that very reason - that
14 means the victims are counting on you.

15 This reality is -- must be considered. We cannot create artificial divisions, or
16 categories. There are no good victims and bad victims. A victim is a victim and
17 they all must be treated equally. They cannot be judged on the basis of their
18 ethnicity, the kind of violence they suffered, or some point of the compass. For
19 victims, suffering is not about the north or south, east or west. For the victims, what
20 they went through means pain, suffering, despair, bitterness.

21 The Prosecution has constantly said that they wish to investigate all crimes committed
22 in Côte d'Ivoire, but the people of Côte d'Ivoire still are waiting. For example, Yoro,
23 in the village of Satama Sokora, he still waits for investigation. He wants his story to
24 be told. Right now, the Prosecution is just providing us with a blurry snapshot of
25 what really happened.

1 The same thing holds true for Jean Gueye from Bloléquin and hundreds of others who
2 are still waiting for their children to be returned to them, their babies who were torn
3 from their arms in September 2002. The reality is that we must listen to every citizen
4 of Côte d'Ivoire, every victim. All must be heard.

5 Your Honours, since 2002 people have been crying out from the military camps in
6 Bouaké and we have heard the muted rustling of silent figures going up towards the
7 Hotel Ivoire and the containers in Korhogo. The people are calling out, the victims.
8 From the slums of Cocody, from the savannah land of Botro, from the villages of
9 PK18, from the palm groves, from the orchards of Bondoukou, from all those places
10 and from many others the victims call out. They turn to you. They are imploring
11 you.

12 Since the year 2002, they have been waiting for justice. The years go by: 2004, 2010,
13 2011. When will they have justice?

14 Are these victims destined to be merely a footnote in the story?

15 The representative of victims, has she heard the muffled groans of those who lie
16 sleeping in their graves? Has she really listened? Has she understood? Does she
17 understand that what happened was one in a series of horrific events that were
18 initiated by nameless forces? Each victim is an individual who has suffered and
19 each victim must be heard individually.

20 I would remind the Court that so many of these victims have been excluded because
21 of the common legal representation system. So many of them have been excluded.

22 The new system seems to be all about streamlining the process, processing as many
23 people as possible, and this hinders the analysis. This runs counter to the interests of
24 those who have -- to the victims.

25 What about the personal suffering of the individual that is lost in this abstract concept

1 of a group? We must realise that there may be a collective story, but then there are
2 the initial -- rather, the individual accounts, and the victims must be independent.
3 They cannot be subject to some authority.

4 We must respect what they have gone through, their suffering. Otherwise, we
5 would be re-victimising them. Once again, they would be unable to speak out and
6 tell their stories.

7 Your Honours, I wish to conclude by reminding you that if we distinguish between
8 different victims, if we place them in different categories, this will merely set the stage
9 for greater tragedies. This will only add to the misfortune that Côte d'Ivoire has
10 already endured. The upheaval will only continue.

11 Yet, only this Court can write the story of what really happened. Only this Court
12 can record the voices of the victims; the voices who have called out for justice ever
13 since September 2002.

14 Your Honours, you are the only ones who can act and ensure that the children and
15 the grandchildren of Côte d'Ivoire continue to sing the praises of their ancestors. I
16 shall quote, "It was the work of a thousand generations that built my homeland.
17 Côte d'Ivoire shall appear before all nations in all her shining glory. Such is her
18 destiny, for my proud and valiant forefathers died in their efforts to build our nation
19 and I shall live on, I shall prevail and I shall cherish her always."

20 I thank you.

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

23 This concludes the opening statements by the Defence and we shall now move on to a
24 presentation by the Prosecution. It's scheduled for the rest of the afternoon, all of
25 tomorrow and the first session on Friday.

1 The Prosecution may now begin.

2 MR MACDONALD: (Interpretation) Thank you, your Honour, your Honours.

3 First of all, I would like to inform you that during the next session the Prosecutor
4 must absent herself, owing to other commitments, and we shall continue with the
5 presentation by the Prosecution.

6 Before beginning with the introductions, I do wish to make a few points about the
7 presentation and how it shall unfold. As we were saying yesterday, we did file the
8 amended Document Containing the Charges. We also filed the amended list of
9 incriminating evidence. And it's quite clear that the following presentation is in
10 compliance with the initial decision of the Chamber, ruling -- filing 107. And the
11 Prosecution, during upcoming presentations, shall rely upon the most representative
12 items of evidence, as you requested in your decision.

13 We do not intend to rely on all, each and every item of evidence on our list, but rather
14 on the most representative items. However, clearly, the Prosecution will rely on all
15 the elements in demonstrating the substantial reasons.

16 The first presentation will be made for the Prosecution by Mr Gilles Dutertre, and it
17 deals with the widespread and systematic nature of the attacks. The second
18 presentation, which should also be done today, will focus on the common plan, and
19 Mr Dutertre will still do that presentation.

20 Then tomorrow we will begin our series of presentations on the four incidents. I will
21 be talking about the facts regarding the march on the RTI. Maria Berdennikova will
22 then talk about elements of evidence relating to the demonstration by the women on
23 3 March 2011. Then Ms Krisztina Varga will make a presentation on the shelling of
24 the Abobo market on 17 March. And finally, Ms Florie Huck will talk about the
25 events that occurred in the night of 11 to 12 April in Yopougon.

1 The Prosecution will conclude its presentations by focusing on the modes of liability
2 and the facts attendant thereto, which will form our conclusion. That aspect will be
3 handled by Mr Reinhold Gallmetzer.

4 Before giving the floor to Mr Dutertre, I would like to ask for a brief private session,
5 just briefly, so that the public gallery may not be part of our discussion on the identity
6 of witnesses and pseudonyms and such related matters. This will be very brief, your
7 Honour. Thank you.

8 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Granted. We
9 will now go into private session for a few minutes.

10 (Private session at 4.34 p.m.)

11 (Redacted)

12 (Redacted)

13 (Redacted)

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10 (Open session at 4.43 p.m.)

11 THE COURT OFFICER: (Interpretation) Your Honour, we are in open session.

12 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Prosecution,

13 you have the floor, but I want to inform you that we will break at 5 p.m. and continue

14 after the break.

15 MR DUTERTRE: (Interpretation) Good afternoon, Madam President. Good

16 afternoon, your Honours.

17 My first presentation will take about 25 minutes. If you do allow, I may take a few

18 extra minutes to conclude my presentation. I defer to you, your Honour. But then

19 again, we could also start off and see what happens.

20 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Maybe if you

21 agree, we could take the entire presentation and then have a half-hour break. Do

22 you agree?

23 MR ALTIT: (Interpretation) Yes.

24 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) So,

25 Mr Dutertre, please proceed and then we'll have a half-hour break thereafter.

1 MR DUTERTRE: (Interpretation) Thank you, your Honour.

2 Madam President, your Honours, Eric MacDonald has already told you that I will be
3 making two successive presentations; one on the attacks on civilians by pro-Gbagbo
4 forces in Côte d'Ivoire between the end of November 2010 and May 2011, and the
5 second on the policy driven by Laurent Gbagbo and his inner circle regarding these
6 attacks.

7 My first presentation, with your leave, will now proceed, and I would like the court
8 usher to display my presentation on all the screens within the courtroom, with your
9 leave, your Honour, and then I'll proceed to further details.

10 Madam President, your Honours, in Mr Laurent Gbagbo's efforts to remain in power
11 at any cost after the presidential elections of 2010, the pro-Gbagbo forces carried out
12 several attacks from the end of November 2010 to May 2011 against civilians.

13 These attacks resulted in more than 700 murders, more than 40 rapes, at least 520
14 arrests and serious bodily injury to more than 120 persons. The victims were
15 civilians, members or supporters of Mr Ouattara, on the grounds of their ethnicity,
16 nationality, or religion.

17 Those targeted included members of the RDR (Rassemblement des Républicains), or
18 of the PDCI (Parti démocratique de Côte d'Ivoire), which were two political parties
19 belonging to a pro-Ouattara coalition known as the RHDP, Rassemblement des
20 Houphouëtistes pour la Démocratie et la Paix.

21 Pro-Ouattara neighbourhoods like Abobo were also targeted. These
22 neighbourhoods were mainly inhabited by people from the north. In fact, people
23 hailing from the north such as the Dioulas were particularly targeted.

24 In general terms, the same applied to ECOWAS nationals, particularly people from
25 Burkina Faso and Mali. Lastly, Muslims were also targeted.

1 Madam President, your Honours, the Prosecution has put together a visual
2 presentation based on two maps: One of Abidjan and the other of Côte d'Ivoire.
3 This presentation will provide you an overview and a chronology of all the attacks
4 against the civilian population which I will be talking about. An electronic copy of
5 this material will be provided at the end of the hearing.
6 There are five fields to this presentation. There is a central field, which is made up of
7 the two maps I talked about. The attacks have been identified, one after the other, by
8 specific points relating to the specific areas where the attacks were conducted. This
9 will give you a geographical overview of the situation.
10 In Abidjan, for example, the areas where the attacks took place are put together in a
11 specific order and named after the neighbourhoods. Most of the attacks will be
12 identified in orange and the four incidents in the charges will be identified in blue.
13 The second is a timeline which goes from November 2010 to May 2011. These will
14 be identified by little sticks, which will appear at the same time on the map and will
15 enable you to have a better temporal view of the nature of the attacks. Let me
16 specify that the sticks have various colours as well. Then there is a third field, which
17 is just below and is captioned "The key of the perpetrators." You have those little
18 sticks. If it is the FDS then you have a green stick, that is the forces de sécurité
19 ivoiriennes, including the army, the gendarmerie, the anti-riot brigade, BAE, the
20 Republican Guard, the command centre for security operations, which is known as
21 CeCOS, and the police force.
22 The yellow stick depicts attacks by the jeunes patriotes, who are pro-Gbagbo militia.
23 The grey sticks reflects joint pro-Gbagbo forces, including mercenaries.
24 Let me specify here again that the jeunes patriotes militia and pro-Gbagbo supporters
25 are represented in yellow, and this is a reflection of what has been referred to in the

1 DCC as "Young Militia."

2 Then the fourth field, towards the bottom, which is known as "The reference,"

3 outlines the ERN of the documents I am using to deal with each of the attacks.

4 Then there is the fifth field, which is the column to your right, known as "The attacks
5 that have been recorded." This will be an overview which points to the location and
6 the date of such attacks.

7 I will be talking about 45 incidents in my presentation, your Honours, and these are
8 mentioned specifically in paragraphs 23 to 29 of the DCC, including the relevant
9 attendant footnotes. Those 45 incidents are documented through witness

10 information, video material and other materials from NGOs or the United Nations.

11 This is not an exhaustive list, but it gives a picture of the reality on the field by the
12 repetitive nature of the attacks, the modus operandi, including identity checks at
13 roadblocks and other such incidents as immolations.

14 Although the FDS sometimes participated in military operations against the so-called
15 Invisible Commando, an armed group which was based in Abobo and alleged to be
16 pro-Ouattara, what we are dealing with here is attacks against civilians.

17 Let me now speak to the first incident. Witness P-184 states that on 27

18 November 2010, in the morning, pro-Gbagbo forces opened fire at the Abobo mayor's
19 office. Outcome: Five civilians killed.

20 Between 27 and 29 November 2010, at Abobo, the FDS severely repressed
21 demonstrations by the RHDH, who were protesting against the curfew imposed by
22 Laurent Gbagbo. Outcome: Twelve dead.

23 End of November/early December 2010, in Yopougon, pro-Gbagbo supporters
24 arrested a Malian and accused him of having voted for Ouattara. They struck him
25 and set him on fire. His burnt corpse was found the next morning, as testified by

1 Witness P-107. We shall provide further details as to the nature of these
2 immolations.

3 Let me specify that Yopougon is a well-known pro-Gbagbo stronghold where,
4 however, some of its neighbourhoods are inhabited by people from the north. That
5 explains why there were so many incidents in Yopougon.

6 In the night of 1 to 2 December 2010, in Yopougon, the FDS opened fire on RHDP
7 supporters at the RDR headquarters. Outcome: Six dead and 14 wounded at least.
8 Furthermore, seven supporters of the RDHP were arrested.

9 Incident number 5: On 10 December 2010, in Abobo, the FDS, including the anti-riot
10 brigade, the police, opened fire. Outcome: Three dead.

11 The next day, on 4 December 2010 at Port-Bouët, the FDS shot a butcher and a man
12 who had gone to buy cigarettes.

13 From 16 to 19 December 2010, in various neighbourhoods in Abidjan such as Cocody,
14 Adjamé, Abobo and Grand Bassam, the FDS, supported by militias and mercenaries,
15 violently repressed a demonstration organised with a view to installing the Director
16 of the RTI, the Ivory Coast Television and Radio Services, who had been appointed by
17 Alassane Ouattara. Outcome: At least 54 dead, 54 seriously wounded and at least
18 17 rapes and arrests. These are all civilian victims and my colleague, Eric
19 MacDonald, will revisit this point in regard to the charges.

20 On 25 December 2010 in Cocody, members of the Students Federation of Côte d'Ivoire,
21 known as FESCI, with the help of FDS and young militias launched an attack on PDCI
22 headquarters. Outcome: Eleven wounded and three seriously wounded by
23 gun-shot.

24 In January 2011, in Koweït in Yopougon, young pro-Gbagbo supporters burnt Moussi
25 from Burkina Faso alive.

1 Tenth incident: On 4 January 2011, in Cocody once again, FDS members shot at
2 unarmed persons within the PDCI offices. They killed one militant, or one supporter,
3 and four people were wounded. 136 supporters of the RHDP were arrested and 19
4 women -- including 19 women and children.

5 On 12 January 2011, at Abobo in the Avocatier neighbourhood, a group of jeunes
6 patriotes shot and killed three Malians.

7 On 13 January 2011, young patriots manned a roadblock and killed two supporters of
8 the RHDP.

9 From 18 to 20 January 2011, the FDS, CeCOS and the anti-riot squad severely
10 repressed a demonstration which had been organised by the RHDP as a civil
11 disobedience exercise.

12 In fact, on 19 January 2011 the Republican Guard made excessive use of force as it
13 shot at demonstrators in Attécoubé and Adjamé. Outcome: Two dead, 17
14 wounded.

15 On 20 January 2011, in Gagnoa, to the east -- to the west of Côte d'Ivoire, the FDS
16 opened fire on unarmed pro-Ouattara civilian supporters. Outcome: Several dead
17 and several wounded.

18 Fifteenth incident: P-184 states that on 19 February, at the roundabout near the
19 Abobo mayor's office, members of the RDR were organising a meeting when
20 pro-Gbagbo forces opened fire and killed two persons and then burnt the material
21 they were using.

22 P-184 further states that in Koumassi, on 19 February 2011, pro-Gbagbo forces opened
23 fire, or attacked a meeting rather of the RDR and killed civilians.

24 On 20 November, in Yopougon, specifically at Gesco, the jeunes patriotes killed a man
25 who was wearing his traditional gown.

1 On 25 February 2011, in Abobo, pro-Gbagbo forces, police militias and jeunes
2 patriotes raped nine women who were politically supporting Mr Ouattara.
3 Still on 25 February 2011, but in Yopougon, following skirmishes the jeunes patriotes,
4 in the presence of police forces, lobbed grenades and fired at civilians and then
5 attacked them while they had sought refuge near or in the courtyard of a mosque.
6 Outcome: At least five persons wounded and two dead, including the guard at the
7 mosque who was burnt alive.
8 Twentieth incident, your Honours: On 25 February 2011, still in Yopougon, several
9 individuals who were within a restaurant were accused by several supporters of
10 Gbagbo as being Ouattara's supporters and of the Dioula ethnic group. They
11 escaped, but one of them was hit by a bullet in the back and he succumbed to his
12 wound on 25 February. He was a mobile phone seller.
13 The next day, 26 February 2011, still in Yopougon, the jeunes patriotes burnt alive a
14 man who was pushing a wheelbarrow. He was accused of being a Dioula rebel.
15 The next, or rather the day before, Charles Blé Goudé had called on the jeunes
16 patriotes to organise themselves and control movements within the neighbourhoods
17 and to denounce any strangers, or foreigners.
18 On 27 February 2011, in Yopougon, the jeunes patriotes struck and burnt a young
19 man who was accused of not being of that neighbourhood, and on the same day, two
20 Dioulas were accused of being rebels and beaten up and burnt.
21 On 28 February 2011, still in Yopougon, pro-Gbagbo supporters burnt two men who
22 did not have their documents and were suspected of being rebels. This incident is
23 reflected on video 0003-0013, ERN number 0008-0049.
24 The Prosecution has decided to show an excerpt of this video, which demonstrates
25 the reality of what frequently happened in Abidjan and gives us an opportunity to

1 concretely view what we are talking about.

2 At the beginning of the video we see a vehicle of the anti-riot brigade, at 0 minute
3 0 seconds, but let us move directly to 1 minute 14 seconds and play from there to
4 2 minutes 10 seconds.

5 (Viewing of the video excerpt CIV-OTP-0003-0013 played)

6 MR DUTERTRE: (Interpretation) Madam President, mindful of the level at which I
7 am now with my presentation, I suggest that we take the break now and continue
8 thereafter.

9 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you.
10 We shall break now, and resume at 5.35 p.m.

11 THE COURT USHER: All rise.

12 (Recess taken at 5.03 p.m.)

13 (Upon resuming in open session at 5.35 p.m.)

14 THE COURT USHER: All rise.

15 Please be seated.

16 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: Prosecutor, please proceed.
17 We have the next segment 'til 6.30 p.m.

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

19 I now continue with my list of incidents.

20 On 28 February 2011, in Yopougon, the occupants of a CRS patrol vehicle stopped
21 and killed a man. He was pushing a wheelbarrow, and his nickname was "the
22 Guinean," and he was accused of voting for Ouattara.

23 Twenty-fifth incident, P-184, heard that in February 2011, at the Riviera, forces of law
24 enforcement called on militias to attack and rape women who were planning to
25 protest the siege on the Golf Hotel. These women belonged to the RHDP.

1 On 1 March 2011, the leader of the Burkina Faso community in Loviguié, in Agboville,
2 was burnt alive by Gbagbo supporters. Still on 1 March 2011, in Abidjan, the CeCOS
3 burnt two Nigerians alive, who were respectively a wood seller and a taxi driver.

4 They referred to a speech that had been made by Charles Blé Goudé.

5 On 3 March 2011, at Abobo, the FDS opened fire on a demonstration of women who
6 were Ouattara supporters. At least seven of them were killed and several were
7 wounded. My colleague, Maria Berdennikova, would revisit this issue in greater
8 detail as they relate to the charges tomorrow.

9 In the night of 4 to 5 March 2011, at Port-Bouët, more specifically at the Jean Foly
10 neighbourhood, the jeunes patriotes burnt a cobbler alive. He was from Burkina
11 Faso, and he was a handicapped person accused of having hosted some rebels.

12 Thirtieth incident, on 4 and 8 March 2011, in Yopougon, at least 150 young persons
13 bearing weapons and arms, arms and weapons, and taxis -- and axes, rather, were
14 chanting "Kill, burn, kill, burn, you must all go." They stormed the area and pillaged
15 the stalls belonging to West African traders. Outcome: One person wounded by
16 machete.

17 On 1 March, still in Yopougon, a native of Burkina Faso was killed by pro-Gbagbo
18 young militia. He was suspected of being a rebel informant.

19 Between 13 and 22 March 2011, heavy weapons were used by the FDS and the
20 Republican Guard to repress persons, people in various neighbourhoods which were
21 deemed to be supportive of Ouattara. These were in Adjamé and Abobo. Outcome:
22 40 dead, including women and children, and about 100 wounded.

23 Particularly on 17 March 2011, in Abobo, the FDS shelled a market where civilians of
24 that neighbourhood were doing their business. Outcome: 25 dead and 40
25 wounded. My colleague, Krisztina Varga, would also address this issue tomorrow

1 as they relate to the charges.

2 On 21 March, or 21 and 22 March 2011, at Williamsville, militia killed three persons,
3 including two in their homes.

4 On 22 March 2011, at Bédi-Goazon, to the east of the -- to the west, rather, of Côte
5 d'Ivoire, pro-Gbagbo militias and mercenaries attacked part of a village which was
6 inhabited by West African immigrants. Outcome: At least 37 West Africans dead.

7 Thirty-fifth incident, on 24 March 2011, in Adjamé, Witness P-87 heard that two
8 persons had been killed by pro-Gbagbo forces who had shot indiscriminately in the
9 area. Let us specify that in this context, it is not surprising that many people were
10 attempting to leave Abidjan. See for that purpose Witness P-87 and Witness P-185.

11 On 25 March 2011, in Bloléquin, to the west of Côte d'Ivoire, pro-Gbagbo mercenaries
12 and militias killed more than 100 persons, including women and children, from ethnic
13 groups from the north of the Côte d'Ivoire and from neighbouring countries.

14 On 28 March 2011, in Duékoué, still to the west of Côte d'Ivoire, Liberian mercenaries
15 and pro-Gbagbo militias killed by entering the homes of presumed supporters of
16 Ouattara and based mainly on political and ethnic grounds. Among those killed
17 were one imam and three Malians.

18 On 28 March 2011, in Williamsville, three Malian butchers were killed by militias.

19 On 29 March 2011, on the Abobo road and in Adjamé, Witness P-49 witnessed a
20 murder by those militias and mercenaries, and that was the murder of one person
21 accused of being a rebel.

22 Fortieth incident, on 29 March 2011, at Adjamé, nine West African immigrants were
23 arrested and taken in a vehicle to a police precinct. They were shot at behind the
24 precinct office. Outcome: Six dead, three wounded.

25 On 30 March 2011, still in Adjamé, militias stopped a pick-up and killed the assistant

1 to the driver, after having asked for his documents.

2 On 2 April 2011, at Port-Bouët, students armed with Kalashnikovs and machetes shot
3 point blank at four persons from Burkina Faso who were on the ground, when they
4 were checking their identities. At least one person was wounded by machete.

5 On 19 April 2011, five Dioulas were stopped by the militias, and after their identities
6 were checked, they were deemed to be rebels and killed and burnt.

7 On 12 April 2011, young militia and mercenaries who were pro-Gbagbo attacked
8 several areas of Yopougon, culminating in some 80 deaths and several wounded.

9 Victims were civilians from the north of Côte d'Ivoire and neighbouring African
10 countries. At least 17 women were raped. A UN report refers to this incident and
11 mentions mass graves in that area.

12 My colleague, Florie Huck, will revisit this issue tomorrow as they relate to the
13 charges.

14 Finally, 45th incident: Between 5 and 8 May 2011, militia and mercenaries from
15 Liberia, on Gbagbo's payroll, killed between 120 and 220 civilians in Irobo, Grand
16 Lahou, Fresco, Niegreboue, Gonfroto and Sassandra, while they were withdrawing
17 along the coastline. These murders were in the main based on ethnic considerations.

18 The last three shots, or screens, your Honours, will provide the names of victims by
19 category of attackers. More than 80 deaths have been ascribed to the FDS, 32 to the
20 young militia and more than 405 to the pro-Gbagbo forces taken together. That
21 makes a total of more than 519 deaths.

22 The difference here with the 700 figure provided in paragraph 20 of the DCC arises
23 from the fact that: (1) the 45 incidents mentioned here are not the totality of the
24 incidents considered in paragraph 20; and (2) we have taken a lower bracket in our
25 considerations here. For example, relating to the incident of May 2011, where 120 to

1 220 victims was mentioned, the Prosecution relied only on the 120 figure.

2 So, your Honours, ladies and gentlemen, what does this presentation tell us? Well,

3 we can see that there were many attacks. We have listed only 45 of them.

4 Two, these attacks did not only take place over one or two days, or weeks. They

5 were sustained and regular over a period of five months, from the end of

6 November 2010 to May 2011. We must also note that the violence had started from

7 the very end of the first round of elections in October 2010.

8 Three, these attacks were not limited to one area. They affected a vast area of the

9 country particularly in Abidjan, namely Abobo and Yopougon, but also the

10 south-west of the country.

11 Four, the attacks targeted several groups of civilians, including party supporters and

12 relations of Ouattara, mainly on grounds of their geographical origins and their

13 assumed religious leanings.

14 Five, the intensity of the attacks is beyond challenge.

15 And, six, their effect on victims were significant and there were many displaced

16 people.

17 In short, this was an attack -- these were a series of attacks on civilian population,

18 which must be recognised as having been wide-spread.

19 Let us also say that these attacks were systematic to the extent that the victims were

20 targeted and the pro-Gbagbo forces acted in that manner, along with mercenaries and

21 young militia. This was a methodic effort aimed at targeting victims and resorting to

22 immolation, as well as using heavy weaponry.

23 Significant financial resources were available for the recruitment of mercenaries for

24 example, and as we will see in my second presentation these attacks were the result of

25 a policy that had been adopted by Mr Laurent Gbagbo.

1 Thank you very much for your kind attention as I move into my second presentation.
2 Madam President, your Honours, my second presentation will last for 45 to
3 50 minutes and I'm not very sure that I'll be able to finish today. It might be that I
4 keep the last third of my presentation for tomorrow, but I shall see as we move
5 forward.

6 I shall now be presenting the common plan; that is the policy led by Laurent Gbagbo
7 and his inner circle which led to the attack on civilians that I previously mentioned.
8 During a speech in Divo on 27 August 2010, Laurent Gbagbo declares, and I quote,
9 "There are people who believe I am a politician who makes concessions and holds
10 discussions. This is the entire Republic. But, no, I also have my men and at times I
11 tell those men to remain calm and that I shall negotiate, but when the time comes my
12 men rally round," end of quote. See video 0018-005, minute stamp seven minutes
13 and 12 seconds. It is a sign of things to come. The day after the second round of
14 the elections in December 2010, Gbagbo set his men loose on Ouattara's supporters.
15 The Prosecution gathered evidence establishing substantial grounds to believe that
16 Laurent Gbagbo devised and implemented a policy aimed at retaining power by all
17 means, including via attacks on civilians who were true or perceived supporters of
18 Ouattara. This policy was implemented by an organised group of men over whom
19 he exercised control.

20 The point of departure is that Gbagbo was determined to remain in power, whatever
21 the result of the presidential elections in 2010. Gbagbo became president in the year
22 2000. Everything showed that after ten years he had no intention of relinquishing
23 power.

24 What is more, Gbagbo was of the opinion that his constitutional prerogatives had
25 been reduced in 2003 by the Marcoussis agreements. He believes that he is the only

1 person to embody the interests of Côte d'Ivoire as an independent state. For him
2 Ouattara is, and I quote, "A candidate for the foreigners," end of quote. See
3 ERN-0021-0095, at page 0101.

4 Laurent Gbagbo's determination to maintain power, whatever the result of the
5 elections, becomes apparent very early on. His campaign slogan, already mentioned,
6 and I quote, "With Gbagbo, we win or we win," end of quote, see ERN-0018-0100,
7 there is no alternative envisaged. Gbagbo himself says during an interview in
8 October 2010 in English, "I shall not be beaten. I am here to stay," end of quote. See
9 ERN-0003-0484, page 0488.

10 All of Gbagbo's supporters are conditioned to believe this and that Gbagbo isn't going
11 anywhere. Witness P-44 states, and I quote, "'We win or we win' means that, even if
12 people say that the RHDP has won, we say, 'No, we are the ones who won,'" end of
13 quote. This means that, quote, "Even if we lose, Gbagbo won't be going anywhere,"
14 end of quote. See ERN-0014-0601, lines 506 to 523.

15 Gbagbo, Madam President, your Honours, remained obstinate to the very end in his
16 bid to retain power. On 21 and 31 December 2012, he states that he shall not be
17 conceding defeat. See ERN-0018-0590, page 594 -- 593. This statement was made a
18 short time after the bloody repression inflicted during the RTI demonstration.

19 On 3 March 2011, Gbagbo instructed his government spokesman to say that he is
20 committed to staying put. See ERN-0025-0100, page 105. This is the same day as
21 the attack launched on the women's march in Abobo.

22 On 9 April 2011, two days before he fell and three days before the incidents in
23 Yopougon, Gbagbo expressed himself in a government communiqué, expressing his
24 "... full determination to continue the fight," end of quote. See amongst others
25 ERN-0018-0590, page 0593.

1 Throughout the year 2010, Gbagbo took a number of steps to retain power.
2 Witness P-48 states, and I quote, "Before the first round of the elections, I received
3 information according to which the Laurent Gbagbo regime was preparing to react
4 violently were he to lose the election," end of quote. P-48 was well-placed to know
5 this in view of his close contacts within the Gbagbo camp. See paragraphs 46 and
6 122 of his statement.

7 This is corroborated by Witness P-44, who says, and I quote, "We were coming up to
8 the elections. We needed to prepare people to defend our cause if things didn't turn
9 out as we hoped," end of quote. See ERN-0014-0742, line 740 to 742.

10 Indeed, several months before the election Gbagbo established the foundations of an
11 organisation which would implement his policy of attacks upon civilians. By virtue
12 of example, in August 2010 Gbagbo signs a decree regarding Mangou, the Chief of
13 Staff of Armed Forces; Kassaraté, the Commander of the Gendarmerie; Faussigneaux,
14 the Commander of the National Navy; Aka Kadjo, Commander of the Air Force;
15 Detoh Letho, Commander of the Land Forces; Dogbo Blé, Head of the Republican
16 Guard; Bi Poin, Head of CeCOS. See, amongst others, ERN-0002-1017. All of these
17 men were promoted to the rank of general, or received an additional stripe.

18 Shortly before the elections, Gbagbo also reinforced the positions held by those close
19 to him in the military. They would be by his side in times of crisis.

20 In addition to these organisational measures, there were -- there was provision of
21 equipment. As early as April 2010, there is evidence of recruitment of foreign
22 mercenaries clearly to fight against Ouattara. See Exhibit 0018-0084, which was
23 seized in Gbagbo's very bedroom.

24 Bertin Kadet has been active in this field for quite some time. Bertin Kadet was the
25 nephew and adviser to Gbagbo in charge of military equipment. See P-44,

1 ERN-0014-0768, lines 136 to 144 and lines 560 to 566.

2 Mercenaries were seen to take part in incidents against civilians. Gbagbo is also in
3 charge of weaponry despite the embargo, so in August 2010 HG 84 grenades were
4 bought by the Ministry of the Interior and there was even an arms depot at the
5 residence and at the presidency. These depots had been in existence for quite some
6 time but when Gbagbo was arrested his residence depot was found to be well-stocked.

7 See Witness P-69, ERN-0017-0077, lines 343 to 362.

8 Once again, Bertin Kadet is the active party. See as evidence the report of the United
9 Nations 0021-0125, page 0136.

10 Also from August to November 2010 in the Banco Forest, military training was
11 provided to youth militia under the auspices of Blé Goudé, who was Gbagbo's
12 right-hand man when it came to dealing with the youth. P-44 says in this regard that,
13 "As President of the Republic, he cannot recruit people other than through official
14 channels. He had to go through Blé Goudé to train the youth," end of quote. See
15 ERN-0014-0742, lines 762 to 764.

16 And we know which role was played by the militia.

17 Finally, still with regard to the provision of equipment, P-09 states that just before the
18 elections Gbagbo ordered the recruitment of 2,000 men within the armed forces in
19 order, supposedly, to ensure security at the elections. See, amongst others,
20 ERN-0011-0529, lines 27 to 152.

21 Events will show that it was really to secure Gbagbo's re-election.

22 There was an organisation and there was a provision of equipment, but Gbagbo was
23 also preparing people's minds. He was making the use of force against his
24 opponents legitimate before the election. In the previously mentioned video, dated
25 27 August 2010 in Divo, Gbagbo addressed the Compagnie républicaine de sécurité,

1 and he says at minute 5, and I quote, "Your enemies, and I do not mean opponents, I
2 said enemies, were all those who are against the republic, and you are fighting those
3 who support unlawfulness. Your role is to quash all those who are against the
4 republic. I say this to all the bandits in Divo, do not become accomplices to the
5 bandits and anti-republicans," end of quote. ERN-0019-0007, page 8 to 10.

6 Madam President, your Honours, Gbagbo is lumping together the bandits and those
7 who are against the republic. He is putting them all in the same bag as part of the
8 very group that promotes unlawfulness, the enemy group against whom the use of
9 force is necessary, and he urges his audience not to question any orders.

10 The Prosecution contends that in Gbagbo's terms the bandits, the anti-republicans, are
11 those who are against him. That is Ouattara and his supporters. This is confirmed
12 by the terminology used by various members of Gbagbo's organisation after the
13 election.

14 Dogbo Blé stated, and he was the Head of the Republican Guard, and he said, and I
15 quote, "The Hotel du Golf has now become a refuge for bandits," end of quote.
16 ERN-0007-0105.

17 As a reminder, the Hotel du Golf was Ouattara's point of refuge. Simone Gbagbo
18 chanted on 15 January 2011, and I quote, "The time for discussions on the election of
19 Laurent Gbagbo on bandit leaders is over," end of quote. Video 0012-0003, from
20 time-stamp two minutes 32 seconds.

21 Gbagbo continued his rhetoric on unlawfulness by constantly proclaiming himself to
22 be the lawful winner. ERN-0018-0590.

23 Gbagbo's supporters received the message in favour of violence loud and clear. In
24 their eyes, Ouattara and his supporters are nothing. The pro-Gbagbo camp
25 promoted the following slogan: I quote, "I see nothing, only maize." See P-107,

1 paragraph 28, corroborated by Witness P-44, ERN-0014-0601, line 657 to 674.

2 And the pro-Gbagbo mindset is clear, and P-107 says as follows: "Before the first
3 round of the elections there were youth groups in Yopougon. They said that they
4 were going to kill Alassane Ouattara supporters. They were members of the militia,"
5 end of quote. See paragraphs 21 to 23.

6 Similarly, P-109 heard the youth members of the majorité présidentielle say, before
7 the elections, and I quote, "All those supporting Alassane Ouattara will not remain on
8 Ivorian soil," end of quote. See paragraph 35 to 36.

9 Finally, P-184, recounts the violent acts committed from the first round of the
10 elections by -- on RDR militants by law enforcement forces and young patriots,
11 paragraph 32, page 50.

12 In this context, once the elections were over, Gbagbo chose to use force in order to
13 remain in power, which was the basis of a policy of violence lasting a number of
14 months. P-09 stated that Gbagbo, and I quote, "...wanted the army to definitively
15 solve the problem," end of quote, despite, and this is a fundamental point, the fact
16 that the forces of law and order claimed that the situation did not require the use of
17 weapons. Gbagbo wanted to engage all of his forces and the army.

18 P-09 went on to add that, quote, "The President thought that he didn't want us to split
19 ends on the subject," end of quote. See ERN-0011-0341, lines 410 to 417, lines 429 to
20 435, lines 543 to 590 and notably lines 520 to 533.

21 According to the Prosecution, Gbagbo wanted to nip the opposition in the bud at all
22 costs. Gbagbo used the people in the street to oust General Guéi in the year 2000.
23 See P-44, ERN-0014-0622, lines 525 to 538.

24 The Prosecution contends that Gbagbo wanted to stop the pro-Ouattara
25 demonstrators from subsequently ousting him when they took to the streets, and the

1 Prosecution contends that Gbagbo was intent upon using armed forces rather than
2 conventional means of law enforcement.

3 It must be said that Laurent Gbagbo rapidly sprung into action, firstly on
4 3 December 2010 during a meeting at the presidential residence where the importance
5 of the army is emphasised. See ERN-0018-0220.

6 Point 2 is still in December 2010, the army was requisitioned by Gbagbo to fight the
7 demonstrators by reinforcing the police and gendarmerie, therefore using the army
8 resources as, I quote, "That is to say the extraordinary resources of the army," end of
9 quote. See P-09, ERN-0011-0341, lines 405 to 525.

10 Thirdly, at the beginning of December 2010, Gbagbo ordered the army to lay siege to
11 the Hotel du Golf. See P-46, ERN.

12 Point 4. In mid-December 2010, an order was given to Mangou by Gbagbo and his
13 ministers to stop the peaceful demonstration at the RTI on 16 December 2010 which
14 led to bloodshed. See P-10, ERN-0016-0130, lines 556 to 590, and P-109, paragraphs
15 173 and 178.

16 It is clear that the forces had been ordered to stop the demonstrators at all costs. A
17 gendarme said to P-109, "If you join the march you will be killed for sure."
18 Paragraph 171.

19 There was a true policy of attacking civilians which was launched on 29 January 2011.
20 The ONUCI document 0025-0138 bears witness to virtually daily acts of violence
21 against Ouattara supporters.

22 In the first presentation we saw that there was a wide-spread or systematic attack on
23 the part of Gbagbo forces against civilians. Attacks which are ongoing are barely
24 mentioned, if at all, during army meetings. They remain unpunished, despite being
25 reported in the press and on which ONUCI has on occasion been forbidden from

1 investigating. See P-10, ERN-0016-0104, line 395.

2 The conclusion, Madam President, your Honours, is that these attacks are nothing
3 more than the implementation of Gbagbo's policy and his organisation to retain
4 power. We find further evidence of the existence of this policy when we study the
5 organisation, its members, its mindset, its statements and its activity, or acts.

6 Who are the members of Gbagbo's inner circle? Without being exhaustive, Madam
7 President, your Honours, within Gbagbo's organisation to retain power there are a
8 number of individuals who are close to him. His wife, Madam Gbagbo, who was
9 called the Iron Lady, she was MP in Abobo and de facto leader of the Ivorian Popular
10 Front, that is to say, Gbagbo's party. She had formerly been in charge of the death
11 squad. See, amongst others, ERN-0018-0339. There was also Bertin Kadet,
12 Gbagbo's nephew, whom we have already mentioned.

13 Gbagbo's organisation was also, quite naturally, also quite naturally comprised
14 soldiers, soldiers who were indispensable to the plan devised by Gbagbo. Exhibit
15 0018-0220 of 3 December 2010 from the presidency emphasises their importance.
16 Indeed, from 3 December 2010 Gbagbo rallied his troops around him. On that day,
17 all of the FDS leaders swore allegiance to Gbagbo. An article reports Mangou's
18 words, "We have come to present our admiration for the President and to reiterate
19 our loyalty to him and to say that we are ready to fulfil any mission that he may
20 entrust to us." In attendance were Kassaraté, Faussignaux, Bi Poin, Dogbo Blé,
21 Detho Letho and Bredou, chief of police. See ERN-0002-1022. This was crucial for
22 Gbagbo.

23 Gbagbo's organisation also had a governmental dimension. On 6 December 2010,
24 Gbagbo signs a government appointment decree establishing key posts for those close
25 to him or his wife: Alain Dogou to the Ministry of Defence, Emile Guirieoulou to the

1 Ministry of the Interior, or Alcide Djédjé to Foreign Affairs. Let us not forget that Blé
2 Goudé was appointed Minister for Youth, Vocational Training and Employment.

3 See ERN-0018-0047, page 0050 and 0051.

4 Blé Goudé was appointed -- Blé Goudé, well, his appointment as Minister for Youth,
5 was crucial. He was the general down in the street upon whom Gbagbo would call
6 when he wanted youth to take to the streets. See video 0015-0476 at minute stamp 7
7 minutes 40 seconds and P-44, ERN-0014-0622, pages 66 to 72 and lines 288 to 291.

8 Blé Goudé was the main leader of the galaxie patriotique, was often to be found on
9 the frontlines.

10 Lastly and specifically, members of the organisation of Gbagbo included leaders of
11 the galaxie patriotique. This was a loose collection of groups supporting Gbagbo.

12 For example, FESCI and other major groups included in the document 0018-0158,
13 which was found in Gbagbo's bedroom. P-44 stated, and I quote, "Almost everyone
14 in the presidential majority, particularly the young people, the leaders of the galaxie
15 patriotique, all of them rallied around the President to support him in the fight to stay
16 in power," ERN-0014-0622, lines 712 to 721.

17 Gbagbo had secured their loyalty for many years by paying monies to them. See
18 receipts, including 0025-0651, or 0025-0656. And we have proof that money was
19 being paid to them up to a certain time. See 0025-0651 or 0025-0656. And I would
20 like to draw your attention to receipt 0025-0702, signed by Damana Pickas, and Pickas
21 is the one who, on 30 November 2011, sees the results of the elections from the
22 President of the Independent Electoral Commission, and I refer you to P-46,
23 ERN-0014-0400, lines 1481 to 1488.

24 All these leaders, generals, and those that were close to Gbagbo showed the same
25 determination as him and closed ranks around him to ensure that he stayed in power.

1 A few examples. Around 15 December 2010, General Dogbo Blé declared, and I
2 quote, "The Republican Guard will not accept, will never accept, and will fight with
3 all its forces and all the resources." ERN-0007-0105.

4 On 15 January 2011, Simone Gbagbo stated, and I quote, "God has already given us
5 victory, our President solidly ensconced in power." ERN-0019-0018, lines 19 to 20
6 and lines 25 to 26.

7 In January 2011, Mangou, in the company of Blé Goudé, stated, and I quote, "We will
8 not accept anyone to come here and lay a hand on the President of the Republic."
9 ERN-0003-0011.

10 Around 20 March 2011, someone in the inner circle of Gbagbo actively tried to obtain
11 weapons. See emails 0021-5016 and 0021-5017.

12 On 21 March 2011, in Yopougon, Blé Goudé called on all the young people to enrol in
13 the army. See, amongst other things, video 0015-0477.

14 This continued after the arrest of Gbagbo. A member of his inner circle mentioned
15 his will to turn the situation around, and he stated, and I quote, "Ouattara is not an
16 Ivorian and he cannot sit on the throne." See email 0021-6533 of 15 April 2011.

17 And I would like to underscore this point. This was a sign that the common plan
18 was still being implemented, even after the arrest of Gbagbo, at least up to May 2011,
19 and the emails of 19 and 24 April 2011 relating to the supply of mercenaries and
20 weapons attest to this. See ERN-0021-6589 and 0021-6645.

21 What is significant is that from the very beginning of December 2010 there were
22 already civilian victims. In other words, all these statements and correspondences,
23 your Honours, were issued in full knowledge of the facts because all the members of
24 the organisation were determined to maintain Gbagbo in power and actively
25 supported his decision to opt for violence.

- 1 And with your leave, your Honour, I will continue on this aspect tomorrow, taking
- 2 into account the time.
- 3 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you.
- 4 Yes, indeed, we have come to the end of this session. We will adjourn, and
- 5 reconvene tomorrow at 14.30 to continue with your presentation.
- 6 Thank you, everyone, and court is adjourned.
- 7 THE COURT USHER: All rise.
- 8 (The hearing ends in open session at 6.24 p.m.)