

Court and jury statement continued

MOTIVATION PAPER

(article 365-1 paragraph 4 of the Code of Criminal Procedure)

On guilt:

The elements, discussed during the debates, having constituted the main elements for the prosecution presented by the Court and the jury during the deliberations, prior to the vote on the questions, and having led to declare the accused Kunti KAMARA guilty of the crimes of complicity in crimes against humanity and the crimes of torture and acts of barbarism, are as follows :

On the historical background and chronology of relevant events in 1993 and 1994:

The testimonies heard at the hearing (notably those of P[REDACTED] R[REDACTED], C[REDACTED] N[REDACTED], J[REDACTED] S[REDACTED], M[REDACTED] W[REDACTED], L[REDACTED] S[REDACTED]), documentaries or studies (in particular the documentary directed by Christophe NAIGEON, the books by Thierry PAULAIS entitled “Le LIBERIA une histoire singulière” and by James KOKULO FASUEKOY entitled “Rape, Loot & Murder, Liberian Civil War”), reports by non-governmental organizations (notably the Médecins Sans Frontières report of January 26, 1995 entitled “Horror and Slavery in Liberia”) and contemporary press articles (*Monrovia Daily News*, *The Eye*, *The Inquirer*, AFP press releases), as well as the final report of the Truth and Reconciliation Commission (TRC) of June 30, 2009, the essential elements of which were read out and orally presented during the debates, show that, against a backdrop of great instability due to the authoritarian and repressive policies of the government of Samuel Doe, in power since the early 1980s, civil war broke out at the end of 1989, with various armed factions, including the NPFL (National Patriotic Front of Liberia), the INPFL (Independent National Patriotic Front of Liberia), the Armed Forces of Liberia (AFL) and the United Liberation Movement of Liberia for Democracy (ULIMO) all engaged in brutal acts of violence against Liberia's civilian population.

With regard to the chronology of these events, the Court and jury found that:

An NPFL incursion into Nimba County from Côte d'Ivoire on December 24, 1989, marked the start of a period of clashes between this rebel movement and the Armed Forces of Liberia (AFL), resulting in multiple atrocities against the civilian population. Composed mainly of soldiers from the Krahn ethnic group, the AFL moved into Nimba County to repel the NPFL, targeting in particular the Gio and Mano populations suspected of supporting the insurgents. The latter particularly targeted members of the Krahn and Mandingo ethnic groups, whom they considered to be government sympathizers. Clashes then spread towards the Liberian coast and Monrovia, a region towards which NPFL troops advanced. As part of this advance, substantial massacres of Krahn and Mandingo civilians took place in the towns conquered by the NPFL: on May 19, 1990, around 100 civilians from these two ethnic groups were massacred in the port of Buchanan, and in July 1990, over 500 Mandingos were executed by the NPFL in the town of Barkedu, in Lofa county (the TRC's final report also mentions the beheading of an imam).

The arrival of Charles Taylor's troops at the gates of the capital Monrovia provoked a reaction from the countries of the region, which set up an interposition force, the ECOWAS Monitoring Group (ECOMOG), which landed in Monrovia on August 24, 1990, and succeeded in blocking the NPFL's advance. President Samuel Doe's regime came to an end *defacto* with his assassination on September 9, 1990, by insurgents of the INPFL, a dissident group which had split from the NPFL at the end of July 1990, under the leadership of Prince JOHNSON.

Until October 1992, Liberia enjoyed a degree of calm. It was then essentially divided into two more or less stable zones, one around Monrovia controlled by ECOMOG and the provisional government, and the other encompassing the rest of the territory, in the hands of the NPFL with its own government based in the town of Gbarnga.

This lull was short-lived, however, due to the alliance between Charles Taylor and the Revolutionary United Front (RUF), a Sierra Leonean insurgent movement led by Foday SANKOH, whose main aim was to seize the country's important diamond resources. In reaction to the advance of Charles Taylor and RUF troops towards the capital Freetown, former AFL soldiers of Krahn ethnicity organized themselves in Sierra Leonean refugee camps and formed an armed group, the Liberian United Defense Force (LUDF), which received logistical support from the Sierra Leonean government. At the same time, another movement mainly composed by Mandingo refugees was organized in Conakry, Guinea, with the aim of returning to Liberia to fight the NPFL, which it held responsible for the abuses suffered by the Mandingo people. This movement, called the Movement for the Redemption of Muslims (MRM), led by Alhaji G.V. KROMAH, merged with the LUDF in May 1991 to form the United Liberation Movement of Liberia for Democracy (ULIMO). Alhaji KROMAH became its spokesman, then its leader from June 1992, after the assassination of Albert KARPEH, LUDF leader and ULIMO operational commander. ULIMO initially fought the RUF on Sierra Leonean territory, before entering Liberia in September 1991, with the support of ECOMOG, in particular Nigerian, Sierra Leonean and Guinean contingents.

From February 1992, fierce fighting pitted the NPFL against ULIMO. The latter succeeded in seizing a large part of the west of the country, along the border with Sierra Leone. After conquering Tubmanburg, the capital of Bomi County, on August 24, 1992, ULIMO reached Po River Bridge, some 20 km west of Monrovia. By the end of August, ULIMO had captured a substantial part of the territory previously conquered by the NPFL, including all of Grand Cape Mount and Bomi counties, as well as a large part of Lofa county.

Threatened by ULIMO's advance into Liberian territory, the NPFL launched an operation called "Octopus" in October 1992, designed to dislodge ECOMOG from Monrovia and seize the capital. But the interposition force, allied with the AFL and ULIMO, succeeded in repelling the NPFL troops. In March 1993, ECOMOG and the AFL took control of the port of Buchanan, which at the time was the main maritime outlet for the economy of the NPFL-controlled territories. For its part, ULIMO completed its conquest of western Liberia, in particular Lofa County. On July 25, 1993, the three main parties to the conflict - the NPFL, ULIMO and the ECOMOG - backed by the interim government - signed the Cotonou Agreement, which provided for a ceasefire, the establishment of new transitional authorities and the disarmament and demobilization of combatants. The implementation of this peace process soon failed, notably due to the emergence of new armed groups which did not consider themselves bound by the Cotonou Agreements, namely the Liberian Peace Council (LPC), led by George BOLEY and mainly composed of former AFL soldiers of Krahn ethnicity who had fought against the NPFL in southeastern Liberia, and the Lofa Defense

Force (LDF) organized by Charles TAYLOR to fight against ULIMO in Lofa County.

In March 1994, the ULIMO movement split along ethnic lines, with a Mandingo branch (ULIMO-K) under the leadership of Alhaji KROMAH and a Krahn branch (ULIMO-J) led by David ROOSEVELT JOHNSON. This notably happened because of disagreements about position assignments within the transition authorities, following the Cotonou peace agreement. In July 1994, an anti-NPFL coalition including the AFL and ULIMO-J was formed, and in September 1994, with ECOMOG support, succeeded in seizing the town of Gbarnga, the NPFL capital. Negotiations culminated in the Abuja Agreement of August 19, 1995, which provided for a ceasefire, a new transitional government, and elections within a year. On July 19, 1997, Charles Taylor was elected President of the Republic of Liberia. The situation however remained unstable, and was marked by a great deal of violence, particularly instigated by the elected president, Charles Taylor. The year 1999 marked the start of a new period of bloody conflict, during which armed groups once again shared Liberia's territory, benefiting from support from foreign countries, which served as a passageway for all kinds of trafficking, such as timber, diamonds and other looted resources, as well as arms and munitions. The situation only began to calm down in 2003 with the acceptance of a new ceasefire at the end of July, followed by the signing of a peace agreement on August 18, 2003, in Accra, Ghana.

It is estimated that the two successive civil wars that Liberia suffered between 1989 and 1997, and again between 1999 and 2003, resulted in the deaths of over 250,000 people and the displacement of almost 1.5 million individuals, out of a total population of around 3 million at the time.

With regard to the evolution of the situation that prevailed in Lofa County, the Court and jury found that:

This isolated region, far from Liberia's central administration (sometimes referred to as “the forgotten county in a forgotten country”), has been a major strategic location both because of the importance of its mining, forestry and agricultural resources, which the various factions have fought over with a view to plundering, but also because of the existence of communication routes likely to enable the transport of arms and munitions, particularly between the NPFL and the RUF. These armed factions first clashed in 1991 on Sierra Leonean territory or in bordering Liberian regions, particularly in the Mano River area. In 1992, fighting broke out in Bomi and Grand Cape Mount counties. ULIMO forces took control of Po River Bridge, on the road connecting Monrovia to Bomi, and then advanced into Lofa county, where violent clashes took place. The capture of the Bella Vella area in December 1992 by the ULIMO battalion named “Alligator” was an important victory in ULIMO's military campaign, as it meant that all of “lower” Lofa came under its total control. In January 1993, while part of the ULIMO forces advanced towards the town of Zorzor, another part succeeded in taking control of the Todee military base and the town of Kakata, where fighting continued. Following the fall of the town of Zorzor, ULIMO troops succeeded in entering the town of Voinjama, capital of Lofa county, in February 1993. Other localities in the upper part of Lofa county were subsequently taken, and ULIMO's conquest of this county ended in early July 1993 with the capture of the town of Foya, which was held by the RUF and NPFL, who had previously succeeded in repelling a first attack in June. The NPFL troops were pushed back into Sierra Leone (whose border lies some fifteen kilometers from the town of Foya), and ULIMO remained the sole armed occupier of the Lofa region from that date onwards, and for at least the rest of 1994.

It is also indisputable, in view of the many concordant testimonies gathered by the *cour d'assises*, that during this period the ULIMO set up a military administration in the Foya district, hierarchically regulating civilian control under the command of office (setting up checkpoints; an S2 office issuing passes or checking identities; curfews; periodic gatherings of civilian populations...), forbidding access to foreign observers, organizing the displacement of civilian populations from the bush to the towns and directing the appropriation of food crops or material goods. It should be noted that, in the absence of any governmental organization and given the almost total destruction of the former institutions in place, ULIMO enjoyed, during 1993 and 1994, genuine regalian powers enabling it to govern all the activities of the civilian populations of Lofa, on a par with a state political power.

With regard to the nature and consequences of the attacks suffered, the Court and Jury found that:

During Liberia's first civil war, and in particular during the period of prevention, i.e. 1993-1994, all parties to the conflict committed massive human rights violations, of which civilians were the first victims, notably on the grounds that, due to their ethnic origin, certain civilians were likely to be supporters of the opposing camp. In particular, it appears that in the Foya region, the inhabitants who had fled the fighting had either fled to neighboring countries, notably Guinea, or had taken refuge in the bush. The latter part of the local population was essentially made up of members of the Kissi ethnic group, who were forced to return or move to the town of Foya. There, they were separated into three categories, depending on whether they were women, men or children (see in particular the hearing of civil party L[REDACTED] M[REDACTED]). Men were interrogated to find out whether they belonged to the NPFL forces or had supported them, and those found to be suspects could either be subjected to torture such as the "tabay", be killed, be detained or, for the luckiest, be recruited to join the ULIMO forces, or, like many members of the civilian population, be forced to transport looted goods or property. As for the women, many of them were forced to do agricultural or domestic work for the ULIMO soldiers, in particular to pound rice and prepare their meals, but they were also forced to satisfy their sexual appetites and were subjected to acts of violence. As for the practice of "tabay", which was used by all armed factions including ULIMO, it consisted of tying the victim's elbows very tightly behind his/her back, causing severe pain and potentially serious aftereffects, with blood circulation cut off and muscles crushed.

It appears that the ULIMO forces, like the other armed groups involved in this conflict, sought to impose a regime of terror designed to frighten their enemies, but also to ensure their complete control over the present civilian population. There is ample evidence that decapitated corpses were placed on pikes at checkpoints, forcing passers-by to look at and salute them, that human intestines were used as ropes to act as gates, and that corpses were sometimes cut up and limbs or organs displayed, or even sold as butcher's cuts. It has also been established that fighters from the ULIMO forces, as well as members of other armed factions, engaged in acts of cannibalism, perverting traditional rituals pre-existing the hostilities, consuming certain organs of their victims such as the heart or blood, these anthropophagic practices being supposed to enable them to acquire greater power by seizing the strength of the victims.

Moreover, ULIMO forces, who received no pay and had to feed themselves, engaged in looting according to the widespread "pay yourself" principle. Looting was not limited to requisitioning of food to ensure the vital needs of the armed forces, but they were generalized and extended to all goods of value likely to be exploited economically. In addition, the looting was carried out in a discriminatory manner, excluding members of the Mandingo ethnic group, and targeting members

of other communities, including the Kissi community, which is particularly present in the Foya district. In this respect, the Court and jury noted that the witness L[REDACTED] S[REDACTED], who was the [REDACTED] appointed for Lofa county [REDACTED], explained that during the first civil war, the Mandingo populations of this county had been spared by ULIMO forces, and that the towns had all been wiped out, with the exception of BARKEDU, home to a large Mandingo community, which was massacred by the NPFL in July 1990, but subsequently preserved. With regard to the situation in Foya, the witness T[REDACTED] F[REDACTED] T[REDACTED], a member of the Kissi ethnic group, stated that ULIMO soldiers used children to find out “who was who” among the population, and that several members of his community had been killed. The existence of victims specifically designated as belonging to the Kissi community is also mentioned in AFP press releases or contemporary press articles, including *The Inquirer* or *The Eye* newspapers, which were presented during the debates.

In this context, the final report of the Truth and Reconciliation Commission attributes thousands of victims to the abuses committed by ULIMO forces in Lofa county in 1993 and 1994.

The Court and jury concluded from the foregoing that the local population of the Foya district, and in particular the members of the Kissi ethnic group, to which almost all the victims of the alleged acts belong to, were indeed the target of systematic and widespread attacks by members of ULIMO, that these attacks were intended to impose the control of this armed faction over this territory by means of terror, to exploit its population, including through the sexual exploitation of women, and to seize all its economic resources. These attacks were discriminatory in that they spared members of the Mandingo ethnic group and targeted members of the Kissi community in particular, or any other ethnic community suspected of supporting the enemy factions, first and foremost the NPFL and the RUF. In addition, the Court and the jury deduced from the massive and systematic nature of the attacks attributable to the ULIMO forces, as shown in the analysis above, that these attacks were necessarily carried out as a result of a concerted plan and that they were in no way the result of chance or the simple act of undisciplined individuals acting without control, even if some may have acted on their own initiative.

*** On the identification, hierarchical position and role of the accused Kunti KAMARA:**

It should be noted at the outset that none of the witnesses heard during the debates mentioned that there had been several people with the name Kunti or Kundi in the ranks of ULIMO or in the town of Foya. The accused himself never claimed to have had a namesake, either within ULIMO or other armed groups, with whom he could have been confused.

On the other hand, many witnesses reported seeing a man named Kunti in Foya. While it is regrettable that, during the investigation, not all the witnesses heard were systematically asked to identify the accused on a photo lineup comprising a panel of anonymized photos of individuals with common characteristics, the fact remains that the Court and the jury have other means at their disposal to ensure the reliability of the identifications alleged by these witnesses. In addition to the effects of the passage of time on memory, the very circumstances of the encounter with the ULIMO soldiers, and in particular the psychological trauma they underwent, can explain why traumatized and sometimes elderly witnesses make errors or hesitations in their identification on photographic plates, or even contradictions in certain physical aspects. such as the description of the accused's hairstyle at the time of the events (reference to plaits or locks, or even an “afro” hairstyle on the one hand, and a bald head on the other) or his clothing, which may also have varied over time.

However, besides the fact that several people recognized the accused on the photo lineup, such as L[REDACTED] M[REDACTED], S[REDACTED] S[REDACTED] and E[REDACTED] N[REDACTED] S[REDACTED], others, who were unable to do so, provided physical descriptions corresponding to the accused's characteristics (notably average height, thin build, rotten teeth, prominent lips...) and, when brought into the presence of the accused, these witnesses or civil parties affirmed that they recognized him and identified him as CO KUNDI, a ULIMO commander based in Foya. In this respect, it should be noted that the expert psychologist C[REDACTED] B[REDACTED] has indicated that, unlike the presentation of photo lineup, the physical presence of a person enables us to observe the way he moves or expresses himself, or to perceive more easily certain of his physical characteristics. This may explain why people who could not identify the accused on a photographic panel may recognize him or her once they have been brought into his or her presence.

Furthermore, it is clear from the statements of numerous witnesses and civil parties that members of the ULIMO armed forces frequently called each other by name, that officers or commanders introduced themselves by name, had sung songs about them, or even had their names written on the doors or walls of the houses they occupied. In this case, numerous witnesses (notably L[REDACTED] M[REDACTED], J[REDACTED] T[REDACTED] C[REDACTED], T[REDACTED] F[REDACTED] T[REDACTED], D[REDACTED] F[REDACTED] B[REDACTED], E[REDACTED] N[REDACTED] B[REDACTED], S[REDACTED] C[REDACTED], E[REDACTED] N[REDACTED] S[REDACTED], F[REDACTED] P[REDACTED], F[REDACTED] G[REDACTED], R[REDACTED] K[REDACTED]) testified that they had heard ULIMO soldiers refer to the accused as Commander KUNDI or KUNTI, or had even heard the accused refer to himself in this way. Civil party R[REDACTED] K[REDACTED] said she had been forced to sing a song referring to him, and pointed out that the house he occupied in Foya bore an inscription marking it as his, and in which his partner [REDACTED] lived. Kunti KAMARA himself admitted that he was known as "CO Kundi". All these elements are sufficiently precise and coherent for the Court and the jury to be convinced that the accused has indeed been identified as Kamara KUNTI alias KUNDI, known as a commander of the ULIMO who was in Foya at the time of the disputed events.

Kunti KAMARA's statements concerning his role and presence at Foya appear contradictory. First of all, he acknowledged on several occasions during the investigation that he had spent four months in Foya during 1993, then he disputed this when he appeared before the *cour d'assises*, claiming that he had meant to refer not to the town of Foya, but to the vast Foya district. He also claimed to have been mainly occupied on the front lines of the fighting in his capacity as "battle front officer", to have generally stayed in Mendekoma and to have only occasionally visited Foya. With regard to his role, he contested that he had significant powers, stressing that a distinction had to be made between rank and attributions, arguing that if he had exercised the functions of "Battle Front Commander" (BFC), his rank should be considered as that of a private. However, this last assertion appears to contradict other statements he made, in which he explained that when he was on the front line, he could command up to two sections, or 88 people. He also stated that he had been promoted to the rank of colonel in the ULIMO-K in 1995, so it is unlikely that he was a private during the years 1993-1994. His rank as an officer has been confirmed by other ULIMO members who knew him during this period. Thus, A[REDACTED] T[REDACTED], whose deposition before the Swiss judicial authorities was read out at the hearing, stated that KUNDI had not been Alieu KOSIAH's bodyguard, because KUNDI was commanding a company and was captain. He

also said he knew KUNDI well because when he came to Foya, he sometimes slept in his house.

In response to the numerous witnesses and civil parties who not only identified him as having been present at Foya, but also described him as having had significant powers, placing him among the “C/Os” or “commanding officers” of ULIMO, having bodyguards at his disposal and being able to command soldiers, Kunti KAMARA gave no convincing answer, claiming not to know any of them and invoking a plot hatched against him. On this point, the viewing of a documentary on the hearings carried out in 2008 by the Truth and Reconciliation Commission (TRC) set up by the Liberian government at the time, revealed that one of the people heard by this commission (Jimmy SAAH) cited the name of “CO Kundi” as being one of the ULIMO commanders present in the Foya region. Such a spontaneous designation in 2008 is hardly compatible with the theory of a plot hatched 10 years later by the NGO Civitas Maxima (created in 2012) or by its local correspondents in Liberia.

The Court and Jury were therefore convinced that the accused had sought to minimize his role, as well as his presence in Foya. On this last point, Alieu KOSIAH, himself a former ULIMO officer, told the Swiss judicial authorities that Kunti KAMARA was based nearly 80% of the time in Foya, which had led him to call on him to defend himself. In any case, mentioning a front line that would have kept the accused away from the Foya region does not appear convincing, insofar as on the one hand this region was described as having been calm from the time of his capture until at least 1994, and on the other hand the ULIMO forces were the only armed group present. Finally, it is noted that Foya is a very short distance from the border with Sierra Leone (around fifteen kilometers), that it is easy to get there and that the accused had a girlfriend with whom he lived in Foya, where **[REDACTED]** was born in 1995.

In view of his role as commander of ULIMO, an armed group which, during 1993 and 1994, had genuine regal powers enabling it to govern all the activities of the civilian populations of Lofa, on a par with the political powers of the State, the Court and the jury found that the defendant Kunti KAMARA was not only present in Foya at that time, but that he acted there as an ULIMO official with powers of authority. In fact, even if the exact hierarchy of the ULIMO forces present in Foya could not be determined with absolute certainty and precision (Commander DEKOU appears to have been the highest local official, himself under the control of superiors in Voinjama or Tubnamburg), the Court and the jury considered that, given the command functions exercised by Kunti KAMARA within the “C/O” (commanding officers) based in this town, he knew that:

- The local civilian population was subjected to massive and systematic attacks, targeting all those, particularly from the Kissi ethnic group, who were suspected of being part of or complicit with an enemy faction;
- These attacks were politically motivated, aimed at destroying all opposition, seizing wealth, and exploiting all available local resources, including human resources.

Finally, the Court and the jury also considered that he had personally taken part in these attacks, not by chance, but by adhering to the concerted plan outlined above. In this respect, it was noted that the accused had always affirmed that, like his fellow ULIMO members (see in particular the statements of witnesses **F[REDACTED]** **B[REDACTED]** **K[REDACTED]** and **A[REDACTED]** **F[REDACTED]** **K[REDACTED]**), he had joined the fight to combat an enemy, in this case essentially the NPFL, which had killed and massacred members of his ethnic community, in particular his mother and members of his immediate family, to restore the rights and

dignity of the Mandingo people, and to ensure respect for their right to self-determination regarding religion.

These motivations are consistent with adherence to a concerted plan having discriminatory consequences by distinguishing among the local population those of Mandingo origin from members of other ethnic groups who might be suspected of being enemies or supporters.

A) On the torture and barbaric acts committed in Liberia in 1993

Although the jurisdiction of the present French *cour d'assises* was not discussed during the debates, it should be remembered that it is legally based on the New York Convention, adopted on December 10, 1984, as specified in article 689-2 of the French Code of Criminal Procedure, which applies when the alleged perpetrator of a criminal offence of torture or an act of barbarism committed by a foreigner outside the territory of the Republic against a foreign victim was in France at the time of prosecution, as stipulated in article 689-1 of the same code. Kunti KAMARA's stay and then habitual residence in France, in Évreux, since October 2016 and therefore at the date of the opening of the preliminary investigation, i.e. August 29, 2018, has not been contested by the parties either.

In application of the principle of solidarity of legislative and jurisdictional jurisdictions, the acts of which Kunti KAMARA is accused must both fall within the scope of article 1 of the New York Convention and, moreover, have the required elements of an offence provided for and punishable under French law.

Under Article 1 of the New York Convention, the definition of torture requires proof of four cumulative criteria:

- the existence of an act inflicting *severe pain or suffering on the victim, whether physical or mental*;
- the deliberate nature of the severe pain or suffering *inflicted on the victim*;
- the existence of a specific intention for which the severe pain or suffering was inflicted, i.e. *to obtain information or a confession from the victim or a third person, to punish them for an act they have committed or are suspected of having committed, to intimidate or put pressure on them, or for any other reason based on any form of discrimination*;
- the fact that the severe pain or suffering was *inflicted by or at the instigation of or with the express or tacit consent or acquiescence of a public official or other person acting in an official capacity*.

With regard to the definition of the acts referred to in the French Criminal Code, as it applies to this case, it should be remembered that, according to the case law of the Criminal Chamber of the Court of Cassation, "*Acts of torture and barbarism consist in the commission of one or more acts which, by their nature, intensity, repetition or the circumstances in which they are carried out, intentionally cause the person on whom they are carried out unbearable suffering and seriously undermine dignity*".

1°) The torture or acts of barbarism committed at Foya to the detriment of D[REDACTED] N[REDACTED]

The accused, Kunti KAMARA, contested these charges as indicated above.

J[REDACTED] T[REDACTED] C[REDACTED], for his part, consistently reported to the *cour d'assises*, as he had before the Swiss and Dutch Courts, and then before the French investigating judges, that he had been an eyewitness in Foya, during the second half of 1993, to the arrest by ULIMO troops of his friend D[REDACTED] N[REDACTED], [REDACTED]. According to J[REDACTED] T[REDACTED] C[REDACTED], D[REDACTED] N[REDACTED] was then temporarily detained at the former police station before being extracted, elbows tied together at the back of the back using the “tabay” torture with plastic-coated electric cables, and then taken to the airstrip, near the house of a notoriously cruel commando named “Ugly Boy”. Naming all the ULIMO commanders then present, namely CO DEKOU, CO KOSIAH, CO Kundi, “CO Ugly Boy” and “CO Mami Wata”, J[REDACTED] T[REDACTED] C[REDACTED] described a vast scene of collective lynching in which they all took part, Kunti KAMARA for his part hitting and distributing violent kicks on the back of the victim, who was already on the ground, imploring the crowd and looking particularly vulnerable due to his tight bonds. J[REDACTED] T[REDACTED] C[REDACTED] also claimed that the “Ugly Boy”, armed with his usual axe, then violently opened the victim's exposed thorax with this sharp weapon in order to extract the heart. This organ, [REDACTED] for the civilian population to see, was then taken to his nearby house to be cut up into several pieces. Each of the gloating commanders present would then eat a small piece of the victim's heart, Kunti KAMARA being no exception.

The description of Kunti KAMARA's participation in a single scene of violence which took place within a single time frame, and in which he was seen to take an active part on a continuous basis, even though he was not named as the person who struck the fatal axe blow, gave rise to a reconstruction, under the aegis of the investigating judge, in the presence of the Liberian authorities. This reconstruction and the observations made did not reveal any inconsistencies with the witness's constant and successive statements. Even if the distance of 50 meters alleged by J[REDACTED] T[REDACTED] C[REDACTED] as separating him from the scene of the lynching may appear to be too far for him to see all the details of the scene, such as the exact nature of the ties used to perform the tabay, or all the precise gestures committed by each of the protagonists, the fact remains that the description of the violence committed in a group and the identification of the accused as one of the perpetrators of the said violence appeared credible and convincing. In particular, it was noted that before formally recognizing Kunti KAMARA before the Swiss authorities, then before the French investigating judge during a confrontation, and finally during the hearing before the *cour d'assises* in Paris, J[REDACTED] T[REDACTED] C[REDACTED] had given a physical description of the latter that was entirely compatible with his physical characteristics.

J[REDACTED] T[REDACTED] C[REDACTED]'s statements were corroborated in substance by those of S[REDACTED] K[REDACTED], whose deposition was read out at the hearing, who spoke very specifically of the arrival of [REDACTED] ([REDACTED], according to him), then the arrest of D[REDACTED] N[REDACTED] by ULIMO troops, before he was finally taken to a rebel's house. This witness, who himself claims to have been detained by the so-called “Ugly Boy”, identified “CO Kundi” as one of the leaders in Foya, along with the aforementioned, “Mami Wata” and “Blackie”. He stated that he had seen D[REDACTED] N[REDACTED] again after his arrest, when he himself had been taken prisoner, and that he thought he had been killed on the day of his arrest, but that his body had not been recovered until two days later.

J[REDACTED] T[REDACTED] C[REDACTED]'s statements are also partly corroborated by those of D[REDACTED] B[REDACTED], the [REDACTED], who stated that he had learned of

D[REDACTED] N[REDACTED]'s arrest by ULIMO, and of his being taken to the former Foya police station. However, he maintained that his [REDACTED] had not been killed on the same day, but three days later, and that his remains had been found three days later, already in a state of putrefaction, with his limbs tied behind his back by a steel cable, the chest open with a large, swollen wound and the body showing numerous other cuts on the legs and forearms. Wishing to bury him with dignity, he explained that he had been unable to re-dress the body of the deceased due to the contempt shown by a ULIMO soldier and his pressing injunctions.

S[REDACTED] M[REDACTED] N[REDACTED], [REDACTED], and A[REDACTED] N[REDACTED], [REDACTED] N[REDACTED], [REDACTED], although not present at the time of the events, confirmed before the Court that D[REDACTED] N[REDACTED] had been the object of an act of reprisal by ULIMO [REDACTED]. This was confirmed by several other indirect witnesses, including E[REDACTED] N[REDACTED] B[REDACTED].

With regard to the contradiction between J[REDACTED] T[REDACTED] C[REDACTED]'s and D[REDACTED] B[REDACTED]'s statements concerning the date of D[REDACTED] N[REDACTED]'s execution, the Court and jury found that J[REDACTED] T[REDACTED] C[REDACTED]'s statements were precise, repeated and constant, that the investigating judge's reconstruction on site with the Liberian authorities did not reveal any contradictions in his statements, and that according to expert psychologist C[REDACTED] B[REDACTED], J[REDACTED] T[REDACTED] C[REDACTED] does not suffer from any mental disorders, nor does he tend towards confabulation or mythomania. J[REDACTED] T[REDACTED] C[REDACTED]'s statements as an eyewitness to the scenes of torture and execution appear credible, given that the execution of this victim on the very day of his arrest appears logical, as does the accused's presence at the scene due to his position among the ULIMO commanders present at Foya. D[REDACTED] B[REDACTED]'s statements concerning the detention of [REDACTED] for several days appeared more confused and less reliable, in that they were based on what he had been told by a child he had been asked to bring food for, and whose identity he was unable to ascertain. In any case, the latter's statements concerning the findings he made on the corpse found near Ugly Boy's house confirm that D[REDACTED] N[REDACTED] was tortured, in particular by being "tabayed", and that his heart and other organs were extracted from his body.

The *cour d'assises* also noted that such practices, however barbaric and inhuman they may appear, were also documented in other parts of Liberia during the two civil wars by several context witnesses, press articles and various international reports, including the report by the NGO Médecins Sans Frontières entitled "Horror and Slavery in Liberia", dated January 25, 1995 (the relevant extracts from this report were read out at the hearing). This report refers in particular to testimonies from international humanitarian personnel who reported seeing ULIMO soldiers in Lofa County carrying buckets filled with human organs (liver, heart) and knowing that they were eating human body parts for ritual purposes. Similarly, witness M[REDACTED] W[REDACTED] told the Court that Joshua Milton BLAHY, alias General Butt Naked, admitted to having taken part in an anthropophagic scene, during which the heart and brains of General Mohammed Dombuyah (Commander General of the ULIMO K forces) had been eaten in revenge for the massacre of ULIMO J soldiers. Christophe NAIGEON's documentary film on Liberia allowed the Court to hear a child soldier and his superior, an officer in the ULIMO K forces, report that hearts were torn from the bodies of the people they had killed, in order to eat them. The proceedings in the USA against Mohammed JABBATEH (alias JUNGLE JABBAH), a former

ULIMO commander, were also mentioned at the hearing, as well as the fact that on that occasion it was reported that ULIMO soldiers and commanders were eating human hearts.

The Court and the jury also noted that several witnesses mentioned the existence of frequent threats from ULIMO troops, referring to acts of cannibalism to intimidate civilians ("I eat your heart").

Lastly, while Kunti KAMARA's defense pointed out that there was no death certificate attesting to D[REDACTED] N[REDACTED]'s death, and that no search had been made for his remains in order to carry out the necessary technical verifications, the Court and jury took into consideration the decay of Lofa's institutions at the time of the events, the absence of civil status, health establishments and death certificates, as well as the accelerated decay of human body organs in a tropical climate, made the use of scientific evidence totally illusory, especially outside the territory of the French Republic, almost 30 years after the event.

In addition, it was pointed out at the hearing that several corpses found in Foya, notably near the old airstrip, were buried together at the site of the current Palava Hut, these circumstances obviously making it impossible to identify any remains of D[REDACTED] N[REDACTED].

Lastly, the Court and jury noted that D[REDACTED] N[REDACTED]'s murder [REDACTED], attesting to the particular impact of this act, even if the allegation that he had been killed for religious reasons was unfounded.

With regard to the criteria laid down in the aforementioned criminal statutes, the Court and jury noted in particular:

- that severe pain and suffering, beyond simple violence, were knowingly inflicted on the victim by the practice of the tabay torture, by the multiple blows received from several individuals, and finally by the extraction of his raw heart in execution of a barbaric ritual;
- that by their nature, intensity and the circumstances in which they were carried out, the acts of violence caused pain and suffering, both physical and psychological, which were totally unbearable and cruel;
- that these acts designed to deny the victim's human dignity were deliberately carried out in public in order to intimidate and even terrorize the civilian population;
- that the numerous testimonies also report that these acts of violence were committed in retaliation for D[REDACTED] N[REDACTED]'s [REDACTED], [REDACTED], [REDACTED];
- that Kunti KAMARA, acting as co-perpetrator of these acts, which must be considered as constituting a continuous scene of violence carried out in the same period of time and in which he fully participated, was indeed in command of the ULIMO armed group, whose commanding powers in Lofa County during the period in question have already been described above.

Even if he was not the one who personally ripped out D[REDACTED] N[REDACTED]'s heart, as these acts were attributable to Ugly Boy, Kunti KAMARA was co-author of a unique scene of violence which ended with the victim's death, and for which he must answer in full, having been present during the scene and having himself inflicted blows on the victim, notably when he was being subjected to the tabay torture. Also, by a qualified majority, the accused was found guilty of

torture and barbaric acts committed against D[REDACTED] N[REDACTED].

2°) Torture or aggravated acts of barbarism committed at Foya [REDACTED] against K[REDACTED] T[REDACTED]

The deceased plaintiff, N[REDACTED] S[REDACTED], whose deposition was read at the hearing, stated that in 1993, while living in the village of Foya [REDACTED], KUNDI had killed [REDACTED] K[REDACTED] T[REDACTED] two months after the town was taken over by ULIMO. He explained that, at the time of the incident, [REDACTED] had been ill for two months suffering from a skin condition, that [REDACTED] had just died and that they were in the process of [REDACTED] when KUNDI came to their village in uniform, armed and accompanied by five bodyguards. He stopped and gave them some money in accordance with local custom, then left, only to return a little later in a rage, accusing [REDACTED] of witchcraft. N[REDACTED] S[REDACTED] added that KUNDI had dragged his [REDACTED] across the floor to the outside of the house, had raised a gun and shot her, then, on his instructions, a grave had been dug, and the corpse burned with palm leaves.

T[REDACTED] K[REDACTED], who is also now deceased, but whose statements were also read out at the hearing, said he remembered going to K[REDACTED] T[REDACTED]'s house [REDACTED] on the occasion of the death of [REDACTED], and that KUNDI had arrived and asked him if he knew of any witchcraft that had taken place in the house. He added that KUNDI had grabbed K[REDACTED] T[REDACTED], dragged her out of the house and taken her behind it. He said that due to her illness, K[REDACTED] could barely speak and could not stand upright, that she had cried and begged KUNDI not to kill her, but that he had “blown her head off”, shooting her, and then asked him to find men to dig a grave where the corpse had been burned with palm leaves.

F[REDACTED] G[REDACTED], K[REDACTED] T[REDACTED]'s [REDACTED], has consistently confirmed N[REDACTED] S[REDACTED]'s account, stating that when [REDACTED] K[REDACTED] had just lost [REDACTED], KUNDI's bodyguards had, on KUNDI's orders, dragged her out by the legs, as she begged him not to kill her, KUNDI fired a burst of bullets from a distance of two or three meters, riddling [REDACTED] body with bullets, “including her head”.

During a confrontation between Kunti KAMARA and F[REDACTED] G[REDACTED] before the investigating judge and then before the Court, the latter formally recognized Kunti KAMARA as CO KUNDI. For his part, Kunti KAMARA said he did not know the witness, whom he described as a liar. He did, however, admit to having traveled through the village of Foya [REDACTED], and confirmed that he was wearing camouflage military fatigues and carrying numerous weapons.

Finally, F[REDACTED] P[REDACTED], [REDACTED], [REDACTED], also stated that he had witnessed the execution of K[REDACTED] T[REDACTED] by Kunti KAMARA, whom he knew. His account of these events was consistent with previous testimonies.

During a confrontation organized by the investigating judge between T[REDACTED] K[REDACTED], N[REDACTED] S[REDACTED] and F[REDACTED] G[REDACTED], in

order to shed light on the configuration of the scene, differences over certain details could not be clarified, but all finally agreed that KUNDI had given 100 Liberian dollars for the burial of [REDACTED], and that after leaving, he had returned and accused K[REDACTED] T[REDACTED] of being a witch, then after forcibly extracting her, fired a burst of bullets at the victim, who was gravely ill.

The testimonies of F[REDACTED] P[REDACTED] and F[REDACTED] G[REDACTED] appeared consistent at the hearing, and the identification of Kunti KAMARA was confirmed by the latter, who indicated that he sometimes came to their village, where some of his men, members of ULIMO, all Mandingo, including one named [REDACTED], had occupied a house. Moreover, the physical descriptions of Kunti KAMARA given by N[REDACTED] S[REDACTED], F[REDACTED] G[REDACTED] and T[REDACTED] K[REDACTED] during the preliminary investigation are broadly compatible with his physical features. Finally, F[REDACTED] G[REDACTED] and F[REDACTED] P[REDACTED] formally recognized the accused Kunti KAMARA as the perpetrator of the criminal acts they had described.

The Court and jury held that the discrepancies in the statements of the various witnesses, particularly as regards the exact location of the house where K[REDACTED] T[REDACTED] was staying, the people who entered the house to dislodge her, or the presence of T[REDACTED] K[REDACTED] at the scene or at the exact time of the events, must be put into perspective with the time that has elapsed since K[REDACTED] T[REDACTED]'s execution and the trauma that ensued. Moreover, the existence of such discrepancies between the statements of people all living in the same village attests to an absence of concerted action, and lends authenticity to their account, which is not a simple “cut and paste” that might suggest some kind of conspiracy.

Furthermore, although it has not been clearly established how Kunti KAMARA could have learned that [REDACTED] was a witch, the fact remains that it was on the basis of these allegations that she was abused, then killed and her body burned. It is therefore established, in view of all these elements, that Kunti KAMARA is indeed the perpetrator of the violence suffered by K[REDACTED] T[REDACTED].

With regard to the criteria laid down in the aforementioned criminal legislation, the Court and the jury specifically noted that:

- the violence inflicted on the victim by dragging her to the ground, ill and impotent, having just lost [REDACTED], in order to subject her to a public execution in front of the members of [REDACTED] and those of her village, resulted in severe pain or suffering, both moral and physical, exceeding by their nature, intensity and the circumstances in which they were carried out simple violence;
- that these acts were deliberately carried out in a ruthless manner against a person irrationally suspected of practicing witchcraft, to punish this person for engaging in such activity and to protect the members of his armed group, or even the village community. By their very nature, they reflect a clear desire to deny the victim's human dignity, as confirmed by both the headshot and the burning of his corpse;
- that Kunti KAMARA, acting as the perpetrator of these acts, was indeed vested with command power within the ULIMO armed group, whose regalian powers in Lofa county during the period in question have already been described above.

Consequently, the accused Kunti KAMARA was found guilty, by a qualified majority, of the torture or acts of barbarism committed to the detriment of K[REDACTED] T[REDACTED].

3°) The torture or acts of barbarism committed between Foya and Solomba against J[REDACTED] T[REDACTED] C[REDACTED] and S[REDACTED] F[REDACTED] C[REDACTED]

The accused Kunti KAMARA has consistently denied having organized and participated in forced marches imposed on behalf of ULIMO on the civilian populations of the Foya district during the second half of 1993, in order to transport, mostly on human backs, various goods (food crops: rice, coffee, palm oil; but also metals and mechanical components) for resale across the Guinean border, some 23 kilometers from Foya. He claimed never to have been present at these marches, and even said he had never heard of them.

The Court and the jury found that the accused's denials of the very existence of these practices imposed on the civilian population by ULIMO troops during the first civil war, as well as A[REDACTED] F[REDACTED] K[REDACTED]'s statements describing Foya as a business and peaceful “town” where it was pleasant to live, or F[REDACTED] B[REDACTED] K[REDACTED]'s assertion that the only transportation of goods carried out by civilians was with their full agreement and in return for payment, is a clear denial of both the looting committed by ULIMO forces and the forced transportation imposed on the local population to bring looted goods to Guinea. Indeed, the practice of both widespread looting and the use of civilians for forced transport has been documented by the various reports of international organizations that have been filed in the present case, by the testimonies gathered by the TRC, including that of Jimmy SAAH in 2008, and by the numerous statements of men and women heard during the debates. The Court was thus convinced that, in the Foya district during the second half of 1993, ULIMO troops regularly imposed forced marches on the local civilian population, most of whom belonged to the Kissi ethnic group.

They periodically gathered civilian population, enlisting and directing civilians under duress, using weapons and death threats (“Try ULIMO, you die”; “Any bush shake, you die”). They also used physical abuses during these long, arduous marches, during which civilians had to carry or push heavy loads through broken roads in the rainy season, without food or water, for long hours, with the most exhausted risking summary execution in retaliation. The concordant statements made by the civil parties J[REDACTED] T[REDACTED] C[REDACTED] and S[REDACTED] F[REDACTED] C[REDACTED], as well as by E[REDACTED] B[REDACTED], T[REDACTED] T[REDACTED], D[REDACTED] B[REDACTED], A[REDACTED] T[REDACTED] and L[REDACTED] M[REDACTED], attest to the reality of these acts in a particularly credible manner.

The reconstruction enabled the witnesses to be confronted with the configuration of the location and to obtain even more precise descriptions, as well as to verify the reality of certain assertions, in particular with regard to the dismantling and transport of the Borma hospital generator by S[REDACTED] C[REDACTED], the transport of goods by J[REDACTED] T[REDACTED] C[REDACTED] on behalf of Kamara KUNTI and the transport of components of the Foya power station (LEC).

With regard to the looting of the Foya power station, certain statements made by J[REDACTED] T[REDACTED] C[REDACTED] appeared to be partly exaggerated and implausible, especially the fact that a six-wheeled truck used to transport parts for this generator or a back-up generator had broken down during at least part of the journey, this is technically inconceivable in view of the weight of the unit and the technical constraints (in particular, the absence of brakes and power steering on a slippery road). However, the Court and jury were convinced that Kunti KAMARA, as well as other commanders in positions of authority in the Foya district, had organized the forced transport of the generator's parts.

In fact, it has been established that a major electric generator supplying the town of Foya was partly dismantled and looted, and that this looting was in line with ULIMO's policy of monopolizing all valuable assets of Lofa, and in particular all electric generators. This is borne out in particular by an MSF report dated 1995, relevant extracts of which were read out at the hearing, as well as by witness statements exonerating the NPFL of such facts, pointing out that the electricity was still working when the NPFL occupied this territory. Similarly, the Court and the jury considered that the looting and transportation of parts of the Foya power station (LEC) was a matter of such economic importance as to justify the presence of ULIMO commanders in positions of authority in the Foya district, including Kunti KAMARA. In addition, the statements of other witnesses, in particular T[REDACTED] F[REDACTED] T[REDACTED], who accurately described the loading of parts of the power station (LEC) into a six-wheeled truck, lend credence to his testimony (deflated tires repaired by means of a jack, engine running during start-up, etc.). The same applies to L[REDACTED] M[REDACTED] described a convoy from Foya to SOLOMBA on the border with Guinea, including a vehicle loaded with components of the Foya power station.

Furthermore, it was noted that J[REDACTED] T[REDACTED] C[REDACTED] only named the accused Kunti KAMARA as having been involved in armed operations to carry out forced transports on two occasions (forced march of the Foya electric generator, in co-action with other town commanders; forced march organized by Kunti KAMARA for his own benefit and involving the transport of various goods) out of the six that he claimed to have been personally obliged to carry out, which does not testify to a particular desire to accuse him of all the abuses suffered. Lastly, the identification of the accused Kunti KAMARA both during these events and during the violence inflicted on D[REDACTED] N[REDACTED] was considered credible.

S[REDACTED] F[REDACTED] C[REDACTED] only implicated Kunti KAMARA in two other marches which he claimed to have personally suffered. He also claimed to have been personally wounded by Kunti KAMARA in the temple with the butt of a firearm, and beaten with tree branches and kicks, and formally identified him at the public hearing as the designated person. He had previously described him very precisely to the OCLCH judicial police officers during the rogatory commission issued by the investigating judge.

C[REDACTED] B[REDACTED]'s psychological assessments of the two civil parties ruled out any propensity for fabrication or mythomania and highlighted residual post-traumatic traces in each of them, despite the passage of time, even if their subsequent religious commitments partially mitigated the effects.

With regard to the criteria laid down in the aforementioned criminal legislation, the *cour d'assises* specifically noted:

- that severe pain and suffering, both moral and physical, were repeatedly inflicted on the two victims during the forced marches in question;
- that these acts were deliberately carried out to the detriment of a group of civilians in order to ensure the continuity and concealment of the looting and without any consideration for the human dignity of the victims;
- that the acts thus imposed were discriminatory against the Kissi ethnic group, suspected of collusion with the NPFL;
- that Kunti KAMARA, acting as co-organizer or sole organizer of these forced marches, was indeed vested with command authority within the ULIMO armed group, whose regal powers in Lofa county during the period in question have already been described above.

Consequently, the accused Kunti KAMARA was found guilty, by a qualified majority, of torture or acts of barbarism committed against J[REDACTED] T[REDACTED] C[REDACTED] and S[REDACTED] F[REDACTED] C[REDACTED].

4°) The torture or barbaric acts committed in Foya against L[REDACTED] M[REDACTED]

L[REDACTED] M[REDACTED] described to the *cour d'assises*, in accordance with his previous statements to the Swiss judicial authorities and the French investigating judges, how he was captured in the bush with six other men suspected of being NPFL rebels, then taken with them to Foya, before being tortured and “tabay”, like his fellow prisoners, near the old Foya market.

He reported that he himself had been shackled and dragged to the ground by CO Kundi, his hands and lower limbs bleeding, before witnessing the execution of one of the other men by means of a stone that had shattered his skull. He also mentioned the screams, gunshots and the disappearance of his companions, whose bodies, he understood, had been thrown into a nearby well. Finally, he stated that the commandants, KOSIAH and Kunti KAMARA, who were present at the scene, clearly wanted to kill him, and were only stopped because the Commander DEKOU intervened at the scene. He explained that he was the only one spared, then decided to join the ULIMO troops in order to survive. Finally, he reported that he was stabbed and wounded in the back, without being able to precisely identify whether Alieu KOSIAH or Kunti KAMARA was the perpetrator. At the hearing, he showed the scar which he described as the result of the stab wound. In court, he formally recognized the accused Kunti as the person who had inflicted the tabay torture, in co action with Alieu KOSIAH.

The testimony of this civil party was corroborated by that of S[REDACTED] S[REDACTED]. The latter, then employed by another Foya commander (“[REDACTED]”), gave a precise description of the shooting of the civilians, and stated that their corpses had been thrown into a well close to the house from which she was observing the scene. She also indicated that the last man, whom she did not know, had been spared because, in her opinion, he was more muscular than his companions. She recognized the accused Kunti KAMARA on a photo lineup when heard by the investigating judge during the rogatory commission organized in Liberia.

The Court and the jury found that it had been established that Kunti KAMARA had indeed participated with Alieu KOSIAH, another ULIMO commander, in extremely violent attacks on seven civilians, including L[REDACTED] M[REDACTED], on the grounds that they were

suspected enemies. These acts of violence were committed both by themselves and by soldiers under their command and included tying them up using the Tabay method, before killing six of them. L[REDACTED] M[REDACTED] was rescued thanks to the intervention of Commander DEKOU. The marks on L[REDACTED] M[REDACTED], including on the photos shown at the hearing, corroborate the use of the tabay method used on him. With regard to the stab wound to his back, the reality of this injury is sufficiently proven by the consistency of the civil party's statements on this subject, the scar he presented and the statements of the witness S[REDACTED] S[REDACTED]. L[REDACTED] M[REDACTED] was able to indicate that he had received contradictory information concerning the author of this stab wound, but it was always clear that he had not been able to see which of the accused or Alieu KOSIAH had done it. The exact identity of the perpetrator is irrelevant in the case of acts committed as part of a single scene of violence.

With regard to the criteria laid down in the aforementioned criminal legislation, the *cour d'assises* specifically noted:

- that severe pain and suffering, both moral and physical, and hence beyond mere violence, were deliberately inflicted on L[REDACTED] M[REDACTED], by being tied using the tabay method, beaten and dragged, witness the execution of his companions, and stabbed in the back;
- that these acts were deliberately carried out to the detriment of a group of civilians in reprisal for their alleged membership of another rebel faction;
- that such acts, carried out in a context of summary executions of a group of individuals and extreme brutality, are clearly a serious affront to human dignity;
- that Kunti KAMARA, acting as co-perpetrator of these acts, was indeed vested with power of command within the ULIMO armed group, whose regalian powers in Lofa county during the period in question have already been described above.

Consequently, the defendant Kunti KAMARA was found guilty, by a qualified majority, of torture or acts of barbarism committed to the detriment of L[REDACTED] M[REDACTED].

B) On the acts of complicity in sexual torture or inhuman acts, committed between March 1, 1994, and December 1994 to the detriment of R[REDACTED] K[REDACTED] and E[REDACTED] N[REDACTED], as constituting crimes against humanity

It should be recalled that, according to article 212-1 of the French penal code, in the version applicable to the case, the following were punishable as “other crimes against humanity” (after the acts of genocide referred to in article 211-1 of the same code): “deportation, enslavement or massive and systematic practice of summary executions, abductions of persons followed by their disappearance, torture or inhuman acts, inspired by political, philosophical, racial or religious motives and organized in execution of a concerted plan against a civilian population group”.

As regards complicity by aiding or abetting such acts, it should also be remembered that, according to both national and international jurisprudence (International Criminal Tribunal for Rwanda,

International Criminal Tribunal for the former Yugoslavia), this can be characterized by an abstention manifesting the accomplice's willingness to associate with the principal perpetrator by providing moral support, tolerance or encouragement in the commission of the act. An accomplice is also considered to be a person who, because of his or her position, had the duty or power to end the reprehensible acts but willingly refrained from doing so.

The massive and systematic practice of mass rape was abundantly documented during the hearing, thanks in particular to the context witnesses. For example, the witness M[REDACTED] W[REDACTED], a former member of the TRC, was able to indicate that almost 47% of the abuses committed in Liberia during the civil war involved the sexual abuse and enslavement of women, with Lofa County being one of the most exposed because of the number of abuses committed there. The *cour d'assises* also heard many witnesses and civil parties who testified to the numerous acts of rape committed by ULIMO troops during the same period (cf. the testimonies of A[REDACTED] N[REDACTED] and S[REDACTED] S[REDACTED] on their own behalf; those of J[REDACTED] T[REDACTED] C[REDACTED] on [REDACTED], S[REDACTED] C[REDACTED] on his niece [REDACTED], etc.), without ever having been sanctioned or even prevented by their military authorities.

Thus, far from representing isolated acts, carried out in a situation of chaos, these acts of rape and sexual torture must be seen as the implementation of a massive and systematic practice of domestic and sexual slavery as part of a policy of terror imposed on the civilian population, which enabled the ULIMO rebel troops to take over houses, material goods, but also women, particularly those of the Kissi ethnic group. The commonly used terms “women taken as wives” only serve to mask the more sordid reality of the sexual constraints imposed on the latter. Moreover, this practice demonstrates the occupier's supremacy, establishing its authority and keeping the civilian population composed of different ethnic groups, in this case the Kissi.

In this case, R[REDACTED] K[REDACTED] described with constancy and emotion, without any apparent fabrication, as confirmed by the expert psychologist, A[REDACTED] H[REDACTED], her escape into the bush, founding then refuge with her friend E[REDACTED] N[REDACTED] by [REDACTED] (i.e. [REDACTED])'s, a ULIMO commander belonging to the Krahn ethnic group, then the latter's flight after the ULIMO split in March 1994, and finally the physical abuse inflicted on her friend [REDACTED] by a [REDACTED] soldier who had captured her after she had fled for fear of reprisals. Questioned at the hearing about this soldier, R[REDACTED] K[REDACTED] stated that he was not a “C/O” and that he obeyed “Kundi's” orders. She also stated that she had known that her friend [REDACTED] was with [REDACTED] because a woman had told her she heard her crying in his house.

R[REDACTED] K[REDACTED] explained that at the time, when she was very young, she was not yet menstruated, had no breasts and was nicknamed “little girl”. She knew of several rapes committed in a particularly violent manner by several of “CO Kundi's” bodyguards and with his consent. She stated that “Kundi” had been present when she had been caught by his bodyguards and dragged into the house where they were staying, and that she had implored him to stop the rapes committed by his men, even though she was showed to him naked. She received nothing but his laughter and had to continue enduring abuses in the following days. She said she saw him when she was finally able to leave the house, and that he was listening to music. She said she thought he could prevent his men from abusing her, comparing him to a father who would discipline his children. At the hearing, she formally designated the accused Kunti KAMARA as the man to whom

she had interceded in vain. She also sang the song that the civilians were singing in his honor, pointing out that he had even hit her to make her sing the song. She added that he used to ask her to come and beat the rice behind his house and cook for him and his men, that she knew him well and that he used to call her [REDACTED]. She also gave precise indications of the location of his house.

For her part, E[REDACTED] N[REDACTED] confirmed the first elements described by her friend [REDACTED], in particular that she had initially been protected by the ULIMO commander [REDACTED], who was from the Krahn ethnic group, then that she had to flee after his departure because she had been threatened by armed soldiers who had come to look for [REDACTED]. She also said that she had then been arrested again by soldiers, including one called [REDACTED], who had taken her by force to his house, located near “Kundi”’s.

She described the rapes and sexual abuses inflicted on her by the man named [REDACTED] and two other soldiers, while she was held by them for a long period of time. She explained that some time previously, she had a difficult pregnancy, which led to a surgical procedure to enable the delivery of her child, including one to remedy a problem of healing or sutures. She pointed out that this situation made any sexual penetration extremely painful, that [REDACTED] had respected her in this regard, but despite her imploring not to touch her, [REDACTED] and the other soldiers forced her to have particularly violent and painful sexual intercourses, and that one day, when she refused to have sex again, he tortured her by tying her legs together using the tabay method, then inserting a harp bayonet into her vagina and inserting salt into her bleeding and purulent wound with his hand. She explained that after these unprecedented acts of violence, she had managed to get out of [REDACTED]'s house before nightfall, screaming and alerting the neighbors who had come to her, including [REDACTED], but also “CO Kundi”.

She declared that the latter, although alerted by her cries and informed of her complaints, had replied, while she was still naked and with her arms tied, that he believed it was “for something serious” that he had been called, thus demonstrating his disinterest and that he had no intention of giving in to her pleas. Although E[REDACTED] N[REDACTED] was deeply moved by the reliving of these memories at the hearing, she formally recognized Kunti KAMARA as the person she had seen at the time of the events. Her account came across as precise, detailed and extremely sincere. She produced photos showing the scene of the events.

Kunti KAMARA denied either having been informed of the torture described by the victims nor having met them in Foya. Although he admitted having known a man named [REDACTED], according to him he was not his subordinate but a normal soldier who had not been on duty at Foya.

However, in view of the consistency, precision and manifest sincerity of the statements of both E[REDACTED] N[REDACTED] and R[REDACTED] K[REDACTED], the Court and jury found that there was ample evidence of the abuse they suffered, and that there can be no serious doubt that these atrocities were committed both by the man known as [REDACTED], and by soldiers living in the close circle of the accused, who was their superior. These rapes and sexual assaults constitute both acts of sexual slavery and inhuman torture or inhumane acts. They are part of a systematic practice characteristic of a concerted plan to inspire terror and consolidate the occupier's power.

The Court and jury were convinced that Kunti Kamara knew that civilian women of all ages,

including prepubescent girls, were being exploited, not only to perform domestic work for ULIMO soldiers, but also to satisfy their sexual appetites, including through rape or any other abuse. In this case, he knew that soldiers in houses close to his were holding women and girls and using them as sex slaves. He knowingly encouraged his bodyguards by letting them take then rape R[REDACTED] K[REDACTED] and could not ignore the presence of a woman who had been held for several days in the house of a man named [REDACTED], again very close to his own. His behavior towards R[REDACTED] K[REDACTED], when she begged him to intervene, and towards E[REDACTED] N[REDACTED], who implored him to protect her when she managed to escape her torturer's house while still naked with her arms tied, amply demonstrates that he intended to support his men, whatever abuses they may have committed, and that they knew it perfectly well.

Kunti KAMARA himself stated that he had the power to punish soldiers who did not comply with orders when they were at the front, notably by whipping them, and that for this reason the soldiers might have been afraid of him. He therefore had the authority to put an end to such practices, hence knowingly facilitated the rapes and other sexual tortures of which these women were victims, by letting his subordinates do so thus making it clear to them that they could act as they wished.

Consequently, the accused Kunti KAMARA was found guilty, by a qualified majority, of complicity in crimes against humanity constituted by sexual torture or inhuman acts committed between March 1er 1994 and December 1994 to the detriment of R[REDACTED] K[REDACTED] and E[REDACTED] N[REDACTED].

C) On the acts of complicity in torture and aggravated acts of barbarism committed against R[REDACTED] K[REDACTED] and E[REDACTED] N[REDACTED]

Taking into consideration the fact that this qualification covers exactly the same facts as those qualified as complicity in crimes against humanity above, the *cour d'assises* noted the existence of a notional plurality of offences. In application of the “non bis in idem” rule and the latest Supreme Court jurisprudence, the *cour d'assises* decided to declare moot the questions in relation to the offences of complicity in acts of torture and barbarism committed against the same victims.

On the sentence:

The main elements, discussed during the debates, set out during the deliberation provided for in Article 362 of the Code of Criminal Procedure before the secret ballot and which convinced the *cour d'assises* in the choice of sentence, are as follows:

The Court and jury considered that the sentence imposed must meet the objective of deterrence, both in general and with regard to the accused, and constitute a fair reflection of the crimes committed. However, it is not intended to satisfy a desire for revenge, the sentence must be proportional and individualized so that it reflects the full extent of the accused's guilt, on the basis of an objective and reasoned analysis that takes into account his personality, conduct and the damaging consequences thereof.

On the seriousness of the crimes:

In assessing the seriousness of the crimes of which the accused was found guilty, the Court and the jury took into consideration the number and vulnerability of the victims, as well as the scale and cruelty with which the crimes were committed. It was also taken into account that the role played by Kunti KAMARA in the commission of the crimes was decisive, given the position of authority he held and the support he gave to his co-perpetrators or subordinates.

As a result of the torture methods used, the abuses committed, the rapes perpetrated and the state of terror in which the victims were put, they suffered extreme physical, emotional and psychological suffering. The families of the victims, and in particular that of D[REDACTED] N[REDACTED], as well as those of the civilians subjected to tabay, were devastated to learn of the deaths of their loved ones and the circumstances in which they were tortured before being killed, their corpses desecrated and, in the case of D[REDACTED] N[REDACTED], subjected to revolting butchery and anthropophagy.

The crimes were also the cause of considerable economic and financial damage, as a result of the disappearance of those killed for their loved ones, the physical and psychological after-effects of the victims of torture and violence, and the forced transportation that led to the complete plundering of even the slightest material resources, leaving the Foya district in a state of extreme devastation.

On the accused's background and personality:

Kunti KAMARA, born on December 1, 1974, in Kamplay city (Liberia), of Liberian and Dutch nationality, is married with two children from two previous and different unions. After the first Liberian civil war, in which he took an active part in the armed ranks of ULIMO, rising himself to the rank of colonel, he expatriated to Guinea in 1997 under rather unclear circumstances, but with the alleged support of a high-ranking Guinean official after testifying for the prosecution of Alpha CONGE, a political opponent of President Lansana CONTÉ, at the 2000 trial. He then immigrated to the Netherlands in 2001, where he was granted political asylum and later citizenship, while remaining silent about his armed involvement in the Liberian civil war. After working there for several years as an electrician, he indicated that he left the Netherlands for Belgium in 2013, without providing any obvious explanation for his move. He then moved to France in October 2016 and settled in Évreux but was unable to practice his profession due to the language barrier.

Described as calm, but not very expansive, very secretive about his private life and very religious, Kunti KAMARA appears to be fairly isolated socially and has never lived with a partner since his arrival in Europe. His criminal record bears no mention of convictions.

When OCLCH investigators tried to locate him, he immediately fled from Évreux to Bobigny, where he was preparing his imminent departure abroad, with a false Guinean papers and a ticket to Portugal. He admitted to having been in contact with a Mandingo interlocutor living in the United States, who gave him subsidies to facilitate his escape.

After being arrested and remanded in custody on September 6, 2018, then placed under judicial supervision on September 5, 2019, due to a procedural nullity, he was remanded in custody on January 10, 2020, due to a breach of his judicial supervision obligations.

The personality experts noted the existence of a powerful and rigid defense, avoidance and adaptation mechanisms, an assertive and determined ego, and a certain lack of expressing affection, despite the various events that have marked his life. This is not uncommon after engagement in combat and participation in acts of extreme violence, as the subject may seek to rebuild himself in total denial of his past.

The Court, for its part, noted that throughout the hearing, the accused adopted an unconvincing posture of denial, referring to a generalized conspiracy, and was dubious about the very existence of practices commonly attributed to the various rebel groups acting during the first civil war, or at least attributing the exactions to the NPFL alone. Moreover, he deliberately confused the alleged facts with the reasons for his personal involvement in the ULIMO ranks to fight against NPFL abuses, of which he and his family were victims. He pretended to be unaware that he was not accused of having committed acts of war against opposing armed forces, but rather of abuses and acts of barbarism against defenseless civilians who had taken no part in the armed conflict.

He also displayed a total lack of empathy for the victims, despite the profound physical and moral suffering inflicted on them or their loved ones.

These multiple, extremely serious acts, carried out in the name of a rebel faction with a misguided ideology and deadly practices – (checkpoints with fences made of human intestines and heads on sticks; massive use of tabay as an instrument of terror; cannibalism...) have caused unspeakable and permanent suffering to the local, mainly rural, population, despite the passage of time. They determined these victims to embark on a very long journey to testify before the French *cour d'assises* and expose their long-held suffering.

However, the Court and jury also took into account the defendant's youth at the time of the crimes of which he was found guilty, and the fact that he may have been overwhelmed by the context of violence in which he and his family were victims before he decided to join the ULIMO, where he held an intermediate hierarchical rank. It was also taken into account that the accused has no previous criminal record, that his behavior in detention has not been the subject of any unfavorable remarks, that he does not present any psychiatric danger and that he has the capacity to integrate professionally and socially.

In view of all these elements, the *cour d'assises*, by a simple majority, sentenced the accused Kunti KAMARA to thirty years' imprisonment.

Paris, March 29, 2024,

The first juror,

The President of the *cour d'assises*