

## MOTIVATION PAPER

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

### **On guilt:**

**The elements discussed during the oral proceedings, which constituted the main incriminating evidence set forth by the court and jury during the deliberations, prior to voting on the issues, and which led to the conviction of the defendant of the crimes hereinabove set forth, are as follows:**

It is now clear from the numerous contextual witnesses heard by the court and the jurors, and from the various documents produced for this purpose (press articles, historical books, international reports, videos and photos shown at the hearing), that Liberia suffered two successive civil wars that were particularly bloody between 1989 and 1997, and then between 1999 and 2003, which resulted in the death of more than 250,000 people and the displacement of nearly 1.5 million people out of a total population of about 3 million at the time. During the first civil war, marked in 1990 by the assassination of President Samuel DOE and the near total collapse of the central government, numerous rebel factions fought each other, weapons in hand, throughout Liberia, dividing it into regional zones of influence.

The ULIMO armed group, which mainly fought against Charles TAYLOR's NPFL, took over a vast territory in the north-west of the country between the end of 1991 and mid-1993, namely the counties of Grand Cape Mount, Bomi and Lofa. The remote border region of Lofa, which is difficult to access because of the state of the roads - particularly during the rainy season - was gradually conquered by ULIMO from 1992 onwards; the town of Foya, located in the district of the same name, was definitively annexed by this armed group in July 1993. By then, the NPFL troops had been pushed back into Sierra Leone (whose border is located 10 km from the town of Foya), so from July 1993 and for at least the whole of 1994, ULIMO remained the only occupying forces of the Lofa region. After March 1994, an internal split between ULIMO-J (mainly composed of members of the Krahn ethnic group) and ULIMO-K (mainly composed of members of the Mandingo ethnic group, to which Kunti KAMARA belongs to) led the latter armed group to remain the only one on this territory. It is moreover indisputable, in view of the numerous consistent testimonies collected by the *Cour d'assises*, that during this period ULIMO set up a military administration in the district of Foya, which regulated, under a hierarchical command of officers, the control of civilians (setting up checkpoints; an S2 office issuing passes or controlling identities; setting up a curfew; periodically gathering the civilian populations...). ULIMO forbade access to foreign observers, organized the displacement of the civilian populations from the bush (where many had found refuge) to towns that were easier to control, and finally led the seizing of food crops or material goods in application of the "pay yourself" principle. In the absence of any governmental organization and given the almost total destruction of the former institutions in place, it is evident that during 1993 and 1994 ULIMO had true ruling powers allowing it to rule all the activities of the civilian populations of Lofa, on par with a state's political power.

Confronted with numerous witnesses and civil parties identifying him as a ULIMO officer with significant and autonomous powers in the Foya district and who was mainly based in Foya town when he was not on the front, Kunti KAMARA confirmed his rank and duties as commanding officer (under the designation of "CO Kundi") and battle front officer ("*officier commandant du front*"), before he was promoted to the rank of colonel of ULIMO-K in 1995. However, although he acknowledged on several occasions before one of the investigating judges that he had stayed for four months in Foya during 1993, he belatedly denied this element during the proceedings before the *Cour d'Assises*, alleging that he had meant to refer not to the town of Foya, but to the vast district of Foya. He also claimed to have been continuously engaged on the battlefield and therefore could not explain how twenty witnesses or civil parties could identify him personally when he states that he does not know any of them, except to invoke a conspiracy set up against him since his testimony before the Swiss authorities at the trial of his friend, the ex-commander Alieu KOSIAH.

On this point, the *Cour d'assises* noted - besides the belated and surprising nature of the statements of the accused, given the historical data available to the court on the sole occupation by ULIMO of Lofa County during the given period - that the witness Alieu KOSIAH, himself a former member of ULIMO, was able to indicate that Kunti KAMARA was based nearly 80% of his time in Foya (which led him to call Mr Kamara for his own defence). These allegations were corroborated by the testimony of two other former ULIMO members, A [REDACTED] T [REDACTED] (testimony read under the President's statutory discretion) and L [REDACTED] M [REDACTED], in addition to the numerous other testimonies given during the oral proceedings. The *Cour d'assises* also noted that the accused formed romantic relationships in this territory at that time and that his daughter Fatou was born in Foya in 1995. Finally, after viewing a documentary on the hearings conducted in 2008 by the Truth and Reconciliation Commission (TRC) set up by the government at the time, the *Cour d'assises* also noted that one of the speakers (J [REDACTED] S [REDACTED]) already mentioned the name of "CO Kundi" as one of the perpetrators of the persecutions committed in Lofa County. This does not seem to be compatible with the theory of a plot conceived 10 years later by the NGO Civitas Maxima (created in 2012) or by its affiliates in Liberia.

### **1) On the torture or barbaric acts (simple and aggravated) committed in Liberia in 1993**

Although the jurisdiction of the present French *Cour d'assises* was not disputed during the proceedings, it should be recalled that its legal basis is the New York Convention adopted on December 10, 1984, which is specifically referred to in article 689-2 of the Code of Criminal Procedure, applicable whenever the alleged perpetrator of a criminal offence of torture or act of barbarism committed by a foreigner outside the territory of the [French] Republic against a foreign victim was in France at the time the proceedings were initiated, as provided for in article 689-1 of the same Code. Kunti KAMARA's regular residence in France, in Évreux, since October 2016 and therefore on the date of the opening of the preliminary investigation, i.e. August 29, 2018, was not contested by the parties either.

By virtue of the principle of solidarity of legislative and judicial jurisdictions, the acts of which Kunti KAMARA is accused must then fall within the scope of Article 1 of the New York Convention as well as meet the constitutive elements of an offence provided for and punished by French law.

Article 1 of the New York Convention states in substance that four cumulative criteria must be verified:

- the existence of an act inflicting severe pain or suffering on the victim, whether physical or mental;
- that such severe pain or suffering was deliberately inflicted;
- that they were inflicted for the purpose of obtaining information or a confession from the victim or a third person, for the purpose of punishing them for an act they have committed or are suspected of having committed, for the purpose of intimidating or coercing them, or for any other reason based on discrimination of any kind;
- that they were inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

With respect to the definition of the same acts referred to in the French Criminal Code, as it applies to this case, it should be recalled that, according to the case law of the Criminal Chamber of the *Cour de Cassation*, "*acts of torture and barbarism consist of 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 violate dignity*".

**1°) The torture or acts of barbarism committed in Foya against D [REDACTED] N [REDACTED]**

The accused Kunti KAMARA contested these alleged facts as indicated above.

[REDACTED] a C [REDACTED], for his part, reported to the *Cour d'assises*, with constancy and great emotion - as he had done before the courts of Switzerland and the Netherlands, and then before the French investigating judges - that during the second half of 1993, he had been a witness of the arrest of his friend D [REDACTED] N [REDACTED] by ULIMO troops in the middle of Foya town. His friend was accused of denouncing to an NGO the destruction carried out by the said armed group in the ' [REDACTED] where he was teaching. D [REDACTED] N [REDACTED] was then reportedly temporarily detained at the former police station before being extracted, with his elbows tied together behind his back, using the so-called "tabay" (Duckfat tarbie or tarby) torture method with plastic-coated electric cables, and then driven to the landing airstrip near the home of the dreaded "Ugly Boy". Naming all the ULIMO commanders present at the time, namely CO DEKU, CO KOSIAH, CO Kundi, 'CO Ugly Boy', 'CO Fine Boy' and 'CO Mami Wata', J [REDACTED] r [REDACTED] C [REDACTED] described a large collective lynching in which they all participated. Kunti KAMARA hit and kicked the victim in the back while he was already on the ground, imploring the crowd and looking particularly vulnerable because of his tightly tied body. He also claims that the so-called "Ugly Boy", armed with his usual axe, then violently opened the victim's exposed chest with his axe to extract the heart. This organ, displayed on a tray for the civilian population, was then taken to his nearby house to be cut into several pieces. Each of the commanders present, jubilating, would then have eaten a small piece of the victim's heart, Kunti KAMARA being no exception. This participation of Kunti KAMARA in a unique scene of violence in which he was said to have taken an active and continuous part, even if he had not been the author of the fatal axe blow, led to a reconstruction of the event on-site, under the aegis of the investigating judge, in the presence of the Liberian authorities. The reconstruction detected no inconsistency with the constant and successive statements of the witness. Prior to formally recognizing Kunti KAMARA before the Swiss authorities, then before the French investigating judge during a confrontation, and finally during the hearing before the Paris *Cour d'assises*, J [REDACTED] C [REDACTED] had given a physical description of the accused that was completely consistent with his physical characteristics.

The statements of J [REDACTED] C [REDACTED] were corroborated in substance by those of S [REDACTED] K [REDACTED], who mentioned very precisely the arrival of an NGO (the Red Cross, according to him), then the arrest of D [REDACTED] N [REDACTED] by ULIMO troops, before the latter was finally taken to the vicinity of the house of a rebel. This witness, who states that he was himself forced to serve in the kitchens of so-called 'Ugly Boy', was able to name 'CO Kundi' as one of the leaders in place in Foya, alongside the aforementioned 'Mami Wata' and 'Blackie'. The statements of J [REDACTED] C [REDACTED] are also corroborated by those of D [REDACTED] B [REDACTED], the victim's brother-in-law, who stated that he had learned of D [REDACTED] N [REDACTED]'s arrest by ULIMO, as well as of his being taken to the former police station, and that he had found his remains three days later, already in a state of putrefaction, with his limbs tied behind his back by a steel cable, his chest open with a large, swollen wound, and his body showing numerous other cuts on his legs and forearms. He wanted to give him a dignified burial, but could not, however, dress the body of the deceased because of the disdain shown by a ULIMO soldier and his urgent injunctions.

[REDACTED] M [REDACTED] N [REDACTED], widow of the victim, and A [REDACTED] N [REDACTED], married name N [REDACTED], his daughter, although not present at the time of the events, confirmed in court that D [REDACTED] N [REDACTED] had been the victim of an act of reprisal by ULIMO, in connection with his activities as a teacher in an evangelical school, after he was arrested and taken to the former police station of the area, which was confirmed by several other indirect witnesses, including E [REDACTED] B [REDACTED].

The *Cour d'assises* further noted that such practices, however barbaric and inhumane they may seem, were also documented in other parts of Liberia during the two civil wars by several contextual witnesses and various international reports. The TRC indicated that the district of Lofa was the third county in order of importance where the most serious and numerous abuses happened in Liberia.

It also noted that several witnesses reported frequent threats from ULIMO troops referring to acts of cannibalism for the purpose of intimidating the civilian population ("I eat your heart").

Finally, if Kunti KAMARA's defence stressed that no death certificate really attested to the death of D [REDACTED] N [REDACTED], nor that any necessary technical verifications on a corpse were carried out, the *Cour d'assises* took into consideration the deliquescence of the institutions of Lofa at the time of the facts, the Court took into consideration the deterioration of the institutions in Lofa at the time of the events, namely the absence of civil registry, health centres and death certificates, as well as the accelerated decay of human organs in a tropical climate, making it totally illusory to resort to scientific evidence, especially outside the territory of the French Republic, almost 30 years after the events. Finally, the *Cour d'assises* noted that the murder of D [REDACTED] N [REDACTED] had been reported in the Liberian press, which attested to the particular impact of this act.

With respect to the criteria set out in the above-mentioned criminal law texts, the *Cour d'assises* specifically noted:

- that severe pain or suffering, beyond mere violence, was inflicted on the victim by the practice of the tabey torture, by the multiple blows received from several individuals, and finally by the extraction of his heart in a barbaric ritual;
- that this act appears to have been deliberately carried out in public in order to intimidate and even terrorize the civilian population;
- that the numerous testimonies also report the existence of an act of reprisal because of the denunciation, real or supposed, by D [REDACTED] N [REDACTED] of the exactions committed by ULIMO on the "[REDACTED]";
- that Kunti KAMARA, acting as co-perpetrator of these acts, had indeed commanding power within the ULIMO armed group, whose control has already been described above, in Lofa County, during the period under consideration.

Consequently, the accused Kunti KAMARA was found guilty, by a qualified majority, of the acts of torture committed against D [REDACTED] N [REDACTED]

*2°) The torture or aggravated acts of barbarism committed in Foya [REDACTED] against K [REDACTED] T [REDACTED]*

The accused merely stated that he had only driven through Foya [REDACTED], that he did not know any of those accusing him and that his case was undoubtedly the result of a manufactured plot.

In this case, the testimonies given by F [REDACTED] G [REDACTED], brother of the victim and civil party, F [REDACTED] P [REDACTED], T [REDACTED] K [REDACTED] and N [REDACTED] S [REDACTED], civil party and husband of the victim (after reading the testimonies of the latter two under the President's statutory discretion), as well as that of F [REDACTED] P [REDACTED], allow us to report that K [REDACTED] T [REDACTED], who had been seriously ill for many months and was staying with her brother F [REDACTED] G [REDACTED] in his house, had just lost her infant son J [REDACTED] S [REDACTED] the evening before, who had died of an illness, so that all the villagers of the community of Foya [REDACTED], located a short distance from the town of Foya, had gathered that very morning to celebrate his funeral. It is also reported that "CO Kundi" (i.e. Kunti KAMARA), while visiting the village as he regularly did, inquired about the reason for the gathering, and then showed his support to the family by giving T [REDACTED] K [REDACTED], the village Chief, a sum of 100 Liberian dollars to pass on, out of compassion to the bereaved family members, before leaving for Foya with his bodyguards. However, having probably received the information that the mother of the deceased infant was a witch, "CO Kundi" would have very angrily returned to F [REDACTED] G [REDACTED]'s house, dragged the sick woman on the ground outside the house despite her pleas - or ordered his bodyguards to do so - before coldly slaughtering her near the scene, with a machine-gun round to the body and head, and finally demanding that she be buried in a pit and her body burned to prevent her witch's soul from escaping and affecting ULIMO troops. He also threatened reprisals against the whole family of the "witch", inciting the present members to flee discreetly.

The *Cour d'assises* noted that all these testimonies were generally concordant, with a few residual discrepancies relating to peripheral details that did not really challenge the nature of the criminal acts reported against Kunti KAMARA, and that had, in addition, been partially ironed out after the confrontation organized by the investigating judge.

It was also noted that the details given of the accused's initial gestures of compassion for the grieving family would appear incongruous in the context of a conspiracy to frame him for the commission of purely imaginary acts. The *Cour d'assises* further noted that the on-site reconstructions, carried out under the aegis of the investigating judge and in the presence of the Liberian authorities, did not reveal any obvious inconsistencies with the statements of the various witnesses, unless further clarifications were obtained from them during a subsequent confrontation.

Furthermore, 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 generally compatible, contrary to what the defense argued, with the physical features of the accused. Finally, F [REDACTED], G [REDACTED], F [REDACTED], P [REDACTED] and E [REDACTED] P [REDACTED] formally recognised the accused Kunti KAMARA as the perpetrator of the criminal acts they described at the hearing of the *Cour d'assises*.

With respect to the criteria set out in the above-mentioned criminal law texts, the *Cour d'assises* specifically noted:

- that severe pain or suffering, both mental and physical, beyond mere violence, was inflicted on the victim by dragging her on the floor, sick and helpless, having just lost her child, in order to subject her to a public execution in front of her family and village members;
- that this act appears to have been deliberately carried out against a person irrationally suspected of practising witchcraft, in order to protect the members of his armed group, or even the village community;
- that the particular vulnerability of the victim, who was ill and helpless, was necessarily apparent and known to the perpetrator;
- that Kunti KAMARA, acting as the perpetrator of these acts, had indeed commanding power within the ULIMO armed group, whose ruling powers have already been described above, in Lofa County, during the period under consideration.

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

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

The accused Kunti KAMARA has consistently denied having organized and participated in forced marches imposed in the name of ULIMO on the civilian population of the Foya district during the second half of 1993, to transport, most often on the backs of men, various goods (food crops: rice, coffee, palm oil; but also, metals and mechanical components) for resale across the Guinean border, 23 kilometres from Foya. He claimed he has never been present at these marches, and even stated that he had never heard of them.

The *Cour d'assises* considered that the denial of the accused concerning the very existence of these practices imposed on the civilian population by ULIMO troops during the first civil war bordered on denial, given that their practice had been documented by the various reports of the international organizations placed in the record, by the testimonies collected by the TRC, and finally by the numerous testimonies of men and women heard during the public hearing. The Court was thus convinced that ULIMO troops regularly carried out forced marches in the Foya district during the second half of 1993, which were imposed on the civilian population, mainly Kissi.

They proceeded to regularly gather the civilian population, which they enlisted and led under the coercion of weapons, death threats ("Try ULIMO, you die"; "Any bush shake, you die"), but also physical violence, for long and arduous marches where civilians had to carry or push heavy loads over eroded roads in the rainy season, without food or water, for long hours, the most tired among them risking summary execution as a reprisal. The precise descriptions given by the civil parties J [REDACTED], C [REDACTED] and S [REDACTED], but also by S [REDACTED], F [REDACTED], E [REDACTED], B [REDACTED], I [REDACTED], T [REDACTED], D [REDACTED], B [REDACTED], A [REDACTED], T [REDACTED] or L [REDACTED], seem to attest to the reality of these acts in a particularly credible way.

The on-site reconstructions further enabled the witnesses to be confronted with the field settings and to obtain even more precise descriptions from them, in addition to verifying the veracity of certain statements (such as the dismantling of the generator at the Foya electrical substation or the generator at the hospital, or the transshipment of goods transported across the river forming the border with Guinea).

The court further noted that J [REDACTED] C [REDACTED], for his part, designated the accused Kunti KAMARA as the leader of these armed operations only on two occasions (forced march of the electric generator of Foya, in co-action with all the other commanders of the town; forced march organised by Kunti KAMARA for his sole benefit and concerning the transport of various goods) out of the six that he would have been personally forced to carry out, which does not testify to a particular desire to blame him for all the abuses he suffered. Similarly, S [REDACTED] C [REDACTED], designated as chief of the village, only implicated Kunti KAMARA in two other marches that he would have been personally subjected to. Also claiming to have been personally injured by Kunti KAMARA in the temple by a rifle butt and beaten with tree branches and kicks, he formally identified him at the public hearing as the designated person. He had previously described him in great detail to the judicial police officers ("Officiers de police judiciaire, OPJ") of the Central Office for Combating Crimes against Humanity ("Office central de lutte contre les crimes contre l'humanité, OCLCHP") during the rogatory commission issued by the investigating judge.

The psychological assessments of these two civil parties carried out by the expert BALLOUARD made it possible to exclude any propensity to confabulation or mythomania and underlined the residual post-traumatic stress in each of them despite the passage of time, even if their subsequent religious commitments have partially mitigated the effects.

With respect to the criteria set out in the above-mentioned criminal law text, the *Cour d'assises* specifically noted:

- that severe pain or suffering, both mental and physical, was inflicted on the two victims during the forced marches in question, going beyond mere violence;
- that these acts appear to have been deliberately carried out to the detriment of a group of civilian populations in order to ensure the continuity and concealment of the looting;
- 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, had indeed a commanding power within the ULIMO armed group, whose ruling powers have already been described above, in Lofa County during the period under consideration.

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

#### **4°) The torture or acts of barbarism committed at Foya against L [REDACTED] M [REDACTED]**

L [REDACTED] M [REDACTED] described before the *Cour d'assises*, in accordance with his previous statements made before the Swiss judicial authorities and the French investigating judges, how he would have been captured in the bush with six other men suspected of being NPFL rebels, then taken with them to Foya before being tortured, like fellow captives, near the old market of Foya, with the tabey torture.

He reports that he himself was tied and dragged on the floor by CO Kundi, his hands and lower limbs bleeding, before witnessing the execution of one of the other men with a stone that shattered his skull. He also mentions screams and shots fired and the disappearance of the fellow captives, whose bodies are understood to have been thrown into a well located near the scene. Finally, he states that Commanders KOSIAH and Kunti KAMARA, who were present at the scene, were clearly intent on killing him and were only interrupted by the intervention of Commander DEKOU at the scene.

He explains that he was the only one who was spared, and that he was then forcibly enlisted in the ULIMO troops. Finally, he stated that he had received a stab wound on his back, without being able to precisely identify the perpetrator between Alieu KOSIAH and Kunti KAMARA, a wound whose scar he showed during the hearing. At the hearing, he expressly recognized the accused Kunti KAMARA as having inflicted the torture of the tabey, in co-action with Alieu KOSIAH.

The testimony of the civil party was corroborated for the most part by that of S [REDACTED] S [REDACTED]. The latter, then employed under the orders of another Foya commander ("Fine Boy"), described precisely the execution by firearms of the civilians, who were then thrown into a well close to the house from which she was observing the scene, and the fact that the last man (whom she stated she did not know) had obviously been spared because he was more muscular than his fellow captives. She had recognized the accused Kunti KAMARA on a photographic board before the investigative judge during the rogatory commission organised in Liberia.

With respect to the criteria set out in the above-mentioned criminal law text, the *Cour d'assises* specifically noted:

- that severe pain or suffering, moral and physical, beyond mere violence, was inflicted on L [REDACTED] M [REDACTED] by the torture of the tabey;
- that these acts appear to have been deliberately carried out to the detriment of a group of civilian populations as a reprisal for alleged membership of another rebel faction;
- that Kunti KAMARA, acting as co-perpetrator of these acts, had indeed commanding power within the ULIMO armed group, whose regal powers have already been described above, in Lofa County, during the period under consideration.

Consequently, the accused Kunti KAMARA was found guilty, by a qualified majority, of the torture or barbaric acts committed against L [REDACTED] M [REDACTED].

**2) On the acts of complicity in sexual torture or inhuman acts committed between 1 March 1994 and December 1994 against 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 Criminal Code, in the version applicable to the case, were punishable as "*other crimes against humanity*" (after the acts of genocide referred to in Article 211-1 of the same Code), "*the 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 organised in execution of a concerted plan against a civilian population group*".

It should also be remembered that, according to both national and international case law (ICTR for Rwanda; ICTY for the former Yugoslavia), complicity by aiding and abetting such acts may be characterised by an abstention that shows 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, by virtue of his or her position, had the duty or power to act in order to stop the wrongdoing and voluntarily refrained from doing so.

The massive and systematic practice of gang rape was abundantly documented during the hearing, particularly thanks to the contextual witnesses. For example, Massah WASHINGTON, a former member of the TRC, was able to indicate that nearly 47% of the abuses committed in Liberia during the civil war involved sexual abuse and enslavement of women, with Lofa County being one of the most exposed counties in terms of the number of abuses committed. The *Cour d'assises* also noted that many other acts of rape committed by ULIMO troops occurred during the same period (see the testimony of A [REDACTED] N [REDACTED] about her own person; that of J [REDACTED] C [REDACTED] and Alain WERNER on "Margareth", S [REDACTED] C [REDACTED] on "Mary", 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, as suggested by the defense of the accused, these acts of rape and sexual torture can be considered as the implementation of a massive and systematic practice of domestic and sexual slavery after the flight or disappearance of the men, and the subsequent appropriation of their homes and wives by the rebel troops of ULIMO. The commonly used expression of "*women taken as wives*" seems to mask the more sordid reality of the sexual violence imposed by the rebels on the latter. Moreover, this practice seems likely to demonstrate the supremacy of the occupier, to establish its authority and to control civilian populations composed of different ethnic groups, in this case the Kissi ethnic group.

In this case, R [REDACTED] K [REDACTED] described with constancy and emotion, without apparent fabrication (confirmed by the expert psychologist Amal HACHET), her escape into the bush, her gathering with her friend Esther N [REDACTED] at "A [REDACTED]" (i.e. A [REDACTED] G [REDACTED]), commander of ULIMO belonging to the Krahn ethnic group, then the latter's flight after the split of ULIMO, which occurred in March 1994, and finally the physical abuse inflicted from then on to her friend E [REDACTED] by the cruel "[REDACTED]", undoubtedly as a reprisal. For her part, she mentioned the periodic rapes committed with violence and in a group by several of 'CO Kundi's' bodyguards, despite her very young age (hence her nickname 'little girl'), near his house and with his consent. Having implored "CO Kundi" to stop the rapes committed by his men while she was showed naked to him, she allegedly was only met with his laughter and continued to endure these abuses for the following days. She formally designated the accused Kunti KAMARA as the one to whom she interceded in vain. She also sang the song that the civilians were supposed to sing in his honour at that time.

For her part, E [REDACTED] N [REDACTED] confirmed the first elements described by her friend R [REDACTED] and reported the rapes and sexual abuse (in particular the introduction of a bayonet covered with salt into her vagina) that B [REDACTED], one of the bodyguards of "CO Kundi", would have periodically inflicted on her. The latter, alerted by her screams and informed about her complaints, allegedly replied that he thought it was "*for something serious*" that he had been called, thus showing, by his lack of interest, that he had no intention of giving in to her pleas or stopping the rapes, which continued thereafter until she was finally able to flee to Guinea. Although at the hearing she formally recognized Kunti KAMARA as the person so designated, E [REDACTED] N [REDACTED], overcome by emotion and the reliving of her memories, was unable to finish her testimony on the stand. She then informed the court in writing that she no longer intended to be in the presence of the accused in view of the feelings it caused her.

The reported rapes and sexual abuses, the reality of which cannot be seriously questioned, constitute both acts of sexual slavery and torture or inhuman acts. Clearly inspired by ethnic or religious considerations, they are part of a systematic practice, if not in execution of a concerted plan, at least of a commonly accepted custom in application of the principle of "*pay yourself*" and for the aforementioned purposes of consolidating the power of the occupier.

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

### **3) On the acts of complicity in torture and aggravated acts of barbarism 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 acts of complicity in crimes against humanity above, the *Cour d'assises* noted the existence of concurrent offences. In application of the "*non bis in idem*" rule and the latest case law of the Supreme Court, the *Cour d'assises* decided to declare the questions concerning the offences of complicity in acts of torture and barbarism committed against the same victims to be irrelevant.

#### **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 the sentence, are the following:**

Kunti KAMARA, born on 1 December 1974 in Kamplay City (Liberia), of Liberian and Dutch nationality, is married and has two children from two previous and different unions. After the first Liberian civil war, in which he took an active part in the ranks of the ULIMO, up to the rank of colonel, he expatriated to Guinea in 1997 under rather unclear circumstances, before moving to the Netherlands in 2001, where he obtained political asylum, and then the nationality of his host country, while remaining silent about his armed participation in the Liberian civil war. After working there for several years as an electrician, he reportedly left the Netherlands for Belgium in 2013 for unclear reasons. He then moved to France in October 2016 and settled in Évreux but was unable to practice his trade due to the language barrier. Described as calm, but not very demonstrative, and very secretive about his private life, very religious, Kunti KAMARA appeared quite socially isolated and has never lived with someone as a couple since his arrival in Europe. His criminal record bears no mention of convictions. When the OCLCH investigators searched for him, he immediately fled from Évreux to Bobigny, where he was preparing his imminent departure abroad, using fake Guinean papers. After his arrest and placement in pre-trial detention on 6 September 2018, and his subsequent placement under judicial supervision on 5 September 2019 due to a procedural error, he was placed in pre-trial detention on 10 January 2020 due to a violation of the obligations of his judicial supervision.

The personality experts noted in particular the existence of a powerful and rigid defense, release and adaptation mechanisms, an assertive and determined ego and a certain inexpressiveness of his affects despite the various events that have marked his life - this not being rare after involvement in combat and participation in acts of extreme violence - the subject being able to seek to reconstruct himself in the total denial of his past. The court noted that, throughout the hearing, the accused was always in a posture of denial which was not very convincing when facing a generalized plot and showed himself to be dubious about the very existence of practices commonly attributed to the various rebel groups active during the first civil war, or attributing, against all evidence, the exactions committed only to the NPFL. Moreover, he deliberately confused the alleged facts with the reasons for his personal involvement in the ranks of ULIMO to fight against the NPFL's abuses, of which he and his family were victims, and pretended to be unaware that he was not accused of having committed acts of war, but rather abuses and acts of barbarism against defenceless civilians who had not taken any part in the armed conflict.

He also showed a total lack of empathy for the victims – with the notable exception of E [REDACTED] N [REDACTED] - despite the deep physical and moral suffering inflicted on them or their relatives. These multiple acts, of extreme gravity, carried out in the name of a rebel faction with a deviated ideology and deadly practices (checkpoints set up with barriers made of human intestines and spikes supporting severed heads; massive use of the tabey as an instrument of terror; cannibalism...) have caused the local populations, essentially the rural population, unspeakable and permanent suffering despite the passage of time. These elements determined the victims to undertake a very long journey to come and testify before the French *Cour d'assises* and to expose their suffering which had been held back for a long time. In view of all these elements, the *Cour d'assises* decided to sentence the accused Kunti Kamara, by a qualified majority, to life imprisonment.

*This document is an internal and unofficial translation of the reasonings for Kunti Kamara's judgment. Please refer to the French version for the official document, as inaccuracies might be present.*

In Paris, on 3 November 2022, after postponement of the motivation in application of the provisions of article 365-1 paragraph 4 of the Code of Criminal Procedure.

The first juror, 

The President, Thiem FUSINA