

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: ICC-02/11-02/11

Date: 6 January 2012

PRE-TRIAL CHAMBER III

Before: Judge Silvia Fernández de Gurmendi, Presiding Judge
Judge Elizabeth Odio Benito
Judge Adrian Fulford

SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE

IN THE CASE OF

THE PROSECUTOR v. CHARLES BLÉ GOUDÉ

UNDER SEAL

***Ex-parte* Prosecution and Registry only**

**Decision on the Prosecutor's Application Pursuant to Article 58 for a warrant of
arrest against Charles Blé Goudé**

Decision to be notified, in accordance with regulation 31 of the Regulations of the Court, to:

Counsel for the Defence

The Office of the Prosecutor

Mr Luis Moreno-Ocampo

Ms Fatou Bensouda

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar and Deputy Registrar

Ms Silvana Arbia, Registrar

Detention Section

Victims and Witnesses Unit

Others

Victims Participation and

Reparations Section

Pre-Trial Chamber III (“Chamber”) of the International Criminal Court (“ICC” or “Court”) issues the following decision on the “Prosecutor’s Application Pursuant to Article 58 as to Charles BLÉ GOUDÉ” (“Prosecutor’s Application” or “Blé Goudé Application”).

I. Procedural history

1. On 3 October 2011, the Chamber authorised the commencement of an investigation in Côte d’Ivoire.¹
2. On 25 October 2011, the Prosecutor filed an application for a warrant of arrest against Laurent Gbagbo (“Gbagbo Application” and “Mr Gbagbo” respectively).²
3. On 23 November 2011, the Chamber issued a warrant of arrest against Mr Gbagbo for his alleged criminal responsibility within the meaning of Article 25(3)(a) of the Statute for the crimes against humanity of (1) murder under Article 7(1)(a), (2) rape and other forms of sexual violence under Article 7(1)(g), (3) other inhumane acts under Article 7(1)(k) and (4) persecution under Article 7(1)(h) of the Statute committed in the territory of Côte d’Ivoire during the period between 16 December 2010 and 12 April

¹ Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Republic of Côte d’Ivoire, 3 October 2011, ICC-02/11-14; a corrigendum to the decision was issued on 15 November 2011, ICC-02/11-14-Corr.

² Prosecutor’s Application Pursuant to Article 58 as to Laurent Koudou GBAGBO, 25 October 2011, ICC-02/11-24-US-Exp.

2011.³ The Decision on the Gbagbo Application was issued on 30 November 2011.⁴

4. On 12 December 2011, the Prosecutor filed an application for a warrant of arrest against Charles Blé Goudé ("Mr Blé Goudé") for his individual responsibility for the crimes against humanity of murder, rape and other forms of sexual violence, persecution and other inhumane acts committed during the post-election crisis from 28 November 2010 onwards by the Ivorian Defence and Security Forces ("FDS"), reinforced by youth militias and mercenaries loyal to President Gbagbo ("pro-Gbagbo forces"), in Abidjan, including around the Golf Hotel, and elsewhere in the country.⁵
5. The Prosecutor submits that Mr Blé Goudé, together with Mr Gbagbo and other individuals from the latter's inner circle, adopted a policy of attacking Mr Gbagbo's political opponent Alassane Dramane Ouattara ("Mr Ouattara"), members of Mr Ouattara's political group and civilians who were believed to support Mr Ouattara, the objective being to retain power by all means, including by lethal force ("policy"). They implemented this policy through the pro-Gbagbo forces who, under the joint authority and control of Mr Blé Goudé, Mr Gbagbo and other members of his inner circle, committed widespread and systematic attacks on civilians, which included the crimes charged in the Prosecutor's Application.⁶

³ Warrant of Arrest For Laurent Koudou Gbagbo, 23 November 2011, ICC-02/11-01/11-1-US-Exp, reclassified as public pursuant to decision ICC-02/11-01/11-6-Conf of 29 November 2011.

⁴ Decision on the Prosecutor's Application Pursuant to Article 58 for a warrant of arrest against Laurent Koudou Gbagbo, ICC-02/11-01/11-9-US-Exp, 30 November 2011. A public redacted version was issued on 20 December 2011, ICC-02/11-01/11-9-Red.

⁵ Prosecutor's Application Pursuant to Article 58 as to Charles BLÉ GOUDÉ, 12 December 2011, ICC-02/11-32-US-Exp, paragraph 1.

⁶ Prosecutor's Application, paragraph 2.

6. The Prosecutor contends that there is a considerable degree of overlap between the Gbagbo Application and the present Application,⁷ and he has incorporated references to the relevant portions of the Gbagbo Application (*viz.* paragraphs 5-73, 76-92, 94-131 and 149-150, together with the underlying/supporting material).⁸

II. The jurisdiction of the Court and the admissibility of the case against Mr Blé Goudé

A. Jurisdiction

7. Article 19(1) of the Statute provides that “[t]he Court shall satisfy itself that it has jurisdiction in any case brought before it”. Consequently, it is necessary at the outset to determine whether the case against Mr Blé Goudé falls within the jurisdiction of the Court.
8. For a crime to come under the Court’s jurisdiction, it is necessary that the following three conditions are met:
- (i) it is one of the crimes in Article 5 of the Statute (jurisdiction *ratione materiae*);
 - (ii) it was committed within the timeframe specified in Article 11 of the Statute (jurisdiction *ratione temporis*);

⁷ Prosecutor’s Application, paragraph 7.

⁸ Prosecutor’s Application, paragraph 7 and footnote 5.

- (iii) it satisfies one of the two criteria laid down in Article 12 of the Statute:⁹ either it was committed on the territory of a State Party to the Statute or by a national of that State, or it was committed on the territory of a State which has made a declaration under Article 12(3) of the Statute or by nationals of that State.¹⁰

9. Given the extensive similarities between the present Application and the Gbagbo Application, it is appropriate for the Chamber simply to adopt its earlier reasoning as regards the jurisdictional requirements set out in the *Decision on the Prosecutor's Application Pursuant to Article 58 for a warrant of arrest against Laurent Koudou Gbagbo* of 30 November 2011 ("Decision of 30 November 2011").¹¹ The issues are identical and the Chamber concludes that the case against Mr Blé Goudé falls within the jurisdiction of the Court.

B. Admissibility

10. The Prosecutor submits that the instant case is admissible. Although there are domestic criminal proceedings against Mr Blé Goudé in Côte d'Ivoire, they do not relate to the crimes alleged in the present request, given they solely concern "economic" crimes. The Prosecutor also submits that based on the scale, nature and manner of the commission of the crimes that are the subject

⁹ Pre-Trial Chamber I, *Decision on the evidence and information provided by the Prosecution for the issuance of a warrant of arrest for Germain Katanga*, ICC-01/04-01/07-55, paragraph 11; and Pre-Trial Chamber I, *Decision on the Applications for Participation in the Proceedings of VPRS 1, VPRS 2, VPRS 3, VPRS 4, VPRS 5 and VPRS 6*, 17 January 2006, ICC-01/04-101-tEN-Corr (translation filed on 22 March 2006), paragraph 85.

¹⁰ ICC-01/04-101-tEN-Corr, paragraph 91.

¹¹ ICC-02/11-01/11-9-Red, paragraphs 10-15.

of his Application and the impact that they had and continue to have on the victims, the case is of sufficient gravity to justify intervention by the Court.¹²

11. In its Decision authorising the investigation in Côte d'Ivoire, the Chamber found that "due to the absence of national proceedings against those appearing to be most responsible for crimes committed during the post-election violence, and in light of the gravity of the acts committed, the Chamber is satisfied that there are potential cases that would be admissible in the situation in the Republic of Côte d'Ivoire".¹³

12. In the Chamber's Decision of 30 November 2011, it was decided it was inappropriate at that stage to investigate the admissibility of the case against Laurent Gbagbo,¹⁴ and that approach applies, *mutatis mutandis*, to the present application. Consequently, the Chamber has not investigated the admissibility of the case against Mr Blé Goudé at this stage given: (i) the Prosecutor's Application is under seal and *ex parte*; and (ii) there are no apparent factors that require the Chamber to exercise its discretion pursuant to Article 19(1) of the Statute.

III. Whether there are reasonable grounds to believe that one or more crimes falling within the jurisdiction of the Court have been committed

¹² ICC-02/11-32-US-Exp, paragraph 32.

¹³ ICC-02/11-14-Corr, paragraph 206.

¹⁴ ICC-02/11-01/11-9-Red, paragraphs 22-24. See also ICC-01/04-01/07-55, paragraph 17; Pre-Trial Chamber I, Decision on the evidence and information provided by the Prosecution for the issuance of a warrant of arrest for Mathieu Ngudjolo Chui, 6 July 2007, ICC-01/04-01/07-262, paragraph 17; ICC-02/05-01/07-1-Corr, paragraph 18; Appeals Chamber, Judgment on the Prosecutor's appeal against the Decision of Pre-Trial Chamber I entitled "Decision on the Prosecutor's Application for Warrants of Arrest, Article 58", 13 July 2006, ICC-01/04-169, paragraphs 52 and 53.

13. Under Article 58(1)(a) of the Statute, the Chamber shall determine whether there are reasonable grounds to believe that the person concerned has committed a crime within the jurisdiction of the Court.
14. It follows that the Chamber needs to analyse the information and supporting materials provided by the Prosecutor in order to determine (applying Article 58 of the Statute) whether there are reasonable grounds to believe that Mr Blé Goudé committed the crimes alleged by the Prosecutor, and, if so, whether his arrest appears necessary.
15. During Mr Gbagbo's presidency, Mr Blé Goudé was Minister of Youth and "Général de la Rue" (he created the latter title given his position as the head of the *Jeunes Patriotes*). Witnesses describe him as a charismatic leader who was very close to Mr Gbagbo. He controlled the FESCI and the *Congrès Panafricain des Jeunes et des Patriotes*, as well as a further youth group called "*La Galaxie Patriotique*". He organised youth demonstrations and participated in mobilising young people to join the pro-Gbagbo forces.¹⁵
16. The Prosecutor contends that Mr Blé Goudé was a key member of the inner circle of Mr Gbagbo¹⁶ and it is alleged that he committed the same crimes as

¹⁵ Summary of Witness Statement W-0011, ICC-02/11-24-US-Exp-Anx4.8, paragraph 82; Summary of Witness W-0009, ICC-02/11-24-US-Exp-Anx4.7, paragraphs 122-125; Summary of Witness W-0010, ICC-02/11-24-US-Exp-Anx4.9, paragraph 113; Summary of Witness W-0049, ICC-02/11-24-US-Exp-Anx4.6, paragraph 119; Summary of Witness Statement W-0044, ICC-02/11-24-US-Exp-Anx4.10, paragraphs 62-68; *Jeune Afrique, Cote d'Ivoire: Blé Goudé, Gbagbo jusqu'à la lie*, ICC-02/11-33-US-Exp-Anx17; BBC News, Ivory Coast: Doubts over arrest of Charles Ble Goude, 15 April 2011, ICC-02/11-33-US-Exp-Anx21; *Notre voie, A la une*, 20 December 2010, ICC-02/11-33-US-Exp-Anx26, pages 2-3; Ivoirtv.net, ACSCI, *Appel à l'enrolement des jeunes civils dans l'armée Gbagbo: "Sur le chemin de la CPI, Blé Goudé enforce encore plus Gbagbo et ses sbires"*, ICC-02/11-33-US-Exp-Anx27.

¹⁶ Prosecutor's Application, paragraph 3.

Mr Gbagbo, specifically the crimes against humanity of (1) murder, (2) rape and other forms of sexual violence, (3) persecution and (4) other inhumane acts. The Chamber notes that the Prosecutor relies on the same four incidents that supported the charges against Laurent Gbagbo, namely:

- (i) The attacks relating to the RTI demonstrations between 16 and 19 December 2010.
- (ii) The attack on the women's march in Abobo on 3 March 2011.
- (iii) The Abobo market shelling on 17 March 2011.
- (iv) The Yopougon massacre on 12 April 2011.¹⁷

17. As indicated above, the Prosecutor submits that there are extensive similarities between the present Application and the Gbagbo Application, and he has incorporated references to the relevant portions of the Gbagbo Application, together with the underlying/supporting material, in this Application.¹⁸

18. On the basis of the evidence provided by the Prosecutor and for the reasons developed below¹⁹, the Chamber concludes that there are reasonable grounds to believe that Mr Blé Goudé was part of Mr Gbagbo's inner circle.²⁰

¹⁷ Prosecutor's Application, paragraph 5 in combination with paragraph 55-66 from the Gbagbo Application.

¹⁸ See above, paragraph 6.

¹⁹ See below, paragraphs 24, 30-35.

²⁰ Summary Witness Statement W-0009, ICC-02/11-24-US-Exp-Anx4.7, paragraph 71-72, 122-123, 125; Summary Witness Statement W-0044, ICC-02/11-24-US-Exp-Anx4.10, paragraphs 59, 77, 78, 80, 81, 95, 105, 106, 121-124, 129-130, 142-157; Summary Witness Statement W-0011, ICC-02/11-24-US-Exp-Anx4.8, paragraphs 62-64, 80-82, 105, 111, 155-158; Summary Witness Statement W-0047, ICC-02/11-24-US-Exp-Anx4.12, paragraphs 31-40, 99; Witness Statement W-0049, ICC-02/11-24-US-Exp-Anx4.6, paragraphs 53, 58-59; Summary Witness Statement W-0010, ICC-02/11-24-US-Exp-Anx4.9, paragraph 33,

19. In all the circumstances, the conclusions of the Chamber in its Decision of 30 November 2011 are equally applicable to the present Application as regards the contextual elements of the alleged crimes against humanity, along with the underlying acts it is suggested were committed by the pro-Gbagbo forces.²¹

(1) Contextual elements of the crimes against humanity

20. The Chamber determined in its Decision of 30 November 2011 that it had reasonable grounds to believe that “Mr Gbagbo and his inner circle constitute an organisation within the meaning of Article 7(2)(a) that had the means to carry out widespread and systematic attacks against a civilian population, in that they jointly exercised authority and control over the pro-Gbagbo forces, including the FDS, the youth militia and the mercenaries, who they recruited, integrated, financed and instructed, and who in turn reported back as to the unfolding events.”²²

21. Furthermore, the Chamber concluded that “the supporting materials demonstrate that Mr Gbagbo and his inner circle adopted a policy to launch violent attacks against Mr Gbagbo’s political opponent, Mr Ouattara, members of the latter’s political group and civilians believed to support him, in order to retain power by all means. The policy was acknowledged by Mr

45. EU Council, “Decision 2011/18/CFSP, 14 January 2011, ICC-02/11-24-US-Exp-Anx5.3, page 7; UN Security Council Committee established pursuant resolution 1572 (2004) concerning Côte d’Ivoire, List of individuals subject to paragraphs 9 and 11 of Resolution 1572 (2004) and paragraph 4 of Resolution 1643 (2005), updated 30 March 2011, ICC-02/11-24-US-Exp-Anx5.37, page 2.

²¹ ICC-02/11-01/11-9-US-Exp; ICC-02/11-01/11-9-Red.

²² ICC-02/11-01/11-9-Red, paragraphs 45-47.

Gbagbo and his inner circle, and this can be inferred from the fact that pro-Gbagbo forces mainly targeted individuals who were perceived to be supporters of Mr Ouattara. The targets were often identified on ethnic, religious or national grounds. Pro-Gbagbo forces used excessive force against civilians and heavy weaponry was utilised in densely populated areas in order to disperse pro-Ouattara supporters.”²³

22. The Chamber found that “[t]he supporting material further indicates that Mr Gbagbo and his inner circle met frequently to discuss the implementation of the policy, and during these meetings Mr Gbagbo was briefed and he issued operational instructions with a view to coordinating the implementation of the policy. Furthermore, Mr Gbagbo and his inner circle held frequent meetings with the senior generals of the FDS, for identical reasons.”²⁴

(2) Underlying acts

23. When addressing the issue of the underlying acts, the Chamber held in its Decision of 30 November 2011 that on the evidence, there were reasonable grounds to believe that acts of murder²⁵, rape and other forms of sexual violence²⁶ other inhumane acts²⁷ as well as several acts of persecution²⁸ had been committed during the incidents referred to by the Prosecutor in support of the charges. The Chamber concluded:

²³ ICC-02/11-01/11-9-Red, paragraph 42.

²⁴ ICC-02/11-01/11-9-US-Exp, paragraph 43.

²⁵ ICC-02/11-01/11-9-Red, paragraph 57.

²⁶ ICC-02/11-01/11-9-US-Exp, paragraph 59.

²⁷ ICC-02/11-01/11-9-Red, paragraph 61.

²⁸ ICC-02/11-01/11-9-Red, paragraphs 63, 67, 68.

On the evidence, there are reasonable grounds to believe that the crimes against humanity of murder under Article 7(1)(a), rape and other forms of sexual violence under Article 7(1)(g), other inhumane acts under Article 7(1)(k) and persecution under Article 7(1)(h) of the Statute, were committed in Côte d'Ivoire during the period between 16 December 2010 and 12 April 2011.

Furthermore, the Chamber finds that there are reasonable grounds to believe that these acts occurred in the context of a widespread or systematic attack directed against Côte d'Ivoire civilian population within the meaning of Article 7(1) of the Statute.²⁹

IV. Whether there are reasonable grounds to believe that Mr Blé Goudé is criminally responsible for the crimes alleged by the Prosecutor

24. The Prosecutor submits that Mr Blé Goudé bears individual criminal responsibility for the crimes charged in the Application, as “an indirect co-perpetrator” pursuant to Article 25(3)(a) of the Statute on the basis that he:

- (i) adopted the Policy/common plan;³⁰
- (ii) exercised control over the pro-Gbagbo forces jointly with others;³¹
- (iii) provided a coordinated essential contribution to the common plan resulting in the commission of the crimes;³² and
- (iv) acted with the necessary degree of intent and knowledge.³³

25. It is suggested that his criminal responsibility (as “an indirect co-perpetrator”) under Article 25(3)(a) of the Statute is established by the coordinated,

²⁹ ICC-02/11-01/11-9-Red, paragraphs 69-70.

³⁰ Prosecutor's Application, paragraphs 12-17.

³¹ Prosecutor's Application, paragraphs 18-22.

³² Prosecutor's Application, paragraphs 23-28.

³³ Prosecutor's Application, paragraphs 29-31.

essential contribution that it is said was made by Mr Blé Goudé and other members of Gbagbo's inner circle, resulting in the commission of the crimes.³⁴ Furthermore, it is argued that Mr Blé Goudé and other members of Gbagbo's inner circle were mutually aware and mutually accepted that implementing their common plan might result in the realisation of the objective elements of the crimes.³⁵ Finally, it is suggested that Mr Blé Goudé was aware of the factual circumstances that enabled him and other members of his inner circle to exercise joint control over the crimes.³⁶

26. For the purposes of this Application, the Prosecutor has focused exclusively on individual criminal responsibility under Article 25(3)(a) of the Statute, as opposed to the other provisions of that Article or, alternatively, command responsibility under Article 28 of the Statute.

27. As previously determined by this Chamber in its Decision of 30 November 2011, it is undesirable, particularly at this early stage of the case, for the Chamber to limit the options that may exist for establishing criminal responsibility under the Rome Statute, because this will ultimately depend on the evidence and the arguments in the case.³⁷ Until the Chamber has heard full arguments from the parties, it is premature to decide, certainly with any finality, whether Article 25(3)(a) of the Statute is the correct basis for proceeding against Mr Blé Goudé (either standing alone or along with other provisions) or whether the various elements of the prosecution's theory of "indirect co-perpetration" are relevant to, or applicable in, this case.

³⁴ Prosecutor's Application, paragraphs 23-31.

³⁵ Prosecutor's Application, paragraphs 29 and 30.

³⁶ Prosecutor's Application, paragraph 31.

³⁷ ICC-02/11-01/11-9-Red, paragraph 74.

28. However, as indicated in the Chambers Decision of 30 November 2011, given the Prosecutor's Application is brought under Article 25(3)(a) of the Statute, it is necessary to address the basis advanced by the prosecution. As previously indicated, the test for indirect co-perpetration pursuant to Article 25(3)(a) of the Statute involves establishing the following elements:

- i) the existence of a common plan between Mr Blé Goudé and other members of Gbagbo's inner circle;
- ii) Mr Blé Goudé and other members of Gbagbo's inner circle were each aware that implementing the common plan would in the ordinary course of events result in the commission of the crimes set out above;
- iii) Mr Blé Goudé was aware of the relevant circumstances that enabled him and other members of Gbagbo's inner circle to exercise joint control over the crimes;
- iv) Mr Blé Goudé had the necessary intent and knowledge;
- v) the coordinated and essential contribution to the crimes on the part of Mr Blé Goudé and other members of Gbagbo's inner circle; and
- vi) the crimes were executed by pro-Gbagbo forces who complied on an almost automatic basis with the orders given by Mr Blé Goudé and other members of Gbagbo's inner circle.³⁸

29. As described below, the Chamber is satisfied that each of these elements is fulfilled.

³⁸ ICC-02/11-01/11-9-Red, paragraph 75.

30. The Chamber already found that there are reasonable grounds to believe that the plan (and the policy) existed and that Mr Gbagbo's inner circle, to which Mr Blé Goudé belonged, met frequently to discuss the implementation and coordination of the plan.³⁹ During those meetings Mr Blé Goudé received instructions from Mr Gbagbo, who also sought his advice on important political matters. Mr Blé Goudé publicly expressed his support for the implementation of the common plan.⁴⁰

31. Furthermore, the Chamber finds that there are reasonable grounds to believe that Mr Blé Goudé and other members of Gbagbo's inner circle were aware that implementing the common plan would, in the ordinary course of events, lead to the commission of the offences set out above.⁴¹

32. The Chamber concludes there are reasonable grounds to believe that, by implementing the common plan, Mr Blé Goudé as a member of Mr Gbagbo's inner circle exercised joint control over the crimes because he had the power directly to control and instruct the youths who were systematically recruited,

³⁹ ICC-02/11-01/11-9-US-Exp, paragraph 43.

⁴⁰ Summary Witness Statement W-0011, ICC-02/11-24-US-Exp-Anx4.8, paragraphs 80-82, 110-111; Summary Witness Statement W-0044, ICC-02/11-24-US-Exp-Anx4.10, paragraphs 59, 105-106, 121-124, 128-129, 205; Witness Statement W-0047, ICC-02/11-24-US-Exp-Anx4.12, paragraphs 84-87; Summary Witness Statement W-0009, ICC-02/11-24-US-Exp-Anx4.7, paragraphs 116, 122-125; Summary Witness Statement W-0048, ICC-02/11-24-US-Exp-Anx4.5, paragraph 32; Summary Witness Statement W-0046, ICC-02/11-33-US-Exp-Anx7, paragraphs 17, 241; Channel 4, "Unreported World: Inside the battle for Ivory Coast", March-April 2011 (estimated date), ICC-02/11-24-US-Exp-Anx7.12, at 5:00-5:40; The Telegraph, Ivory Coast: live, 08 April 2011, ICC-02/11-33-US-Exp-Anx8, pages 2-3.

⁴¹ Summary Witness Statement W-0044, ICC-02/11-24-US-Exp-Anx4.10, paragraphs 68, 105-106, 118, 120-124, 128-129, 184; Summary Witness Statement W-0046, ICC-02/11-33-US-Exp-Anx7, paragraph 241; Summary; Summary Witness Statement W-0011, ICC-02/11-24-US-Exp-Anx4.8, paragraphs 80-82, 110; Witness Statement W-0049, ICC-02/11-24-US-Exp-Anx4.6, paragraph 120, 123; Morrison World News, "Ivory Coast 'Street General' Calls Off Golf Hotel Assault", 3 January 2011, ICC-02/11-24-US-Exp-Anx6.103; BBC News, UN warns attack 'could reignite' civil war, 31 December 2011, ICC-02/11-33-US-Exp-Anx9, pages 2-3.

armed, trained and integrated into the FDS chain of command with a view to supporting the implementation of the common plan.⁴²

33. There are reasonable grounds to believe, given the position of Mr Blé Goudé as a member of Gbagbo's inner circle and his role as regards the common plan, that he made a coordinated and essential contribution to its realisation. He attended meetings of Mr Gbagbo's inner circle, advised Mr Gbagbo and participated in making decisions on the implementation of the common plan. Moreover, Mr Blé Goudé played a key role in recruiting, arming, training and integrating thousands of volunteers and enlisting them into the FDS chain of command.⁴³

⁴² Summary Witness Statement W-0044, ICC-02/11-24-US-Exp-Anx4.10, paragraphs 62-64, 68, 104-105, 120, 184; Summary Witness Statement W-0009, ICC-02/11-24-US-Exp-Anx4.7, paragraphs 122-125; Summary Witness Statement W-0011, ICC-02/11-24-US-Exp-Anx4.8, paragraph 44, 82, 84; Witness Statement W-0049, ICC-02/11-24-US-Exp-Anx4.6, paragraphs 119-120, 123; Summary Witness Statement W-0010, ICC-02/11-24-US-Exp-Anx4.9, paragraph 113-114; Witness Statement W-0048, ICC-02/11-24-US-Exp-Anx4.5, paragraph 120; EU Council, "Decision 2011/18/CFSP, 14 January 2011, ICC-02/11-24-US-Exp-Anx5.3, page 7; UN Security Council Committee established pursuant resolution 1572 (2004) concerning Côte d'Ivoire, List of individuals subject to paragraphs 9 and 11 of Resolution 1572 (2004) and paragraph 4 of Resolution 1643 (2005), updated 30 March 2011, ICC-02/11-24-US-Exp-Anx5.37, page 2; Abidjan.net, "Charles Blé Goudé hier à Yopougon", 19 October 2010, ICC-02/11-33-US-Exp-Anx10, pages 2-3; Video clip, Conférence de Presse de Charles Blé Goudé à l'hotel Communal de Cocody, 23 March 2011, ICC-02/11-24-US-Exp-Anx7.11.

⁴² Summary Witness Statement W-0044, ICC-02/11-24-US-Exp-Anx4.10, paragraphs 62-64, 68, 105-106, 120-124, 128-129, 184; Summary Witness Statement W-0046, ICC-02/11-33-US-Exp-Anx7, paragraph 241; Summary; Summary Witness Statement W-0011, ICC-02/11-24-US-Exp-Anx4.8, paragraphs 80-82, 110; Summary Witness Statement W-0009, ICC-02/11-24-US-Exp-Anx4.7, paragraphs 123, 125; Witness Statement W-0047, ICC-02/11-24-US-Exp-Anx4.12, paragraphs 84-87.

⁴³ Summary Witness Statement W-0044, ICC-02/11-24-US-Exp-Anx4.10, paragraphs 93, 106, 115, 117-121, 124-128, 133-143, 179-201, 210-211, 215-217; Witness Statement W-0048, ICC-02/11-24-US-Exp-Anx4.5, paragraphs 120-122; Summary Witness Statement W-0009, ICC-02/11-24-US-Exp-Anx4.7, paragraphs 193-195; Summary Witness Statement W-0011, ICC-02/11-24-US-Exp-Anx4.8, paragraphs 44-47; Witness Statement W-0047 ICC-02/11-24-US-Exp-Anx4.12, paragraphs 237-244; Summary Witness Statement W-0010, ICC-02/11-24-US-Exp-Anx4.9, paragraphs 110-114; Witness Statement W-0049, ICC-02/11-24-US-Exp-Anx4.6, paragraph 123; UNHCHR, Rapport de la Commission d'enquête internationale indépendante sur la Côte d'Ivoire, 8 June 2011, ICC-02/11-24-US-Exp-Anx5.40, page 9; UNSC, Twenty-seventh progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire, 30 March 2011, ICC-02/11-24-US-Exp-Anx5.36, page 12-13; UNHCHR, "Report on the situation of human rights in Côte d'Ivoire", 15 February, ICC-02/11-24-US-Exp-Anx5.38, page 14-15; RTI Video (YouTube), "Enrolement des jeunes patriotes dans l'armée ivoirienne", uploaded by AfricastarsTV on 24 Mar 2011, ICC-02/11-24-US-Exp-Anx7.7 at 2:55-4:21 and 5:33-6:23; Transcript of video ICC-02/11-24-US-Exp-Anx7.7, ICC-02/11-24-US-Exp-Anx7.27; RTI, Extrait du Journal télévisé, undated, ICC-02/11-24-US-

34. The Chamber further finds that there are reasonable grounds to believe the pro-Gbagbo forces that put the common plan into effect did so by almost automatic compliance with the orders they received from Mr Blé Goudé and other members of Mr Gbagbo's inner circle.⁴⁴

35. Finally, the Chamber concludes that there are reasonable grounds to believe Mr Blé Goudé acted with the necessary degree of intent and knowledge by i) adopting the common plan ii) being aware of its implementation and the means other members of the inner circle had at their disposal to implement the common plan iii) meeting with members of Mr Gbagbo's inner circle to discuss and coordinate the implementation of the common plan iv) playing a key role in recruiting, training and instructing the young patriots, and integrating them into the FDS chain of command and v) being aware of the contribution of other members of Mr Gbagbo's inner circle to the implementation of the common plan. Furthermore, the Chamber is of the view that Mr Blé Goudé was fully conscious of the factual circumstances that

Exp-Anx7.3, at 00:58-1:18 and 3:59-4:39; Transcript of video ICC-02/11-24-US-Exp-Anx7.3, ICC-02/11-24-US-Exp-Anx7.23; Channel 4, "Unreported World: Inside the battle for Ivory Coast", March-April 2011 (estimated date), ICC-02/11-24-US-Exp-Anx7.12, at 0:48-6:10 and 11:30-12:20; Reportage France 24, Côte d'Ivoire : "Jeunes patriotes", les hommes de Laurent Gbagbo, 4 February 2011, ICC-02/11-24-US-Exp-Anx7.2 at 3:39-11:19; Transcript of video ICC-02/11-24-US-Exp-Anx7.2, ICC-02/11-24-US-Exp-Anx7.22; Video (YouTube), Cote d'Ivoire: "Mobilisation des patriotes ivoirien", 19 January 2011, Uploaded by votonsgbagbo on 22 January 2011, ICC-02/11-24-US-Exp-Anx7.8; Transcript of video ICC-02/11-24-US-Exp-Anx7.8, ICC-02/11-24-US-Exp-Anx7.28; Video (YouTube), Text linked to video Cote d'Ivoire: "Mobilisation des patriotes ivoirien", Uploaded by votonsgbagbo on 22 January 2011, ICC-02/11-24-US-Exp-Anx6.56; BBC News, "UN warns attack 'could reignite' civil war", 31 December 2011, ICC-02/11-33-US-Exp-Anx9, pages 2-3; Bloomberg, "Peacekeepers in Ivory Coast May Use Force if Attacked", 31 December 2010, ICC-02/11-33-US-Exp-Anx13, page 2; HRW, "The case for Intervention in Ivory Coast", 25 March 2011, ICC-02/11-24-US-Exp-Anx5.24.

⁴⁴ Summary Witness Statement W-0044, ICC-02/11-24-US-Exp-Anx4.10, paragraphs 118-120, 126-127, 184; Witness Statement W-0049, ICC-02/11-24-US-Exp-Anx4.6, paragraph 120, 123; Morrison World News, "Ivory Coast 'Street General' Calls Off Golf Hotel Assault", 3 January 2011, ICC-02/11-24-US-Exp-Anx6.103; BBC News, UN warns attack 'could reignite' civil war, 31 December 2011, ICC-02/11-33-US-Exp-Anx9.

enabled him and other members of Mr Gbagbo's inner circle to exercise joint control over the crimes.⁴⁵

V. Whether the requirements for the arrest of Mr Blé Goudé under Article 58(1)(b) of the Statute have been met

36. The Prosecutor submits, based on the information referred to above, that if the Chamber finds that there are reasonable grounds to believe that Mr Blé Goudé committed crimes within the jurisdiction of the Court, a warrant of arrest should be issued.⁴⁶

37. The Prosecutor submits that the grounds for arrest under Article 58(1)(b)(i) - (iii) of the Statute are satisfied.⁴⁷

38. Pursuant to Article 58(1) of the Statute, the Pre-Trial Chamber shall issue a warrant of arrest if (a) there are reasonable grounds to believe that a person has committed crimes within the jurisdiction of the Court; and (b) the arrest of the person appears necessary: (i) to ensure the person's appearance at trial; (ii) to ensure that the person does not obstruct or endanger the investigation or the court proceedings; or (iii) where applicable, to prevent the person from continuing with the commission of that crime or a related crime which is

⁴⁵ Summary Witness Statement W-0044, ICC-02/11-24-US-Exp-Anx4.10, paragraphs 62-64, 68, 105-106, 120-124, 128-129, 184; Summary Witness Statement W-0046, ICC-02/11-33-US-Exp-Anx7, paragraph 241; Summary Witness Statement W-0011, ICC-02/11-24-US-Exp-Anx4.8, paragraphs 80-82, 110; Summary Witness Statement W-0009, ICC-02/11-24-US-Exp-Anx4.7, paragraphs 123, 125; Witness Statement W-0047, ICC-02/11-24-US-Exp-Anx4.12, paragraphs 84-87.

⁴⁶ ICC-02/11-32-US-Exp, paragraph 33.

⁴⁷ ICC-02/11-32-US-Exp, paragraphs 34-36.

within the jurisdiction of the Court and which arises out of the same circumstances.

39. The Appeals Chamber has determined that in order to “justify arrest [...] under Article 58(1)(b) of the Statute [...] it must ‘appear’ to be necessary. The question revolves around the possibility, not the inevitability, of a future occurrence” (when addressing the risk of further offending).⁴⁸ The Appeals Chamber has held that the seriousness of the crimes allegedly committed is a relevant factor, given this may make a person more likely to abscond.⁴⁹

40. Pre-Trial Chamber III has determined that a person’s “past and present political position, his international contacts, his financial and professional background, and the fact that he has the necessary network and financial resources” are factors that may lead the individual to abscond or avoid arrest.⁵⁰ The Appeals Chamber has also determined that his financial status is a relevant factor in determining whether he would have the means to abscond or even to interfere with the investigation or the safety of witnesses.⁵¹ In addition, the Appeals Chamber has ruled that the length of a sentence that

⁴⁸ Appeals Chamber, *Judgment in the Appeal by Mathieu Ngudjolo Chui of 27 March 2008 against the Decision of Pre-Trial Chamber I on the Application of the Appellant for Interim Release*, 9 June 2008, ICC-01/04-01/07-572, paragraph 21; Appeals Chamber, *Judgment on the appeal of Mr. Jean-Pierre Bemba Gombo against the decision of Pre-Trial Chamber III entitled “Decision on application for interim release”*, 16 December 2008, ICC-01/05-01/08-323, paragraphs 55 and 67.

⁴⁹ ICC-01/04-01/07-572, paragraph 21; ICC-01/05-01/08-323, paragraph 55.

⁵⁰ Pre-Trial Chamber III (composed differently), *Decision on the Prosecutor’s Application for a Warrant of Arrest against Jean-Pierre Bemba Gombo*, 17 July 2008, ICC-01/05-01/08-14-tENG, paragraph 87.

⁵¹ Judgment on the appeal of the Prosecutor against Pre-Trial Chamber II’s “*Decision on the Interim Release of Jean-Pierre Bemba Gombo and Convening Hearings with the Kingdom of Belgium, the Republic of Portugal, the Republic of France, the Federal Republic of Germany, the Italian Republic, and the Republic of South Africa*”, 2 December 2009, ICC-01/05-01/08-631-Red, paragraph 74.

a suspect is likely to receive if convicted may provide a further incentive for him to abscond.⁵²

41. The authorities of the Republic of Côte d'Ivoire issued a warrant of arrest against Mr Blé Goudé for economic crimes and he subsequently fled, possibly travelling to another country in West Africa.⁵³ In all the circumstances, there is a strong possibility that Mr Blé Goudé will attempt to avoid these proceedings before the ICC and his arrest is necessary to ensure his appearance before the Court.

42. The Chamber has also considered information that tends to demonstrate Mr Blé Goudé controls approximately 20,000 pro-Gbagbo combatants who fled to Ghana, and there are persuasive grounds to apprehend they have planned to attack the current President, Mr Ouattara.⁵⁴ Mr Blé Goudé has also reportedly stated that the arrest of Mr Gbagbo by the ICC is a "deportation" and part of a "complot".⁵⁵ Finally, there is a significant basis for concluding that the pro-Gbagbo youth groups remain active, having committed acts of violence in recent months.⁵⁶ Thus, the Chamber concludes there is a real possibility that Mr Blé Goudé may use his resources to obstruct or endanger these

⁵² ICC-01/05-01/08-631-Red, paragraph 70.

⁵³ Summary of Witness Statement W-0044, ICC-02/11-24-US-Exp-Anx4.10, paragraph 107; Afriqueinfos, Cote d'Ivoire: Jusqu'ou iront les partisans de Laurent Gbagbo?, 6 December 2011, ICC-02/11-33-US-Exp-Anx18; Africatime.com, BLE GOUDE LOCALISE EN GAMBIE, 6 November 2011, ICC-02/11-33-US-Exp-Anx20; Abidjannet, Menaces de destabilisation du pouvoir, Voici d'où peut venir le danger, 26 July 2011, ICC-02/11-33-US-Exp-Anx25.

⁵⁴ Summary of Witness Statement W-0044, ICC-02/11-24-US-Exp-Anx4.10, paragraphs 111-113; Abidjannet, Menaces de destabilisation du pouvoir, Voici d'où peut venir le danger, 26 July 2011, ICC-02/11-33-US-Exp-Anx25.

⁵⁵ Afriqueinfos, Cote d'Ivoire: Jusqu'ou iront les partisans de Laurent Gbagbo?, 6 December 2011, ICC-02/11-33-US-Exp-Anx18 ; Abidjannet, Cote d'Ivoire/CPI : Gbagbo victime d'un complot, selon Blé Goudé, 30 November 2011, ICC-02/11-33-US-Exp-Anx19; Abidjan.net, Transfèrement du Président Gbagbo a la CPI : Charles Blé Goudé : « Un jour, il fera jour », 1 December 2011, ICC-02/11-33-US-Exp-Anx31.

⁵⁶ Abidjan.net, Cote d'Ivoire: gouvernement Ouattara et partisans de Gbagbo, le bras de fer?, 19 October 2011, ICC-02/11-33-US-Exp-Anx28.

proceedings before the ICC proceedings or to commit further crimes within the jurisdiction of the Court.

43. The Chamber is therefore satisfied that his arrest is necessary to: i) ensure his appearance before the Court; ii) ensure that he does not use his resources to obstruct or endanger the investigation; and iii) prevent the commission of further crimes.

FOR THESE REASONS, THE CHAMBER

DECIDES that the conditions established by Article 58(1) of the Statute in order to issue a warrant of arrest against Charles Blé Goudé are met in relation to his alleged criminal responsibility within the meaning of Article 25(3)(a) of the Statute for the crimes against humanity of (1) murder under Article 7(1)(a), (2) rape and other forms of sexual violence under Article 7(1)(g), (3) other inhumane acts under Article 7(1)(k) and (4) persecution under Article 7(1)(h) of the Statute committed in the territory of Côte d'Ivoire during the period between 16 December 2010 and 12 April 2011.

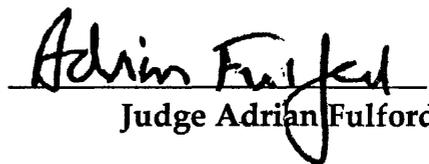
Done in both English and French, the English version being authoritative.



Judge Silvia Fernández de Gurmendi



Judge Elizabeth Odio Benito



Judge Adrian Fulford

Dated this 6 January 2012

At The Hague, The Netherlands