

1 International Criminal Court
2 Pre-Trial Chamber I - Courtroom 2
3 Situation: Republic of Côte d'Ivoire
4 In the case of The Prosecutor v. Charles Blé Goudé - ICC-02/11-02/11
5 Presiding Judge Silvia Fernández de Gurmendi, Judge Ekaterina Trendafilova, Judge
6 Christine Van den Wyngaert
7 Confirmation of Charges Hearing
8 Monday, 29 September 2014
9 (The hearing starts in open session at 9.33 a.m.)
10 THE COURT USHER: All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 THE COURT OFFICER: (Interpretation) Thank you, Madam President.
14 Situation in Côte d'Ivoire in the matter of the Prosecutor versus Charles Blé Goudé,
15 ICC-02/11-02/11.
16 We are in open session.
17 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you. I want
18 to welcome you all to the courtroom.
19 And I now call on the parties and participants to introduce themselves, starting with the OTP.
20 Madam Bensouda, please.
21 MS BENSoudA: Thank you, Madam President. Madam President, the Office of the
22 Prosecutor is today represented by Mr Eric MacDonald, senior trial lawyer; Mr Lloyd Stang,
23 trial lawyer; Yasmine Chubin, assistant trial lawyer; Krisztina Varga, assistant trial lawyer;
24 Florie Huck, assistant trial lawyer. I'm Fatou Bensouda, Prosecutor.
25 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you.

1 The Defence, please. Mr Kaufman, please.

2 MR KAUFMAN: (Interpretation) Good morning, Madam President. For the Defence of
3 Mr Blé Goudé the team is as follows: Myself, Nick Kaufman of the Israel bar; Seth Engel of
4 the Paris and New York Bar; Mr Geert-Jan Alexander Knoops of the Amsterdam Bar, in
5 Holland; and Mr Claver N'Dry of the Abidjan bar in Côte d'Ivoire; finally, Mr Blé Goudé
6 himself.

7 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you. For the
8 Common Representative of Victims, Madam Massidda.

9 MS MASSIDDA: Good morning, your Honour. The victims are represented today by the
10 OPCV, and with me Mr Epiphane Zoro, our legal expert, based in Côte d'Ivoire; Madam
11 Ludovica Vetrucchio, deputy lawyer; and Mr Enrique Carnero Rojo, juriste; and myself Paolina
12 Massidda, principal counsel. Thank you.

13 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: I would now like to introduce the
14 Chamber. To my right Judge Ekaterina Trendafilova, and to my left Judge Christine Van den
15 Wyngaert. And I am Silvia Fernández, Presiding Judge of this Pre-Trial Chamber.
16 I would now like the court officer to read a summary of the charges as presented by
17 the Prosecutor.

18 Court officer, please, you have the floor.

19 THE COURT OFFICER: (Interpretation) Thank you, your Honour.

20 The charges laid by the Prosecutor are contained in section 9 of the document containing the
21 charges, ICC-02/11-02/11-124-Conf, annex 2, which was provided to the Defence on 22
22 August 2014.

23 In the light of the facts and circumstances set forth in paragraphs 323-334 of the
24 document containing the charges, the Prosecutor alleges that Charles Blé Goudé
25 committed a number of crimes against humanity during the following five events:

1 Between the 16 and 19 of December 2010, in Abidjan, during and after the March of
2 Alassane Ouattara supporters towards the headquarters of the
3 Radiodiffusion-Télévision Ivoirienne, that is the RTI;
4 Between the 25th and 28 of February 2011, in the Yopougon commune, in Abidjan;
5 On 3 March 2011, during a demonstration of Ouattara supporters, in Abobo commune, in
6 Abidjan;
7 On 17 March 2011, in or near Abobo market, when a densely populated area came under
8 shelling, on or around 12 April 2011 in an attack on Yopougon, in Abidjan.

9 The Prosecutor alleges that Charles Blé Goudé is responsible in the alternative for a
10 number of crimes against humanity. His responsibility is established by virtue of the
11 following grounds as set forth in the Statute: Article 25(3)(a), indirect
12 co-perpetration; 25(3)(b), ordering, soliciting or inducing the commission of crime;
13 Article 25(3)(c), aiding, abetting or otherwise assisting in the commission of a crime;
14 and Article 53 in contribution.

15 The individual crimes are as follows: Murder constituting a crime against humanity,
16 more specifically, the murder of at least 184 persons in violation of Article 71(1)(a) of
17 the Statute during the events previously mentioned.

18 Count 2. Rape constituting a crime against humanity, more specifically the rape of at least 38
19 persons in violation of Article 71(1)(g) of the Statute during events previously mentioned
20 which occurred between the 16 and 19 of December 2010, as well as the events that occurred
21 on or about 12 of April 2011.

22 Count 3. Inhumane acts or attempted murder constituting crimes against humanity.
23 This count encompasses a number of -- as consisting of causing great suffering and
24 serious bodily harm to at least 126 persons in violation of Article 71(k) of the Statute.
25 This count also encompasses an attempted murder in violation of Articles 7(1)(a) and

1 25(3) of the Statute during the events previously mentioned.

2 Count 4. Persecution constituting a crime against humanity, persecution on political,
3 national, ethnic and religious grounds against at least 348 persons in violation of
4 Article 71(h) of the Statute during the five events previously mentioned.

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

6 Before inviting the parties and participants to address the Court, I would like to speak on the
7 purpose and the proceedings at this hearing.

8 I would like to remind you all that pursuant to Article 61(7) of the Statute, the purpose of this
9 hearing is to enable the Chamber to determine whether there is sufficient evidence to establish
10 substantial grounds to believe that Mr Charles Blé Goudé committed the crimes charged.

11 Consequently, I would like to underscore that this hearing is not a trial. This
12 Chamber is not expected to make a determination on the guilt or innocence of Mr Blé
13 Goudé, but simply to determine whether this case should be referred to a Trial
14 Chamber for trial.

15 During the hearing, the Prosecutor shall substantiate each of the charges with
16 sufficient evidence to enable confirmation. As for the Defence, it may challenge the
17 charges, challenge the evidence put forth by the Prosecutor and also present its own
18 evidence.

19 Pursuant to Article 68(3) of the Statute, the victims admitted to participate in these
20 proceedings may also present their views and concerns through the Common Legal
21 Representative, Madam Massidda of the OPVC (sic). In this matter, Madam
22 Massidda has also been granted leave to present -- or, to present her submissions to
23 the Court at all public sessions of the hearings of the confirmation charges as well as
24 to make a brief statement at the beginning of the hearings.

25 It is also possible for the common representative to address the Court with the leave

1 of the Chamber. Parties and participants shall make their statements and respect
2 allocated time pursuant to decision number 165 of 22 September 2014.

3 May I note that on Saturday, Defence filed a motion challenging the admissibility of
4 the matter arguing that it does not meet the threshold required for such proceedings.

5 The Chamber takes note of the motion and shall rule pursuant to Rule 52(2) of the
6 Rules.

7 This will be the opportunity to determine whether the Prosecutor and victims who
8 have also already communicated with the Chamber are allowed to make submissions
9 under 58(3) and 59(3) of the Rules.

10 Mindful of the date on which the submission challenging the admissibility was filed
11 and mindful of Rules 58 and 59 as mentioned, the Chamber is of the view that this
12 question may not be addressed during this hearing.

13 This hearing will, therefore, proceed pursuant to Rule 165 and shall therefore not
14 entertain the various submissions that were intended to be heard.

15 In any event, the Chamber shall make a ruling on the appropriate proceedings
16 relating to the admissibility challenge as soon as possible.

17 The Chamber is currently of the view that the oral submissions of the views and -- of
18 the parties and participants during the hearings of this week are likely to be sufficient
19 and is therefore open to receiving additional written submissions and, therefore,
20 additional time may not be necessary.

21 In any event, these issues may be argued on Thursday when during those oral observations
22 we may be able to determine whether additional time may be granted mindful of the written
23 submissions.

24 Allow me to remind you that this is a public hearing. Whenever confidential
25 evidence shall be referred to, please be careful not to disclose any information that

1 breaches the confidentiality rules. Exceptionally, some parts of the hearing may be
2 held in closed session or in private session.

3 I also point out that within the contest of written observations, pursuant to the Court calendar,
4 the parties have not mentioned any need to deal with matters pertaining to the regularity of
5 procedures that took place before this hearing under Rule 122 of the regulations. I, therefore,
6 am of the view that we can now move straight to the opening statements of the various
7 parties and participants at this juncture.

8 If all what I have said is clear, I will now call on the Prosecutor to address the Court
9 and, like other parties and participants, I urge you to speak slowly and to allow
10 enough pause for interpreters to do their job.

11 I'm sorry, I see Maître Kaufman is on his feet.

12 MR KAUFMAN: Pardon me, Madam President. There is one issue which I raised with the
13 legal officers before your Honours came into court this morning, it's an issue which will need
14 to be dealt with in private session. I don't know whether your Honours wish to hear it now
15 before the Prosecutor speaks, or after the Prosecutor makes his presentation and the legal
16 representative, but just before the first adjournment. I shall be very short. It's a matter of, I
17 would say, no more than one or two minutes.

18 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) I see you mention
19 that this is something you want to deal with in private session. I, therefore, suggest that we
20 take the Prosecutor's opening statement and the statement by the OPCV and then prior to the
21 break you might raise your concern. Is that fine?

22 MR MACDONALD: (Interpretation) Madam President, with your leave, we would like
23 ask our learned colleague to inform us of the content of what he's referring to. The
24 Prosecution is not aware of that preliminary request that has been filed.

25 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Let me reassure you

1 that this is more of a logistics or housekeeping matter that can be addressed subsequently.

2 MS BENSOUDA: (Interpretation) Madam President, your Honours, the case before us
3 today is about Mr Charles Blé Goudé, one of the emblematic figures linked to former
4 president Laurent Gbagbo.

5 Based on the evidence available to the Prosecution, it is the Prosecution's assertion that
6 following the presidential elections of 2010, Mr Blé Goudé resorted to violence against
7 civilians in a bid to maintain Mr Gbagbo in power. Mr Blé Goudé is, therefore, part of those
8 individuals who are responsible for the acts of violence and crimes committed during the
9 months following the elections.

10 At the end of November 2010, following peaceful elections, the people of Côte
11 d'Ivoire had the opportunity to rally and choose the person whom they wanted to be
12 at the helm of their country. But the Ivorian people were deprived of this progress.
13 In a few short days, Côte d'Ivoire swung from a country where ordinary citizens who
14 had previously been respectful of the law had massively voted in a president to
15 become a theatre for extreme violence that again plunged the country into chaos and
16 divided its citizens.

17 The Republic of Côte D'Ivoire in four months, rather, sank into violence over a
18 four-months period. Several Ivorians were struck by strategy -- tragedy, rather.
19 They came under attack, and hundreds of Ivorians became victims instead of voters.
20 Let me again underscore that this affair is not -- or, this case is not about who won or
21 lost the elections. It is not a political case. We are gathered here today because the
22 atrocities were committed on a large scale against the Ivorian people following the
23 elections.

24 As I mentioned during the confirmation of charges hearing for Mr Gbagbo, we are
25 gathered here to send a strong signal to those who intend to, or attempt to accede to

1 power, or to maintain themselves in power through violence and brutality.

2 They must and shall henceforth be answerable for their actions. (Speaks English)

3 Madam President, your Honours, with your indulgence, allow me to now continue
4 these opening remarks in English.

5 Today my office is present before you to demonstrate that Mr Blé Goudé bears
6 responsibility for some of the worst crimes committed in Côte d'Ivoire during the
7 post-election crisis of 2010-2011.

8 The Prosecution respectfully submits that Mr Blé Goudé, Mr Gbagbo and others of his inner
9 circle had joint control and authority over the pro-Gbagbo forces which comprised the
10 Defence and the Security Forces, the pro-Gbagbo youth, the militias and mercenaries that
11 committed crimes falling under the subject matter jurisdiction of this Court. The evidence
12 will establish this fact.

13 Indeed, the Prosecution's evidence will demonstrate that Mr Blé Goudé entered into a
14 common criminal plan together with Mr Gbagbo and other members of his inner circle and
15 members of the pro-Gbagbo forces. Their plan was to maintain Mr Gbagbo in power by all
16 means necessary, including through the commission of a widespread and systematic attack
17 against civilians perceived to support Mr Alassane Ouattara, the former prime minister of the
18 country and the candidate in the 2010 presidential elections.

19 At all material times, Mr Blé Goudé was the leader of the pro-Gbagbo youth and
20 exercised control and direct authority over the members of this group. The
21 pro-Gbagbo youth explicitly recognised him as their general. Mr Blé Goudé was
22 instrumental in ensuring that Mr Gbagbo and those pursuing their common plan
23 controlled the youth.

24 As the evidence will demonstrate, Mr Blé Goudé used his skills to mobilise the
25 pro-Gbagbo youth to ensure they remained committed to the cause of Mr Gbagbo at

1 any cost and prepared them for combat by legitimising the use of violence as politics
2 by other means.

3 In particular he used xenophobic rhetoric and incited hatred against civilians seen as
4 pro-Ouattara supporters. He instilled fear by identifying pro-Ouattara supporters as
5 an existential threat and induced the idea that the use of violence against them was a
6 matter of survival.

7 Mr Blé Goudé also played a key role in the co-ordination of the pro-Gbagbo youth
8 who were key pillars of the pro-Gbagbo forces that executed the common plan.

9 We will demonstrate that the pro-Gbagbo forces, including forces directly answering
10 to Blé Goudé, that they are responsible for the deaths, the rapes, serious injuries, and
11 arbitrary detention of countless citizens, civilians who were perceived to support Mr
12 Ouattara.

13 For this brutal criminal acts the Prosecution charges Mr Blé Goudé with crimes against
14 humanity and we will request the Chamber to commit him for trial, trial for these crimes.

15 The elections of 2010 should have had -- should have been an historic moment in Côte
16 d'Ivoire history where the people as sovereign would determine their country's
17 destiny and secure their future through free and fair elections. Instead, in a span of
18 only three days, the country was transformed from an exercise in democracy, with
19 more than 80 percent of the registered voters casting their ballot, to a situation of
20 division and hatred during which hundreds of civilians became victims of mass
21 violence.

22 The Prosecution is also assuming -- assuming its mandate by bringing this case
23 forward with the plight of the victims in mind. The countless victims who have
24 suffered from the 2010 election violence, including those who have lost loved ones, or
25 the countless women and girls who were subjected to rape and other forms of sexual

1 violence should not and will not be forgotten.

2 The raison d'être of this Court rests primarily on the long overdue recognition that
3 victims of mass crimes that shock the conscience of humanity deserve our utmost
4 attention and concern, that their suffering will not be in silence, but rather shared by
5 humanity as a whole, and that their yearning for justice will indeed be our collective
6 responsibility to realise.

7 The ICC cannot bring back the families, the family members lost to unspeakable
8 violence or make victims forget the agonising pain that they have endured. Yet
9 through a decisive blow by the righteous sword of blind justice, holding those who
10 commit mass crimes accountable, the Court can afford the victims an important
11 measure of justice and by so doing recognise their harrowing ordeals and in turn
12 allow for physical, emotional and societal scars to slowly heal.

13 By charging Mr Blé Goudé for the crimes committed in relation to the 2010 election
14 violence, the Prosecution hopes to contribute to these aims through its principled and
15 victims-centred approach.

16 In this regard, Madam President, your Honours, I would like to state the following for the
17 record: The Prosecution's commitment is unwavering when it comes to ensuring that those
18 most responsible for the violence unleashed on civilians in Côte d'Ivoire in connection with
19 the 2010 violence are brought to justice.

20 Our investigations in the country are not over. These investigations do take time,
21 and I encourage everyone to be patient and reassure everyone that justice will be
22 done on all sides. That is what this office's mandate requires and that is what the
23 victims deserve.

24 Madam President, your Honours, in the present case against Mr Blé Goudé, we have selected
25 five incidents that are representative of the crimes committed by the pro-Gbagbo forces

1 during the post-election violence and the individual criminal responsibility of Mr Charles Blé
2 Goudé.

3 During our presentations we will summarise our core evidence regarding each of the
4 crimes charged. The evidence will demonstrate that Mr Blé Goudé is ultimately
5 criminally responsible for the killings of at least 184 persons, the rapes of at least 38
6 women and girls, the infliction of serious bodily injury and suffering on at least 126
7 persons and for committing the crime of persecution against at least 348 victims.

8 These are serious crimes that must be met with the full force of the law.

9 Let me emphasise once again: The charges that will be the focus of these
10 proceedings relate only to the acts and the individual criminal responsibility of Mr Blé
11 Goudé. These charges are not brought against the people of Côte d'Ivoire nor
12 against anyone -- against one or other segment of its population. These charges are
13 not brought against any political, national, ethnic or religious group within the
14 country. They are brought against an individual, an individual whose conduct the
15 Prosecution will show led to the commission of crimes that victimised the entire
16 population of Côte d'Ivoire.

17 ICC proceedings, Madam President, are replete with due process guarantees that will
18 ensure fairness and full respect for the rights of Mr Blé Goudé as a defendant under
19 the Rome Statute legal framework. At the end of the confirmation hearing, it will be
20 solely for you, the Honourable Judges of this Chamber, to decide whether to commit
21 Mr Blé Goudé to trial based on the evidence before you.

22 Thank you, Madam President, your Honours. And with your leave I will now ask
23 my colleague, Mr Eric MacDonald, to summarise the charges and the foundation of
24 the Prosecution's case against Mr Blé Goudé.

25 I thank you, Madam President.

1 MR MACDONALD: (Interpretation) Your Honours, this morning when I woke up, I
2 decided to try to take on my most nasal voice, but I apologise to the Chamber. I'm suffering
3 from sinusitis and this has been the case for several weeks now, but I will do -- I will try my
4 best to provide a proper presentation and summarise the evidence that the OTP wishes to
5 present.

6 As the Prosecutor just mentioned, Blé Goudé was a key member of the inner circle of
7 Mr Gbagbo. The facts of this case are for the most part the same as the Gbagbo case
8 or at the very least extremely closely linked to that particular case.

9 It is important to remember the backdrop against these two -- against which these two cases
10 unfolded. As soon as Laurent Gbagbo became president of Côte d'Ivoire in October 2000, his
11 goal was to stay in power by putting down or violently attacking anyone who challenged his
12 authority. When faced with the partition of the country in September 2002 and given that
13 the perspectives of an inclusive election seemed inevitable in the coming years, Mr Gbagbo
14 and his inner circle came together and developed and implemented a plan to maintain Mr
15 Gbagbo as president using any method at their disposal and including the crimes that were
16 committed.

17 At the very latest at the time of the second round of elections in 27 November 2010,
18 this plan had been developed and perfected to include a policy that included
19 widespread and systematic attacks on civilians deemed to be supporters of Mr
20 Ouattara.

21 This policy was a true organisational or government policy. Mr Gbagbo and the members of
22 his inner circle, Mr Blé Goudé being a key part of that inner circle, could make use of people
23 who were faithful to them, who were in key positions within the government and within the
24 defence and security forces, and particularly within the units that had the most resources and
25 had the most number of pro-Gbagbo staff.

1 Mr Gbagbo and his inner circle also strengthened the defence and security forces by
2 systematically recruiting youth who were supporters of Gbagbo as well as militiamen
3 and mercenaries, putting them within the very chain of command.
4 Furthermore, they coordinated the activities of the pro-Gbagbo youth and the
5 militiamen to ensure that they worked hand in glove with the defence and security
6 forces, the FDS. Mr Blé Goudé, Mr Gbagbo and the other members of the inner circle
7 also made sure that forces faithful to them were properly trained, funded and armed.
8 After the second round of voting in the presidential election, Mr Ouattara and Mr
9 Gbagbo both said that they had been elected president of Côte d'Ivoire. Immediately
10 thousands of Mr Ouattara's supporters gathered together and called upon Mr Gbagbo
11 to resign. The international community, including the United Nations, the African
12 Union, ECOWAS and the union -- the European Union recognised Mr Ouattara as the
13 new duly elected president of Côte d'Ivoire and called upon Mr Gbagbo to step down.
14 Your Honours, while international mediation was going on, led mostly by the African
15 Union, Mr Gbagbo refused to step down and continued to exercise his duties as de
16 facto president and commander in chief of the armed forces.
17 Mr Gbagbo and his inner circle mobilised the forces that were loyal to them and
18 ordered them to implement the policy. In more specific terms, they ordered them to
19 attack civilians perceived to be Mr Ouattara's supporters.
20 During the entire period of post-election violence, Mr Gbagbo and Mr Blé Goudé and the
21 inner circle of Mr Gbagbo coordinated the implementation of the policy. They frequently
22 held meetings that included commanders of the FDS, cabinet members and their political
23 allies. They were informed of what was going on in the field and they endorsed the activities
24 conducted by pro-Gbagbo forces. What's more, they even planned and supervised such
25 activities. Mr Blé Goudé was at the very heart of the decisions made to carry out criminal

1 activities against civilians.

2 Mr Blé Goudé also played an essential role in co-ordination of pro-Gbagbo youth.

3 These youth were a key part of the pro-Gbagbo forces that conducted the common
4 plan.

5 Thanks to his charisma and his abilities as a speaker, Mr Blé Goudé was able to galvanise
6 thousands of young people just using rhetoric. He used hate speech to legitimise the use of
7 violence as he mobilised the pro-Gbagbo youth and prepared them for fighting.

8 As the Prosecutor stressed, Blé Goudé whipped up hatred using xenophobic rhetoric.

9 He told these young people that all the civilians perceived as pro-Ouattara supporters
10 were foreigners and that these foreigners were going to attack real Ivorians and that
11 they were a threat.

12 Thus he convinced the youth that using violence was a matter of survival, but in
13 actual fact, the victims of these crimes were ordinary civilians going about their
14 day-to-day activities or merely exercising their civic rights, in particular their right to
15 demonstrate.

16 Your Honours, the Prosecution's evidence will show that on 27 November 2010 when
17 the second round of voting began in the presidential election to 8 May 2011, the
18 coordinated implementation of the policy led to a systematic and widespread attack
19 by pro-Gbagbo forces, attacks on civilian who were thought to be Ouattara
20 supporters.

21 During these attacks pro-Gbagbo forces made excessive and brutal use of force
22 against unarmed civilians, in particular they used heavy weaponry in very densely
23 settled neighbourhoods to demonstrate pro-Ouattara demonstrators or to terrorise the
24 civilian population suspected of being supporters of Mr Ouattara.

25 Pro Gbagbo forces targeted residential areas of Abidjan that were thought to be

1 Ouattara strongholds. Furthermore, these forces attacked a number of ethnic,
2 religious and national groups assuming that these people were supporters of Mr
3 Ouattara. By relying upon these theories of group loyalty, the pro-Gbagbo forces
4 conducted ID checks at roadblocks that had set up illegally and attacked people
5 whose names or other distinctive features linked them to particular groups. What's
6 more, they attacked neighbourhoods and religious institutions that were usually
7 attended by Ouattara supporters.

8 The crimes that Mr Blé Goudé have been -- has been charged with were committed by
9 pro-Gbagbo forces as part of these attacks and in particular during five events that I will
10 mention, four of which overlap with the Gbagbo case.

11 First of all, 16 December 2010, partisans of Mr Ouattara, civilians marched towards
12 the headquarters of RTI, the local broadcaster -- correction, the national broadcaster in
13 Abidjan. The pro-Gbagbo forces cracked down on the demonstration violently even
14 though there had been no provocation. The following days up until 19
15 December 2010 pro-Gbagbo forces launched violent attacks against civilians in
16 various neighbourhoods of Abidjan. Once the wave of attacks was over,
17 pro-Gbagbo forces had killed at least 45 people, wounded at least 50 and raped at
18 least 16 women and young girls. In each and every case these were civilian victims.

19 The second event occurred between 25 and 28 February 2011. After receiving orders from
20 Blé Goudé, pro-Gbagbo forces attacked neighbourhoods that were perceived to be Ouattara
21 strongholds, Yopougon, de Lem and Doukouré. They beat people, killed people, burnt
22 people alive in the streets. They burnt down a mosque and killed the watchman there.
23 Young Gbagbo supporters and militiamen also set up roadblocks where civilians perceived to
24 be Ouattara supporters were brutally attacked, at least 24 people were killed or burnt alive
25 and another seven injured.

1 Thirdly, the third incident occurred during a march that was held in Abobo on 3
2 March 2011. Gbagbo forces killed seven women and severely injured many others
3 when they opened fire without any advance warning on a peaceful march of more
4 than 3,000 women, women who were marching calling upon Mr Gbagbo to step
5 down -- to step down.

6 Fourth event, 17 March 2011, Gbagbo forces based at camp Commando and Abobo
7 engaged in mortar fire on a heavily populated civilian zone where a local market was
8 located as well as a mosque and residential homes. During that attack 40 civilians
9 were killed and at least 60 injured.

10 The next event was on 12 April. Gbagbo forces attacked and killed at least 68
11 civilians and raped 22 women at least. At least two civilians were injured as well.

12 As the court officer read out, Mr Blé Goudé has been charged in the alternative under
13 Article 25(3)(a), (b), (c) and (d) of the following crimes: The murder of at least 184
14 people, the rape of 38 women and young girls and serious -- causing serious bodily
15 harm and in severe suffering on at least 126 people or, secondarily, Mr Blé Goudé
16 must be held accountable for the crime against humanity of persecution on political,
17 national, ethnic or religious grounds in the case of at least 348 victims.

18 Your Honours, these are in the main the charges that have been laid by the
19 Prosecution and this is the very foundation of our argument.

20 Today and tomorrow we will provide more information on the 2,425 individual items
21 of evidence that we have gathered to show Mr Blé Goudé's criminal liability. I
22 would like to briefly mention how we will be structuring our presentation and which
23 topics we will be covering.

24 First of all, I will be saying a few words -- after the opening statements, I will be
25 saying a few words about Mr Blé Goudé's rise to the very top of the power structure,

1 so to speak, within the inner circle. Then my colleague, Ms Berdennikova will
2 describe the crimes in Yopougon neighbourhood. Ms Huck will then summarise the
3 evidence relating to Mr Blé Goudé's involvement in the four other events.
4 Given the limited time available, we will not speak in detail about the events that led
5 to the commission of the crimes. Similarly, owing to a lack of time, we will not be
6 focusing unduly upon the generalised and systematic nature of the attack on the
7 civilian population. However, as the Chamber may have noticed, we have done so
8 in great detail in our document containing the charges.
9 Mr Gallmetzer will be giving a presentation on the various modes of responsibility and how
10 the events described in part 9 of our DCC apply to the modes of responsibility.
11 Mr Stang will speak to Mr Blé Goudé's essential contribution to the common plan and
12 his co-ordination, his role as a coordinator within the inner circle.
13 Ms Chubin and Ms Varga will explain how Mr Blé Goudé encouraged Gbagbo youth to hate
14 others and to engage in xenophobia and how he equated the use of violence to survival.
15 Finally, we will show how Mr Blé Goudé's orders led to the commission of violent
16 crimes against civilians perceived as Ouattara supporters.
17 At the end of these confirmation of charges hearings, the Prosecution will be asking the
18 Chamber to conclude that substantive grounds do exist to believe that the crimes were
19 committed. We will then ask the Chamber to confirm that Mr Blé Goudé was responsible
20 and that he should be held accountable for what he has done. And finally, we will be asking
21 that the Chamber refer the case to trial.
22 I apologise if I've exceeded my time limit, but I have now concluded. Thank you.
23 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you. I think
24 that the nasal voice that you mentioned was really not a problem and perhaps even helped
25 with the French language.

1 I will now ask Ms Paolina Massidda to address the Court.

2 MS MASSIDDA: (Interpretation) Thank you, your Honour.

3 Your Honours, 468 victims have been authorised to take part in these proceedings. A higher
4 number than the number of victims in the Gbagbo case, but still minimal in comparison to the
5 extent of the crimes committed after the elections. These victims were men, women and
6 children who directly suffered because of the tragic events that occurred in Côte d'Ivoire
7 between 27 November 2010 and 8 May 2011.

8 Some of these victims were subjected to physical violence, others to sexual violence. Some
9 lost their children, their brothers, their sisters, sometimes several family members. They lost
10 their houses, their possessions were looted, their homes torched. Entire communities had to
11 go into hiding fearing arrest only because of their surname, their country of origin or the
12 neighbourhood that they were living in.

13 Regrettably, these events are not unknown to this Chamber, because on 12 June last, Pre-Trial
14 Chamber I issued its decision confirming the charges against Mr Laurent Gbagbo for the
15 crimes of murder, rape, inhumane treatment and persecution in Côte d'Ivoire between 16
16 December 2010 and 12 April 2011.

17 Barely three months ago this Chamber ruled on the same facts that form the
18 foundation for the charges against Charles Blé Goudé. Pre-Trial Chamber I ruled
19 that there were substantial grounds to believe that the former president of Côte
20 d'Ivoire committed widespread and systematic crimes against the civilian population
21 only in order to cling to power.

22 But the former president was not able to do it all by himself. Such an immense
23 undertaking could not have been done by a single and solitary person. In actual fact,
24 the plan was implemented thanks to Mr Gbagbo's inner circle, and Mr Blé Goudé was
25 an influential, devoted and loyal member of this inner circle.

1 Mr Charles Blé Goudé was minister of youth employment at the time, but above all
2 he was the leader of the young patriots and Mr Gbagbo's spokesperson. He played
3 an essential role in the implementation of the common plan. The schemes and the
4 intrigues of the young patriots were an essential part of the common plan.

5 The victims have provided us with accounts of two kinds of violence basically. First
6 of all, looting and multiple roadblocks that were set up at the neighbourhood
7 surveillance committees. The streets -- or, rather, the primary method of holding to
8 power was action in the streets and who would be better than this general of the
9 street to implement an effective system that had run smoothly for years, a system that
10 was simple, easy to execute.

11 The roadblocks and the looting in Abidjan during the post-election crisis were used and their
12 use must be seen against a particular backdrop, namely, the political battle for the presidency.

13 On 2 December 2010 the independent Electoral Commission declared Alassane Ouattara had
14 won the election with 54.1 percent of votes cast. Despite this decision, Laurent Gbagbo
15 swore the oath of office and kept control of the national television network, the government
16 headquarters and the various government ministries.

17 Gbagbo's attempts to retain power illegitimately were denounced by the opposition
18 and by the international community. There were many diplomatic attempts to
19 persuade Laurent Gbagbo to yield power, but in vain. The role played by the young
20 patriots in the wave of violence in post-electoral crisis led to the commission of crimes
21 against the civilian population.

22 These civilians were perceived as foreigners living in Côte d'Ivoire, and all of this was
23 the continuation of an entire decade of crisis that -- and this crisis really was based on
24 the whole concept of Ivorianess. There was really nothing new or surprising about
25 the conflict between the Gbagbo forces and the forces of his opponent, nothing new.

1 Although the roadblocks and the looting seemed to be spontaneous, in actual fact
2 they were set up after planning. Everything had been well-planned out, carefully
3 thought out and rapidly implemented. This can be seen by the large number of
4 roadblocks, the great deal of looting and all the violence that occurred only hours
5 after the General Assembly of the Patriotic Galaxy on the 24 February at Yopougon.
6 Much has been made of this event. And it was Blé Goudé who chaired this assembly. He
7 called upon the young patriots to form a human security cordon around the president,
8 President Gbagbo and encouraged them to set up committees.
9 Not only was this to block -- correction. This was also intended to drive foreigners
10 out of Abidjan and the rest of the country. I will quote from Blé Goudé's quote -- his
11 speech:
12 "I call upon all young people in Yopougon, Port-Bouët, Koumassi, Adjamé, Cocody,
13 Treichville, from the entire district of Abidjan, I call upon all the youth of Côte d'Ivoire to
14 organise themselves, to form committees to keep ONUCI from travelling throughout the
15 country."
16 On the 25th he said, "Check everyone going in and out of your neighbourhoods and
17 speak out against all the foreigners who are living in your neighbourhoods."
18 After receiving these orders from the leader of the Young Patriots, roadblocks sprang
19 up within all the strongholds of Laurent Gbagbo, particularly in student
20 neighbourhoods such as Cocody, Riviera and Abobo. They also were set up in
21 Yopougon neighbourhood which became a huge sieve, so to speak. Roadblocks
22 were set up using sandbags and debris from market stalls. Without any exception,
23 vehicles were searched from the trunk to the glovebox. Passengers had to get out at
24 each checkpoint to be frisked. Women had their purses searched, ID papers were
25 checked. Foreigners from various neighbourhoods were questioned very harshly.

1 This sudden involvement of youth in security matters was seen to varying degrees
2 within the neighbourhoods of Abidjan. For example, young people were very much
3 present at roadblocks in Yopougon and in other neighbourhoods of Abidjan. It
4 cannot be TKAOE side that, if we look beyond the apparent disorder, the looting was
5 actually a collective action that was coordinated, planned, politically -- political and
6 oriented.

7 Madam President, your Honours, this was a sad case of déjà vu because this modus
8 operandi already characterised the actions of the young patriots in 2002, 2003, 2004,
9 2006 and 2007.

10 The victims also state that during the events in Yopougon, one could read in front of
11 the looted properties "Côte d'Ivoire for Ivorians". The shops at check sales points
12 and firewood markets in Yopougon were the main targets of violence and lootings of
13 the young patriots. And there was one common denominator of these victims.

14 These were areas controlled by immigrants, Béninois, Burkinabés, Mauritanien,
15 Nigerians and others considered as supporters of Alassane Ouattara.

16 The occupation and destruction of small businesses was such that the victims testify to the
17 practical impossibility of acquiring consumer products in the area.

18 These people who were victims came from practically the same ethnic groups. They
19 were taxi drivers, wôrô wôrô drivers, proprietors of minibuses and proprietors of
20 businesses in the area of Yopougon and others. Many of them were tortured, beaten,
21 burnt alive. Their shops were looted and sprayed with petrol and burnt.

22 This specific criterion of targeting defined around the ethnic group an area of activity
23 necessitates, however, that one should give a brief background. Ever since the
24 colonial period, the country was an area for immigration for many people from West
25 Africa who came to work in the plantations set up by President Houphouët-Boigny.

1 There was also internal movement from the north to the south of the country.
2 This policy largely contributed to the Ivorian economic miracle, but it also brought
3 about a new structuring of the society, organised as a real ethnic and linguistic mosaic.
4 And to this multiculturalism there was also a religious split.
5 According to the last national census in 1998, Côte d'Ivoire was made up of 39 percent
6 Muslims, 30 percent Christians, and 12 percent animists. The Mandés and the Gurs,
7 who are generally Muslims, have occupied a very important place in the economic
8 activities of the country. For a long time, particularly in trade and transport. They
9 originate from the north, and there are many of them in the south, particularly in
10 Abidjan, where most of the economic activities take place.
11 The populations of the north of Côte d'Ivoire, for understandable reasons, have names
12 that are identical to those of immigrants from neighbouring countries, Burkina Faso,
13 Mali and Bénin. As a result, they were systematically suspicious of being citizens of
14 those countries rather than Côte d'Ivoire. So the Ivorians of the north were simply
15 taken together with the foreign workers coming from Sahel.
16 One, therefore, understands why in his famous speech on the 24 February 2011, Charles Blé
17 Goudé called the young patriots, do not fall into the trap of civil war but, at the same time, he
18 called on them to identify and chased out the foreigners.
19 The 4 million Burkinabés, Ghanaians, Malians have been living in Côte d'Ivoire for a
20 long time, but Ivorians of the north who have identical names are not foreigners.
21 They were described by Blé Goudé as foreigners occupying their land and occupying
22 their positions.
23 The return to the political scene of Alassane Ouattara, who won the election against
24 Laurent Gbagbo transformed the extremist actions of Blé Goudé. Alassane Ouattara,
25 who originated from the north of the country, and went to school in Burkina Faso as

1 well as occupied positions in that country, his candidature was rejected at the
2 presidential elections during the time of Henri Konan Bédié.
3 Alassane Ouattara embodies perfectly the idea with which the young patriots were
4 indoctrinated by Blé Goudé, that is, the foreigner coming from Burkina Faso who usurped
5 power, who wants to eliminate Gbagbo and occupy the land of the Ivorians.
6 Given that the stage had been set, Blé Goudé triggered the violence in the 27th Report of
7 Secretary General of ONUCI it is written, and I quote:
8 "After Blé Goudé called on the young patriots in February to identify foreigners in Abidjan
9 and throughout the country, a number of attacks targeting nationals of West African countries
10 were reported with some abducted or burnt alive and foreign born -- foreign-owned
11 businesses in Abidjan vandalised and looted."
12 The report continues:
13 "The homes of political opponents of Mr Gbagbo in Abidjan had been marked to identify their
14 ethnicity."
15 These have included more than 434 killings since mid-December. At least 520
16 arbitrary arrests and detentions, some involving torture and at least 72 cases of
17 disappearance, cases of extrajudicial and summary killings, rape, torture and other
18 cruel, inhumane and degrading treatment enforced disappearance, arbitrary arrest
19 and detention attacks against religious buildings." End of quote.
20 Madam President, your Honours, the number of victims is much higher than the
21 number advanced by the secretary general in the report that I have mentioned, which
22 was published only on 30 March 2011, when the crisis was still ongoing and before
23 Mr Gbagbo was arrested. The figure is much higher than what the Prosecutor says
24 in the DCC. The events that we are dealing with today led to hundreds of deaths
25 and injured, as well as hundreds of women who were raped.

1 Madam President, your Honours, the systematic nature of the attacks has been
2 demonstrated by the events and demonstrated also by the accounts of the victims. It
3 is true that the widespread nature of the violence is acknowledged by the Prosecution
4 in the DCC, and it includes an additional event to that in the DCC of Mr Gbagbo, and
5 that is the attack of Yopougon between 25 and 28 February 2011. But this document
6 is still partial when it comes to victimisation, the victims are still waiting for justice to
7 be done.

8 They are satisfied by the fact that a major step has been taken with the confirmation of
9 charges against Mr Laurent Gbagbo, and now they are waiting that the role played by
10 Mr Blé Goudé in those events should also be recognised.

11 The victims consider that the truth of the events during the post-electoral crisis will
12 not be completely revealed and their stories will not be completely known until the
13 role of the former general of the street has been clearly explained and exposed.

14 The victims are waiting for the truth to be told on the violence, the post-electoral
15 violence and that their suffering should end, but also that these events should not be
16 repeated in the history of Côte d'Ivoire. Thank you.

17 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) I thank you.

18 You wanted to raise an issue, but I think it has been resolved in the meantime?

19 MR KAUFMAN: Madam President, I would in any event request to raise the matter. If I
20 may just consult with my client for one second?

21 (Pause in proceedings)

22 MR KAUFMAN: My client feels that the matter has now been resolved after reading the
23 message that was passed, but I don't want Mr MacDonald to think that there is anything
24 secret going on here. I see he's occupied at the moment, but if I may just in private session
25 explain to Mr MacDonald so he knows what exactly the question was all about.

1 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Let us go briefly into
2 private session so that that it should no longer be a mystery.

3 (Private session at 10.42 a.m.)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Open session at 10.42 a.m.)

11 THE COURT OFFICER: (Interpretation) We are in open session, your Honour.

12 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Mr Kaufman, we will
13 take the break at 11 a.m, so do you wish to start now or maybe we take the break and come
14 back after 30 minutes. Will that be better?

15 MR KAUFMAN: My client instructs me to start now and I'm very happy to start now.

16 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) But we will have to
17 stop at 11 o'clock for the break. Thank you.

18 MR KAUFMAN: Madam President, your Honours, let me take you back, if I may, to 14
19 December 2010 at the Golf Hotel in Abidjan.

20 The cocktail bar had run dry, the room service had ceased, and the last of the brave tourists
21 had left, yet in these rather seedy surroundings, champagne corks were popping. Mr
22 Alassane Ouattara, Mr Guillaume sorrow and other assorted cronies were celebrating, not a
23 massive victory as Ms Bensouda says, but a highly disputed and, some would say, a
24 somewhat decidedly dubious election victory.

25 And when the party died down, Mr Ouattara took pen to paper and started to manage the

1 affairs of state. And one of the first acts that he did was to write a letter.
2 On 14 December, he wrote a letter to the former Prosecutor of the International Criminal
3 Court, Mr Luis Moreno-Ocampo. And in this letter Mr Ouattara reminded the former
4 Prosecutor of the Article 12(3) declaration which his bitter rival and arch nemesis Mr Laurent
5 Gbagbo had made seven years earlier.
6 He didn't make such a pronouncement, I would suggest, for any true or altruistic
7 purpose. Not for the victims, Miss Massidda, and certainly not for justice in what
8 has now become time honoured tradition in the practise of African state referral. He
9 did it purely and simply in order to dispose of a political rival.
10 Nor was it surprising that the former Prosecutor, never one to miss an opportunity,
11 exactly one week later came out with a little press release of his own, and it is the
12 content of this press release which has influenced, or should I say has tainted the
13 whole course of the investigation in this case.
14 Let me quote from it. "First let me be clear," said Mr Ocampo, "I have not yet opened
15 an investigation. But, if serious crimes under my jurisdiction are committed, I will
16 do so. For instance, if as a consequence of Mr Charles Blé Goudé's speeches there is
17 massive violence, he could be prosecuted." End of quote.
18 Now, these comments were quite unprecedented even by Mr Ocampo's standards.
19 Of course, my learned colleague sitting opposite will say, well, what a wise man he
20 was, and they will credit him with almost prophetic insight. I would suggest the
21 complete opposite.
22 As you will note, none of the incidents with which Mr Blé Goudé is presently charged were
23 connected even remotely with a speech that he had made before 21 December 2010 when Mr
24 Ocampo made his press release.
25 This just confirms my suspicion that Mr Ocampo had targeted Mr Blé Goudé way

1 before the facts relevant to this case had even materialised. That is not the way I
2 would have expected a Prosecutor to operate.

3 The sort of Prosecutor with which I'm familiar would have told the world that if serious
4 crimes would be committed in Côte d'Ivoire, he would seek to initiate an investigation to
5 determine those who were responsible. He would not say, in just as many words, I have
6 decided that Charles Blé Goudé is a menace to society, so I'm going to give him a warning
7 before I prosecute him.

8 So why was Mr Blé Goudé targeted? Well, let's face it, Mr Blé Goudé was quite a
9 celebrity. Indeed, his larger-than-life public persona, an image created by the media,
10 preceded him. With magnetic charisma, gifted rhetoric and popular appeal, he
11 commanded the respect of a generation of Ivorian youth. His loyalty to President
12 Laurent Gbagbo is a matter of public record as is his dedication to the people of Côte
13 d'Ivoire.

14 But the Prosecution has confused pride for arrogance, patriotism for jingoism and
15 love of one's country for hatred of foreigners.

16 Over the next few days you will hear members of the Prosecution contort themselves
17 in an attempt to convince you that some of the speeches that Mr Blé Goudé made
18 were designed to promote violence or were indicative of a common criminal plan.
19 They will twist and manipulate expressions with the most innocuous of meanings
20 into vicious expressions of criminal intent.

21 Let me give you just one example, "il n'y a rien en face c'est mais." Now, did Charles
22 Blé Goudé invent this expression? No. He most certainly did not. What does it
23 mean? Well, you will hear it on the terraces of the local football club in Abidjan, and
24 believe you me, it's a far sight more polite than some of the abuse you will hear at
25 Spurs or Arsenal on a Saturday afternoon. It's an expression of confidence in the

1 face of opposition. And so what if it was adopted en masse by the supporters of
2 Laurent Gbagbo. What self-respecting political campaign does not have a catchy
3 slogan?

4 Now, I'm not going to deny that Mr Blé Goudé played a central role in the campaign
5 for the re-election of Laurent Gbagbo. I will not deny that he fought for public

6 opinion thereafter by challenging the election results. I will not deny that Mr Blé

7 Goudé exploited his popularity and charisma in order to perform these roles with

8 maximum potential. Nor will I deny that he mobilised the youth through large

9 rallies which he organised at various intervals throughout the crisis. Nevertheless,

10 there is a stark difference between legitimate public activism and criminal conduct.

11 And if Mr Blé Goudé had true criminal intent, which he didn't, he would hardly

12 express it in public knowing full well that every word that he uttered would be

13 broadcast on television, circulated on the Internet and recorded for posterity, both for

14 the benefit of the historians of Côte d'Ivoire and for the colleagues of Ms Bensouda.

15 Indeed, the Prosecution, in my submission, doesn't have a particularly coherent

16 stance on this issue. For example, at a certain point in a document containing the

17 charges, paragraph 262, it would appear that the Prosecution is arguing that Mr Blé

18 Goudé spoke in code when addressing the general public as it were to hide his

19 criminal intent. Elsewhere, the Prosecution argues that the incitement to violence

20 was explicit.

21 Now, if there is anything that can be said about Mr Blé Goudé, it's that he doesn't mince his

22 words. He speaks his mind in the most forthright and, dare I say it, aggressive fashion, but

23 even if the tone of his voice offends a European sense of propriety, a European sensibilities, it

24 does not mean that he's a criminal.

25 Even if the content of his speech may be interpreted as xenophobic, which it certainly

1 does not, that would not be illegal unless there was an explicit encouragement to
2 commit criminal offences.

3 And do not be mistaken, as much as he denies it strenuously, Mr Blé Goudé is not
4 charged with preaching racial hatred. That is not an offence under international
5 criminal law. He's charged with crimes against humanity which were directed at
6 pro-Ouattara supporters, a nebulous category of the civil population which included
7 people of all religions, all origins and all beliefs. And because the Prosecution wants
8 to portray Mr Blé Goudé as the vicious mosque-burning Islamophobe suggested by
9 the document containing the charges, the Prosecution has invented a strangely novel
10 concept, a targeted individual, specifically crafted, designer-made for the purposes of
11 this confirmation hearing, the so-called perceived Ouattara supporter.

12 But perceived I ask you in the minds of whom? Certainly not in the mind of my
13 client because, as we will prove and as the Prosecutor's own evidence shows, Mr Blé
14 Goudé's friends and political allies were northerners and Muslims. Certain notable
15 leaders of the so-called galaxie patriotique were northerners and Muslims, yet how is
16 this perceived Ouattara supporter defined?

17 Well, the answer is quite simple. He's defined by those attributes which the Prosecutor
18 believed that a pro-Ouattara supporter ought to possess, or rather what she wanted a
19 pro-Ouattara supporter to possess so that she could have charged someone with the offences
20 of religious hatred.

21 But the Ivorian crisis was never about religious differences, and it is a shame that the
22 Prosecution is trying to introduce such a notion into the historical record.

23 So don't be fooled. If the Prosecutor felt she had the evidence to suggest that Mr Blé
24 Goudé targeted Muslims out of all of those 2,425 pieces of evidence she would have
25 charged him with an attack on the Muslim population. The law would have

1 permitted her to do so. She did not do so because she knows that Mr Blé Goudé is
2 completely innocent of such a charge.

3 Returning to the freedom of speech and expression. Now, your Honours don't need
4 me to remind you that it is one of the most fundamentally important rights in
5 defining characteristics of a democratic society. Calling for the removal of
6 occupying forces and ONUCI, urging people to block the paths of tanks and
7 armoured personnel carriers, forming human chains around buildings, are these not
8 the tools for making legitimate civil protest, more so during times of conflict and
9 regime change? If not, then why did the world so heartily cheer the students of
10 Tunisia and Egypt during the so-called Arab spring? Indeed, what is the point of the
11 right to free speech if there is no one brave enough to exercise it?

12 And what is the point of the right to free expression if there are not people like Mr Blé
13 Goudé who will gladly and selflessly suffer the hostilities of others to make their
14 point? And what is the point of that other basic human right, the freedom of
15 assembly, whether it be by way of meetings, parlements, agoras or mass rallies, if you
16 cannot come together with others in order to share your views?

17 So if you wish to find fault in Mr Blé Goudé, your Honours, please be sure that you
18 do it for the right reason. Find fault in him not because he mobilised the youth into
19 civil activism. Find fault in him not because he encouraged others to exercise their
20 democratic rights. Find fault in him not because he embarrassed and
21 inconvenienced those seeking to exercise neo-colonialist interests over a great African
22 country. Find fault in Mr Blé Goudé only if you determine that he acted with
23 criminal intent.

24 And if you adopt this latter strategy, you will without a doubt dismiss the charges
25 against Mr Blé Goudé because once you strip away the hyperbole and the

1 flamboyancy of his rhetoric, you are left with one simple and legitimate message,
2 Laurent Gbagbo was the true victor of the elections and the violent attempts to
3 remove him should be resisted lawfully and peacefully.

4 Your Honours, the Prosecution really does not know how to pigeonhole Mr Blé
5 Goudé. Think have literally thrown the book at him, charging him with every mode
6 of liability feasible. According to the charging document, Mr Blé Goudé was an
7 architect, an instigator, a solicitor, an encourager, an aider and abettor and even a
8 contributor before and, as it appears, after the fact.

9 Of course the Prosecutor will state that the jurisprudence of the Court permits her to
10 charge alternative and concurrent modes of liability. And she's right. But that's not
11 the point. As far as I'm concerned, this should more properly be the prerogative of
12 the Judges. But when the Prosecution adopts such a charging strategy, in my
13 opinion, it speaks to the weakness of its own case. It speaks to an unfocused
14 prosecution. It speaks to a policy of mud-slinging in the anticipation that if enough
15 mud is thrown, then some of it will stick.

16 Why else has the Prosecutor spent so much time in a document containing the
17 charges elaborating Mr Blé Goudé's antecedents and political activity from 2002 up
18 until 2010, a document which contains 240 pages and 2,000 footnotes?

19 Person of conduct the Prosecutor will say. Similar fact evidence of criminal intent
20 she might add. But for what is Mr Blé Goudé facing justice? For what he did in the
21 past, or for what he allegedly did between 28 November 2010 and 11 April 2011.

22 I think that's probably a good time to stop, Madam President.

23 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you. We will
24 take the 30-minute break now and resume at 11.30 a.m.

25 (Recess taken at 10.59 a.m.)

1 (Upon resuming in open session at 11.32 a.m.)

2 THE COURT USHER: All rise.

3 Please be seated.

4 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Mr Kaufman, please
5 proceed.

6 MR KAUFMAN: Thank you, Madam President.

7 So before the adjournment, I was urging your Honours to consider not what Mr Blé
8 Goudé did in the past, but what he allegedly did between 28 November 2010 and 11
9 April, 12 April 2011. And if what he did in the past is relevant to the crimes with
10 which he's now charged, I ask you, what credible evidence does the Prosecution have
11 concerning these antecedents?

12 All they have in my submission are hearsay reports prepared by various biased
13 NGOs, media cuttings and, of course, the intelligence assessments of a few biased
14 members of the United Nations Security Council, who succeeded in getting Mr Blé
15 Goudé listed on the sanctions list in 2006.

16 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) It would appear that
17 we have some logistical problems. Please hold on a second so that we deal with this. Is
18 everything okay now? Thank you very much.

19 MR KAUFMAN: Your Honours, in my submission, the weakness of the Prosecution case
20 will become even more apparent when we analyse the discrete charges themselves.
21 Mr Blé Goudé is accused of the despicable crimes of rape and persecution. Now,
22 your Honours are surely aware that before you condemn Mr Blé Goudé, the Rome
23 Statute will require you to find that he acted both with knowledge and intent. And
24 as much as one can flex and play with the requirements of presumed knowledge, I
25 ask you very sincerely what evidence the Prosecutor has to suggest that Mr Blé

1 Goudé wanted innocent people to be murdered or defenceless women to be raped?
2 She has absolutely nothing. The most she can do is point to some cast-away
3 comment or another made by Mr Blé Goudé where he acknowledged that in times of
4 crisis and conflict, unfortunate events occur. But knowledge, your Honours, is not
5 intent and please, please do not forget that.

6 We will not deny that tragic and awful rapes occurred in the context of at least two
7 incidents with which Mr Blé Goudé is wrongly charged. But the Prosecution will
8 not show you one piece of evidence to indicate Mr Blé Goudé knew that these rapes
9 took place or even wished that they should occur. As I hinted, the Prosecution will
10 try to fudge the issue and confuse knowledge with intent and argue that knowing bad
11 things would occur in an ordinary course of events meant that he wanted those things
12 to occur in the ordinary course of events.

13 Just because Mr Blé Goudé was portrayed as the leader of the youth, that does not
14 mean that he knew and approved of all crimes committed by pro-Gbagbo youth even
15 if they did commit crimes. Just because he was popularly known as the général de la
16 rue does not mean that he should be responsible for everything that happened in the
17 street. Indeed, this case is not about what happened in the streets, whether it be
18 crimes committed at roadblocks or burning people alive.

19 This case is about Mr Blé Goudé's role, alleged role in five discrete incidents alone,
20 three of which we submit were committed by purely military elements, and the last of
21 which was committed almost two weeks after Mr Blé Goudé had fled Côte d'Ivoire.

22 On the face of it and given his non-military status, it never was clear why Mr Blé
23 Goudé should bear any form of individual responsibility for these incidents. In fact,
24 I'm convinced that this is the reason why a month ago the Prosecution changed its
25 tack, changed the nature of the case, and added the incident which charges Mr Blé

1 Goudé with a string of incidents which it links to a speech which he gave in the Baron
2 Bar in February 2011. That's the speech which Ms Massidda talked about earlier.
3 Notwithstanding, do not think it too strange if I tell you that Mr Blé Goudé is truly
4 happy to be present here today, happy to be present in order to play his part in the
5 quest for truth, justice and reconciliation; happy to be present in order to contribute to
6 the judicial proceedings out of the respect for the victims. And when I say "the
7 victims," I mean all the victims including the victims of those crimes which Ms
8 Bensouda is now going to investigate as she told you.

9 Mr Blé Goudé does not distinguish between these victims and acknowledges the loss
10 and suffering endured by all. And I say this with a degree of conviction, because
11 I've been representing Mr Blé Goudé now for a number of years. And his offer of
12 cooperation was delivered to the Prosecution and made public some considerable
13 time before he was snatched from Ghana and thrown into the grim dungeon and the
14 danger of DST in Abidjan.

15 Of course, he had his detractors in Côte d'Ivoire who criticised him heavily in
16 international media for giving credence to a court which they believed to be an
17 extension of neo-colonialist powers, which had contributed to the expulsion of
18 President Laurent Gbagbo.

19 But as you may have already gathered, Mr Blé Goudé is fairly unconventional in his
20 ways, perhaps even capricious, and has not let the opinions of others cloud his sense
21 of judgment.

22 All that Mr Blé Goudé asks of this Honourable Pre-Trial Chamber is that it should
23 take a very critical approach to the evidence and that it should not assume that issues
24 decided in the Gbagbo case must necessarily be applied in similar fashion to the
25 present case.

1 Let me take, for example, the finding that President Laurent Gbagbo managed a
2 criminal conspiracy through what was termed the inner circle, comprising his wife
3 Madam Simone and Mr Blé Goudé and other nondescript anonymous alleged
4 criminals. We will strenuously dispute the existence of such an inner circle. We
5 will say it never existed for the simple reason that the president, his wife Madam
6 Simone, and Mr Blé Goudé were never physically present together in the same place
7 on any one occasion when a policy decision was taken. And the Prosecution knows
8 how we will do this, too. It has seized the visitors' books documenting the comings
9 and goings from the presidential residence and knows exactly when Mr Blé Goudé
10 was present there and who he was visiting.

11 Now, Laurent Gbagbo was the head of state. The buck stopped at him. And he, so
12 the Prosecution argued and the Honourable Pre-Trial Chamber found, had ultimate
13 responsibility for all the forces and structures under his command and control. As
14 much as the Prosecutor would like it to be so, this is not the case with Mr Blé Goudé.
15 His only connection to the official hierarchy was his nomination as minister for the
16 youth and employment in the Gbagbo cabinet. And once again, when you study the
17 visitors' log book at the presidential residence, you will appreciate that his attendance
18 at cabinet meetings were sporadic at best.

19 Unconnected, therefore, to the official hierarchy yet still a bad egg as far as Mr
20 Moreno-Ocampo was concerned, the Prosecution was forced to find a way of
21 connecting Mr Blé Goudé to the crime base. And such was the genesis of the
22 so-called parallel structure in which the Prosecution alleges that Mr Blé Goudé and
23 another nebulous entity, the so-called pro-Gbagbo youth, became additional tools for
24 Mr Gbagbo to cling to power.

25 Many of the terms that the Prosecution will use in the course of its submissions to

1 convince you of the streamlined organisation of the pro-Gbagbo youth operating as it
2 were through an informal command and control structure with Mr Blé Goudé
3 perching at the top of the pyramid issuing orders and reporting back to the president.

4 But please do not be mistaken. Mr Blé Goudé was the hierarchical leader of two
5 organisations alone, l'alliance de la jeunesse pour le sursaut nationale, or AJSN, and
6 the congrès panafricain des jeunes et des patriotes, otherwise known as COJEP,
7 nowadays known as congrès panafricain pour la justice et l'égalité des peuples.

8 The fact that this organisation was informally known as the Young Patriots, or jeunes
9 patriotes, does not mean that every jeune patriote was a Blé Goudé follower. Indeed
10 the notion that the pro-Gbagbo youth is just as much a fiction of the so-called galaxie
11 patriotique. These concepts were created by the people sitting behind the glass
12 window there: The journalists, politicians and the general public.

13 Of course the need for the pro-Gbagbo youth to be institutionalised and hierarchical is
14 an essential component of the Prosecution case. Only by attributing such a unified
15 characteristic to the -- this creature of the media can the Prosecution argue that Mr Blé
16 Goudé was an undisputed leader, because if he was not the undisputed leader, then
17 he cannot be said to have had effective control over any of the crimes allegedly
18 committed by pro-Gbagbo youth. Nor can he be said to have made a substantial
19 contribution thereto.

20 As the Prosecution knows full well, most of the crimes it has cited in its charging document
21 were committed by individuals affiliated with some of the many youth organisations and
22 militia whose politics and ideology were fundamentally and diametrically opposed to those
23 of Mr Blé Goudé, and we will show that.

24 The use of the generalised terminology "pro-Gbagbo youth" or "jeunes patriotes" by
25 the victims in their testimonies to human rights organisations and thereafter adopted

1 by the Prosecution is deceptive. But I can hardly blame the poor victims for failing
2 to distinguish the correct political affiliation of the monster raping them or
3 committing some other inhumane act on their person.

4 However, I can and I do fault the Prosecution for failing to satisfy the need for legal
5 clarity in a fashion which is highly prejudicial to Mr Blé Goudé.

6 Your Honours, we will prove to you that Mr Blé Goudé was not the undisputed
7 leader of the *galaxie patriotique*, which as its name suggests was a loose collection of
8 youth organisations united only by their opposition to regime change.

9 If you wish to take this astronomical analogy suggested by the *galaxie patriotique* and
10 its notable personalities any further, then think of it like this: Mr Blé Goudé, like the
11 planet Jupiter and its eponymous deity stood for truth and justice with a considerable
12 presence notable from afar. There were plenty of candidates for the planet Mars, the
13 harbinger of violence, yet their orbit never coincided with that of Mr Blé Goudé.

14 There was even a contender for the planet Pluto, the Prosecution's star witness,
15 number 44, full of his own self-importance, yet an insignificant blot at the edge of the
16 solar system, a witness whose credibility we will destroy.

17 And once you hear, read and digest the evidence of the various leaders of the *galaxie*
18 *patriotique* who the Prosecution cite, yet failed to interview, leaders interviewed in the course
19 of the Defence investigation, you will appreciate that the *galaxie patriotique* was a ragtag
20 bunch of not-so-youthful youth at odds with each other as much as with the opposition.

21 And then I submit, with the speed of light, you will, we hope, consign the Prosecution
22 case to the black hole of history. Thank you very much.

23 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you. That
24 now concludes the opening statements and we shall now proceed to take the OTP
25 presentations on the substance of the case.

1 Mr MacDonald, please proceed.

2 MR MACDONALD: (Interpretation) Madam President, would you please allow me a few
3 seconds to set up?

4 We still have a technical problem. I have a video presentation as part of my
5 presentation, and it would appear that we still have some technical problems, your
6 Honour. Looks like it's all okay now, but maybe we should have a technician on
7 standby throughout the day to avoid any such problems that we may run into,
8 although we had rehearsed this presentation with the system. But every now and
9 then we do have some problems.

10 THE COURT OFFICER: (Interpretation) Mr MacDonald, there is a technician available to
11 assist you behind you.

12 MR MACDONALD: (Interpretation) Thank you.

13 Madam President, your Honours, I would now like to address the issue of the
14 ascension of Mr Blé Goudé within the immediate circles of Mr Gbagbo. The basic
15 question is the following: How did Mr Blé Goudé become one of the key persons
16 within Mr Gbagbo's circles?

17 To answer this question, it may be useful to visit his past. He began by being the
18 secretary-general of FESCI, the students federation of Côte d'Ivoire, from 1998 to 2000.

19 When FESCI, this federation, was created in 1990s, it was a group of student organisations
20 challenging President Houphouët-Boigny's party. During his mandate as president of FESCI,
21 Mr Blé Goudé reinforced rapprochement between FESCI and Mr Gbagbo's party, the FPI.

22 On 21 October 2000, during the last rally by Mr Gbagbo prior to the presidential elections of
23 22 October 2000, Mr Blé Goudé appeared in support of Mr Gbagbo.

24 Let me now present photograph number CIV-OTP-0062-0970. Court officer, please? I don't
25 know if this photograph has been displayed on your monitors.

1 THE COURT OFFICER: (Interpretation) Is this part of your presentation? Would you
2 want the court officer to display the photograph?

3 This photograph has been displayed.

4 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) One moment, please.
5 I think we all are facing some kind of technical problem.

6 MR MACDONALD: (Interpretation) Very well. I think we can now proceed.

7 On 21 October 2000 during Mr Gbagbo's last rally prior to the presidential elections to be held
8 the next day, on 22 October, Mr Blé Goudé appeared to support Mr Gbagbo, that is he came to
9 support him. On 4 June 2001, Mr Blé Goudé created the congrès panafricain des jeunes et
10 des patriotes known as COJEP. It is a movement to fight imperialism and neo-colonialism.
11 COJEP was chaired -- or Mr Blé Goudé himself was the president of COJEP and it became one
12 of the strongest pro-Gbagbo groups within the galaxie patriotique. I will be visiting or
13 revisiting the issue of the galaxie patriotique.

14 In November 2001, Mr Blé Goudé left Côte d'Ivoire to study in Manchester. According to
15 administrative file, he was on a scholarship from the presidency and the president at the time
16 was Mr Laurent Gbagbo.

17 Before we show the next exhibit, I would like to display or show a confidential document.
18 The sound and the audio can be played, but the picture should not. The reason for which
19 this document is confidential is because it is part of a block of seven documents, some of
20 which are supposed to be confidential. In any event, the document I would now like to
21 display can be seen by the public, and I would like that to be displayed.

22 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) I've not understood
23 you. Are you asking for private session?

24 MR MACDONALD: (Interpretation) Well, I'm asking for private section -- private session,
25 rather, but requesting that the image not be displayed.

1 THE COURT OFFICER: (Interpretation) Mr MacDonald, if we are in private session, the
2 public will not be able to hear what is being said. However, if we continue in public session,
3 we might be able to display the document for the courtroom and not for the public. Is that
4 okay?

5 MR MACDONALD: (Interpretation) Yes, that is fine by me.

6 THE COURT OFFICER: (Interpretation) Thank you.

7 MR MACDONALD: (Interpretation) As the Chamber may note from this document, the
8 quality of which is not very clear, what we want to point out here is that Mr Blé Goudé's
9 tuition was paid for by the presidency to the amount of about 9 -- of above 9,000 pounds.
10 This is towards the end of 21, 22.

11 We also must point out that Mr Désiré Tagro, former minister and secretary-general
12 of the cabinet of President Gbagbo during the post-electoral crisis of 2010, 2011, was
13 Mr Blé Goudé's contact in case of emergencies relating to the university. So Mr Blé
14 Goudé was supposed to be able to contact Mr Désiré Tagro in any such
15 circumstances.

16 Then the attempted coup d'état occurred in Côte d'Ivoire on 19 September 2002 dividing the
17 country into two, namely, the rebel forces against the forces of Mr Gbagbo.

18 Mr Blé Goudé then is advised to return home to be part of Mr Gbagbo's circles, and he
19 is recommended to do so accordingly as mentioned in his book in -- of 2006.

20 I quote, "Seeing my state in such a state brought me to strong feelings about my

21 patriotism. I then took my decision and had discussions with a number of persons,

22 including particularly minister Désiré Tagro, the then spokesperson of the

23 presidential residence, as well as Marcel Gossio, director general of the Abidjan ports

24 authority. At the end of our conversation I was advised to return home."

25 Document 0057-1245, page 1294.

1 I would like to stop here for a little bit, because I am making this first presentation. At the
2 end of each presentation, we will be able to submit a copy of our presentations containing all
3 the sources and evidence, the idea being to avoid including all the ERN numbers in our
4 presentations as such. I am convinced that the interpreters and the court reporters will be
5 happy if we proceed in this manner.

6 So Blé Goudé returns as a matter of emergency to Abidjan and at that time he creates
7 the l'alliance de la jeunesse pour le sursaut national, AJSN, which will later be known
8 as the Alliance of Young Patriots. This is a very important organisation within the
9 so-called galaxie patriotique. This alliance is made up of several pro-Gbagbo
10 organisations such as COJEP, which I just mentioned; SOAF, la solidarité africaine; la
11 Sorbonne, la Conscience citoyenne; le Mouvement pour la défense de la souveraineté
12 de la Côte d'Ivoire; la Jeunesse du Front Populaire Ivoirien, JFPI; et l'Union pour la
13 République.

14 It brings together a number of groups of young patriots. The purpose of the alliance
15 is to organise under Mr Blé Goudé's leadership resistance by young pro-Gbagbo
16 youth.

17 When he returned from Manchester and at the time when Côte d'Ivoire was
18 experiencing this split, there was a rallying of these patriotic movements in order to
19 affirm their patriotism and support to President Gbagbo. Some argue that more than
20 1 million persons attended one of those rallies on the 1st of February 2003 to renounce
21 the Marcoussis Accords, which had just been signed in January 2003. Those accords
22 were sponsored by France with a view to solving the crisis.

23 While we are in public session, I would like this photograph to be displayed. It is a
24 photograph at the place de la république, and you can see that there is a huge crowd
25 gathered to listen to Mr Blé Goudé and his colleagues.

1 Mr Blé Goudé at that time became an unavoidable leader of the movement, and he
2 became known as the street general. Towards the end of 2002 and early 2003, he
3 launched the recruitment of youth into the FDS. Those persons who were to be later
4 known as the Blé Goudé contingent of the FDS strengthened the loyalty of some units
5 and their commitments to President Gbagbo.

6 In the years following, Mr Blé Goudé used various speeches to incite youth to hatred
7 and to forge a rebellion against foreigners and French and UN forces.

8 The youth responded massively to these calls for violence and in particular in
9 January 2003, some French nationals where the subject of retaliation particularly in
10 regard to the Marcoussis Accords.

11 In March 2004 the opposition parties also denounced these events. In

12 November 2005, there was a position to the Marcoussis Accords and to the Licorne
13 forces of the French army. On January -- in January 2006, galvanized by the presence
14 of Mr Blé Goudé and his hunger strike, the following statement was made: "It is
15 France that planned and organised the crisis that is now bedeviling Côte d'Ivoire."

16 Blé Goudé could not ignore the effect of his speeches. On 7 February 2006, the
17 United Nation imposed individual sanctions upon him for, and I quote, "public
18 statements made repeatedly advocating violence against United Nations staff and
19 facilities and against foreigners."

20 Further on in that report mention is made of his blocking the work of the
21 international working group of ONUCI and the French forces. That was in 2006
22 once again under pressure by the international community to end the crisis.

23 He was also accused of leading and taking part in acts of violence committed by street
24 militia, including rapes and extra-judicial executions.

25 During that time Blé Goudé continued to fight for Mr Gbagbo's re-election. I think it's

1 interesting to have a look at what he said in his book, "Ma part de vérité," "My Share of the
2 Truth," which was published in 2006, and I quote, "We are also looking at the data for a
3 victory strategy and for a failure strategy. But I must say, and each and every person shall
4 understand, that I cannot see the possibility of defeat. To my mind, the only outcome of this
5 crisis is the re-election of Mr Gbagbo for one essential reason: To undo an injustice."

6 So once again we can see that there is no doubt regarding his allegiance to Mr
7 Gbagbo.

8 Mr Gbagbo defended his deputy. He defended him before the General Assembly of the
9 United Nations on 27 September 2007. Gbagbo asked for the UN to lift its sanctions on Mr
10 Blé Goudé, but the sanctions remained in place. Mr Gbagbo used the United Nations as a
11 forum. All the world leaders were there. And what did Mr Gbagbo do? He asked for
12 sanctions against Mr Blé Goudé to be lifted.

13 In October 2009, Blé Goudé was once again working to ensure Laurent Gbagbo would be
14 re-elected. Mr Gbagbo made him the national campaign director -- correction -- the deputy
15 campaign director responsible for youth, and this was in preparation for the November 2010
16 elections, even while the UN sanctions were still in place.

17 On 6 December 2010, when the election results were coming out and everything was
18 in upheaval, what did Mr Gbagbo do? He appointed Mr Blé Goudé minister of
19 youth, vocational training and employment within his government.

20 At that time the UN sanctions were still in place. By appointing him minister, Mr
21 Gbagbo absolved him of any responsibility for crimes that occurred in the past, from
22 2002 to 2010. This appointment sent a clear message of impunity to the Young
23 Patriots. The street general had been absolved of his responsibility. Fear not. So
24 please remember this point, and this has to be taken in consideration -- in
25 consideration with his other speech where he specifically told police members not to

1 fear any legal proceedings.

2 Your Honours, I would now like to briefly touch upon the issue of the Patriotic
3 Galaxy and Mr Blé Goudé's leadership. The Prosecution argues that Mr Blé Goudé
4 was recognised as the leader of the Patriotic Galaxy coalition that brought together a
5 number of pro-Gbagbo youth groups, some armed, some unarmed.

6 I would now like to show an organisation chart of the Patriotic Galaxy and this is found in
7 annex 4 of our document containing the charges. Unfortunately, the quality of our computer
8 screens is somewhat lacking. You can see much better in your actual offices. Once again, I
9 would like to reiterate the link here is an analogue link, not a digital link, so this detracts from
10 the quality of the image in the courtroom. It's not that the chart itself is blurry.

11 One specific point, we submit that the inner circle of Mr Gbagbo is broader than the
12 three people that we see here. And in our document containing the charges you will
13 find a more detailed depiction of the people who make up the inner circle.

14 Here, however, we see an org chart that shows all of the various groups that were
15 part of the Patriotic Galaxy. In the very centre you find the groups that came under
16 the responsibility of Mr Blé Goudé, basically the alliance of Young Patriots and
17 COJEP, but there were other groups, the SOAF, for example, the Sorbonne, the
18 parlement au agora group and so on and so forth. And I will be turning to these
19 points in a few moments.

20 The term of "Patriotic Galaxy" was seen for the first time in late 2003 or early in 2004
21 reflecting the large number of pro-Gbagbo organisations. This coalition was made
22 up of several pro-Gbagbo groups, union student groups, NGOs, militia and the
23 political wing -- correction -- the youth wings of certain political parties.

24 The Defence of Mr Goudé relies on a report from Witness D-15, reference
25 CIV-D25-0001-2503, and certain statements made by former leaders, as well as the

1 Defence also relies on some statements made by former leaders of the Patriotic Galaxy
2 to argue that Mr Blé Goudé was not the leader of the Patriotic Galaxy.

3 But, once again, in his book, "Ma part de Vérité," he spoke of all these pro-Gbagbo
4 groups and the structure within the Patriotic Galaxy. Although the galaxy was
5 structured more horizontally than vertically, the main groups that made up the
6 galaxy were structured themselves and had a hierarchy. That is an important
7 nuance.

8 The groups were structured. They were hierarchical, even though the galaxy itself,
9 this umbrella group, may not have been so structured. For example, the COJEP and
10 Alliance of Young Patriots of Mr Blé Goudé, or consider the FESCI or GPP, whatever
11 the case, these groups were well structured and had a hierarchy.

12 Why do I mention these groups that were at the very -- because they were at the very
13 centre of the violence that occurred as pointed out in the DCC.

14 Furthermore, the report from Defence Witness 15, who wrote the report, supports our
15 argument, supports our DCC. And I draw your attention to a number of points,
16 pages 2503 to 2508, 2509, 2518, 2524, and finally page 2531.

17 Your Honours, if we look beyond whether the Patriotic Galaxy was hierarchical in
18 nature or not, as Mr Blé Goudé himself said so well in his book, and I quote, "All these
19 groups shared our ideas. Each group had its own leader, its own leadership. But
20 they all had the same objective, the same goal, namely, the re-election of Mr Gbagbo."
21 During the post-election violence in 2010-2011, all the pro-Gbagbo youth groups and
22 their leader were fighting the same fight. They wanted to keep Gbagbo in power no
23 matter what it took. And for some groups that meant using lethal force.

24 During the crisis, the main leaders of Patriot Galaxy formed a common front and
25 literally -- literally fell behind in a row behind Blé Goudé during the rallies, and

1 demonstrations and other gatherings of the pro-Gbagbo youth.

2 We have several videos mentioned in our DCC and if you view these videos you will
3 always see the same group with Blé Goudé. Blé Goudé is the one speaking, but
4 the -- they are always behind him.

5 If we could now move to the next image. Here we see -- well, this is taken from a
6 video actually, and the number of the video can be seen at the top, and this is dated 23
7 March 2011. Who are these people? Well, we see standing from left to right, first of
8 all, we see the first person wearing a khaki coloured shirt is Konaté Navigué leader of
9 the FPI youth wing, Mr Gbagbo's party.

10 The person with the striped shirt and the basketball cap is Jean-Yves Dibopieu, the
11 former general secretary of the FESCI, who replaced Mr Gbagbo at the head of FESCE
12 and became the leader of the SOF -- SOAF.

13 What's more, when the Marcoussis accords were being discussed, he is the one who said the
14 following: "For each Ivorian, a Frenchman," which led to the violence thereafter.

15 If we continue looking at this particular shot, we can see the person immediately to
16 the right of -- no, to the left, rather, with the black shirt, this is Idriss Ouattara, the
17 leader of the National Federation of Agoras and Parliaments, the speaker's corner,
18 where pro-Gbagbo ideas were expressed and where crowds were harangued.

19 We can see behind and to the right of Blé Goudé, singer Serges Kassi, who is the
20 person with the rasta dreadlocks. To the right of Mr Blé Goudé, with the glasses on
21 his forehead, we see Zeguen Touré, one of the leaders of the GPP, a militia that was
22 very active in Abidjan during the post-election violence. And, finally, the last person
23 we see standing Richard Dacoury, president of the Sorbonne.

24 And that is the place -- the well-known speakers corner in Abidjan. As we can see from this
25 photograph, there can be no doubt about the co-ordination, the solidarity and the recognition

1 of Mr Blé Goudé's authority within the Patriotic Galaxy.

2 I would like to return to one particular point: When Mr Moreno-Ocampo made his
3 statement, the UN sanctions were still in place and Mr Blé Goudé, as we shall
4 demonstrate, disregarded all of that. He used anything, any means at his disposal to
5 galvanise youth. He continued the hate speech, the xenophobia, and this is the
6 backdrop against when the Prosecutor made his statement.

7 On that point, your Honours, I will now conclude and ask my colleague, Ms Berdennikova to
8 speak more specifically about the crimes that occurred, and she will discuss in particular the
9 speeches of Mr Blé Goudé, his rhetoric. I thank you.

10 MS BERDENNIKOVA: (Microphone not activated) I'll start again. Madam President,
11 your Honours, between 25 and 28 February 2011, pro-Gbagbo forces attacked
12 neighbourhoods of Yopougon perceived to be pro-Ouattara, in particular Lem and Doukouré.
13 They beat, shot, and burned people alive in the streets. They burned a mosque and
14 murdered its caretaker.

15 Pro-Gbagbo youth and militia erected roadblocks where civilians who were deemed
16 to be of the wrong nationality, ethnicity or religion were brutally attacked. At least
17 24 persons were killed or burned alive and at least another seven were injured as a
18 result.

19 The Prosecution case is that the immediate cause of this murderous violence was two
20 speeches given by Blé Goudé in Yopougon on 25 February in which he whipped up to
21 hysterical anger the pro-Gbagbo youth who regarded him as their leader and the
22 général de la rue.

23 The Prosecution case is that he did so in the full knowledge that the likely
24 consequences of his incitement would be death and destruction.

25 So what happened in Yopougon? Witness 436 tells us that early violence occurred in

1 Doukouré neighbourhood into which pro-Gbagbo youth marched immediately following Blé
2 Goudé's second speech singing "libérez Yopougon de Gbagbo."

3 This neighbourhood of Yopougon is predominantly inhabited by persons of dual
4 ethnicity, as well as West African nationals generally considered to be pro-Ouattara.

5 P-436 describes how, having reached Doukouré, pro-Gbagbo youth knocked down a
6 signboard portraying Mr Gbagbo's opponent, Alassane Ouattara, and then they began
7 throwing stones at the youth from Doukouré.

8 P-109 confirms that an enormous crowd, including youth from the neighbouring
9 pro-Gbagbo Yaho-Sehi neighbourhood, members of parliament and the young
10 patriots began throwing stones at those from Doukouré telling them to go back to
11 where they came from and that they would be killed.

12 There is a police commissariat located in the 16th district on the boulevard principal
13 between the Yaho-Sehi and the Doukouré neighbourhoods, the location of which you
14 will be able to see on a map.

15 The first slide shows a map of Abidjan. I'm having some difficulties. I'm going to
16 zoom into Yopougon area and then closer to the area which I'm going to be
17 discussing during the presentation. And now you can see the location of the
18 commissariat on your screens.

19 Witness P-109 saw GPP militia members from Maguy le Tocard group and policemen
20 from this commissariat firing tear gas and fragmentation grenades and shooting in
21 the direction of the witness and of other youth from Doukouré. Militia members
22 were armed with firearms including Kalashnikovs.

23 Witness P-436 and P-442 are other eyewitnesses to the police launching grenades and
24 shooting in the direction of the youth from Doukouré.

25 Initially P-442 thought that police was intervening to calm down the situation, but it

1 very soon became clear that they were lending support to the pro-Gbagbo youth by
2 attacking only those from Doukouré.

3 At least two civilians were killed and at least another two were injured as a result of
4 the grenades. These victims are identified in the statements of numerous witnesses,
5 including P-109, P-436, P-442 and P-447.

6 Unable to defend themselves against grenades and firearms, young people from
7 Doukouré sought shelter in the courtyard of the Lem mosque. Your Honours, it's
8 now visible also on your maps.

9 Witnesses P-109 and P-447 both describe how a grenade was launched into the
10 mosque. P-438 and P-442 saw members of the brigade antiémeute, also known as
11 the BAE, just outside the Lem mosque during the attack.

12 Witness P-438 heard them shouting "brûlée la mosquée." And Witness 442 saw them
13 shooting at it.

14 Witnesses 438 and 447 saw the mosque being set on fire by the perpetrators while
15 P-436 added that the office of the superior des Imam, which is located just next to the
16 mosque, was also set on fire by the pro-Gbagbo youth.

17 Several witnesses, including P-109, P-436 and P-447 describe how the caretaker of the
18 mosque was seized by the attackers. The perpetrators beat him and dragged him
19 out onto the street. All three witnesses report that a tyre was placed around the
20 caretaker's body and he was set on fire.

21 P-109 states that at least four more civilians were injured during the attack on the
22 mosque, mostly by bullets or machete strikes.

23 The Lem mosque itself was heavily damaged and pillaged by the pro-Gbagbo youth
24 and militia supported by FDS elements during this attack. Several sources,
25 including Witness 433 and the report on human rights violations committed in

1 Abidjan, mention that the same perpetrators returned to the Lem mosque the day
2 after the initial attack to continue pillaging and burning it. The pillaged goods were
3 transported using Kia cars, driven by military wearing red berets as is usually worn
4 by the republican guards.

5 Witnesses P-369, P-458 and P-433 report that Qurans were deliberately burned by the
6 attackers and that goods of value were pillaged, and what couldn't be pillaged was
7 destroyed.

8 A detailed account of the damages that were caused to the mosque is available in
9 document CIV-OTP-0057-1371.

10 Pro-Gbagbo youth and militia committed other murders and destruction in the
11 neighbourhoods around the Lem mosque on 25 February as well. A civilian man of
12 Malian origin was killed and burned by the pro-Gbagbo youth close to Saguidiba
13 crossroads, as you can now see it on the maps on your screens.

14 Witness P-459 describes how this victim was caught by a crowd of about 20 to 30 young
15 people on the street and was severely beaten. They screamed "C'est un assailant" when an
16 armed man in a dark blue uniform arrived at the scene. He shot the victim in the chest.
17 After that he was burnt to death by the youth.

18 Witness 109 added that pro-Gbagbo youth shouted out their infamous slogan article
19 125 as they were burning this victim.

20 I remind the Chamber that article 125 is a satirical reference to an imaginary criminal
21 code. Article 125 is derived from the suggestion that for such a punishment 100
22 francs is required for petrol and 25 francs for the matches.

23 Another civilian met a similar fate. Witness P-436 saw this victim run towards the
24 police commissariat of the 16th district trying to seek shelter. However, the police
25 pushed him out.

1 P-436 then witnessed how this victim was first beaten and then burned alive by the
2 pro-Gbagbo youth just outside the commissariat. The pro-Gbagbo youth rejoiced
3 around the fire as the victim burned to death.

4 Witnesses P-436, P-109 and P-459 explain that pro-Gbagbo youth pillaged and destroyed
5 houses and shops in Doukouré on that day as well.

6 P-459 clarified that most of the shops in Doukouré belonged to the Dioula, or to
7 Malians and to Nigerians.

8 Your Honours, as is mentioned in paragraph 155 of our document containing the
9 charges, at least 13 civilians were killed by the pro-Gbagbo youth, militia and the
10 police during this incident on 25 February and at least another seven were injured by
11 the same perpetrators. At least six of the civilians that were killed were burnt to
12 death by the pro-Gbagbo youth and militia.

13 Aside from previously mentioned sources, the identities of these victims are also
14 available in annex 2 of the statement of Witness P-433, an RFI news article and in the
15 report on human rights violations committed in Abidjan.

16 So what was it that provoked this outbreak of savage violence that was directed
17 against anybody whom the pro-Gbagbo youth and militia identified as being
18 pro-Ouattara? The Prosecution submits that it was Charles Blé Goudé who ignited
19 the smouldering tensions by making two inflammatory speeches in which he issued
20 specific instructions directly related to the horrific events that followed.

21 On the morning of 25 February 2011, Blé Goudé held a gathering at a bar called le
22 baron. This meeting had been announced on the RTI evening news by Blé Goudé
23 himself the night before when he called on the youth to come and receive the final
24 instructions or les dernières consignes.

25 According to Witness P-499, around 500 people responded to Blé Goudé's call and

1 participated in the gathering the next day. Some of Blé Goudé's closest collaborators
2 and leaders within the galaxie patriotique, many of whom were already mentioned
3 by my colleague, Mr MacDonald, were at his side during this meeting.

4 They included Richard Dacoury, Jean-Yves Dibopieu, Augustin Mian, Serges Kassi
5 and Idriss Ouattara.

6 Your Honours, let me now take you to bar le baron which now appears on the maps
7 as well.

8 As anticipated, Blé Goudé delivered his instructions during this meeting explicitly
9 labelling them as orders. What Blé Goudé said, and I quote, was "Damn it. No."

10 (Interpretation) As of now, the order that I'm giving you, and this holds for all
11 neighbourhoods, is that when you go back to your neighbourhoods, you must keep
12 ONUCI from moving about. That's the first thing.

13 Secondly, when you go back to your neighbourhoods, you must contact the
14 neighbourhood presidents and you must meet with them and -- to determine the
15 comings and goings, people going in and out of your neighbourhoods and speak out
16 against any foreigner who enters your neighbourhood."

17 I will invite you to view the video footage of the speech, which is available at
18 CIV-OTP-0064-0087 from 13.43 until 15.16 seconds.

19 (Viewing of the audio excerpt CIV-OTP-0064-0087)

20 MS BERDENNIKOVA: Your Honours, Blé Goudé was therefore calling his listeners to do
21 three things. The first instruction was to prevent the United Nations forces from circulating
22 within the city. Now, why would he wish this to be achieved?

23 First of all, the international community endorsed Ouattara as the winner of the presidential
24 elections and was therefore seen as pro-Ouattara by Gbagbo supporters.

25 The ONUCI was also a peacekeeping mission, so instructions to prevent them from

1 circulating within Abidjan's neighbourhoods would also preclude them from
2 witnessing, preventing and documenting crimes from taking place.

3 The second instruction was that his listeners on returning to their home areas should
4 secure all the entries and exits of their neighbourhoods. These instructions had a
5 direct effect and were followed to the letter. All over town roadblocks sprang up
6 and it was at these roadblocks that some of the most frequent and worst acts of
7 violence were committed.

8 The fact that the number of roadblocks multiplied following Blé Goudé's order is
9 confirmed by several different witnesses including P-433, who describes roadblocks
10 appearing all over Yopougon starting from 25 February 2011.

11 P-449 specifically states that roadblocks started being erected just after Blé Goudé's
12 meeting at bar le baron. While another witness, P-440, also confirms that
13 pro-Gbagbo youth constructed roadblocks where people were subjected to the
14 infamous article 125 following Blé Goudé's call.

15 The perpetrators themselves referred to Blé Goudé's mot d'ordre when manning or
16 erecting the roadblocks.

17 P-109 states that following Blé Goudé's speeches, pro-Gbagbo youth from the
18 Yaho-Sehi neighbourhoods said that the général had given them an order and they
19 erected roadblocks in order to execute it.

20 These youths also said that they had the right to search their neighbours. A UN call
21 centre report, dated 26 February 2011, confirms that young patriots stopping vehicles
22 and controlling identities in Yopougon said that they were executing the mot d'ordre
23 de leur secrétaire general.

24 P-433 explains that although the police were in charge of a few roadblocks, the vast
25 majority were controlled by pro-Gbagbo youth and militia. Most of them were

1 armed with armes blanches. However, P-440 also added that at times FDS elements
2 armed with firearms would join these pro-Gbagbo youths at their roadblocks out of
3 solidarity for their common cause.

4 Now, the third instruction that was given by Blé Goudé was that his listeners should
5 denounce all foreigners. The Prosecution case is that this was plainly a euphemism
6 and most foreigners were not denounced to judicial authorities for perceived
7 infractions of the Ivorian legal code, they were denounced to the mob and punished
8 for the crime of being pro-Ouattara.

9 As is stated in paragraph 6 of our document containing the charges and as will be
10 mentioned by my colleague Ms Chubin, the word "foreigners" was used by Blé Goudé
11 to refer to perceived pro-Ouattara supporters. And, indeed, only those perceived to
12 be pro-Ouattara usually based on their origin and religion were targeted at the
13 roadblocks.

14 P-440 explained that, in general, those of north Ivorian origin were systematically considered
15 to be rebels. When they were stopped at roadblocks, getting past was a question of luck,
16 with those less fortunate being beaten and burned alive.

17 P-433 added that Muslims and foreigners including Malians, Burkinabés and
18 Ghanaians were common targets for harassment at the roadblocks as well.

19 P-449 also confirmed that citizens of some ECOWAS countries particularly Nigerians,
20 Malians and the Burkinabés were targeted. The fact that persons of these
21 nationalities were burned and needlessly lost their lives at these roadblocks was well
22 known to everyone.

23 P-459 -- sorry, P-458, a civilian whose name originates from the north of Côte d'Ivoire,
24 describes how he was stopped at a roadblock in Yopougon on 25 February. This
25 roadblock was controlled by a group of 15 pro-Gbagbo youths armed with clubs and

1 wooden sticks. After checking the witnesses ID, one of them immediately exclaimed
2 un Dioula assailant. Despite the witnesses' assurances that he's not a rebel, the
3 youth hit him on the head with an iron bar. P-458 was saved by his screams which
4 attracted the attention of someone who knew him and vouched to the attackers that,
5 indeed, he's not a rebel.

6 The witness saw four dead bodies at this roadblock. The head of one of the victims
7 was covered in fresh blood. The youth who hit the witness with the iron bar told
8 him that if he didn't watch out, he would end up just like his fellow rebels, pointing to
9 the four corpses on the ground.

10 Witness 440 stated that on average a minimum of two people were killed at
11 roadblocks in Yopougon every day in February and March, and every day he saw
12 dead bodies at roadblocks himself.

13 Witness 459 also frequently saw dead bodies of victims who were beaten or burnt to
14 death at various roadblocks in Yopougon.

15 P-449, a member of pro-Gbagbo youth, who erected a roadblock in Yopougon
16 following Blé Goudé's speech of the 25th, stated that the identification of rebels would
17 sometimes be done by morphology. He explained that rebels were generally larger
18 and more corpulent than Ivoirians.

19 P-449 added that they also often carried amulets and cash with them. He confirmed that
20 those identified as rebels could be beaten to death at the roadblocks. But the speech at bar le
21 baron, with all its horrifying consequences, was not the only speech that Blé Goudé made on
22 this day.

23 According to several witnesses, including P-447 and P-459, having delivered his orders at bar
24 le baron, he held another meeting, this time at la place CP1 in Yopougon. You can now see
25 the location of this place on your screens.

1 P-436, who saw pro-Gbagbo youth heading for this meeting heard them chant

2 "Yopougon de Gbagbo."

3 According to the same witness, Blé Goudé again told the youth to remain vigilant and
4 that any unusual persons in the neighbourhoods were rebels that had to be, as he put
5 it, dislodged.

6 Your Honours, it is immediately after Blé Goudé's speech at CP1 that violence
7 escalated significantly. Killing started already at CP1 as Blé Goudé's audience was
8 starting to disperse.

9 P-436 and P-447 were both told how two civilians from the Doukouré
10 neighbourhoods were beaten and burned to death by the pro-Gbagbo youth at the
11 end of the meeting. They were accused of being rebels because they carried amulets.
12 Your Honours, as previously mentioned and as confirmed by P-440, it was a common
13 occurrence for Gbagbo supporters to consider those wearing amulets as rebels during
14 that time.

15 But what was Blé Goudé doing in the hours which followed his inflammatory
16 speeches? As the attacks were taking place on 25 February, Blé Goudé was in a
17 convoy circulating in the different neighbourhoods of Yopougon.

18 Witness P-436 describes seeing this convoy of 4 X 4 vehicles arrive at the police
19 commissariat of the 16th district.

20 Both P-436 and P-447 describe how, as the convoy reached the commissariat,
21 pro-Gbagbo youth were shouting, "général. général."

22 Neither of the witnesses can tell the Court that they made a personal identification of
23 Blé Goudé, but realistically it could not have been anyone else. There can be no
24 dispute that Blé Goudé was frequently called "général" or "général de la rue" by his
25 supporters and the media alike.

1 P-447 added that it was clear that Blé Goudé was inside the convoy because he was
2 the only one who was referred to as "général" by the youth.

3 According to P-436, this convoy arrived while the body of one of the murdered
4 civilians was still burning just outside the commissariat with a crowd of pro-Gbagbo
5 youth jubilating around it.

6 After spending a few minutes inside the commissariat, the convoy exited and was
7 again followed by enthusiastic supporters, some of whom ran after it shouting,
8 "général. général."

9 Another witness, P-459, was also informed that Blé Goudé toured various
10 neighbourhoods of Yopougon in his convoy after this meeting at CP1. P-459 actually
11 saw this convoy during the late afternoon at the terminus quarante crossroads in
12 Yopougon.

13 This location is also visible on your maps now.

14 P-459 saw Blé Goudé getting out of his 4 X 4 to greet the crowds. Blé Goudé shouted,
15 (Interpretation) "Are you ready to defend the republic? Are you ready to defend
16 the constitution?"

17 (Speaks English) To every question the crowd unanimously replied, (Interpretation)
18 "Yes, we are ready."

19 (Speaks English) Many witnesses confirmed that the violence and crimes against
20 civilians continued taking place in Yopougon in the following days as well and that
21 pro-Gbagbo youth remained in control of Lem and Doukouré.

22 These sources - that I will not repeat here, but that are identified in my
23 presentation - document the burning to death of at least 11 additional civilians
24 between 26 and 28 February.

25 When burning two of these victims, one of the perpetrators reportedly said, and I

1 quote, "If you are a Dioula , it's the same as being a rebel."

2 The burning alive of another two of these 11 victims was captured on video. These
3 two men were burned by the pro-Gbagbo youth after being accused of being rebels.
4 This incident took place in the presence of the BA1 who never intervened to stop the
5 atrocious act.

6 Your Honours, video CIV-OTP-0003-0013, which I'm going to play from minute 1.17
7 until minute 2.10, shows just how horrific the nature of these crimes and the reality on
8 the ground was at the time.

9 THE COURT OFFICER: Could you please confirm the level of confidentiality of the video,
10 please?

11 MS BERDENNIKOVA: It's a public video.

12 THE COURT OFFICER: Thank you.

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

14 MS BERDENNIKOVA: Your Honours, I would now like to draw your attention to a police
15 report, dated 28 February 2011, which is available at CIV-OTP-0046-0029. This document
16 reported on some of the crimes that took place in Yopougon between 25 and 28 February 2011.
17 Police concluded that, among other victims, eight were burned to death at roadblocks erected
18 by the youth during this time.

19 The report further specified that, and I quote, (Interpretation) "In the course of their
20 checks and searches for weapons and rebels, as soon as they see an individual who
21 appears suspicious to them, that person is automatically lynched and burned. As a
22 result, a mere suspicion would be enough to put an end to a person's life in the most
23 atrocious manner."

24 (Speaks English) The report suggested that roadblocks must be dismantled,
25 emphasising that if nothing is done the number of victims would continue to escalate

1 from day to day.

2 Moreover, according to the report, when police insisted that specific roadblocks be
3 dismantled, they were considered as being in collusion with the rebels by the youth
4 controlling these roadblocks.

5 The report concluded by stating that, and again I quote, (Interpretation) "Only an
6 appeal on national television from the initiator of those roadblocks can really put an
7 end to them."

8 (Speaks English) Your Honours, we submit that the totality of the evidence clearly
9 shows that the instigator of this violence and of the roadblocks was Blé Goudé.

10 This is also made clear in the statement of a witness to discuss which I would like to
11 go into a very brief private session.

12 (Private session at 12.49 p.m.)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

26

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Open session at 12.51 p.m.)

8 THE COURT OFFICER: (Interpretation) We are in open session, your Honour.

9 MS BERDENNIKOVA: Your Honours, in conclusion the Prosecution submits that Blé
10 Goudé had the authority and control over the youth to stop the atrocious killings and
11 burnings that were being systematically perpetrated by his followers in Yopougon. Instead,
12 not only did Blé Goudé incite the violent that erupt on 25 February and in the following days,
13 but he also knowingly chose to let the heinous crimes continue being carried out.
14 I thank you for your attention.

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

16 We have only five minutes. Do we stop now?

17 MR MACDONALD: (Interpretation) Your Honour, I would like to propose that we take
18 the lunch-break now and return later for the continuation of our presentations.

19 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you. We are
20 at the end of the second session and we will resume at 14.30. Thank you.

21 THE COURT USHER: All rise.

22 (Recess taken at 12.52 p.m.)

23 (Upon resuming in open session at 2.42 p.m.)

24 THE COURT USHER: All rise.

25 Please be seated.

1 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Good afternoon.

2 We are resuming with a few minutes' delay, because I think there were a few technical
3 problems which I believe are now solved.

4 Can we now listen to your presentation and is everything in order now? I was made to
5 understand that there were a few technical problems before.

6 MR MACDONALD: (Interpretation) Thank you, Madam President. Our next
7 presentation will be by my learned colleague Huck. We have the same problems with the
8 PowerPoint as we had this morning, and we hope that this problem will be solved by the time
9 our next presentation is up.

10 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you very
11 much. Before I give the floor to your colleague, I would like to make an oral decision of the
12 Chamber under Rule 19 of the Statute and Rules 58 and 59 of the Rules of Procedures and
13 Evidence in relation to the application challenging admissibility in this case from the Defence,
14 which was notified to the parties and participants this morning.

15 As mentioned earlier, the Prosecutor and victims have the right to make written
16 observations to admissibility challenge -- to the admissibility challenge from the
17 Defence. Consequently, the Chamber grants the possibility for the Prosecutor and
18 the legal representative of victims to respond to this admissibility challenge by
19 Monday, 20 October 2014 at the latest.

20 Pursuant to Rule 59(1)(b) -- rather, Rule 59(1)(b) of the Rules of Procedure and Evidence, the
21 Chamber specifies that within the framework of admissibility challenging procedures, the
22 common legal representative does not only represent victims who are admitted in the
23 proceedings but also all victims who have already communicated with the Court in
24 connection with this case.

25 If this ruling is clear, we can then proceed with the next set of presentations. You

1 have the floor.

2 MS HUCK: (Interpretation) Madam President, your Honours, I would like to briefly
3 address the specific facts for which Mr Blé Goudé has been charged in relation to the four
4 other incidents mentioned by my learned colleague, Mr MacDonald. I will not revisit the
5 events of 2011 which Ms Berdennikova has already presented. I will underline some of the
6 speeches by Mr Blé Goudé and other evidence in relation to these four incidents.

7 Let me specify that the factual basis on which the Prosecution asserts that Mr Blé
8 Goudé is criminally responsible for these incidents is much broader. My colleagues
9 will deal with additional facts after my presentation.

10 Let me first deal with the first incident relating to the attacks relating to the
11 demonstrations at the RTI headquarters where forces of the FDS and young
12 pro-Gbagbo forces, militia and mercenaries violently dealt with demonstrations and
13 committed acts of violence and abuses against pro-Ouattara civilians over a four-day
14 period from 16 to 19 December 2010. These pro-Gbagbo forces killed at least 45
15 persons, raped 16 women and caused serious bodily harm to 54 persons.

16 On the eve of the demonstration, whereas it had been announced by the RHDP, Mr
17 Blé Goudé, along with some leaders of the galaxie patriotique, spoke to about 4,000
18 youths in Treichville. He accused the UN and France of preparing a genocide in
19 Côte d'Ivoire and of supporting the Ouattara camp. He referred to Guillaume Soro,
20 Alassane Ouattara's prime minister, as a rebel and asked the youth to be ready and to
21 be confident in their forces. And he went on to add, I quote, "We want to live to see
22 our country developed, but we are also ready to die for that cause to come to pass."

23 Furthermore, a well-informed insider witness, Witness P-435, asserts that Mr Blé
24 Goudé gave instructions to the young pro-Gbagbo youth to come out and to oppose
25 the demonstration. P-435 went on to say that Mr Blé Goudé's instructions were

1 transmitted to the youth by the leader of FESCI. It is important to point out that
2 according to his testimony and the testimonies of P-106 and 107, members of FESCI
3 were among the attackers on 16 December 2010 at various levels near the RTI and that
4 they all participated in the acts of violence and abuses.

5 It is the Prosecution's argument that Mr Blé Goudé knew that these acts of violence
6 had been committed since the communique of the council of ministers of 16
7 December 2010 had already indicated that 10 demonstrators had been killed and that
8 in his speech of 19 December 2010, Mr Blé Goudé stated that the 16 and 17 December
9 were days that were now behind them and that the crimes of 16 December had been
10 denounced, that he also had met Mr Gbagbo.

11 In fact, on the evening of 16 December 2010, Mr Gbagbo received in the presidential
12 residence his minister of defence, Dogou, as well as key members of the parallel
13 structure within the FDS, such as Bertin Kadet, Dogbo Blé, other ministers and Blé
14 Goudé himself. During those days of repression and acts of violence, Mr Blé Goudé
15 was received on three occasions at the residence where he met Mr Gbagbo and where
16 he spent several hours.

17 The register indicating those who came in and went out of the presidential residence
18 from November 2010 to April 2011 confirms these visits. My colleague Mr Stang will
19 address this matter in further detail subsequently.

20 In spite of the fact that Mr Blé Goudé was aware that acts of violence were being -- had taken
21 place, he delivered speeches inciting hatred and violence on 18 and 19 December 2010,
22 whereas those crimes against pro-Ouattara civilians were still ongoing.

23 When accused by the international media of inciting the Young Patriots to attack
24 ONUCI and the Ouattara camp, Blé Goudé defended himself on 18 December 2010
25 saying he had not incited anyone to attack anything. However, in the same speech,

1 which was delivered before thousands of youth, he went on to explain that in the face
2 of the most powerful armies in the world, the lord of hosts was on their side, that is
3 the lord of an invisible army who strikes at the right time and who writes injustices.
4 Furthermore, although Blé Goudé asked that, and I quote, "You all calm down and
5 please go quietly to work," he went on to say, and I quote, "This resistance movement
6 that we started in 2002 must continue until our sovereignty is recognised."

7 He whipped up the crowd by asserting, and I quote, "The United Nations is in front
8 and the rebels are hiding behind and they want to kick Gbagbo out of power. And I
9 say, count each Ivorian, because you will kill many, yes, you will kill many. Raise
10 your hands, you will be counted." Then he asked some ten times over to the
11 frenzied youth to be ready and said that it was no longer time to sleep.

12 The Prosecution argues therefore that although some of Mr Blé Goudé's words may
13 appear to have been calls for calm, they were negated by the very tone and the
14 remaining context of his speeches which clearly called for hatred and violence, which
15 incited hatred and violence.

16 On 19 December 2010, during a meeting at Port-Bouet, Mr Blé Goudé asserted that
17 they were the victims, that those who were wearing pro-Gbagbo T-shirts were in
18 danger, including danger of death. And he said that France and Ouattara were part
19 of an electoral arrangement and that this will not be acceptable. He called on the
20 youth to be ready to receive orders from the general.

21 Finally on December 21, 2010 in Koumassi, in spite of the crimes committed by the
22 FDS the previous day, Blé Goudé went on to congratulate the army of Côte d'Ivoire
23 referring to it as an army of dignity and raised the prospect of the final assault for the
24 total liberation of Côte d'Ivoire.

25 Madam President, your Honours, let me now address the second incident as part of

1 my presentation, the attack relating to the demonstration by women on 3 March 2011,
2 during which pro-Gbagbo forces, including FDS agents, suddenly open fire on a
3 peaceful demonstration by women in support of Ouattara at which seven women
4 were killed and several -- and others were wounded.

5 Whereas the Gbagbo government had evidence to the effect that the FDS forces were
6 responsible of this incident, the government denied any responsibility of the FDS
7 relating to the attack of these women and declared that the whole attack was a mere
8 fabrication.

9 On 23 March 2011, during a conference to the international media at Cocody, Mr Blé
10 Goudé himself also reasserted that the FDS could not have been responsible for the
11 death of women on 3 March because at that time Abobo was in the hands of the
12 rebels.

13 The Prosecution recalls that, at that time, military convoys conducted daily supply
14 missions between the commando camps and other FDS camps, particularly the Agban
15 camp. By denying any responsibility of the FDS in this attack on the women, Blé
16 Goudé exerted his influence in propagating the position of Mr Gbagbo and his
17 immediate circles.

18 Regarding the third incident, namely, the shelling of the Abobo market and its
19 surroundings, on 17 March 2011, leading to the death of more than 40 persons and
20 injuring some 60 persons, Mr Blé Goudé also supported Mr Gbagbo's position. In
21 fact, on 18 March 2011, Mr Gbagbo through his spokesperson called on all Ivorians to
22 become more responsible and to collaborate more closely with the FDS in order to
23 ensure that all suspected persons present may be neutralised.

24 The next day, on 19 March 2011, Blé Goudé supported Gbagbo's call at a meeting in
25 Yopougon and called on thousands of pro-Gbagbo youth who were present to enrol

1 in the army. While he explained that those who belonged to Gbagbo were in danger,
2 and that they were being tortured and being slaughtered in the churches in Abobo, he
3 did not say a word about the 10 -- the dozens of death of pro-Ouattara supporters or
4 civilians which happened on 17 March during the bombing or shelling of the market
5 and its surroundings.

6 Let me now refer to the last incident, namely the attack on Yopougon on or around 12
7 April 2011, during which pro-Gbagbo forces, particularly militia, young pro-Gbagbos
8 and young mercenaries attacked to the Doukouré neighbourhood and Mami Fatai
9 neighbourhoods which were deemed to be pro-Ouattara.

10 The pro-Gbagbo forces killed at least 68 persons, raped 22 women and injured two
11 persons. The Prosecution recalls that, according to Witness P-109, the young patriots
12 were part of the group which fired and killed his friends.

13 Mr Blé Goudé's Defence argue an alibi, namely, that he was not in Côte d'Ivoire at the
14 time of the Yopougon attack and can therefore not be responsible. The Prosecution
15 argues that the presence or absence of the suspect at the time of the event cannot
16 absolve him of responsibility under any mode of liability whatsoever.

17 In his book *Traquenard électoral*, Mr Blé Goudé reveals that he talked to Mr Gbagbo
18 on 5 April 2011. On that very day he addressed the patriots in a television message
19 calling on them to reinforce roadblocks, to bring to the attention any suspicious
20 movements to continue with the resistance and to ensure that the struggle continues.

21 I will now show two excerpts, video, OTP-0047-0604, which we shall view at this
22 juncture from minute 2.046 to minute 4.12; and the second excerpt shall be from
23 minute 05.16 to 05.40.

24 THE COURT OFFICER: (Interpretation) Could you determine -- could you please inform
25 the Court of the level of confidentiality of this document?

1 (Viewing of the video excerpt CIV-OTP-0047-0604)

2 MR MACDONALD: While waiting for the technical problem to be solved, well, I note that a
3 short while ago all was working well, but we must now try to fix the problem again.

4 (Viewing of the video excerpt CIV-OTP-0047-0604)

5 MS HUCK: (French spoken)

6 THE INTERPRETER: Message from the interpreters: Inaudible.

7 (Viewing of the video excerpt CIV-OTP-0047-0604)

8 MR MACDONALD: (Interpretation) We will be asking someone from CMS to come and
9 solve the problem as quickly as possible.

10 MS HUCK: I have concluded my presentation. Thank you very much. And I would now
11 like to invite my colleague to address the Court.

12 MR. GALLMETZER: Good afternoon, your Honours. My name is Reinhold Gallmetzer
13 and I'm going to talk about the facts relevant to establish the individual criminal
14 responsibility of Mr Blé Goudé.

15 Mr Blé Goudé is responsible for the crimes charged as an indirect co-perpetrator.

16 He's also responsible for those crimes having ordered, solicited and induced the
17 commission of the crimes for having aided and abetted, or otherwise assisted, in the
18 commission of the crimes and for contributing the commission of these crimes by a
19 group of persons acting with a common purpose.

20 The DCC, the document containing the charges, sets out the facts and circumstances
21 that give rise to Mr Blé Goudé's criminal responsibility under all these modes of
22 liability. The structure of the DCC focuses on indirect co-perpetration. Therefore,
23 in this presentation I will refer to that mode of liability only very briefly and instead
24 focus on the other modes of liability.

25 In relation to those, I will first set out the law in relation to each of the elements and

1 then address the facts as alleged in part 9 of the DCC and demonstrate how these
2 facts make out each of the individual elements of the modes of liability.

3 The presentations of my colleagues demonstrate how the evidence before you
4 establish -- establishes the material facts underlying the charges, which the facts then
5 in my presentation will link to the modes of liability. However, I'm not going to
6 repeat any of the evidentiary submissions that have been made or will be made by my
7 colleagues.

8 I also want to add, at the end of my presentation, a copy of my submissions will be
9 handed to the Chamber, to the Defence and to the victims, and that written copy
10 includes references both to the legal authorities that support my submissions as well
11 as concrete references to specific parts of part 9 that, again, relate to each of the
12 individual elements of the modes of liability.

13 So with this, your Honours, please allow me to turn to the first mode of liability, that
14 is indirect co-perpetration under Article 25(3)(a).

15 As said, since the DCC, including part 9 itself, is very much structured to reflect the
16 elements of indirect co-perpetration. I'll not go into much detail but only make a few
17 comments of law and fact. I believe that you have in front of you now a slide, and
18 this takes me to the legal submissions.

19 The Prosecution relies on the findings on co-perpetration of the Trial Chamber I in the
20 Lubanga case which emphasised that, and I quote, "the accused must provide an essential
21 contribution to the common plan that resulted in the commission of the relevant crimes."

22 End of quote.

23 The Trial Chamber further specified that co-perpetration under Article 25(3)(a), and I
24 quote, "... requires that the offence be the result of the combined and coordinated
25 contributions of those involved." End of quote.

1 "As a result," and I quote again, "the Prosecution does not need to demonstrate that the
2 contribution of the accused taken alone caused the crime. Rather, the responsibility of the
3 co-perpetrators from crimes resulting from the execution of the common plan arises from
4 mutual attribution based on the joint agreement or common plan," end of quote.

5 Your Honours, criminal responsibility based on mutual attribution is the key feature
6 that distinguishes co-perpetration from indirect perpetration. If under
7 co-perpetration or the same for indirect co-perpetration the accused was required to
8 provide an essential contribution directly to the crime as opposed to the
9 implementation of the common plan, which then as a whole results in the commission
10 of the crime, then legal element of the common plan and the co-perpetration would
11 have no practical meaning or consequence.

12 This is so because the accused's same conduct could equally be described under direct
13 perpetration or indirect perpetration, which do not require proof of the existence of a
14 common plan.

15 Please allow me now to turn to the facts of this case. The present slide, your
16 Honours, demonstrates how the facts alleged in part 9 of the DCC reflect the elements
17 of indirect co-perpetration. I'm going to summarise them briefly.

18 Mr Blé Goudé conceived and espoused a common criminal plan together with Mr
19 Gbagbo and other members of his inner circle as well as members of the pro-Gbagbo
20 forces. Their plan was to maintain Mr Gbagbo in power by all means, including by
21 committing a widespread and systematic attack against civilians perceived to support
22 Ouattara.

23 Mr Blé Goudé, Mr Gbagbo and others acted in a coordinated manner to implement
24 their common plan through the pro-Gbagbo forces whom Blé Goudé, Gbagbo and
25 others jointly controlled.

1 Mr Blé Goudé further provided an essential contribution to the implementation of the
2 common plan, and that implementation then led to the commission of the crimes
3 charged by pro-Gbagbo forces.

4 As a result, your Honours, Mr Blé Goudé is responsible for all the crimes committed
5 by the pro-Gbagbo forces pursuant to and in furtherance of the common plan. In
6 other words, he is responsible for all these crimes as an indirect co-perpetrator
7 regardless of whether these crimes were physically perpetrated by the pro-Gbagbo
8 youth, the FDS, the militia or mercenaries. What matters is that these crimes were
9 committed as a result of a joint effort by Mr Blé Goudé, Mr Gbagbo and others in
10 pursuance of their joint criminal plan, and that Blé Goudé provided an essential
11 contribution to the implementation of this common plan.

12 So having said this, I'll now turn to the next mode of liability that Mr Blé Goudé is
13 charged with, and that is ordering, soliciting and inducing under Article 25(3)(b) of
14 the Statute.

15 In the Gbagbo confirmation decision, this Chamber found that the elements of
16 ordering are equally applicable to soliciting and inducing. It found that the only
17 exception applies to the requirement of a position of authority which is particular to
18 ordering and which is not a necessary element for soliciting and inducing.

19 I shall now examine the law and applicable facts in relation to each of these elements.
20 First, and as you can see on the slide that appears on the screen before you, the first
21 element is that the person is in a position of authority. As already said, this is an
22 element that applies only to the mode of liability of ordering but not also to soliciting
23 and inducing.

24 On the law, your Honours, the position of authority required for ordering is different
25 from the superior subordinate relationship for command responsibility under Article

1 28. It does not require proof of an official or formal relationship of subordination or
2 effective control. Ordering requires a looser relationship of authority. That
3 authority may be informal or of a purely temporary nature.
4 According to the established jurisprudence of the UN ad hoc tribunals for the purpose
5 of ordering, it is sufficient that there is proof of some position of authority on the part
6 of the accused that would compel the perpetrator to commit a crime pursuant to the
7 accused's order. It suffices that the direct perpetrators regarded the accused as
8 speaking with authority, that they perceived his or her words as words or orders to
9 perform certain acts or omissions and that they felt obliged to comply.
10 The suspect's authority in this case may be based on influence, which may emanate,
11 for instance, from the suspect's social, economic, political or administrative standing.
12 And, again, all these legal submissions will be supported with authorities that are
13 included in the document that I will provide to you shortly.
14 Turning now to the facts as alleged in part 9 of the DCC, Mr Blé Goudé was in a
15 position of authority over the pro-Gbagbo youth. He was not in the same position of
16 authority over other components of the pro-Gbagbo forces. Therefore, Mr Blé
17 Goudé's criminal responsibility for the specific mode of liability of ordering is limited
18 to those crimes that were directly perpetrated by the pro-Gbagbo youth.
19 Mr Blé Goudé was the leader of the pro-Gbagbo youth or at a minimum the
20 pro-Gbagbo youth regarded him as such. Mr Blé Goudé's authority over the youth
21 is demonstrated by the fact that he participated in the establishment of the structure
22 in which the pro-Gbagbo youth were organised. He financed their activities,
23 supported their military training and army and ensured their cohesive action. By
24 galvanising the pro-Gbagbo youth, Mr Blé Goudé ensured their loyalty to him and
25 that they would follow his instructions.

1 Moreover, Mr Blé Goudé was the essential intermediary between Mr Gbagbo and the
2 youth, and he transmitted to them the instructions of Mr Gbagbo or of other members
3 of Mr Gbagbo's inner circle. As a result, in the eyes of the youth, Mr
4 Gbagbo -- sorry -- Mr Blé Goudé embodied the authority of Mr Gbagbo, and they
5 would comply with any instruction that he would pass through them.

6 The authority of Mr Blé Goudé over the youth is also demonstrated by the fact that
7 the youth in fact did implement the orders that he passed to them. This is the most
8 direct proof that we can possibly get.

9 Now let's turn to the next element under this mode of liability, and this is an element
10 that applies to all three modes of liability, namely, ordering, soliciting and inducing,
11 and it is that the person instructs another person in any form to either commit a crime,
12 which in fact occurs or is attempted, or to perform an act or omission in the context of
13 which a crime is carried out.

14 Again, I will first make a couple of submissions on the law.

15 As the wording of this element suggests, it is not necessary that the suspect orders,
16 induces or solicits another person to commit a crime. It suffices that the suspect
17 instructs a person to commit an act, the execution of which contributes to the
18 commission of a crime.

19 There is also no requirement that instruction be given in any particular form, and its
20 existence may be established through circumstantial evidence.

21 Finally, the suspect may order, induce or solicit through an intermediary. There is
22 no need that the act of ordering, solicitation or inducement is given directly to the
23 persons who commit the crime. However, obviously if such a direct order or act of
24 instigation is made, that will definitely also suffice to comply with the legal
25 requirement for this element.

1 So turning now to the facts of part 9 relevant to this element, Mr Blé Goudé instructed
2 or otherwise instigated the pro-Gbagbo forces to carry out certain actions, the
3 execution of which contributed to the commission of the crime charged. He did so in
4 the following ways:

5 Mr Blé Goudé mobilised pro-Gbagbo youth for committing acts of violence against
6 perceived Ouattara supporters with a view to keeping Mr Gbagbo in power. He
7 motivated them, prepared them to fight and directed their actions.

8 Mr Blé Goudé also gave concrete instructions to pro-Gbagbo youth, the
9 implementation of which contributed to the commission of crimes. He frequently
10 appeared in the media or spoke before large numbers of pro-Gbagbo youth to give
11 them orders, what he called "mon ordre."

12 For instance, he called upon the pro-Gbagbo youth to set up roadblocks, to monitor
13 the area, to identify all foreigners in the neighborhood and to denounce them. Mr
14 Blé Goudé also asked the pro-Gbagbo forces generally to continue their fight for
15 Gbagbo and to defend the people against what he called the rebels.

16 Through the use of xenophobic rhetoric and hate messages, Mr Blé Goudé created an
17 atmosphere of fear and an environment that was conducive to the commission of the
18 crimes against Ouattara supporters. Among others, he accused perceived Ouattara
19 supporters for committing acts of violence in planning a genocide against Ivoirians.

20 Blé Goudé also prompted the commission of crimes by communicating to the
21 pro-Gbagbo youth the decisions of Mr Gbagbo and members of his inner circle. He
22 further supported and encouraged the youth to enrol into and to cooperate with the
23 FDS.

24 Mr Blé Goudé also incited pro-Gbagbo forces generally to commit the crimes charged
25 by encouraging, condoning and legitimising their criminal conduct and by

1 congratulating them for their activities that included the commission of crimes.

2 Moreover, in the context of the above, the fact that Mr Blé Goudé funded the activities
3 of the pro-Gbagbo youth, that he supported their military training and arming and
4 contributed to the recruitment of pro-Gbagbo mercenaries also prompted them to
5 commit crimes against perceived Ouattara supporters.

6 With this now I turn to the next element, which again is applicable to all three modes
7 of liability under 25(3)(b), and it is that the order or act of inducement or solicitation
8 had a direct effect on the commission of the crimes.

9 For all three modes of liability under Article 25(3)(b), such a direct effect on the
10 commission of the crimes must be established. The ICC jurisprudence does not
11 qualify the degree or level of contribution. In particular it does not require the order
12 or act of inducement or solicitation to be a *conditio sine qua non* for the commission
13 of the crime.

14 In our view, direct contribution only requires the existence of a link or nexus between
15 the act and conduct of the suspect and the commission of the crimes by others.

16 Unless the conduct of a suspect is so trivial that no relation between his conduct and
17 any of the elements of the crime can be established, all contributions will be sufficient
18 to meet the requirements under this element.

19 Turning now to the facts, Mr Blé Goudé provided moral assistance and support to
20 pro-Gbagbo youth, the FDS, militia and mercenaries who directly perpetrated the
21 crimes. His conduct had a direct impact on forming and reinforcing their
22 determination to commit the crimes charged.

23 In particular, the pro-Gbagbo youth regarded Mr Blé Goudé as their unquestioned
24 leader, and he spoke to them with the authority of Mr Gbagbo and members of his
25 inner circle and communicated their decisions to them. As a result, the youths felt

1 compelled to act upon the instructions of Mr Blé Goudé, and implementation of these
2 instructions contributed to the commission of the crimes charged.

3 Mr Blé Goudé also mobilised pro-Gbagbo youth and motivated and prepared them to
4 fight and to commit acts of violence for the overall purpose of keeping Mr Gbagbo in
5 power by all means. This ensured that many of the pro-Gbagbo youth also espoused
6 a common plan and encouraged them to commit the crimes charged.

7 As mentioned before, although Mr Blé Goudé was not in a position of authority over
8 the FDS, the militia and the mercenaries, his conduct still had some influence over
9 them. In particular, his closeness to Mr Gbagbo, his key role in Mr Gbagbo's inner
10 circle and his position as a government minister gave him access to the FDS
11 leadership to which he kept close ties, and it permitted him to request the cooperation
12 between the youth and the FDS.

13 As a result, Mr Gbagbo's hate speeches and his messages and advice to FDS officers
14 encouraged the FDS to commit violent acts against perceived Ouattara supporters
15 with a view to keeping Mr Gbagbo in power by all means.

16 Moreover, the fact that Mr Blé Goudé was part of the common plan and played a key
17 role in implementing it encouraged other members of the pro-Gbagbo inner circle,
18 including FDS commanders, to also participate in the joint implementation or the
19 common plan and the commission of the crimes.

20 At the time of the commission of these crimes the FDS was weakened and it could not
21 have implemented the common plan on its own. Because Mr Gbagbo -- sorry.

22 Because Mr Blé Goudé added an essential component to the pro-Gbagbo forces,
23 namely the pro-Gbagbo youth, this strengthened the determination of the FDS to
24 engage in the joint venture that eventually resulted in the commission of the joint -- of
25 the charged crimes.

1 In addition, through systemic xenophobic hate speeches Mr Gbagbo created an
2 atmosphere that was conducive to the commission of the crimes. By so doing, he
3 created an environment in which people were prepared to commit crimes or to
4 tolerate the commission of crimes by others. This, your Honours, laid the
5 foundation in the minds of the entire pro-Gbagbo camp for the events that were to
6 follow. It was an important factor contributing to the commission of the crimes by
7 all components of the pro-Gbagbo forces.

8 Similarly, because Mr Blé Goudé encouraged, condoned and justified the criminal
9 activities of pro-Gbagbo forces and spoke with the authority of Mr Gbagbo, this was
10 an indication to all pro-Gbagbo forces that they were free to act without fear from any
11 accountability, which further emboldened them to engage in the conduct which
12 resulted in the commission of the crimes charged.

13 Finally, the fact that Mr Gbagbo under the authority -- sorry. The fact that Mr Blé
14 Goudé under the authority of Mr Gbagbo provided training, weapons, financing and
15 other material support to pro-Gbagbo youth and mercenaries also had the effect of
16 encouraging them to commit the crimes charged.

17 Lastly, I'll now talk briefly about the mental element under Article 25(3)(b), and that is
18 the suspect is at least aware that the crime will be committed in the ordinary course of
19 events.

20 The general requirements under Article 30 apply, because Article 25(3)(b) does not
21 prescribe any particular mens rea for ordering, soliciting and inducing. Accordingly,
22 the Prosecution must establish that the suspect intentionally engaged in the criminal
23 conduct and either meant to cause the crime or was aware that the crime will be
24 committed in the ordinary course of events.

25 This latter, however, requires a clarification. It is not necessary to show that the

1 suspect is aware that the crime will be committed in the ordinary course of events as a
2 consequence of the execution of the order, act of inducement or solicitation. The
3 Prosecution must merely establish that the suspect was aware that due to the totality
4 of the relevant facts and circumstances, which include but are not limited to the
5 suspect's conduct, the crime will be committed in the ordinary course of events.

6 On the facts, your Honour, I would refer you to those facts and circumstances that the
7 Prosecution is relying at paragraph 333 to 334 of the DCC. These facts we argue
8 equally establish the mental requirements for Article 25(3)(b) and we invite you to
9 draw the necessary inferences from it.

10 Before I turn to the next mode of liability, however, I would like to briefly address a
11 comment that was made this morning by my learned colleague from the Defence in
12 his opening statement. At transcript page number 41, line 25 to page 42, line 11, my
13 colleague from the Defence stated the following, and I quote,

14 "Now, your Honours are surely aware that ... the Rome Statute will require you to
15 find that ..." Mr Blé Goudé "... acted both with knowledge and intent .. I ask you very
16 sincerely ..." the Defence suggests "... what evidence the Prosecutor has to suggest that
17 Mr Blé Goudé wanted innocent people to be murdered or defenceless women to be
18 raped? She has absolutely nothing." He suggests. "The most she can do is point
19 to some cast-away comment or another made by Mr Blé Goudé where he
20 acknowledged that in times of crisis ..." a conflict "... and conflict unfortunate events
21 occur. But knowledge, your Honours, is not intent." End of quote.

22 This submission, your Honours, is premised on an incorrect understanding of the
23 applicable law. Under the Statute awareness that crimes will occur in the ordinary
24 course of events satisfies the requirement for intent pursuant to Article 30(2)(b).

25 Mr Blé Goudé, when asked whether he was concerned that his armed rebels would

1 get out of control, he answered that, and I quote, "In a revolution there is always
2 collateral damage. We are obliged to fight for our freedom." End of quote.

3 This, your Honours, is direct proof that Mr Blé Goudé had the requisite intent, that he
4 was aware that in the context of the circumstances that prevailed at the time crimes
5 against perceived Ouattara supporters will be committed by pro-Gbagbo forces in the
6 ordinary course of events.

7 Now I'm turning to the next mode of liability, that is aiding and abetting or otherwise
8 assisting pursuant to Article 25(3)(c). On the law, and again here you have the
9 elements laid out in the -- on the screen before you and I will address each of them
10 individually, first on the law and then on the facts.

11 For the actus reas for this mode of liability requires proof that a person aids, abets or
12 otherwise assists in the commission or attempted commission of a crime, including
13 providing the means for its commission.

14 This broad formulation, any form of assistance, implies that the degree of assistance is
15 not qualified. In particular it is not necessary for the Prosecution to demonstrate that
16 the assistance of the suspect was essential, substantial or significant to the commission
17 of the crime, as long as it is proven that the conduct of the suspect did in fact assist the
18 main perpetrators in any way in the commission of those crimes. Such assistance is
19 not limited to material assistance but includes moral assistance or support.

20 Let's turn to the facts. When discussing the mode of liability under Article
21 25(3)(d) -- (3)(b) I demonstrated how Mr Blé Goudé's conduct had a direct impact on
22 forming and reinforcing the determination of pro-Gbagbo forces to commit the crimes.
23 All the same facts and arguments are equally applicable in the context of the mode of
24 liability under Article 25(3)(c). I incorporate them in these submissions without,
25 however, repeating them.

1 I will now focus on how the conduct of Mr Blé Goudé provided material support to
2 the direct perpetrators or how he otherwise assisted them in carrying out the crimes
3 charged. He did so in the following ways: Mr Blé Goudé contributed to the
4 establishment and the management of a structure through which Mr Gbagbo and
5 members of his inner circle were able to implement the common plan. In addition,
6 Mr Blé Goudé contributed to the implementation of the common plan and the
7 commission of the crimes charged.

8 I'll be more specific now. Mr Blé Goudé exercised a coordinating role of the
9 activities of the pro-Gbagbo youth. He ensured that these activities were consistent
10 with the common plan and he directed the activities of the youth by giving them
11 instructions, the implementation of which led to the criminal activities of the youth.
12 Mr Gbagbo was the link -- sorry. Mr Blé Goudé was the link between Mr Gbagbo
13 and the pro-Gbagbo youth. As such, his functions included ensuring that the
14 pro-Gbagbo forces were properly informed of the decisions from Mr Gbagbo or other
15 members of his inner circle, and implementation of these decisions also resulted in the
16 commission of the crimes charged.

17 Mr Blé Goudé also ensured that there was a clear organisational structure within the
18 pro-Gbagbo youth and as well as within the parallel structure of the pro-Gbagbo
19 forces, which enabled the direct perpetrators to communicate and to operate
20 effectively and for Mr Gbagbo's instructions to pass down to the direct perpetrators.
21 Further, by recruiting and mobilizing pro-Gbagbo youth and mercenaries, Mr Blé
22 Goudé ensured that there was a sufficient number of direct perpetrators available to
23 implement the common plan and to commit the crimes charged.

24 Mr Blé Goudé further contributed to the pro-Gbagbo youth being properly funded,
25 armed, and trained and he otherwise prepared them to fight. He then ensured that

1 pro-Gbagbo youth cooperated with other pro-Gbagbo forces and in particular with
2 the FDS.

3 By making a sufficient number of highly motivated and well-financed armed and
4 trained youths available to co-operate with the FDS, Mr Blé Goudé provided a
5 significant support to the FDS for the commission of the crimes charged. The
6 co-operation between the FDS and the youth and their co-ordination of their activities
7 enabled the FDS to focus its limited resources on certain areas and activities. It
8 therefore strengthened their capacity to engage in the criminal conduct that resulted
9 in those areas and those activities.

10 Finally, by addressing his hate speeches against perceived Ouattara supporters, Mr
11 Blé Goudé identified them as the targets of the attacks by the pro-Gbagbo forces.

12 And this again is a form of directly contributing and assisting the activities -- the
13 criminal activities of the pro-Gbagbo forces.

14 I now address the mens rea under Article 25(3)(c). This provision provides that the
15 suspect aids, abets or otherwise assists in the commission of the crime for the purpose
16 of facilitating the commission of those crimes.

17 This phrase if interpreted in conjunction with Article 30 requires some form of intent
18 in addition to knowledge. However, the term "purpose" does not relate to the
19 commission of the crime but to the suspect's act of facilitation. In other words, the
20 suspect need not intend the commission of the crime, but he must only intend or
21 mean that his conduct facilitated the commission of the crime by others. This
22 interpretation is also consistent with Article 30(2)(b). There are good reasons, your
23 Honours, why the term "purpose" cannot mean anything more than this. Any
24 higher mental requirement for Article 25(3)(c) would frustrate its object and purpose
25 and the status as an accessorial mode of liability.

1 Requiring purpose to mean more than what I've just explained would in particular
2 impose a mens rea requirement for aiding and abetting that is similar or even higher
3 to that required for committing a crime under Article 25(3)(a).

4 Even more it would effectively require proof of a specific intent for each individual
5 crime under the Statute even if the definition of that crime does not include any
6 specific intent. These outcomes, your Honour, would be manifestly absurd.

7 Turning to knowledge. Consistent with Article 30(3), the knowledge requirement
8 for aiding and abetting requires proof that the suspect was aware that the crime will
9 be committed in the ordinary course of events by the direct perpetrators. This
10 includes knowledge of the intent of the direct perpetrators, but it does not require
11 proof that the suspect shared the direct perpetrators' intent.

12 For the facts and circumstances pleaded in part 9, I would again refer you to those
13 facts laid out at paragraphs 333 to 334 of our DCC from which you will be able to
14 draw all the necessary inferences. And I'm not going to repeat any of those.

15 This now brings me to the last mode of liability, and that is that of contributing to the
16 commission of the crime by a group of persons acting with a common purpose
17 pursuant to Article 25(3)(d) of the Statute. And here I would like to start by making
18 some comments on the law.

19 First, the legal requirement that the group of persons holding a common purpose
20 commit the crime does not necessarily entail that these same persons directly
21 perpetrate the material elements of the crime. The term "commit" in this context
22 must be interpreted broadly and in accordance with Article 25 paragraph 2 in the
23 sense that it may entail any form of attribution under any mode of liability of the
24 Statute.

25 The narrow meaning of the term "commit" is reserved to the specific mode of liability

1 under Article 25(3)(a).

2 Accordingly, criminal responsibility under Article 25(3)(d) may be attributed to a
3 suspect for a crime that was directly perpetrated by persons who do not share the
4 common purpose as long as the crime forms part of the common purpose.

5 To that end, it has to be shown that the crime can be imputed to at least one of the members of
6 the common purpose, and that this member when using the direct perpetrators acted in
7 accordance with a common plan. The existence of such a link is a matter to be assessed on a
8 case-by-case basis and the evidence that will be before you.

9 My second comment on the law is that in spite of some jurisprudence of this Court to
10 the contrary, we submit that under Article 25(3)(d), any contribution to the crime is
11 sufficient to establish criminal responsibility. A further qualification of the level of
12 contribution, such as significant, is inconsistent with the literal interpretation of the
13 provision.

14 Accordingly, Article 25(3)(d) merely requires the existence of a link or nexus between
15 the act and the conduct of the accused in the commission of a crime by a group of
16 persons acting with a common purpose.

17 I'm now turning to the facts. And here I will address each element of the mode of
18 liability separately.

19 First, a group of persons acting with a common purpose committed crimes within the
20 jurisdiction of the Court. In this case the group of persons acting with a common
21 purpose is constituted by Mr Blé Goudé, Mr Gbagbo and other members of Mr
22 Gbagbo's inner circle as well as members of the pro-Gbagbo forces.

23 Their common purpose was to maintain Mr Gbagbo in power by all means, including
24 by committing a widespread and systematic attack against perceived Ouattara
25 supporters.

1 Between 16 December 2010 and 12 April 2011, this group of persons who jointly
2 controlled the pro-Gbagbo forces committed the crimes charged in this case.

3 However, as explained before, it is not necessary for the Prosecution to establish that
4 each and every member of the pro-Gbagbo forces that was involved in committing
5 the crimes also was part of this common purpose, that they also espoused a common
6 purpose.

7 The group of persons acting with a common purpose, as I mentioned, included Mr
8 Gbagbo, members of his inner circle and these are also FDS leaders. As a result, Mr
9 Gbagbo is responsible, pursuant to Article 25(3)(d), for all crimes that are attributable
10 to at least one of these persons under any mode of liability under the Statute, as long
11 as these persons acted in accordance and pursuant to the common purpose.

12 Mr Gbagbo is one of the persons acting with a common purpose to him -- to whom
13 the crimes charged can be attributed. As a result, Mr Blé Goudé is also responsible
14 for these same crimes as long as he provided an intentional contribution to the group
15 of persons acting with a common purpose.

16 And this already now takes me to the next element, which is a requirement that a suspect
17 contributed to the crime in any way.

18 Mr Blé Goudé contributed to the commission of the crimes charged so the entirety of
19 his conduct as laid out at paragraph 332 in the DCC. As discussed earlier, his
20 conduct constitutes moral and material support or other assistance to the group of
21 persons acting with a common purpose who committed the crimes charged.

22 Therefore, Mr Blé Goudé's conduct discussed in the context of Articles 25(3)(b) and (c)
23 equally applies in the context of his liability under Article 25(3)(d). And there is no
24 need for me to repeat all of this, but I would like these to be incorporated in this part
25 of our submissions.

1 In addition, Mr Blé Goudé contributed to the commission of the crimes by playing a
2 central role in the conception of the common purpose by a group and by discussing
3 with Mr Gbagbo and other members of his inner circle a strategy to implement this
4 common purpose.

5 Because the charged crimes were perpetrated with a view to implementing the
6 common purpose, its conception and coordinated implementation played a
7 significant role in contributing to the commission of the crimes.

8 Finally, the mental element of Article 25(3)(c) requires that the contribution was
9 intentional and was made either with the aim of furthering the criminal activity, or
10 criminal purpose of the group, or in the knowledge of the intention of the group to
11 commit the crimes.

12 As you're aware, the Prosecution is relying on both alternative modes of liability or
13 both alternative forms of mens rea under this mode of liability. In order to establish
14 this requirement, again, we're relying on the facts and circumstances included at
15 paragraph 333 to 334, and we invite you to draw the necessary inferences from them.

16 To conclude, your Honours, based on his conduct as described in the DCC, Mr Blé
17 Goudé is responsible for the crimes charged under multiple modes of liability.

18 Moreover, with the exception of the mode of liability of ordering, his responsibility is
19 not limited to the crimes directly perpetrated by the youths, but extends also to all
20 those crimes charged that were physically and directly perpetrated by the FDS, by
21 members of the militia and mercenaries.

22 Although there is some overlap between the modes of liability charged in this case,
23 we request the Chamber to confirm the charges for all of them. If the relevant facts
24 are established, the Trial Chamber should then determine which is the most
25 appropriate way to legally characterise Mr Blé Goudé's conduct and his criminal

1 responsibility.

2 Such approach would not only serve judicial economy, but it would also be fair to the
3 suspect because it would enable him to have advanced notice of all the possible
4 modes of liability that he may charge at trial. Thank you very much.

5 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you very
6 much.

7 MR MACDONALD: With your leave, your Honour, we were informed that the video
8 extracts can be played again by the court officer, and that is what I am proposing that we do.
9 So I would like to ask my colleague, Ms Huck, to proceed.

10 MS HUCK: (Interpretation) Madam President, your Honours, on the same day that Mr Blé
11 Goudé spoke to Mr Gbagbo on 5 April 2011, Mr Blé Goudé spoke to the youth over radio and
12 television asking them to reinforce the roadblocks and he insisted that the struggle should
13 continue.

14 I would like to ask now the court officer to play the two extracts. Thank you.
15 (Viewing of the video excerpt CIV-OTP-0047-0604)

16 MR MACDONALD: (Interpretation) Your Honour, I am looking at the time, we have
17 about 10 minutes left, so I would propose that Mr Stang should take the floor. And he needs
18 15 minutes for the first part of his presentation. So I do not know whether we can go beyond
19 by about 5 minutes since we started late? I would say 10 minutes maximum.

20 MR STANG: Madam President, honourable Judges, my name is Lloyd Stang. I will now
21 start the Prosecution's presentations regarding Charles Blé Goudé's individual criminal
22 responsibility and, more specifically -- and more specifically his contributions to the crimes
23 charged as a result of the implementation of the common plan.

24 After my presentation, there will be a further presentation by each of my colleagues,
25 Yasmine Chubin and Krisztina Varga, and together our presentations generally

1 correspond to part 8.4 of the DCC.

2 By way of preliminary comment, I can advise that our presentations will touch on
3 evidence that demonstrates Blé Goudé's adherence to and support of the common
4 plan, which as noted in the DCC was for Gbagbo to retain power by all means,
5 including through the use of force against civilians.

6 The evidence regarding the establishment of the common plan and Blé Goudé's
7 adherence to it is described in detail in the DCC. And because of time limitations,
8 we will not be able to discuss all of the evidence during our presentations. I do
9 however wish to recall for the Court a number of items that we submit are
10 demonstrated by the evidence.

11 One: That prior to the period of post-electoral violence, Gbagbo put into place a structure,
12 which structure included Mr Blé Goudé and other members of his inner circle in order to
13 implement the common plan.

14 Two: The organised structure of the pro-Gbagbo forces included the youth and
15 militias.

16 Three: That the youth were used to support the FDS.

17 Four: That Gbagbo and his inner circle recruited, financed, armed and integrated
18 mercenaries and that Blé Goudé contributed by assisting with the recruitment of
19 mercenaries.

20 Five: That Gbagbo controlled the media, and in particular the RTI television.

21 In addition to these that I've just mentioned, our presentations will include evidence
22 that demonstrates the following five items:

23 One: Blé Goudé had close relations with Gbagbo and other persons who shared the
24 objective of keeping Gbagbo in power, and they coordinated actions with each other,
25 including the use of force on civilians.

Two: Since October 31, 2009, Blé Goudé was deputy director of Gbagbo's youth campaign and both prior to and during the period of post-electoral violence he mobilised the youth for possible use of violence.

Three: Blé Goudé's allegiance to Gbagbo was complete and he assisted with the recruitment of youth to the FDS and with supplying money and arms to militias.

Four: Blé Goudé and others publicly supported the common plan and Blé Goudé in particular used his public speeches and the pro-Gbagbo media to elicit support for pro-Gbagbo forces and to incite hate and violence against persons or groups perceived to be pro-Ouattara.

And five: Blé Goudé's involvement in meetings, communications and co-ordination of messages, including orders and the use of private coded messages, all of which demonstrates the existence of the common plan and Blé Goudé's essential contribution to it.

I will now proceed with my presentation of some of the important items of evidence and related submissions. This will include my verbal presentation and PowerPoint presentations.

With respect to the conception and implementation of the common plan, Blé Goudé's contribution was essential. He was an important member of Laurent Gbagbo's inner circle and he had a close relationship with Gbagbo and with other members of the inner circle.

It is notable that Blé Goudé was an unwavering supporter of Gbagbo for many years. He became Gbagbo's confidante and indeed, as demonstrated by the evidence cited in footnote 818 of the DCC, he advised Gbagbo on important issues.

Their close relationship is even confirmed by Blé Goudé himself, who indicates in his book, "Côte d'Ivoire Traquenard Electoral," and I quote, (Interpretation) "He talked

1 to me like a father and I spoke to him like a son."

2 (Speaks English) The long-standing political relationship between Gbagbo and Blé
3 Goudé is evident from the fact that since the end of October 2009, as I mentioned, Blé
4 Goudé was the campaign deputy director for youth for Mr Gbagbo's campaign, and
5 then on December 6, 2011, Gbagbo made Blé Goudé his Minister of Youth,
6 Professional Training and Employment.

7 Blé Goudé gave advice and he took instructions. Witness P-44 provides direct
8 evidence about the fact that Blé Goudé received instructions from Gbagbo, and
9 several other witnesses provide evidence as to opportunities for him to receive
10 instructions from Gbagbo and to advise him.

11 From the evidence of these witnesses and other evidence I will discuss in a few
12 minutes, likely tomorrow morning given the hour, it is clear that Blé Goudé had
13 virtually unrestricted and unlimited access to Gbagbo. In particular, Witness P-46
14 confirms that Blé Goudé would meet with Gbagbo at both the presidential residence
15 and the presidential palace.

16 Without a doubt, they also had telephone conversations. As already alluded to by
17 my colleague, Madam Huck, Blé Goudé himself confirmed in his book, "Côte d'Ivoire
18 Traquenard Electoral," that his last contact with Gbagbo was on April 5, 2011, by
19 telephone.

20 Blé Goudé was also intimately connected with other members of the inner circle and
21 notably with senior members of the FDS. This is detailed in paragraph 224 of the
22 DCC and is again confirmed by Blé Goudé himself in a confidential document with
23 the following evidence registration number, CIV-OTP-0057-0548.

24 It is striking that Blé Goudé, who has never before held an official position in
25 government and who is a new minister of a ministry that on its face would not be

1 involved in military or security activities, that he has such close ties and considerable
2 influence with top officials in the FDS.

3 I submit that this level of power and influence can only be explained by Blé Goudé
4 being part of the inner circle and contributing to the implementation of a common
5 plan.

6 The financial ties between Gbagbo and Blé Goudé also precede the period of
7 post-electoral violence by many years. As noted earlier today by my colleague, Mr
8 MacDonald, it was Gbagbo that provided financial assistance to permit Blé Goudé to
9 go to Manchester to study, and the other evidence clearly shows a continuing
10 financial connection after that.

11 In particular, I would point out the document CIV-OTP-0025-0680 which confirms
12 that, as of April 2004, Blé Goudé was to receive indefinitely a monthly allowance from
13 the presidency in the amount of 5,000,000 Central African francs - the equivalent of
14 over €7,000 per month - and there is evidence of other payments from Gbagbo to Blé
15 Goudé such as 1,500,000 francs that were paid to him on 7 September 2007. And,
16 again, Blé Goudé himself confirms in the same confidential document I mentioned
17 earlier that he and his activities were financially supported by Gbagbo.

18 Blé Goudé not only received money from the presidency. Part of his contribution to
19 the implementation of the common plan included his distribution of money to others.
20 Witness P-435 provides evidence that Blé Goudé contributed to the financing of
21 militias. The same witness also indicates that Blé Goudé subsidised the parlement et
22 Agora.

23 Witness P-46 provides evidence that, after the second round of the presidential
24 election in January or February 2011, Blé Goudé provided a 2,000,000 francs payment
25 to a police officer, specifically a commander of the BAE, being the brigade antiémeute.

1 Witness P-449 provides evidence that Blé Goudé financially supported various
2 political groups in their mobilisation efforts by providing money and non-monetary
3 assistance such as the use of vehicles.

4 In addition to his financial support, Blé Goudé also contributed by providing arms to
5 the pro-Gbagbo youth both directly and indirectly. This issue is generally addressed
6 at paragraph 269 of the DCC, and footnote -- at footnote 951 is the reference to the
7 evidence of Witness P-44 where he confirms that Blé Goudé would provide weapons
8 to other leaders who would then distribute them further.

9 Now, with respect to the issue of weapons, I would specifically draw the Chamber's
10 attention to the fact described in paragraph 269 of the DCC that, despite Blé Goudé's
11 mantra of resisting with les mains nues, there are openly armed persons in attendance
12 at his rallies.

13 Witness P-449 actually provides evidence of armed militia being present at a Blé
14 Goudé rally in Port Bouet, and various armed persons are seen in video evidence
15 from his Yopougon rallies on March 19 and March 26, 2011.

16 Unfortunately video images often pass very quickly, so to better illustrate my point I
17 have prepared a short PowerPoint presentation on this issue with a number of still
18 images that have been captured from the video evidence of the March 19th rally, as
19 well as two still images from the video of the March 26th rally, and hopefully I won't
20 have technical difficulties.

21 The first few slides, your Honours, are presented without commentary by myself.

22 (Viewing of the PowerPoint presentation)

23 MR STANG: If Blé Goudé truly believed his own message about les mains nues, he would
24 not be participating in rallies where there are so many heavily armed non-FDS elements. So
25 he may be saying one thing while on stage, but the visual message being permitted is quite

1 different. It is also a direct conflict with Blé Goudé's stated position that those civilians who
2 wished to be armed must first enrol in the military in the armed forces.

3 Now one could try to argue that these armed persons are simply security, but this
4 argument does not hold up to scrutiny because at the 19 March rally there were police
5 and military security elements there presumably for that very purpose. As a
6 minister in the government the presence of police would be rational, even military
7 elements in a time of crisis, but not all of these heavily armed persons.

8 I will now continue with the second part of this PowerPoint presentation, your
9 Honours, to show some of the still images of the police and military elements that
10 were also present at this rally on March 19, 2011.

11 (Viewing of the PowerPoint presentation)

12 MR STANG: This brings me to the end of that portion of my presentation, Madam President,
13 Honourable Judges. I'm not sure of the exact hour, but it would be a good place to stop for
14 myself.

15 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) We thank you. We
16 have now come to the end of today's session. I want to thank everybody in the courtroom.
17 We shall resume tomorrow morning at 9.30.

18 (The hearing ends in open session at 4.07 p.m.)