

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 Thursday, 2 October 2014
9 (The hearing starts in open session at 9.32 a.m.)
10 THE COURT USHER: All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Good morning,
14 everyone.
15 Court officer, please call the case.
16 THE COURT OFFICER: (Interpretation) Thank you, Madam President. Situation in the
17 Republic of Côte D'Ivoire in the case of the Prosecutor versus Charles Blé Goudé,
18 ICC-02/11-02/11.
19 We are in open session.
20 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Once again, good
21 morning to everyone, and welcome to the members of the public who are in the gallery today.
22 You are going to listen to the final observations of the confirmation hearings. Even though
23 we are separated by a wall of glass, you have to conduct yourselves as though you were
24 inside the courtroom. Please be quiet. Do not talk too much between yourselves and do
25 not demonstrate during the hearings. Please facilitate the job for us. You have security

1 officers in the gallery, and they will ensure that there is order. And if you don't have any
2 observations, Mr Kaufman, we can begin.

3 MR KAUFMAN: I would just like to introduce a new member of our team Ms Alyzé Bianco
4 sitting to my right here, second to the right. Thank you very much.

5 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you. Any
6 changes in the OTP team or victims' representatives?

7 MR MACDONALD: (Interpretation) No, Madam President.

8 MS MASSIDDA: (Interpretation) No, no change, your Honour.

9 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you. I
10 believe we can start now.

11 I will give the floor to Mr MacDonald of the OTP.

12 MR MACDONALD: Thank you, your Honours. To begin with, I'll give the floor to my
13 colleague, Mr Gallmetzer, who, for logistical reasons, will address the Court from the second
14 row. It is not at all an indication of the level of importance of the issue that he will deal with,
15 and then Mr Stang will present his paper, and then I will conclude with the use of a
16 PowerPoint presentation. Let me now give the floor to my colleague, Mr Gallmetzer.

17 MR GALLMETZER: I apologise. I'll be addressing a few matters of law and both under
18 modes of liability that were discussed through this hearing as well as on the chapeau elements
19 for crimes against humanity.

20 So first I will -- I will talk about indirect co-perpetration. I'll briefly talk about
21 attribution pursuant to Article 25(3)(d) and then I will turn to crimes against
22 humanity and respond both to arguments that were addressed by the Defence in its
23 initial presentation as well as in the -- in the submissions that we have heard
24 yesterday afternoon.

25 So first on indirect co-perpetration, I would like to re-emphasize an issue relating to

1 the actus reus. As you've heard, we're relying on the Lubanga trial judgment, and in
2 that context we reiterate that the mode of liability of indirect co-perpetration is based
3 on a series of mutual attribution of criminal responsibility of the crimes. So this
4 requires proof of a joint agreement or common plan among the co-perpetrators; the
5 suspect's essential contribution to the implementation of the common plan; and then
6 that the crimes are committed as a direct result of the implementation of the common
7 plan.

8 The Gbagbo confirmation decision does not contradict to this legal position. It
9 paragraphs 230 and 232 of that decision, the Chamber concluded that without
10 Mr Gbagbo's conduct these crimes would not have been committed, or they would
11 have been committed in a significantly different way. However, these are factual
12 and not legal findings, and they accurately reflect the evidence in that case against the
13 head of state who individually controlled each individual branch of the pro-Gbagbo
14 forces. For that reason, if we had charged Mr Gbagbo alone, we could equally have
15 charged that case as a case of indirect perpetration, in that case there would not have
16 been any need to charge indirect co-perpetration. However, as you know, we
17 requested arrest warrants against three persons for essentially the same case, and that
18 is why we choose the mode of liability of indirect co-perpetration.

19 And indeed, this case, your Honour, this becomes more relevant, because
20 Mr Blé Goudé did not individually control every single branch of the pro-Gbagbo
21 forces. He exercised control over them, however, jointly with other co-perpetrators,
22 and that is Mr Gbagbo and other members of Gbagbo's inner plan. And this is
23 where the concept of mutual attribution reflecting the fact of the joint control is
24 central, and that is why we emphasized that in this case the modes of liability have to
25 be applied accordingly.

1 And this now leads me to a related comment in relation to the mens rea for indirect
2 co-perpetration. It is not necessary, your Honours, to demonstrate that Blé Goudé
3 was aware of the specific crimes that would be committed as a result of the
4 implementation of the common plan. For instance, the Prosecution does not need to
5 demonstrate that Mr Blé Goudé intended the killing of a specific individual at a given
6 time and place by a specific executioner.

7 Article 30(2)(b) merely requires Blé Goudé was aware that implementing the common
8 plan would, in the ordinary course of events, result in the commission of killings,
9 rapes, inhumane acts and persecution by pro-Gbagbo forces against civilians
10 perceived to support Ouattara.

11 Accordingly, in the context of indirect co-perpetration, the term "consequence" of
12 which the person needs to be aware of, according to Article 30(2)(b), refers to
13 categories or types of crimes in general, and it does not refer to the specific crime that
14 will eventually be committed by the pro-Gbagbo forces.

15 This view, your Honours, albeit in the context of JCE is firmly supported by the
16 consistent jurisprudence of the ICTY. And refer you, for instance, to the Appeals
17 Chamber judgments in the Sainovic case, at paragraph 1491, as well as in the Kvočka
18 case, at paragraph 276. And, again, after these hearings, I will make my notes
19 available that give you those authorities in order that there is no lack of clarity.

20 Let me also make a comment about the crimes of sexual violence. The Prosecution
21 urges the Chamber to recognise the gravity of the crimes of sexual violence in this
22 case. The evidence shows that sexual violence was an integral part of the
23 implementation of the common plan.

24 In addition, the evidence referred to at paragraphs 18, 21, 38, and 41 of our DCC
25 shows that already prior to the 2010-2011 post-election violence, pro-Gbagbo forces

1 committed politically-motivated crimes against civilians that included the crime of
2 rapes along with other crimes, such as murder or other serious and violent crimes.

3 In this context, your Honour, the Prosecution cautions that crimes of sexual violence
4 should not be treated differently from other violent crimes charged in this case; for
5 instance, by regarding them as opportunistic acts that are unrelated to the prevailing
6 context. Rape was a very characteristic of the attack by pro-Gbagbo forces against
7 civilians perceived to support Ouattara and it should be recognised as such.

8 Moreover, the Chamber can find that Mr Blé Goudé was aware of sexual
9 violence -- that sexual violence would be committed by pro-Gbagbo forces in the
10 ordinary course as a result of the implementation of the common plan even without
11 relying on evidence showing notice of prior sexual violence.

12 For instance, the ICTY Appeals Chamber inferred knowledge of the realistic
13 possibility of sexual violence from the massive and violent nature of the other crimes.

14 And your Honours, this factual scenario equally applies to the case that the
15 Prosecution brought against Mr Charles Blé Goudé. The authorities that support
16 these submissions are the Djordjevic Appeals Judgment, paragraphs 920 and
17 following, the Sainovic Appeals Judgment, at paragraph 1581, and the recent
18 Karemera Appeals Judgment of the ICTR, at paragraphs 624 and following.

19 Now I would also like to make a remark in relation to Article 25(3)(d). And as you
20 have heard, there appears to be a disagreement between the Prosecution and the
21 Defence with respect to the degree of contribution that is required under this mode of
22 liability.

23 While our position is that any contribution satisfies the legal standard, the Defence submits
24 that a contribution needs to be significant. However, we submit that the Defence position, if
25 interpreted and applied correctly, is not so far removed from the position that we advocate for.

1 A significant contribution excludes from the applicability of Article 25(3)(d), only
2 contributions that are insignificant, and an insignificant contribution is -- a contribution where
3 there is no link or nexus between the accused conduct and the commission of the crime. This
4 is what, in a separate opinion, a judge from the Appeals Chamber called a neutral
5 contribution.

6 So you see, in essence, if interpreted and applied correctly, we are talking about the
7 same thing. However, we still oppose to the jurisprudence introducing qualifiers in
8 this context such as "a significant," because they invite for misinterpretation, they
9 invite for misapplication, and plain language of Article 25(3)(d) does not support the
10 introduction of qualifiers such as "significant. "

11 Let me now turn to a number of arguments the Defence raised in relation to the
12 crimes against humanity. The first argument was to the effect that organisations
13 should be limited to State actors.

14 And we submit that as a matter of law an organisation is not only limited to State actors. The
15 Defence's submission is based on one academic authority, that of Mr Bassiouni, which stands
16 isolated in that matter. It is inconsistent with the plain language of the Statute, that is Article
17 7(2)(a), as well as Article 7(3) of the elements of the crime that expressly say that the policy
18 may be that of a State or of an organisation.

19 The Defence's position is also inconsistent with the established jurisprudence of this
20 Court, including that of this Chamber in the Gbagbo case at paragraph 217, and later
21 this Chamber also endorsed that position in the current composition in its decision
22 rejecting leave to appeal against the confirmation decision. And I refer to paragraph
23 40 of that decision.

24 However, the Defence's submissions are also factually incorrect. The Defence
25 wrongly isolates the acts of violence committed by the pro-Gbagbo youth and suggest

1 that the notion of organisation should be applied to the youth only. This does not
2 correspond, your Honours, to the case that the Prosecution brought against Charles
3 Blé Goudé.

4 In part 9 of the DCC, and in particular at paragraphs 323 to 325, we define the organisation
5 that held the policy for the purpose of our case, and it includes Laurent Gbagbo, Charles Blé
6 Goudé, other members of Laurent Gbagbo's inner circle, as well as members of pro-Gbagbo
7 forces.

8 The organisation in essence is everything, are all the persons that are united by the
9 policy or by the common plan which, we submit in this case, are one and the same
10 things as far as the facts are concerned. Obviously legally they're different concepts.

11 This Chamber also rejected the fragmented approach in its Gbagbo confirmation.

12 And I refer you to paragraph 119.

13 The second point of the Defence was that the policy needs to be spelled out. And we
14 submit that this is not the case. The policy does not to be explicitly defined. We
15 refer you to the Katanga confirmation decision at paragraph 396.

16 The existence of the policy can be inferred from the manner in which acts occur.

17 And we submit that there is not even a need to prove direct -- with direct evidence
18 that there was the planning of the policy. The Gbagbo Chamber confirms this
19 interpretation stating, and I quote, "There is no requirement that the policy be
20 formally adopted." This is at paragraph 215. And the Defence does not present any
21 argument that warrants departure from this approach.

22 The third and the fourth points of the Defence essentially challenge the existence of an
23 attack based on the relevant course of conduct. Now, in this context the Defence
24 advances arguments that relate more closely to its admissibility challenge, which the
25 Prosecution will respond to in its submissions by 20 October, but I will nevertheless

1 make a few comments while I will go, or we will go in more detail in our written
2 submissions.

3 First, the attack in this case is more than the crimes that can be attributed to Blé
4 Goudé. An attack is constituted by a course of conduct that involves multiple acts
5 under Article 7(1). This is the very definition of attack pursuant to Article 7(2)(a).
6 The charged crimes must be part of the attack, as stated under paragraph 1 of this
7 Article, but they don't necessary need to constitute the attack. This is a very
8 important distinction.

9 In terms of numerical requirement, an attack only requires multiple acts. This is less
10 than widespread. We only need to prove widespread in case we can't establish the
11 systematic nature of the attack.

12 The Prosecution has argued previously that dozens of acts under Article 7(1) satisfy
13 the requirement of multiple acts. In this case we have charged Mr Blé Goudé with at
14 least 348 acts under Article 7(1) committed in the context of a total of at least 800 such
15 acts.

16 We submit that both numbers meet the numerical threshold for multiple acts and for
17 a widespread attack.

18 The Defence further incorrectly argues that the five incidents with which
19 Mr Blé Goudé is specifically charged do not share common features. That is
20 incorrect. According to the test developed in the Gbagbo decision, they do indeed
21 share multiple common features. They have common characteristics in the sense
22 that all incidents were violent attacks. They have common aims. They were all
23 intended to implement the common plan, that is, to maintain Mr Gbagbo in power by
24 all means.

25 They have common targets. They're all directed against civilians perceived to

1 support Ouattara. They all relate to common alleged perpetrators, that is, the
2 pro-Gbagbo forces. And they all are united by common times and locations. They
3 were all committed in the aftermath of the elections and they all were committed in
4 Côte d'Ivoire. In fact, all crimes were committed in Abidjan.

5 Now, in response to some additional Defence arguments that were raised yesterday
6 afternoon, the Defence particular submits that perceived Ouattara supporters are not
7 a civilian population because they are not sufficiently identifiable.

8 Firstly, I'd like to say on the facts they're very well identifiable on political ethnical, religious
9 and national grounds. I refer you to paragraph 330 of the DCC.

10 In fact, Mr Blé Goudé with his xenophobic hate speeches and his "we against them" rhetoric
11 significantly contribute to identify the civilians that were the target of the attack to the
12 pro-Gbagbo forces.

13 Secondly, and even more important, the Defence position is wrong in law. Under
14 Article 7, the Prosecution is not required to specifically identify civilian population
15 that is the target of the attack, it only needs to demonstrate that a sufficient number of
16 civilians were attacked. And in this context I refer you to Kunarac Appeals Chamber
17 Judgment, at paragraph 90.

18 Finally, the Defence submits that incidents relied upon to establish widespread and
19 systematic attack need to be proven to the requisite standard.

20 Your Honours, what we need to establish is an attack and not incidents. An attack is
21 not a series of incidents, but a course of conduct involving multiple acts under Article
22 7(1) against any civilian population.

23 The standard of proof under Article 61(7) needs to be applied to the latter, to the
24 attack, and not to the individual pieces of evidence that the Prosecution relies on to
25 establish this attack, namely, the course of conduct.

1 The attack, your Honours, is a large scale concept that can be established with large
2 scale evidence such as expert reports. As Professor Robinson in his amicus brief,
3 before the Appeals Chamber, stated that "one can be convinced of a forest without
4 evidence of the nature and location of a particular tree." You can look from an aerial
5 view down and identify the big green thing as a forest without zooming in and
6 identifying forest -- tree by tree by tree, and summing up, and then come to the
7 conclusion that we have a tree.

8 This approach actually was also adopted by the Indonesian ad hoc Tribunal for East
9 Timor, which has noted that one can be satisfied of the widespread scale of crimes
10 without details of the crime. And I refer you here to the Soedjarwo judgment. And
11 exact reference I will be write -- providing to you in writing.

12 In any event, in this case, each individual incident relied upon by the Prosecution as
13 proof of a widespread and systematic attack is supported by reliable and
14 corroborated evidence, either by direct witness evidence, UN investigation reports, or
15 documentary evidence stemming from the CIV government sources. NGO reports
16 and other UN reports are merely used as secondary sources to corroborate our
17 primary sources of evidence in this context.

18 And I would also like to emphasise that although the Prosecution relies on a totality
19 of 38 incidents to establish the existence of attack, we submit that the crimes
20 committed in the context of the five charged incidents, i.e., this 400 -- sorry, 348 acts in
21 and of themselves amount to an attack, and they meet both the requirements for
22 multiple acts and widespread attack.

23 This concludes my remark and I'm passing now the work to Mr Stang.

24 MR STANG: (Microphone not activated) Good morning, Madam President, honourable
25 Judges.

1 This morning my relatively brief presentation will have as a subject matter the Prosecution's
2 response to the Defence's comments on Witness 44 in Defence submissions yesterday. A
3 number of issues were raised by the Defence, and I will address them one by one.

4 Firstly, the Defence used a quote from Witness D-3 to attack the credibility of P-44,
5 and I will repeat the quote.

6 (Interpretation) "He's not a friend of the head of state. He has no access to the
7 presidential palace. He did not take part in meetings with the head of state or with
8 Madame Simone Gbagbo," end quote.

9 Well, even in the Defence's own submissions he was certainly there on two dates in
10 February, and the reference there is the logbook at CIV-OTP-0018-1313 at pages 1394
11 and 1400.

12 The Defence also made submissions about a meeting that took place on 27
13 December 2010 as recorded in Simone Gbagbo's diary and in their submissions that
14 P-44 was at that meeting.

15 Additionally, the logbook confirms a third date that P-44 was indeed at the
16 presidential residence to see Gbagbo on 8 February 2011. The reference for that is
17 CIV-OTP-0067-0402, page 0557, specifically noted as visitor number 9 on that page.

18 One last point here, before I move to the next issue, I would need to enter into private
19 session very briefly, if I could, Madam President.

20 (Private session at 9.58 a.m.)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Open session at 9.59 a.m.)

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

10 MR STANG: My next point is from the Defence submission that they found scandalous that

11 P-44 gives evidence about Blé Goudé recruiting or assisting with the recruiting of mercenaries

12 and being involved in the military training of Young Patriots.

13 As to the issue of mercenaries, P-44 is corroborated by P-435. He -- and the specific citation

14 will be in my notes that will be provided to you. He is also corroborated by Witness P-108

15 and Witness P-266, and their evidence on this issue is specifically cited at footnote 875 of the

16 DCC. And they are all further corroborated by a video showing documents at Blé Goudé's

17 residence. And the citation for that video will be in my notes as well.

18 Now, as to the military training of Young Patriots, P-44 is corroborated by P-454 and,

19 again, to make my submissions on this point, Madam President, I would need again,

20 for the second and last time, to enter briefly into private session, please.

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

22 I'm sorry to inform the public that we shall now be going into private session and you will not

23 be able to hear us for a few moments, please. Thank you.

24 (Private session at 10.01 a.m.)

25 (Redacted)

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Open session at 10.02 a.m.)

12 THE COURT OFFICER: (Interpretation) We are in public session, Madam President.

13 MR STANG: The Defence in their submissions took issue with Witness P-44 saying that Blé
14 Goudé was called to the presidential residence by Simone Gbagbo for the purpose of getting
15 Blé Goudé to agree to a launch of an appeal for the youth to enlist in the army.

16 In this respect, honourable Judges, I would suggest that one needs to consider P-44's entire
17 statement and not just the quote that the Defence provided. The statement is quite lengthy
18 and at various points in his statement he speaks about this issue. And it is only when
19 reading all of the relevant pages that you can properly appreciate what P-44 is saying about
20 this. These various locations with multiple pages, the cites are again in my notes that will be
21 provided.

22 Now, upon reading all of the parts, the relevant parts it is clear that the meeting he is
23 talking about is during a time period when the situation was grave and that there
24 were defections from the FDS. The situation was so grave that top FDS officials,
25 including Generals Mangou and Kassaraté had come to meet with Gbagbo about it.

1 Then at the behest of Simone Gbagbo, Blé Goudé was called in so that the youth could
2 be called upon. Blé Goudé came, spoke to Simone Gbagbo about this and then went
3 to meet the president.

4 And as was presented on Tuesday, when I spoke on the issue of coordination, this
5 idea of arming the youth was in Simone's Gbagbo's notes of CNRD meeting of 10
6 March, which was followed by multiple meetings of Simone Gbagbo and ministers of
7 the government. And then there was Laurent Gbagbo's meeting with the generals
8 and Blé Goudé on the evening of 14 March.

9 So when P-44 says that Blé Goudé was there and met with Gbagbo, this is
10 corroborated by the logbook entries.

11 That P-44 suggests Blé Goudé first had a quick chat with Simone Gbagbo before going
12 to see the president is not inconsistent with the logbook. And also as noted in the
13 logbook, at page 1429, and the fact is that Kassaraté and Mangou were among the
14 FDS leaders there to see Gbagbo on 14 March. They arrived at approximately 1800
15 hours, thus corroborating P-44 on this point that those two generals were there.

16 And Blé Goudé arrived later at 19.05 hours, precisely as described by P-44. So again,
17 he is corroborated on this point by the logbook. He is corroborated on these
18 important details, which is something that attests to the accuracy and thus reliability
19 of the information in his statement.

20 Finally at the end of the day, the reliability of P-44's information is confirmed by the
21 fact that a few days after March 14th, Blé Goudé did actually give instructions to the
22 youth on 19 March to go and enrol in the army. The key point is the accuracy of his
23 information.

24 Now, the last issue I want to touch upon that was raised by the Defence, I've titled it
25 "The Resignation Issue," but essentially Defence made note of the fact that P-44 talked

1 about a meeting between Blé Goudé and Gbagbo where Gbagbo's resignation was
2 being considered, and that P-9 says that both himself and Blé Goudé were consulted
3 on this issue, and that the only day P-9 and Blé Goudé were together at the
4 presidential residence was 14 March 2011, and that P-44's name is not in the logbook
5 for that day. And you put all those together, that somehow is an attack on P-44's
6 credibility.

7 Well first, incidentally, before I directly address that main issue, I would point out
8 that Defence is wrong in their statement that the 14 March was the only occasion that
9 Blé Goudé and P-9 were at the presidential residence together. They were both there
10 together on 24 February - and the citation is in my presentation, my notes - and the
11 two of them were also at the presidential residence at the same time on December 1st,
12 December 2nd and January 12th.

13 Now, the main response to the Defence's concern is, again, P-44 is simply not wrong
14 about this meeting; he is in fact corroborated by P-9. He is also corroborated by Blé
15 Goudé himself, who says in the confidential document, and I'll give you the quote for
16 this, CIV-OTP-0057-0548, document quoted by the Defence yesterday as well. Blé
17 Goudé says, starting at pages 0551, and I quote:

18 (Interpretation) "In early March 2011, after the announcement of the decision of the
19 heads of states panel, according to which candidate Ouattara had won the 2010
20 elections, I was invited or convened by President Laurent Gbagbo. He wanted to
21 seek my opinion on the idea to hand over power, which was suggested to him by the
22 South African and Angolan presidents. In fact, according to him, it would have been
23 hazardous to engage in a battle single-handedly against the whole world. He gave
24 me 24 hours to think over the matter. When he received me the next day, I
25 suggested to him that he follow the idea proposed by his counterparts which, by the

1 way, they supported. I also advised him to consult his chief of general staff so that
2 his army may not feel betrayed. (Redacted)

3 (Redacted), I then reported accordingly to President Gbagbo."

4 Again, the essential point is that the information P-44 provided was entirely accurate,
5 corroborated by both P-9 and Blé Goudé himself. And I would ask you to consider
6 the context and that P-44 knew this information, advice to resign to President Gbagbo
7 in that situation and which advice was subsequently rejected, only someone close to
8 those decision-makers would know this.

9 Lastly, I would point out that even after his advice was rejected, Blé Goudé remained
10 loyal to Gbagbo and continued to support him, notably with his video of April 5th.

11 This fact speaks volumes about his commitment to the common plan.

12 In conclusion, Madam President, honourable Judges, I submit the direct opposite of
13 what the Defence submitted, P-44's evidence should not be rejected, particularly at
14 this stage of the proceedings, especially in the fact that he has corroborated on so
15 many of the issues raised by the Defence.

16 It is notable that his statement was taken several years ago, and it's a very long
17 statement with a lot of information. In the whole of the case he is corroborated in so
18 many aspects, and so his evidence is something you can rely on at this stage of the
19 proceedings.

20 Thank you very much.

21 MR MACDONALD: (Interpretation) Madam President, your Honours, the Defence dealt
22 with the issue of leadership in one of his presentations and on the composition of the galaxie
23 patriotique. The Defence insisted that Mr Blé Goudé was the leader only -- was not, rather,
24 was not the leader of the galaxie patriotique, whereas the Defence itself relies on evidence
25 which identifies Blé Goudé as the leader of the galaxie patriotique.

1 I would like to invite you to now view some images from the last video presented by
2 the Defence, namely, the famous rally of 26 and 27 March 2011 at the place de la
3 république, as you can see on the evidence, how is he identified.

4 (Viewing of the video excerpt CIV-D25-0001-2076)

5 MR MACDONALD: (Interpretation) As you can see for yourselves, he identifies himself as
6 the leader of the galaxie patriotique and this evidence comes from the Defence itself.

7 Throughout the video he is identified as the leader. You would also note that he, himself,
8 asserts that he is speaking on behalf of his friends. And the Prosecution submits that he is
9 referring to no one other than the leaders of the galaxie patriotique. And you can see that on
10 the relevant excerpt of the video.

11 There are several other excerpts, your Honours, Madam President, on the
12 identification of Mr Blé Goudé as the president of the galaxie patriotique.

13 Let me now turn to his speech at the famous bar le baron on 25 February 2011. I
14 want to show you the relevant image in which he is also identified as the leader of the
15 galaxie patriotique.

16 Let me move on to deal with the issue of the composition of the galaxie patriotique.

17 According to Defence, the Galaxy was made up of two groups, namely, the alliance of
18 Mr Blé Goudé and CONARECI of Mr Damanas Pickass.

19 You will also remember the analogy put forth by the Defence, and I want to quote in
20 English: "CONARECI presented the main rival to Blé Goudé's alliance. There is a
21 simple way of comparing the two organisations, CONARECI was Malcolm X to the
22 alliances Martin Luther King."

23 (Interpretation) So if we look at the leaders of the galaxie patriotique, these friends of
24 Mr Blé Goudé, as he puts it in his own words, let us take a look at the next images. Augustin
25 Mian is the leader of the FESCI. That is Malcolm X who is present heeding Blé Goudé's call

1 to Baron Bar on 25 February 2011.

2 Let us look to the call to enlistment at the CP1 Yopougon square on 19 March 2011. And we

3 can move to the next picture. Let me read out for you what Mr Blé Goudé said at that rally:

4 "I have put a question to you four times and four times over you answered me. Now, after

5 consulting my friends who are seated here and who support all the speeches that I will

6 deliver and who have heard your cry, the question is: Who are those people?"

7 Next picture, please.

8 You can see on the photograph here Mr Jean-Yves Dibopieu and Mr Maho Glofiéhi.

9 This is another Malcolm X, according to the Defence.

10 Next picture, please.

11 Once again we see other members of the Galaxy. To the left you have Mr Idriss

12 Ouattara whom you know, leader of the parlements and, once again, Mr Augustin

13 Mian, president or leader of the FESCI who was also present, the general secretary of

14 FESCI by the way.

15 Next picture, please.

16 Here we see other colleagues, other leaders whom you know, Mr Konaté Navigué of

17 FPI youth, Mr Gbagbo's party; Mr Richard Dakouri.

18 Now let me move to the next picture.

19 Once again Mr Maho Glofiéhi, Malcolm X, with Konaté Navigué and Mr Charles Blé

20 Goudé.

21 Next image please.

22 Here they are again, hand in glove, during the enlistment of 19 March, they are working

23 together hand in glove for the same cause. They are leaders of a large group of youth which

24 Mr Blé Goudé alone was able to mobilise so massively.

25 Let us look at the next picture, look at this crowd, this crowd that is following

1 Mr Blé Goudé and the other leaders of the Galaxy on the occasion of that enlistment
2 of 19 March.

3 Let me now revisit a picture which I presented on Monday. It was a picture taken on
4 23 March at an enlistment office following Mr Blé Goudé's call of 19 March. Why do
5 I want to revisit this particular image? It is because I want to show you another
6 Malcolm X, Mr Zéguen Touré, one of the founders of the GPP. He is the one with
7 the glasses on his forehead.

8 But there is more. There is more to it. There is more than Mr Mian, Mr Glofiéhi, Mr
9 Touré. We also have a video of 4 February, a video of the CRAC, Le conseil
10 révolutionnaire d'actions concrètes, whose leader was Serge Koffi who is right in the
11 middle with a cap. And I want you to watch the video.

12 (Viewing of the video excerpt CIV-OTP-0064-0116)

13 MR MACDONALD: (Interpretation) Thank you. Madam President, your Honours, this
14 is another Malcolm X supporting and encouraging the Ivorian people to answer
15 Mr Blé Goudé's call and to demonstrate with them and to block the Abidjan airport the next
16 day, that is 5 February.

17 Madam President, your Honours, we submit that whether Mr Blé Goudé was the
18 president of the galaxie patriotique or not, he was portrayed to be the leader in the
19 media. He was perceived to be the leader by the pro-Gbagbo youth themselves and the
20 population at large. And the young pro-Gbagbo's and the people at large massively
21 responded to his calls, whether they were dissensions within the galaxie patriotique
22 or not, or whether there was a power struggle within it in order to gain recognition by
23 the Gbagbo regime or not. The images we have just looked at demonstrate clearly
24 that, in the times of crisis, the leaders set their differences apart and presented a
25 common front, whose main objective was to maintain Gbagbo in power by all means.

1 The next video we shall be looking at in a few minutes will be an eloquent
2 demonstration of this cooperation between the leaders of the Galaxy and their
3 commitment to Mr Blé Goudé, as well as the collaboration between Mr Blé Goudé and
4 themselves.

5 On 5 February, he, Mr Blé Goudé, congratulates these leaders and encourages the
6 youth who heeded his call. You have already watched this video, but I'm going to
7 play it again. It was a video of 5 April 2011. Let's listen.

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

9 MR MACDONALD: (Interpretation) Thank you. Maybe we want to kill the sound of the
10 video, please. Thank you.

11 Now, let me address one of the themes of Mr Blé Goudé's Defence team. When I
12 hear "blood thirsty," that expression is one that needs to be revisited because it was
13 raised by the Defence, and I'm talking here about the reputation of Mr Blé Goudé.
14 I'm sorry for the interpreters and for the transcript, because I am going to speak
15 outside of the document that was submitted. In English, this is referred to as
16 character evidence, that is what the Defence submitted. The reputation of
17 Mr Blé Goudé has been portrayed by the Defence to be akin to that of Martin Luther
18 King.

19 Let us be very clear on this point. Blé Goudé is not Martin Luther King.

20 Mr Blé Goudé has a track record of violence. In fact, when he was the leader of the
21 FESCI, he was already being referred to as "Blé Goudé, the machete." Sources in the
22 DCC under the biography.

23 Martin Luther King had a dream of reconciliation. "I have a dream," he said, a
24 message of hope.

25 Mr Blé Goudé created an environment that was conducive for division and violence.

1 His speeches were calls for xenophobia and hatred. He called for roadblocks to be
2 set up for foreigners to be identified and denounced. He called for vehicles to be
3 searched and for the work of the UN peace mission to be disturbed.

4 Mr Blé Goudé was in particular not exclusively Mr Laurent Gbagbo's spokesperson
5 and the spokesperson of his inner circle. He mobilised and manipulated an entire
6 youth, an entire generation, not through a message of peace and reconciliation, but
7 rather ordering them to prepare to be ready and to act when the time comes. The
8 street general gave quasi-military orders to his army of youth.

9 Mr Blé Goudé is not Martin Luther King. But if we really want to honour Mr Martin Luther
10 King's memory we could also quote this sentence, in English: "Non-violence means avoiding
11 not only external physical violence, but also internal violence of spirit. You not only refuse
12 to shoot a man, but you refuse to hate him."

13 Madam President, your Honours, the Prosecution requests that Mr Blé Goudé be
14 committed to trial so that he may be tried for the charges contained in the document
15 containing the charges.

16 This concludes our closing statement. Thank you for your kind attention.

17 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you. We
18 shall now listen to Ms Paolina Massidda.

19 MS MASSIDDA: Thank you very much, your Honour. Just a moment if I may.

20 Your Honours, first of all, before my closing arguments, I would like to address two
21 issues that were raised by my Defence colleagues during their submissions yesterday
22 and on Tuesday.

23 The first has to do with a statement made by my colleague Mr N'Dry on 30 September. He
24 asked me to correct a number of remarks that I made during my opening statement, and I
25 quote, your Honour, this is from the transcript of that day, the French edited version, page 52,

1 lines 8 to 16. And I quote:

2 "I'd like to take advantage of this opportunity to say to the legal representative of
3 victims to correct the record because she said something about the same ethnic origin
4 of all victims. That is not so. You must not rewrite the history of my country.
5 There were victims to be found from all the various ethnic groups," end of quote.

6 And Mr N'Dry, we agree on that point. I believe, your Honours, that this is a
7 misreading of the transcript or perhaps an error in the interpretation of my remarks
8 because, in actual fact, I used the same -- the expression the same ethnic origin only
9 once in my opening remarks, page -- page 22, lines 22 to 24, of the transcript of that
10 day. And I quote:

11 "One finds the same ethnic origin in the attacks and the widespread violence
12 perpetrated by the Young Patriots against Ivoirians from the north," end of quote.

13 And I do hope that this clears up my remarks.

14 The second point I'd like to make has to do with Witnesses 436 and 437, the testimony of
15 whom was addressed by Mr Kaufman yesterday.

16 He raised serious doubts about the credibility of these two witnesses. For the record, and
17 since Mr Kaufman has pointed to this issue a number of times, neither 436 nor 447 are
18 authorised victims allowed to take part in these proceedings. They were not interviewed by
19 myself or by members of my team.

20 It is quite possible and quite normal for them to know me because of their position
21 within certain victim communities, and I do hope that this deals with a number of
22 issues raised by Mr Kaufman.

23 Madam President, your Honours, Mr Blé Goudé is suspected of being responsible for
24 four counts of crimes against humanity, namely, murder, or attempted murder, rape,
25 persecution and other inhumane acts committing during the post-electoral violence of

1 2010 and 2011.

2 Mr Gbagbo's refusal to recognise the victory of his rival on 28 November 2010, Mr
3 Alassane Ouattara, and his refusal to step down as president, plunged Côte d'Ivoire
4 into six months of violence and a crisis that claimed the lives of nearly 3,000 people no
5 matter what their political affiliation might have been.

6 The attacks committed by Gbagbo forces between 27 November 2010 and 8 May 2011,
7 particularly by the Young Patriots -- and Mr Blé Goudé was the unchallenged leader
8 of this group, as part of a plan described by the Prosecution. Had -- these attacks
9 were widespread and systematic in nature and were directed against specific
10 religious and ethnic communities. Because of this policy, hundreds of civilians were
11 attacked, their possessions were looted, they were injured, raped, some were even
12 burnt alive.

13 The evidence that has been brought before you during these hearings -- correction,
14 during the presentation, I will make some reference to evidence, but I will not be
15 providing EVD numbers. I request the leave of the Chamber to file my submissions
16 with the footnotes during the break.

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

18 MS MASSIDDA: (Interpretation) As I was saying, your Honours, the evidence that has
19 been brought before you clearly shows that the events stemmed or were part of
20 Mr Blé Goudé's will, an influential and loyal member of Mr Gbagbo's inner circle, with a view
21 to helping him keep power at any price, including by the use of lethal force, by mobilising
22 hundreds of young supporters who had been trained to commit acts of violence and abuse.
23 The victims argue, as does the Prosecution, that the crimes that Mr Blé Goudé have
24 been charged with were part of a plan, the implementation of a carefully organised
25 plan, the goal of which was to keep Mr Gbagbo in power using both private and

1 public means. All the victims that I represent are civilians who were detained as
2 they were on their way to peaceful marches. Some were abducted, tortured, held
3 without reason for weeks in police stations or in detention centres, raped, or their
4 family members were killed during attacks on public places, places of worship,
5 houses, properties, persecuted because of their surname, their country of origin, or
6 the neighbourhood they happened to live in.

7 All the victims have given accounts of events targeting specific ethnic groups.
8 Their assailants identified them as Ouattara supporters or they were likened to, or
9 deemed to be supporters of Ouattara because of their ethnic origin, religious, or place
10 of evidence, or perhaps because of the perception that their assailants had of their
11 origin, ethnic group, religion, or political affiliation.

12 The evidence provided by the Prosecution throughout the hearing show that Mr Blé Goudé
13 played an important role in the commission of the crimes that he has been charged with.

14 The Defence would have us and have you believe that Mr Blé Goudé was a man of
15 peace who was exercising his right to express his views freely, that he did not make
16 remarks having to do with violence and his speeches did not encourage
17 discrimination.

18 A brilliant speaker and a charismatic man, he was able to mobilise young people and
19 have them obey his orders to drive out foreigners who were perceived as Ouattara
20 supporters and carry out his orders quickly and effectively to defend Mr Gbagbo at
21 any cost.

22 In particular, he used a variety of public speaking techniques, including xenophobic
23 rhetoric, encourage hatred against civilians from certain ethnic groups, who were
24 thought to be not real Ivorians or working hand in glove with strangers who wanted
25 to take over Côte d'Ivoire. He also coordinated the actions taken by the Young

1 Patriots.

2 The words "strangers," "personnes étrangères" in French, which were mentioned several times
3 during the hearing have to be seen against the backdrop of the policy of Ivoirité. These
4 terms must be understood in a broader sense, as including not only non-Ivorians, but also any
5 person who might be perceived as not living in a particular neighbourhood, or identified in
6 other ways, for example, the way he spoke, the way he or she was clothed or because the
7 person happened to be wearing amulets.

8 During the post-electoral crisis, the forces of the Young Patriots worked alongside
9 government forces particularly in communes and neighbourhoods that supported
10 Mr Gbagbo, in particular in Yopougon. These forces used their power in the streets
11 where they set up roadblocks in a very specific, organised way throughout the entire
12 neighbourhood and the area.

13 The order to denounce foreigners did not just mean taking them to a police station,
14 but also it meant reporting them to the various leaders and hierarchies at the
15 roadblocks. Thus, the violence at the roadblocks occurred on a broad scale as the
16 people at the roadblocks began checking the ID papers of people deemed to be
17 foreigners and to carry out -- and they came to decisions and conducted summary
18 executions.

19 The chapeau of Article 7 of the Rome Statute specifies that a crime against
20 community -- humanity, correction, encompasses certain acts committed as part of a
21 widespread and systematic attack against a civilian population.

22 In this case the attacks were not only widespread but also systematic in nature. The
23 geographical extent of the victimisation and the number of victims who are taking
24 part in these proceedings show just how broad the attacks were. Entire families,
25 entire communities, people of all different ages, of both genders suffered and were

1 the victims of crimes in the -- in all the areas of Abidjan, including Abobo, and
2 Yopougon and even in other parts of the country.

3 I wish to hark back to statements made by the Defence yesterday relating to my
4 opening remarks during the Gbagbo confirmation of charges hearing.

5 During that hearing I said, and I quote:

6 "The systematic nature of the attacks is no doubt shown by these events and has been
7 recognised by the Prosecution in its amended document containing the charges. The
8 widespread nature is also shown by the accounts of the victims."

9 But I did stress, once again on 20 February, and I quote:

10 "The locations identified by the Prosecution as well as the dates of certain events directly
11 provided for in the amended DCC do not appear to match the widespread nature or the
12 systematic nature of the violence."

13 This statement, your Honours, referred fundamentally to the events that the
14 Prosecution said that were -- occurred on 12 April 2011 to argue that, in actual fact,
15 those incidents had been verified around 12 April 2011, a point that was mentioned in
16 the decision confirming the charges against Mr Gbagbo, paragraph 273, point D, and
17 in the DCC of this case.

18 Consequently, the five episodes mentioned in the DCC that were discussed during
19 that hearing are only examples of the extent of the victimisation caused by the events
20 of the post-electoral crisis of 2010-2011.

21 Furthermore, the Prosecution relies on more than 800 acts against civilians during 38
22 incidents, as clarified in paragraph 331 of the DCC.

23 This indicates that the number of victims was an estimate and just a bare minimum.

24 Furthermore, the accounts of the victims show that the crimes that they were
25 subjected to were not spontaneous or isolated acts of violence. On the contrary,

1 these crimes were part of a planned, directed and organised attack on civilians on the
2 basis of their origin, ethnicity, political affiliation or religion.

3 In relation to my remarks today, I think it suffices to remind the Chamber that
4 concerning attacks, be it a campaign or an operation directed against a civilian
5 population in the meaning of behaviour - as set out in Article 7(2)(a) of this
6 Statute - the civilian population was the main target of the attack that was conducted
7 in the pursuit of a policy of an organisation, the goal of which was to carry out such
8 an attack.

9 In this context -- and I believe this is a paragraph often quoted, paragraph 217 of the decision
10 confirming the charges in the Gbagbo affair. And I will quote the entire paragraph because I
11 believe the entire paragraph must be read out, and I quote:

12 "Finally, Article 7(2)(a) of the Statute specifies that the policy of an attack on a civilian
13 population must be attributed to a State or an organisation. As for the concept of an
14 organisation, the Chambers of the Court have constantly considered that such a policy can be
15 implemented by groups of people controlling a territory or any organisation able to commit a
16 widespread or systematic attack on a civilian population. According to another opinion, an
17 organisation, in the meaning of Article 7(2)(a) of the Statute, must have certain characteristics
18 of a State. So a private organisation can become an entity able to act as a State or have
19 somewhat -- to some extent, the capacities of a State. The Chamber is of the opinion that the
20 organisation, the existence of which is alleged by the Prosecutor, and sufficiently established
21 by the available evidence, satisfy the criteria that have been chosen for either interpretation."

22 The attack was certainly a -- widespread, committed on a broad scale and so it was
23 massive, a frequent attack conducted in a collective fashion of considerable
24 seriousness and directed against a large number of people.

25 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) I need to explain that

1 we will now close the blinds. Someone in the public gallery, a lady actually has taken ill.
2 But we have drawn the blinds for that reason, and they will be lifted later on.

3 MS MASSIDDA: (Interpretation) Thank you very much, your Honour.

4 The Prosecution's evidence have shown that several attacks were made on civilians from the
5 north of Côte d'Ivoire and from unknown people from countries
6 neighbouring -- neighbouring countries in western Africa. The description of the events
7 from the victims corroborate the evidence provided by the Prosecution, in particular in
8 reference to the repeated attacks on mosques, the rapes often at gunpoint, the brutalisation
9 and humiliation of victims. These acts have had a considerable impact on victims in their
10 daily life and in the long term.

11 Furthermore, many victims are still suffering humiliation and are ostracised. Some
12 suffered injuries and later on illnesses because of the inhumane treatment that was
13 inflicted upon them in detention centres, or even in the street as they demonstrated
14 peacefully.

15 Unlike the Defences assertions, it is the civilian population that was targeted during
16 these attacks. That can only be the case when mortars are fired upon a densely
17 settled area, or on a market, or on a mosque.

18 Your Honours, concerning the suspect's responsibility and the mode of liability
19 considered, Mr Blé Goudé is being charged as an indirect co-perpetrator in
20 accordance with Article 25(3)(a) of the Rome Statute for crimes perpetrated by people
21 that he used as part of a common plan that was drawn up to keep Laurent Gbagbo in
22 power, as well as being charged for ordering, soliciting, encouraging, facilitating, or
23 providing aid, assistance, or any other form of help for the commission of the crimes
24 provided for in the DCC in accordance with Article 25(3)(b), (c) and (d) of the Rome
25 Statute.

1 Regarding first Article 25(3)(a), as argued by the Prosecution, co-perpetration can be
2 seen as a functional division of criminal tasks between at least two perpetrators who
3 are linked by an agreement or a common plan.

4 The existence of a common plan was demonstrated. The Prosecution had also
5 explained that pro-Gbagbo forces, including the Young Patriots, conducted concerted
6 and coordinated actions aware that implementation of the common plan would lead
7 to the commission of crimes.

8 Pre-Trial Chamber 1 in its decision confirming the charges against Mr Gbagbo has
9 already recognised, one, that before the presidential elections of 2010, Laurent
10 Gbagbo and his inner circle, which Mr Blé Goudé was a part of, jointly designed and
11 implemented a common plan to keep Mr Gbagbo as president by all means necessary,
12 including use of force and commission of crimes.

13 Secondly, that a systematic and generalised attack on the civilian population was
14 conducted between 16 December 2010 and 12 April 2011.

15 Thirdly, that during the said attack, the crimes of murder, rape, inhumane treatment
16 and persecution were committed against civilian victims who were targeted because
17 of political, national, ethnic and religious grounds because they were thought to be
18 Ouattara supporters.

19 Four, that the structure allowing Laurent Gbagbo to implement the common plan
20 included pro-Gbagbo youth.

21 Five, that Laurent Gbagbo coordinated the implementation of the common plan,
22 encouraging youth directly, or through Blé Goudé, to fight for the nation and to
23 continue to resist and fight Alassane Ouattara and his terrorists.

24 These conclusions hold true as well for these proceedings.

25 Furthermore, in this case, the Prosecution has shown that the suspect was part of the inner

1 circle of Laurent Gbagbo and received orders from him.
2 They have shown that he was the uncontested leader of the Young Patriots and gave
3 them orders that were carried out in a coordinated fashion. He played a
4 determinant role in the implementation and the success of the common plan by
5 galvanising the Young Patriots using his speeches, encouraging them to hate certain
6 kinds of people, targeted because of their national origin, ethnic origin, religion or
7 political affiliation.

8 Fifthly, between 16 December 2010 and 8 May 2011, crimes of murder, rape,
9 inhumane treatment and persecution were committed on a broad scale in a
10 widespread and generalised -- and systematic fashion.

11 Furthermore, the evidence from the Prosecution allows us to conclude that
12 Mr Blé Goudé took part as co-perpetrator in the design and implementation of the
13 common plan as well as the commission of the crimes that stemmed from this plan.
14 Mr Blé Goudé's responsibility is also provided for under Articles 25(3)(b), (c) and (d)
15 of the Rome Statute. In particular the Prosecution has adduced numerous items of
16 evidence showing the position of authority that Blé Goudé had over the Young
17 Patriots and other organisations; for example, the Prosecution's evidence shows that
18 on 25 February 2011, during a gathering before hundreds of people, Mr Blé Goudé
19 gave orders, and pursuant to these orders, roadblocks were immediately set up in
20 Yopougon.

21 As I have already explained in my opening submissions, many crimes were
22 committed at the roadblocks. Victims who were perceived to be Ouattara
23 supporters were systematically detained, searched, tortured and on occasion killed.
24 The Prosecution has also proven that in his speech of 24 February 2011, Mr Blé Goudé
25 called upon young people to not allow UNOCI to move about, and that consequently

1 the UN vehicles were targeted at the roadblocks.

2 The orders not to take action, orders given by Mr Blé Goudé were carried out as well;
3 for example, on 5 January 2011, the order not to attack the Golf Hotel.

4 Consequently, Mr Blé Goudé was in a position of authority during the entire period of time
5 covered by the DCC and used his position to encourage the commission of crimes.

6 As general of the streets and as the victims have told us themselves, he gave many
7 speeches in which he gave orders that crimes be committed against civilians
8 perceived to be Ouattara supporters.

9 The Prosecution's evidence that was provided during this hearing allow us -- allow
10 you to confirm the charges under several modes of liability as was decided by the
11 Chamber in the Gbagbo case. And I quote from that ruling:

12 "When evidence establishes in a -- satisfactorily the various legal characterisations from the
13 Prosecutor for the same set of facts, it is fitting that the charges be confirmed with the various
14 characterisations possible so that the Trial Chamber can decide whether the one or another
15 characterisation has been proved in relation to the standard of administration of evidence that
16 applies." Paragraph 277.

17 Your Honours, I wish to remind the Bench of the arguments that I brought forward
18 during my final submissions in the Gbagbo case relating to the constituent element of
19 crimes in the DCC as well as the level or the threshold of proof required at this
20 particular stage of the proceedings. I refer in particular to paragraphs 26 to 32 and
21 paragraphs 49 to 56 of the submissions that were tabled on 14 March 2013.

22 In conclusion, the Prosecution has shown that there is sufficient evidence to establish
23 the existence of substantial grounds to believe that the suspects committed the crimes
24 that he has been charged with reaching the threshold of proof required by the Statute
25 at this stage of the proceedings. Consequently, the victims call upon the Pre-Trial

1 Chamber to confer all charges against Mr Blé Goudé and to refer the matter to trial.

2 Finally, your Honours, to conclude, I wish to say the following: About the harm that
3 the victims that I represent have been subject to.

4 All the victims have suffered moral and material damage. They have been subjected to
5 sexual violence, physical violence, torture and their dignity has been attacked. Their family
6 members have died. They were eyewitnesses to attacks and massacres. They lost their
7 livelihoods, their resources, even though the crime of looting is not one of the charges of the
8 Prosecution.

9 The victims -- although the harm that the victims suffered and still suffer have not
10 been addressed during these hearings, their voice, I hope, is being heard, and I hope
11 that a means will be found to deal with the harm and the prejudice that they have
12 suffered. I thank you.

13 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (No interpretation)

14 (Recess taken at 10.59 a.m.)

15 (Upon resuming in open session at 11.30 a.m.)

16 THE COURT USHER: All rise.

17 Please be seated.

18 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) We shall now
19 proceed with the session dedicated to closings statements.

20 I see Mr Kaufman is on his feet and ready. Please proceed.

21 MR KAUFMAN: Madam President, we will actually split the Defence presentation into four:
22 There will be two short presentations by Maître Claver N'Dry; and Maître Engel; and after
23 that I will speak; and then Mr Blé Goudé.

24 So if, first of all, I could ask Mr Engel to speak. And I can tell you that I have given him a bit
25 of Valium in his tea this morning, so he will speak a lot quicker -- sorry, slower.

1 MR ENGEL: (Interpretation) Madam president, your Honours, I would like to clarify two
2 statements relating to what Mr MacDonald said.

3 What Mr MacDonald told us today about Mr Blé Goudé is certainly what the Prosecutor in
4 Alabama said regarding Martin Luther King in 1962. We all agree that the label of leader
5 was created by the media and it is the media who created the word "galaxie patriotique."
6 And that is what Mr MacDonald has been referring to.

7 Now, if we had looked at 10 seconds before the excerpt of the clip shown by
8 Mr MacDonald on 25 March, we would see that Mr Blé Goudé was talking on behalf
9 of the alliance, that is 10 seconds before the excerpt that Mr MacDonald showed us.

10 Mr MacDonald goes on to claim that those whom Mr Blé Goudé refers to as his
11 friends are the leaders of the other groups. That is not necessarily untrue because, as
12 we have said before, Mr Blé Goudé had an open door policy. Unlike Martin Luther
13 King, he felt that people of all political leanings were entitled to hear the message of
14 peace and non-violence.

15 Secondly, I would like to address the issue of the composition of the galaxie
16 patriotique. Mr MacDonald added this morning that Mr Blé Goudé was known as
17 "the machete." Mr Blé Goudé himself will address that point, but let me submit that
18 this name was used by the supporters of the opposition and reflect the fact that he
19 was no longer part of the FESCI when his term of office as secretary general with
20 FESCI came to an end.

21 Mr MacDonald does not demonstrate anything contrary to the statements of the
22 Defence to the effect that CONARECI was entirely independent of the alliance.

23 We also want to contend or submit that Mr MacDonald tells us that in our statement
24 there were only two groups, but that is incorrect because we said in our statement
25 that there were several groups, including those groups that were non-aligned,

1 including, for example, Mr Ouattara Idriss' movement, which was a non-aligned
2 movement. He also refers to himself as a friend, a mere friend of Blé Goudé and not
3 part of the alliance as Mr MacDonald would have us believe.

4 Finally, Mr MacDonald told us that regardless of whether there were distinctions
5 between the galaxie patriotique or not, we do understand that to mean that
6 Mr MacDonald wants to disregard any distinctions that may have existed within the
7 galaxie patriotique, the acts and the actions and the facts are there and they speak for
8 themselves, because these things happened not under the control of Mr Blé Goudé
9 and cannot be ascribed to him. I thank you.

10 MR KAUFMAN: Maître N'Dry.

11 MR N'DRY: (Interpretation) Thank you, Mr Kaufman.

12 Your Honours, I simply want to make a few corrections. Your Honours, I granted a
13 number of interviews at the time in Côte d'Ivoire, at the time when Mr Blé Goudé had
14 not yet been transferred to The Hague. During those interviews, I always expressed
15 the view that this case should be tried in Côte d'Ivoire if there was any case to try at
16 all.

17 I expressed this wish. Why? Not because I had any doubts about the competence
18 of the Judges of the Court. I have no such doubts because you are selected, you are
19 chosen for what you are, but I made this suggestion because I was aware of the
20 context in which the crisis in my country occurred.

21 There are some factual things that happened with which Ivorian judges would be
22 conversant, but from here some of the facts may be distorted as the Prosecution has
23 attempted to do on several counts. That is why that I ask that this case should be
24 tried in Côte d'Ivoire.

25 You see, when the Prosecution talks about the famous Witness P-44, it hurt me, it hurt me

1 deeply as an Ivorian, because if this case were being tried by an Ivorian Judge who knew the
2 name of this witness, P-44, he would be smiling within himself because he would not be in a
3 position to grant or extend any credibility whatsoever to this witness, particularly when the
4 witness claims that he used to go to the presidency.

5 We know ourselves, all of us in Côte d'Ivoire, that that witness claims to have been --

6 MR MACDONALD: A minute. We're in open session.

7 MR N'DRY: No, Mr MacDonald, enough theatrics, enough theatrics. Don't interrupt me
8 when I have the floor.

9 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Please, please, please,
10 address the Bench. Address the Bench. We are being very mindful of what is happening.

11 And please be careful not to mention anything that does not need to be mentioned in public.

12 MR N'DRY: I did not mention any name. I did not mention any name. I am simply doing
13 my job. I am not going to mention anybody's name.

14 Madam President, who has the floor? Is it me or is it Mr MacDonald?

15 MR MACDONALD: (Interpretation) The link that was going to be made in public can lead
16 to the identification of the witness, and I am sorry to have interrupted my colleague but I did
17 so in order to avoid any situation where the video may have to be redacted.

18 The public gallery is full. And so in public session, in -- we cannot reveal this
19 information. Once it is let out to the public gallery, there is no way we can redact it.

20 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you. I am
21 sorry, please, advise us whether we need to go into private session or not whenever you need
22 to. Thank you.

23 MR N'DRY: (Interpretation) Thank you, Madam President.

24 I did not intend to disclose the name of the witness. I am fully aware of the issues.

25 Now, Witness D-3 for example, in his statement confirms that Witness P-44 -- and I'm sorry to

1 say this, I have no other words but to say that P-44 is a liar because everything that P-44 said
2 amounts to lies.

3 Well, we will expatiate these points in our submissions that will be filed after this
4 hearing.

5 Mr MacDonald confirmed to me simply that the very voluminous document
6 submitted by the Prosecution, if one were to take out all the excerpts of quotations
7 from the media, we would be left with only a very thin document.

8 Now, when he says before the Court that Mr Blé Goudé was known as Blé la machette,
9 the machete, what he is referring to is that he has simply brought press or media
10 clippings into the courtroom, clippings that do not speak in favour of Mr Blé Goudé.

11 You see, all those who say -- who call him "la machette" are his political opponents, so
12 how can you then just simply collect media clippings that are hostile to Blé Goudé
13 and make of them your document containing the charges? That is what you are
14 telling the Court.

15 Madam President, what I am saying, your Honours, what I am saying is so true that
16 even when it comes to the identity of Mr Charles Blé Goudé, his identity -- the
17 identity of a suspect who is here in the Court, has been here since the 22nd -- on 23
18 March 2013. The Prosecution is mistaken about his identity. Why do I say so?
19 Because they relied on a book and a magazine. This is very serious.

20 At least we are before an international court which has the duty to try the most
21 serious crimes, and yet the identity of the suspect has been drawn from a book.

22 They were mistaken. They say that Mr Charles Blé Goudé has one child. Let me
23 ask them to push their research further because he has more than one child.

24 Let me conclude on one point. When I was talking about better knowledge of Côte
25 d'Ivoire, which would have enabled a fuller understanding of issues, I was referring

1 for example to the invisible commando, commando invisible. Yesterday the
2 Prosecution projected or displayed some pictures of people bearing weapons and clad
3 in civilian attire. Now, if we were in Côte d'Ivoire, the Ivorian Judge would have
4 immediately understood why those people were in civilian attire. These are not
5 militiamen. These are the policemen of the Côte d'Ivoire. It's the armed forces.
6 Why are they dressed in civilian attire? Let me tell you what the Prosecution says,
7 acknowledging that at some point the security situation in Côte d'Ivoire deteriorated
8 significantly.

9 You have seen people going around driving in unmarked cars and shooting on -- on
10 corpses that had been dressed up. You see, that is why. It is actually for that
11 reason that soldiers gave up their uniforms and were wearing T-shirts and shirts with
12 little badges which would enable them to be identified by whoever needed to.
13 So let me simply conclude by saying that when a short while ago I mentioned in
14 relation to the representative of victims, I was wondering which victims she
15 represents? The reason I put that question is because I did not find in this Court that
16 all the victims in my country were represented. That is all. That's all I wanted to
17 do. I want to acknowledge her good faith, her very good faith, Madam Massidda. I
18 think she was misled, and I know why she was misled. That will be all.

19 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you. Thank
20 you very much. Please hold on for a moment. I do have a technical problem.

21 (Pause in proceedings)

22 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you. Please
23 proceed.

24 MR KAUFMAN: Thank you, Madam President. So let us imagine that we have all arrived
25 at Ms Bensouda's airport, and the ultimate destination has to be a conviction beyond a

1 reasonable doubt. That's why we're having a confirmation hearing.

2 And the aircraft which gets you there is the legal process. Now, all aircrafts have

3 nuts, bolts, engines and wings. And in our case these are pieces of evidence.

4 My client has willfully boarded Ms Bensouda's aircraft. And as he forces himself into the

5 economy-class seat with his knees tucked underneath his chin, he looks forward and sees in

6 the business class an old friend from university days sipping champagne, someone who was

7 at university with him.

8 So Ms Bensouda's plane takes off and in mid-flight -- in mid-flight the captain suddenly turns

9 on the intercom and he informs the passengers that there is smoke coming out of one of the

10 engines and that a piece of the wing has broken off. Some of the vital pieces of the evidence

11 have fallen away.

12 But don't worry, says the captain, there are still substantial grounds to believe that the plane is

13 flyable. In such circumstances, can you hardly blame Mr Blé Goudé for screaming, for

14 screaming to be let off the plane as soon as possible? Would you really think that he now

15 had a realistic chance of reaching his destination?

16 Your Honours, I want to quote something to you. The charges against Mr Blé Goudé

17 should only be confirmed, and I quote, "... if the evidence has a realistic chance of

18 supporting a conviction beyond a reasonable doubt. I am, of course, aware that the

19 applicable standard for confirmation is considerably lower than at trial ... If it is clear

20 that, even if the available evidence is taken at its highest, there is a substantial doubt,

21 that this will be enough to support a conviction, there is no point in confirming the

22 charges."

23 This was the ruling of Her Honour Van den Wyngaert in the Gbagbo confirmation

24 decision, and despite the fact that she was in the minority with respect to the

25 substance of the charges, I do not think that there can be any grounds for disputing

1 her statement of the law on this particular matter, that is with respect to the requisite
2 standard of proof at this stage of the proceedings.

3 The Defence respectfully submits that in the present case the Prosecution has not
4 shown that there exists substantial grounds to believe that Mr Blé Goudé knew of a
5 common criminal plan to attack civilians, or that he participated in such a plan even if
6 it existed.

7 The Prosecution has shown no form of linkage whatsoever, in my submission,
8 between Mr Blé Goudé and the specific persons who carried out the discrete incidents
9 mentioned in the document containing the charges.

10 Now, we've heard how the Prosecution talk about Mr Blé Goudé being the
11 undisputed leader of the galaxie patriotique, but how do the Prosecution prove that?
12 With the television images that Mr MacDonald mentioned in his closing submission
13 where it's written there "Presidente de la galaxie publique" -- "patriotique"?

14 Do you really think that Mr Blé Goudé goes to RTI television studios and edits the
15 evening news? No, of course he doesn't. As I said, right from the start, galaxie
16 patriotique is an invention of the press and nothing more.

17 The only witness who comes anywhere close to incriminating Mr Blé Goudé in
18 alleging that he distributed arms or recruited and trained militiamen, has been shown,
19 in our submission, to be not credible - that's Witness 44 - whose evidence if taken at
20 its highest is still pure hearsay.

21 Please do not lose sight of the fact why an arrest warrant was originally issued for the
22 arrest of Mr Blé Goudé. Let me quote you from paragraph 13 of that decision. It's
23 the very first document in the case record.

24 Madam President was a member of the Pre-Trial Chamber which issued this decision, and
25 this is what was found:

1 "Mr Blé Goudé attended key meetings of Mr Gbagbo's inner circle, advised Mr Gbagbo and
2 participated in making decisions on the implementation of the common plan. Moreover,
3 Mr Blé Goudé played a key role in recruiting, enlisting, arming, training, and integrating
4 thousands of volunteers within the FDS chain of command."

5 Over the last three days you have considered all the evidence and what, I ask you,
6 remains of these findings? The main military insiders who were interviewed by the
7 Prosecution said that virtually no one was entered -- or, enlisted into the FDS chain of
8 command as a result of the call for enlistment, which Blé Goudé made on 19
9 March 2011. Not thousands, rather virtually no one.

10 Even the Prosecution now concedes this. And Ms Varga said it as follows: "On 21
11 March, thousands of the pro-Gbagbo youth go to the état major to enrol in the army.
12 While the official integration of the youth into the army did not materialise ..." It's to
13 be found at transcript 6, page 29, lines 12 to 15.

14 Now, I do not believe that Ms Varga was skiing off piste when she said these things,
15 but it is pretty clear that since Mr Blé Goudé's surrender to the Court, the Prosecution
16 has completely changed its case theory.

17 Where is the evidence, your Honours, to satisfy you that Mr Blé Goudé knew that
18 FDS personnel were supplying youth with weapons at roadblocks, as Ms Varga
19 suggested, let alone endorse such a policy? Who were these youth who received
20 these weapons? How were they connected, if at all, to Mr Blé Goudé?

21 So, so much for this particular facet of Mr Blé Goudé's alleged contribution to the
22 common plan.

23 As for the other identified mode of contribution, namely, Mr Blé Goudé's alleged
24 participation in policy making decisions, as it were to promote the common plan,
25 similar problems with the evidence, in my submission, exist.

1 The Prosecution may be able to show you when Mr Blé Goudé attended the
2 presidential residence, but it can't show you what substantive matters were discussed
3 in Mr Blé Goudé's presence. For the large part, it was just cabinet meetings. They
4 cannot tell you what substantive matters were discussed insofar as they directly relate
5 to the five incidents cited in the document containing the charges, that is, apart from
6 one notable incident, an exception. It was on 16 December 2010.

7 Mr Blé Goudé was present when, according to the logbook, it was made known for
8 the first time that the FDS had open fire in return to rebel fire.

9 Now, Mr Stang didn't mention this when he reviewed the "événement du jour"

10 section of the logbook. After all, in my submission, if the attack on the march of 16

11 December 2011 was supposedly planned in advance, the section of the official record
12 for that day reflecting extraordinary events does not corroborate such premeditation.

13 To sum it up, it has not been shown that Mr Blé Goudé made any form of contribution, either
14 essential or significant, to any plan or to any common purpose.

15 Similarly, there is no evidence to support the contention that Mr Blé Goudé instigated,
16 solicited, induced, or encouraged acts of violence at roadblocks or barricades, call
17 them what you will.

18 Now, the speeches where he was allegedly calling for acts of violence do not always
19 exist in their fully transcribed version in the Prosecution's list of evidence and are
20 more frequently cited partially. But even where they are cited partially, the Defence
21 has been able to show, in my submission, that they are calls to resistance through
22 passive resistance or, as bizarre as it may seem, through prayer.

23 The so-called mots d'ordre were neither implemented -- sorry, were either not
24 implemented or misinterpreted. Not implemented, as was admitted by Ms Varga,
25 and I quote, despite the repeated threats to attack the Golf Hotel, Mr Blé Goudé did

1 not give a mots d'ordre to do so." Transcript 6, at page 27.

2 The mots d'ordre was also misinterpreted because the Baron Bar speech was a call to
3 denounce not foreigners in the sense of people from the north or another country but,
4 rather, people who posed a security threat. Seen in its proper context, this speech
5 was not racist xenophobia but, rather, a call for people not to resort to vigilantism but
6 to report rebels such as the commando invisible to the police.

7 Now, Mr Blé Goudé, like practically everyone else in this room, realises that there
8 were things that happened at the roadblocks. But we've shown that he was not the
9 initiator of the roadblocks, nor did he endorse any violence which happened at them.
10 Mr Blé Goudé regrets what happened at these roadblocks, but reminds you that with
11 respect to the second incident there is no firsthand eyewitness evidence for any of the
12 violence committed at the roadblocks.

13 In this respect, I refer you once again to the relevant paragraphs, which deal with the
14 second incident in a document containing the charges, paragraphs 159 and 160, in
15 particular, and the accompanying footnotes, all of which cite human rights reports, or
16 media reports, or other hearsay evidence.

17 Now, if hearsay evidence was deemed an insufficient basis for substantiating the
18 discreet incidents comprising the contextual element of an attack, it is most certainly
19 insufficient for substantiating roadblock violence in a second incident for which
20 Mr Blé Goudé's individual responsibility is allegedly engaged.

21 Your Honours, Mr Blé Goudé had no criminal intent. Furthermore, acknowledging
22 that there are collateral effects in a revolution is most certainly not such a
23 manifestation of intent. It is the truth. And don't we all sadly know it.

24 Now, I know everyone here has not gathered to hear me speak and, quite frankly,
25 after three days of speaking, I'm sick of the sound of my own voice. So without any

1 further ado, I'm going to hand over to Mr Blé Goudé.

2 And I do apologise, he might exceed the allotted time period by a few minutes. I
3 would beg the Court's indulgence in that matter. We did save a lot of time and we
4 also lost 20 minutes from one of the days. Thank you very much.

5 MR BLÉ GOUDÉ: (Interpretation) Madam President, your Honours, distinguished
6 members of the Court. I would like to extend to you my most sincere and respectful
7 greetings.

8 As you know, it often happens that the coincidences of life and the cause of destiny
9 lead us to the crossroads where there is a collision between the events that shape
10 history and which make us privileged witnesses of the future.

11 That is probably my case, your Honour. I find myself here at the International
12 Criminal Court at a time when, rightly or wrongly, one school of thought is accusing
13 the Court of serving as a forum for the settlement of political scores, against
14 intractable African leaders who have been convicted without the benefit of a trial.

15 This would undermine the impartiality, credibility and independence of this august
16 institution. Whether this is true or false, I have absolutely no idea.

17 In any case, I'm already here, and I have all the opportunity to develop my own idea
18 based on what the philosopher Edgar Morin referred to as the intelligence of
19 experience, that is, based on what I will see and hear in this Court.

20 But the truth does not need space to express itself, and so I have neither apprehension
21 nor prejudice but, rather, total confidence in justice as I stand here before you this
22 second day of October 2014 so that my responsibility should be determined for the
23 Ivorian crisis, whether that is true or not.

24 From 2 October 2002 to this date, this is exactly 12 years since Ivorians went to the
25 street empty handed to say no to armed opposition wreaking havoc and leaving

1 behind orphans and widows in distress. This armed opposition was responsible for
2 that.

3 Madam President, we are the ones who marched in the streets to say no to those
4 weapons in 2002. Is this a simple coincidence or a sign of things to come?

5 And so it is unthinkable for me to be treated as a murderer, as a génocidaire and to be
6 tried for crimes against humanity.

7 Madam President, I have a lot of clarifications to make. I have been sitting here for
8 several days listening. It is not easy, but it is life.

9 My first clarification is this: On the first day I listened to the Prosecution say that Blé
10 Goudé said he was the head -- or, rather, that he had the power of oratory, that he had
11 God on his side. There is a psalm in the Bible that says God is my helper. That was
12 not started by me. It was not said by me. It is in the holy book.

13 The second clarification, Madam President: I heard the Prosecutor say that ever
14 since Gbagbo took over power in 2000, he planned to hang onto power by all means,
15 including by force. That is not correct. I am here and it was the contrary. You
16 cannot distort history. It was Alassane Ouattara who, ever since Gbagbo took over
17 power in 2000, he wanted to overthrow him. I have -- I know that. There were
18 more than four -- there were no less than four attempted coup d'états, and there was a
19 time during when the Pope was receiving Gbagbo. Would the Pope receive a
20 murderer?

21 Madam President, what you have been told is not true. In this Court you try people
22 for crimes against humanity and the people have been accusing me of behaving like
23 Laurent Gbagbo.

24 If everyone, every supporter of Laurent Gbagbo were to be brought here, there would
25 be no room left. There is a minister in Alassane Ouattara's government right now,

1 he who was a friend of Laurent Gbagbo, Guillaume Soro, the current president of the
2 national assembly, was the prime minister of Laurent Gbagbo and who was -- who
3 had been the prime minister of Ouattara. He was even more friendly to Gbagbo
4 than me. Why is he not here? There are many others who were quite close to
5 Mr Gbagbo. Why are they not here?

6 If I have to mention all those who were friends of Gbagbo who were close to Gbagbo,
7 there is the logbook that they have, and if you look at that logbook you have many,
8 many people. Gbagbo had an open-door policy. Even his adversaries visited him.
9 Even Ouattara visited him. Why is he not here?

10 Madam President, I have heard too many untruths here. And as a young person, I
11 have been disturbed. I have learnt a lot of things in school, and they want to change
12 all of it now. I have been told that Blé Goudé accused Ouattara of being a fake. Blé
13 Goudé took a mattress to go and strike in front of the French embassy. Is there more
14 peaceful act than a hunger strike?

15 I observe the hunger strike for a -- with a mattress. Is that I -- is that why I was
16 brought here?

17 You have Nicolas Sarkozy who criticises the acts of François Hollande and vice versa.
18 Why is that not criminal? During a campaign, madam, what happens is that you
19 criticise the actions of your adversary.

20 Now, is there an article in the Rome Statute that characterises or describes such an act
21 that a political opponent describes another as a fake and that he should be punished.
22 Is there an article that shows that someone who carries out a hunger strike should be
23 brought here? My heart hurts. I have been depicted in a way that is not correct.
24 For someone who wore a black cap, he is brought here. Someone is wearing a
25 T-shirt and a pair of shorts, and he is brought here. Is that the reason why I have

1 been brought here?

2 Well, he arrived at 7.05 and Mangou arrived at 7.0 -- 10 so they have a common plan.

3 What is this? I regret the fact that Madam Bensouda is not here. With all due
4 respect, she was minister of justice in Gambia, and she knows very well how the
5 president receives. At any one time you can have several people who arrived at the
6 same time. That does not mean that they have a common plan. In the waiting
7 room you may have several people who arrived at the same time, but they did not
8 come there to draw up a common plan.

9 Madam President, I'm really shocked, and I'm not through yet. Blé Goudé said that
10 all pro-Ouattara individuals in Abidjan should be identified as well as in the entire
11 country of Côte d'Ivoire and killed. I would like to ask you, Madam President, is
12 this a quotation or a comment? If it is a quotation, they should tell us when and
13 where I said that. And if it is just a comment, then it is a very dangerous comment.
14 Ever since I am here, I have heard that Blé Goudé made a hate speech. Now, of all
15 the video extracts that were presented here, can they identify a single video or an
16 audio recording in which I asked people to go and kill Muslims, or to go and kill
17 members of a particular ethnic group? So I'm wondering why I was brought here.
18 They have said that I preached hatred. Where are the recordings of hatred in which
19 I said go and kill Ouattara supporters? And photographs have been shown, he was
20 with this person, he was with that person, and so a common plan was being hatched.
21 I called for a meeting, and people came and attended. I am a polite person. I do
22 not chase people away from rallies because I organise those rallies in public places. I
23 am an educated person, and I cannot drive anyone away from such a location.
24 It has been stated that Blé Goudé is the one responsible for starting violence in Côte
25 d'Ivoire. Madam President, I would like to point out a small fact. As a result of the

1 crisis, I was in exile in Ghana when legislative elections took place in Côte d'Ivoire.
2 It was the RDR of Ouattara and PDCI of Konan Bédié who were facing each other in
3 the legislative elections, two allied parties. There was also the leader of the young
4 people's wing of the Ouattara party who went to campaign, and he was seriously
5 beaten. I was in exile, and I was told that these are members from allied parties.
6 So you should look at the places where there is the real violence. Who introduced
7 political violence in Côte d'Ivoire? I believe that is what we should look for rather
8 than trying to break the momentum. You should look for the teeth of the panther
9 from the person who ate the head. Madam President, I am not the one who started
10 violence in Côte d'Ivoire.
11 And if you want to talk about Mandela, yes, let us talk about Mandela, in 1963,
12 Mandela was convicted and sentenced to life imprisonment. He was treated as a
13 terrorist. I am not Mandela. I don't think it is always beneficial to compare, but
14 Mandela was accused of being a terrorist and planting bombs, and he was imprisoned
15 for 27 years of his life. He's the one who was later celebrated.
16 Martin Luther King, on the other part, people allowed dogs to go and bite him. They
17 used dogs, sending dogs to go and bite him. You may even convict me, I do not
18 know, but one day history will tell the truth.
19 Madam President, for the respect of the memory of those who have died and to heal
20 the physical and moral injuries of the injured victims and to lessen the suffering of
21 their families, it would have been beneficial that those responsible for the Ivorian
22 crisis should all be brought to justice.
23 When I listen to the Prosecutor and they said "using his power of oratory, Blé Goudé
24 wanted to attribute the blame for the Ivorian crisis to Ouattara," and so when you say
25 I want to attribute responsibility to someone else, well, people are not stupid, believe

1 me, Ivorians will not lose hope in Côte d'Ivoire, because they know that those who
2 have never faced adversity do not know anything about life. They know that.
3 I had hoped that this hearing would be the perfect opportunity for the Prosecution to
4 challenge me so that those allegations made should be finally put to rest and that the
5 truth should emerge far away from the campaigns planned by my adversary and
6 from the reports of certain NGOs which contain information that is often at odds with
7 the truth. These same NGOs have become very silent today in the face of the torture
8 of prisoners. Today private homes have been requisitioned and used to torture
9 Ivorians, and these NGOs have done or said nothing.

10 I have personal experience of that. I was detained in one of those houses for 14
11 months, I was handcuffed, for two weeks I was beaten and yet Ivorians were made to
12 believe that I was treated well.

13 Madam President, I do not know when the proceedings against me will end, but at
14 least it gives us the possibility for myself and the Prosecutor to meet each other face to
15 face so that we should speak. We should produce evidence on both sides. They
16 should show me video extracts in which I tell Ivorians to kill other Ivorians, in which
17 I tell Christians to kill Muslims and in which I tell young people to identify all
18 Ouattara supporters and kill them.

19 Madam President, it is not true. It is not true. But I do understand, I understand
20 Ms Massidda. And Mr N'Dry was not wrong in saying that she was misled.

21 Madam President, the International Criminal Court is our court. It is our court of
22 justice belonging to all of us. You don't have bad guys and good guys. You don't
23 have cruel people and kind people. When it is said that this Court is independent, it
24 has to be proved, because people are looking at us. If the Court is autonomous, it
25 really has to be autonomous.

1 I'm telling you, Madam President, someone was presented here as an independent
2 person, but in an open rally that person showed his card as belonging to Ouattara's
3 party. He showed his membership card. If you are a member of a political party,
4 can you be independent, because you have the discipline of parties and you receive
5 orders from the president of those parties?

6 But I oppose that party, so that person is called a resource person. What is this type
7 of resource person who can guide the legal representative if that resource person
8 themselves is already biased? I wanted to point that out, Madam President.

9 I would like to say that a great deal of things have been said about me. And at this
10 point I would like to ask you a question. When I listened to the Prosecutor, I realise
11 that we came here as a result of a judicial -- a legal lottery and the Prosecutor bet on
12 the wrong horse. Now, which kind of world do we want to build, a world in which
13 people try to win without being right, as the Cheikh Hamidou Kane said in his novel
14 "Ambiguous Adventure," are we living in an ambiguous world? What makes the
15 greatness of a people, Madam President, is to defend its values. I believed in the
16 past and I still believe in justice. The Prosecutor should hold these values high,
17 especially the values of international justice, because she has the high responsibility to
18 ensure that the world in which we live is not a jungle where the strongest people
19 gobble up the weaker ones and in which truth is transposed into lies and vice versa.
20 If I understood the Prosecutor well during her opening speech, this trial is not a
21 political trial. We want to send a strong message to all those who wish to use force
22 to take over power or to hang on to power. This is what the Prosecutor said.
23 Madam President, the Prosecutor did not say anything different from what I've been
24 saying for more than 10 years. I'm the one who told the rebels, I told Ouattara that
25 you do not enter the political arena with weapons. You enter the political arena with

1 an ideology, a government programme and a manifesto. This is the vision that you
2 must have to improve the lives of your fellow citizens. That is what I said.
3 I think the Prosecutor and myself are saying the same thing in this case, so I think the
4 Prosecutor is coming after me wrongly.

5 It is legitimate to have ambitions, but to achieve those ambitions or try to achieve
6 those ambitions at the cost of deaths, of lives of people, is reprehensible.

7 I would like to insist and I believe that you should not allow individuals to use this
8 Court to achieve ambitions that can tarnish the reputation of this Court. It is our
9 Court.

10 Madam President, there are witnesses who have been carefully selected and who are
11 accusing me of having recruited mercenaries and distributed weapons. There is one
12 of them who said, and I quote, "I saw Blé Goudé on television brandishing a
13 Kalashnikov, but since he had his back to the camera, I did not quite recognise him,
14 but it was him." And I'm not through yet. There is another witness who said, and I
15 quote, "And I saw a convoy of four-by-four vehicles entering into a neighbourhood,
16 and it was Blé Goudé. I did not see him, but since people were yelling 'Général,
17 Général,' I concluded that it was him."

18 What does this all mean? And I'm not finished yet, Madam President.

19 In the stadium of Yopougon when we were playing football in the Solidarité Club, I
20 was the best striker, the best goal-scorer just in passing. When we scored a goal we
21 used the expression, "Il n'y a rien en face, c'est maïs," there is nothing on the other side,
22 only corn. So that is the slogan that we used.

23 And I would like the court officer to show the videoclip, please. It is a public video.

24 (Viewing said video excerpt)

25 MR BLÉ GOUDÉ: (Interpretation) Madam President, in this video extract I had just scored

1 a goal and I said "There is nothing on the opposite side." This slippage was not shown.

2 (Viewing said video excerpt)

3 MR BLÉ GOUDÉ: Voilà. (Interpretation) Madam President, on that football field there
4 were no Ouattara supporters. There were no elections. We were simply playing football.

5 And that is the same slogan that I used during the electoral campaign to liven the atmosphere,
6 to show also that the election could be just a game.

7 But I was surprised that the government authorities in Abidjan and the Prosecutor are
8 using witnesses to interpret this slogan as my meaning that apart from Gbagbo, there
9 are no other candidates. And in their view, "there is nothing on the other side"

10 means that we concocted a plan never to accept defeat and that "it is only corn" means
11 that we were asking people to kill and eat Ouattara supporters. They have a very
12 fertile imagination. This is the result of legal gymnastics, a partial and biased
13 interpretation.

14 Madam President, I have mentioned three statements. These are the slanderous and
15 ridiculous statements on which the Prosecutor relies to describe me as a militia leader.

16 If the Prosecutor is really looking for the militiamen and leaders, they have never
17 gone into hiding in Abidjan, and their leaders proclaim themselves as such very
18 publicly.

19 Madam President, when you look at this case closely, the only difficulty is that the
20 Prosecutor is attempting to fabricate militiamen. I should say that she's trying to
21 transform me into what she would have wished me to be, and that is not what I am
22 and that is not what I will ever be. She should ask for the teeth of the panther from
23 the person who ate the head.

24 I, Blé Goudé, from the University of Abidjan to the University of Manchester, I never attended
25 a class in which I was taught how to become a militia leader. I followed a course as a media

1 consultant and that is what I am. And ever since I left school, I decided to enter politics, not
2 to kill people.

3 But I have taken all my time. So, Madam President, it would be a good thing to ask
4 the Prosecutor to go and look for those militiamen elsewhere. They are in Abidjan.
5 That reminds me, in '88, my country played against Morocco. There was a player
6 who scored a lot of goals. He was called Ignace. The defender fouled someone and
7 then the referee crossed the entire field to go and give a red card to this goal scorer,
8 and yet he had nothing to do with that foul.

9 There are people who say that they are militia leaders and that Blé Goudé is not their
10 leader. But the Prosecutor is saying, "Look, you are their leader." Why is she trying
11 to make me into something that I am not? Why did she bring me here? Why?

12 Madam President, in any case I would like to tell you that the Prosecutor is trying to
13 use unorthodox means to attribute a character and philosophy or personally to me
14 which is the total opposite of what I am. Can they identify a single video in which
15 someone lost his life, a video in which I convened a rally and someone loved -- or lost
16 his life? I have always tried to bring people together. The history of my country is
17 too recent and those who are trying to distort that history are engaging in an exercise
18 in futility.

19 Madam President, since I do not want to be the shame of my generation, and I refuse
20 to be cast into the dustbin of history, I would like to jog everyone's memory. Those
21 who purvey falsehoods should be identified. The Ivorian crisis pitted two camps
22 against each other, the camp of those who took up arms to destabilize the institutions
23 of the Republic for reasons that they will certainly explain if the Prosecutor brings
24 them to this Court and then on the other hand the camp of the forces of security who
25 were defending the institutions of the Republic. Those were the two camps. And

1 there was the civilian population that went into the streets empty-handed to say no to
2 weapons.

3 So I was part of that second group. I chose non-violence. I made that choice freely.
4 And this was not a strategy. It was not weakness. But it was out of principle and
5 out of respect for democracy, because I am persuaded still, your Honour, that war
6 and weaponry are the enemies of this world. I think armed rebellion is unacceptable,
7 and that is why, faithful to my pacifist political philosophy, and Ivorians know this,
8 everyone knows this except the Prosecutor, I never had weapons individually or
9 collectively.

10 Your Honour, how could I turn lead into gold? How could I distribute weapons that
11 I never had? Can I turn lead to gold? I never distributed weapons to people and
12 asked them to kill others.

13 Your Honour, many times people insulted me, said I was afraid of war, that I was a
14 weakling. I say yes, yes, I am not afraid to say that I'm afraid of war. I'm not
15 ashamed of that. War destroys families. I have said that. I prefer to be weak and
16 alive than to be strong and to be amongst the dead. That is what I have said many
17 times, your Honours.

18 I did not join the rebels. I did not convince them of everything. People laughed at
19 me. People made fun of me. But I did these things for my country, your Honours,
20 not for Gbagbo to remain in power. I did these things for my generation, for my
21 country. That is what I did, your Honours.

22 Someone might call me a Jehovah or a fool or whatever insult. It doesn't matter.
23 You see, this is why, your Honour, I am open and tolerant. And I always visited the
24 Imams and the Christians from all areas of political activity. I often went to help
25 rebuild mosques. I often made contributions for the rebuilding of mosques. The

1 Prosecution never has mentioned that.

2 In my own home, in my own home under my own roof I lived with someone from

3 Burkina -- Burkina Faso. He says that I am against people of that country. But I

4 had someone from that, someone -- that person was not a servant or a helper. She

5 was like a sister to me. And in my day-to-day life, in my own life, I am with

6 someone who is a Muslim from the north.

7 But this person who reaches out to Muslims and foreigners, who lives with them,

8 who has such people in their life, your Honours, can you see? I am accused of

9 having the Muslims' places of worship torched. That is not so.

10 For the peace of my country I have taken my blows. I have suffered many blows,

11 your Honour, for the sake of peace in my country. Each time, and I am speaking and

12 I know that the people of Côte d'Ivoire are listening, each time the peace process was

13 hindered, I did what I could. Perhaps I did not do what was expected of me, but I

14 am not God. I did all I could. I took huge risks. I even went to Bouaké, a place

15 where no one could go, because I wanted to reassure the people of Côte d'Ivoire that

16 we could talk to one another, that we could defend what we had in common, namely,

17 our nation, Côte d'Ivoire.

18 I sacrificed my youth for my country. I sacrificed my life for my country. My

19 children did not get the fatherly love that they deserved. But I hope I can make that

20 up to them some day. I'm trying to pass, to transmit certain values to them. I am

21 fighting for them and for the children of their generation so that they will live in a

22 better world, a world where reason does not become wrong and wrong does not

23 become reason. That is why I fight, your Honours.

24 Even my family members, the people who love me and I love are still suffering

25 because of the consequences of my commitment. The government is after them.

1 They are in their house. People say our villages were torched. That was not
2 mentioned. My father had died during this crisis and I didn't have an opportunity
3 to be with him in his last moments.

4 The Prosecutor didn't see any of that. The Prosecutor did not see that. And I am
5 the one who am talking about that, about criminals. The criminals are still free,
6 harassing and insulting my family members.

7 I went from place to place, from town to town trying to convince the people of Côte
8 d'Ivoire to embrace peace. The others, they were preparing for war. I was acting in
9 good faith.

10 Your Honour, they made violence their political agenda, because they wanted power
11 at any cost. All this to tell you, your Honour, you see, people are trying to turn me
12 into something that I'm not, but this is very ironic. And really I am the one, I am the
13 one who conceived of resistance with empty hands. I am the one before the Court
14 today to respond to charges of crimes against humanity, whereas the real perpetrators
15 are still free. This is the pot calling the kettle black.

16 Your Honours, this may surprise you, and I am going to say what I truly think, I am
17 not necessarily trying to be released. I am not necessarily trying to be freed.

18 Freedom is within your mind. It's not a physical thing. I'm only looking for one
19 thing only, demonstration of the truth, and I insist on that point. Only the truth shall
20 allow you to determine my responsibility. I am not a criminal. All my life I have
21 fought. I was imprisoned nine times by the government, nine times, not only at the
22 domestic level, I have been sent here. Why? Why have they done this? Because
23 they know people. This is not fair, your Honour, it is not fair.

24 They have only one objective, which is hidden from you. They are afraid of a
25 political battle with me. That is it. They want to use this Court to get rid of a

1 political adversary. The militia leaders are in Abidjan. They know that. They
2 have an office there. Why Blé Goudé? Why?
3 I took a mattress. I laid down and I engaged in a hunger strike while the others were
4 in power. And I am the one who is the torturer, the executioner? Why? Why?
5 They still continue to cast a stone at me. They can cast all the stones they wish, but
6 with these stones I will build a pedestal and from that pedestal I shall proclaim the
7 truth. I am on a mission. I am fine. I am calm to tell you this, your Honour. I
8 would like to remind Ms Massidda about the victims of the invisible commando, the
9 victims of Anoukoua-Kouté.
10 Those people were defenceless. They fled death. They hid in churches and refugee
11 camps, but unfortunately the Grim Reaper caught them. They were killed by the
12 invisible commando, doused with gasoline, set on fire in Abobo. So people fled that
13 area, too, and that is why the roadblocks were set up, to protect people. Even the
14 Prosecution's witness himself has said that. He was a Ouattara supporter, and he
15 said that broad roadblocks were set up to protect people. And now Blé Goudé is
16 being blamed? Ask the Prosecutor about this. I am talking about all the victims, no
17 distinction.
18 A single human life, a single dead person has no political affiliation. But the
19 representatives of victims have chosen their victims. But go to Abidjan, not to the
20 Golf Hotel, but go to all four corners of Côte d'Ivoire and you will see nearly a
21 thousand bodies in a common grave. And haven't you seen the human rights
22 reports about such massacres?
23 If there was a common plan in Côte d'Ivoire, I do not know who dreamt up such a
24 plan, who carried out such a plan, and I don't even know what the objectives of such
25 a plan was. Rather, I used my time to reach out to the victims of war. For three

1 months I travelled the entire country. I even helped a young girl who had been
2 raped. She had been raped by the rebels. I organised a fundraising so that a house
3 could be built. I did that. No one told you about that.

4 I tried to bring the people of Côte d'Ivoire together. I was the one who said that the
5 value of forgiveness lies in the seriousness of the wrong forgiven. But the
6 Prosecution never heard that. All the songs that were recorded in Côte d'Ivoire to
7 bring the people of the nation together, the Prosecution never told you anything
8 about that.

9 So a common plan that I was aware of? The Prosecution cannot speak of such things.
10 He wants to paint me as a killer, someone responsible for genocide. Why are they
11 talking about Côte d'Ivoire and the crisis? They're not talking -- they are
12 talking -- why are they not talking about the real country the way the people of Côte
13 d'Ivoire really experienced life? Why are they bringing political leaders here
14 instead?

15 Hate speech. I ask for forgiveness, but show me, show me a single video in which I
16 engage in hate speech, a single video in which I blame someone from Burkina Faso
17 for the problems of the country. But these are not the historical facts here. When
18 people say that Hitler put Jews in concentration camps, that's not hate speech, that's a
19 historical fact that is told so that it doesn't ever happen again. So the accusations
20 about people from Burkina Faso are not correct.

21 I will soon conclude and let me set the record straight. You must realise that the allegations
22 against me do not stand up to a rigorous approach, the rigour of law. I think it is unfair that
23 my weak shoulders would be burdened with the heavy responsibility of the crisis that has
24 struck my country.

25 In my legitimate non-violent fight, there is not a single drop of blood on me. My hands are

1 pure. My crime, if I am guilty of one, is that for more than 10 years I have called out saying
2 that it is immoral to use weapons to gain power. That is why I call upon you to ask the
3 Prosecution to take their investigations in another direction and to put my name on the list of
4 victims. I am a victim. I'm a victim of this war no matter what my detractors may say.
5 People say that I am a good public speaker, that I have the art of oratory. What is
6 wrong about that? So that I can transmit values to others. They say he is
7 charismatic. That is a fault? That I use my charisma to organise the peace tours? I
8 went to the mosques, the churches, I spoke to rebels. I brought them to Abidjan.
9 Why is the Prosecution not told you about that? They have shown three videos. On
10 purpose they stretched out one part, one video that they showed you. And I will quote, your
11 Honour, CIV-OTP-0047-0604. You see me in that video wearing a striped shirt and I say
12 "Continue resisting.", but what the Prosecutor did not show is that in that video I was -- said,
13 and I quote, "Remain and pray in your houses, in your neighbourhoods. Wherever you are,
14 go down on your knees and pray. Thank God. Give praise to the Lord for the assistance.",
15 end of quote.
16 Someone who distributed weapons in the middle of a war does not ask his supporters
17 to pray. He tells his people to go out.
18 No. This person asked his followers to get down on their knees and pray. I don't
19 think that the Prosecutor is being honest here.
20 Secondly, you were shown another video in which I said we will soon issue the order,
21 but just before that point they didn't say what I said. I said "Let us avoid the trap of
22 civil war." Why did they not say that? It is in the video. Why are they trying to
23 make me out to be a criminal?
24 Your Honour, this hurts, this hurts. This hurts so much that I want to -- well, the
25 Prosecutor says Blé Goudé says that "You were in front and you did not look behind."

1 This was said right in this courtroom. So that was taken to mean don't worry about
2 crimes in the past, but that was not true, it was a large rally, and I was saying to the
3 people there, there are so many of you there, you cannot see behind. It was because
4 there were so many people.

5 Ask me and I will explain. Why do you make things so difficult? Just ask me and I
6 will tell you what I mean. There is no point in telling such things. I am a man of
7 conviction, convinced of the power of bringing the people together and the power of
8 non-violence.

9 Someone who forgives is someone who sets down the burden of hatred. My
10 statements may be strong, but that is my nature. I'm speaking to you from my heart.
11 I am using my entire body to express myself. Maybe that's the difference, you see.
12 That is it. But I am not the only leader who speaks this way. When I look at the
13 television I see many leaders gesturing. To pardon, to give forgiveness, that is the
14 very foundation of my political philosophy, to show political tolerance, the culture of
15 tolerance, political generosity. That is why I reach out.

16 Mr Nick Kaufman said, and I think he said it well, I campaigned for the rebels to be
17 taken out of Côte d'Ivoire. I agreed, and I'm telling you -- correction, I accepted the
18 rebels. I will continue to say to people that we mustn't do politics with weapons.
19 You don't go into politics with weapons. You go into politics with ideas, with a plan
20 for society.

21 I wish to say, your Honour, the following: Everything I have done in the world of
22 politics has always been guided by a single principle. I never -- my name should
23 never be written on the black list of history, so to speak. My hands bear no blood. I
24 have the blood of not a single citizen on my hands. I did not want Côte d'Ivoire to
25 become another Rwanda. The Prosecution never heard that, now did they?

1 Your Honour, my name, Blé Goudé, no longer belongs to me. It belongs to the
2 people of Côte d'Ivoire, to the people of Africa. I have always said that anyone who
3 tarnishes my name must have a name. Anyone who tarnishes my name must have a
4 name. Never. I may be hot-headed. I may speak out. I have done all I could to
5 ensure what happened in Côte d'Ivoire would not happen.

6 Just before the election -- you see, what I see -- I saw Ouattara supporters torching the
7 residences of people. And you can check this, one of Gbagbo's spokes people, his
8 home was torched. Gbagbo, Bédié and Ouattara have to have a campaign to diffuse
9 the tension. But no one listened to me because they wanted power at all cost. They
10 were the ones who had the common plan, not us.

11 Your Honour, I would like to, in the name of the scales of justice that I see here, above
12 the -- the symbol of justice, the symbol of justice, I would be most grateful if you
13 would allow me to go back home to work with the people of Côte d'Ivoire to build
14 with them reconciliation and peace. I have already begun this work, but I hope to
15 continue this work. I say, as I have always said, that you don't go into politics with
16 weapons, you go into politics with ideas.

17 Prison is tough, but it cannot last forever. And Abraham Lincoln was not wrong
18 when he said that for a noble cause, one never wastes one's time. He said that to
19 people who wanted to move fast. But, you see, life is not about the hands of a clock.
20 It is about what we do during our time here on this earth.

21 My opponents may have the watch, but I have the time. I refuse to be the shame of
22 my generation and so I say I am speaking for non-violence for dialogue, for truth, and
23 I shall bear my cross with dignity and honour.

24 And my father, and I bear attribute to my father, I was not able to be with him in his
25 last moment, but he said to me that a ripe piece of fruit never rots on a tree, it always

1 falls sooner or later. One day history shall prove me out.

2 No. I'm not against the French. I am not the head of a militia. No. I am not responsible
3 for the killing of Muslim people. I am not in favour of violence. No, I am not responsible
4 for a genocide. I only wish one thing, I only wish that the law makes sense of all this.

5 One day I am sure the truth shall emerge and I will go back home. May God bless

6 Africa. May God bring peace to Côte d'Ivoire. I trust in international justice. And

7 I thank you.

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

9 This brings the closing submissions to an end. All we need to do now is to make some
10 decisions about the continuance of the proceedings.

11 We have discussed the possibility of additional written submissions. And initially we said
12 that our preference was not to receive such written submissions unless absolutely necessary.

13 I see that the OTP and the legal representatives did not think that was necessary. I would
14 like to ask Mr Kaufman, what is your opinion?

15 MR KAUFMAN: Yes, Madam President, we have indeed considered this matter. I spoke to
16 my client yesterday evening, and his preference is indeed that we do make written
17 submissions. In fact, for us to not make written submissions, it would create a precedent
18 which is almost unheard of in this Court. We examined the jurisprudence and in every
19 confirmation case to date there have been written submissions. And these written
20 submissions have normally been made between two weeks to a month after the conclusion of
21 the oral hearings.

22 We also note that the Prosecution has had the benefit of filing a substantial document
23 containing the charges, which numbers 240 pages and several thousand footnotes.

24 We haven't had the opportunity to do that.

25 So just to have the document containing the charges before the Court and our oral

1 submissions, in our submission, would create an in equality of arms, therefore we do
2 insist and we respectfully request that the Pre-Trial Chamber allow us to file written
3 submissions to the Court.

4 Mr Blé Goudé is aware, of course, that this will prolong his detention, awaiting the, awaiting
5 the decision of the Pre-Trial Chamber on the confirmation of the charges, and that is
6 something for which we are fully aware -- of which we are fully aware and ready.

7 So it is my respectful submission that the Blé Goudé Defence team be allowed to file
8 written submissions. Our preference is for one month. We would prefer it not to
9 be less than two weeks. And I say that in accordance, of course, with the
10 jurisprudence, which is already before the Court.

11 MR MACDONALD: (Interpretation) With leave, very briefly, I am going to switch to
12 English. I apologise to the interpreters.

13 Your Honours, this, I understand this is a young institution, but things are evolving,
14 and my colleague is currently involved in another case where no oral hearings took
15 place. This is a confirmation hearing. It is not a mini trial.

16 The test is substantial grounds to believe; therefore, any written submissions are not
17 to answer the DCC. This took place over four days. That's what we've been doing.

18 Now, like I mentioned yesterday, we're always open and available to assist the Chamber
19 when the Chamber has questions, but I think it's indeed an international organisation, you
20 have the oral hearings and then what we haven't mentioned we put it in writing but, again,
21 then it's never ending. It never stops. And the purpose is not to supplement with
22 additional arguments on other things. It's to discuss whatever was mentioned in the
23 courtroom. It's not to raise new things. But we've done that extensively. And the Defence
24 has had a chance to answer orally to the DCC.

25 And when the schedule was made was fine with having the same amount of hours as

1 the Prosecution. Consequently, unless the Chamber feels it is essential in its
2 understanding of the case, what we would seek, to be very honest, and which would
3 be helpful to the Prosecution, because we'll be filing before the Defence since the
4 Defence will have the last word, or we file at the same time, is to what would be
5 helpful to the Chamber? What would assist the Chamber in the Prosecution's
6 written submissions? And also the length of these written submissions because it
7 never stops, and then it drags on the process.

8 MR KAUFMAN: If I may, Madam President? I think the real question we have to ask
9 ourselves is what is Mr MacDonald frightened of? After all, at the end of the day,
10 Mr Blé Goudé is going nowhere. It's his liberty who is -- which is at stake here, and all we're
11 requesting to do is to reply and put a number of issues -- we're not going to invent new
12 arguments. I've set out the basis for my challenge to all the discreet incidents, but we have to
13 put it in a presentable format. We have to cite appropriately. We have to cite jurisprudence,
14 just as the Prosecution has done.

15 So this is not a game, Madam President. We want the Court to be able to assess the truth,
16 and by putting it in a presentable format to the Pre-Trial Chamber we believe that we will
17 assist the Pre-Trial Chamber.

18 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) I will hear the
19 victims representative and then we will deliberate.

20 MS MASSIDDA: Madam President, we maintain our position of yesterday. We don't think
21 there is any need for further written submission. We even support the arguments just made
22 by Mr MacDonald on this issue. If, however, the Chamber will allow the Defence to file a
23 submission, we will then, in that case, would like also to file written submissions at any time
24 which is considered useful by the Chamber. Thank you.

25 (Trial Chamber confers)

1 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: Well, we have discussed this. I am
2 going to turn to English to discuss this matter of submissions.
3 First of all, we need to clarify that written submissions is not written in stone and is not part of
4 any jurisprudence, but this has been indeed the practice in confirmation hearings, but it's not
5 mandated by the law. So we can do as we please and if it is necessary or not. This on one
6 end.

7 Second, it has been mentioned also that the president in other proceedings, under
8 Article 70 of the Statute, there was no oral hearing. Again, this is not mandated by
9 the law, so it's also something that it can be decided by the Chamber where it is
10 necessary or not.

11 Regardless of whether we need them or not, and the Chamber doesn't need them, but
12 because it has been the practice so far, that's why also we wanted to give the
13 opportunity to the parties and participants to decide whether they would need them,
14 and I understand that you believe that it is necessary, Maître Kaufman, but I need to
15 reiterate what I said before. The written submissions at the end of the confirmation
16 hearing, which in my view are, as I said, is not a matter of jurisprudence but a matter
17 of practice that has been followed, but in any event as a matter of practice that has
18 always been followed is that written submissions are not an opportunity to answer
19 the DCC. That was the confirmation hearing that we have had for a week.

20 So let me finish. Let me finish. Don't worry, I'll give --

21 MR KAUFMAN: I'm standing out of respect, Madam President.

22 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: No, no, you can sit down.

23 So if we are going to give you written submissions, they need to be brief, they need to
24 be to the point that were discussed at the confirmation hearing. It's not an additional
25 opportunity to respond to the DCC, it's to respond to issues that may have been

1 raised here at the hearing.

2 Second, we would like, and I know that -- and it has been also your wish so far to
3 expedite proceedings. We want to, if at all, give this written submissions, it will
4 need to be in a very short period of time.

5 I understand that you decided that it would not be necessary, but if you want to give any
6 written submissions, it would need to be also within a very brief period of time. So what we
7 would suggest at this point, for the Prosecutor and the legal representative of victims, if they
8 so wish, they can provide written submissions by Friday, 10 October. That is five working
9 days from Monday.

10 And for the Defence, the Chamber requests written submissions at the latest by 17
11 October. That will give you five additional days to consider what you have received,
12 and you have now two weeks to also prepare whatever you wanted to say also on
13 your own and regarding what have you heard in the hearing.

14 So, so decided. Remember then you have another deadline on 20 October for the
15 submissions on the admissibility challenge.

16 So I hope this clarifies the matter. Thank you.

17 MR KAUFMAN: Yes, Madam President, it does indeed. And, of course, we will abide by
18 the understandings and conditions which the learned Pre-Trial Chamber has set us. Thank
19 you very much.

20 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: I thank you very much.

21 (Interpretation) We have now come to the end of our confirmation of charges hearing.

22 I want to thank all the parties and participants. I want to thank the public, which
23 accompanied us silently throughout today's session. I also want to thank the court reporters
24 and the interpreters and all those who helped us in this confirmation of charges hearing.

25 We shall now wait for the submission of the written submissions.

- 1 The Court will rise.
- 2 THE COURT USHER: All rise.
- 3 (The hearing ends in open session at 1.08 p.m.)